Gov. Newsom to order halt to California’s death penalty

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Gov. Gavin Newsom is suspending the death penalty in California, calling it discriminatory and immoral, and is granting reprieves to the 737 condemned inmates on the nation’s largest Death Row.

“I do not believe that a civilized society can claim to be a leader in the world as long as its government continues to sanction the premeditated and discriminatory execution of its people,” Newsom said in a statement accompanying an executive order, to be issued Wednesday, declaring a moratorium on capital punishment in the state. “The death penalty is inconsistent with our bedrock values and strikes at the very heart of what it means to be a Californian.”
He plans to order an immediate shutdown of the death chamber at San Quentin State Prison, where the last execution was carried out in 2006. Newsom is also withdrawing California’s recently revised procedures for executions by lethal injection, ending — at least for now — the struggle by prison officials for more than a decade to devise procedures that would pass muster in federal court by minimizing the risk of a botched and painful execution.

His actions, disclosed to The Chronicle by an administration source late Tuesday, come in the wake of a pair of close but unsuccessful efforts by death penalty opponents to repeal the state law at the ballot box. The initiatives, both endorsed by Newsom, garnered 48 percent of the vote in 2012 and 47 percent four years later, when supporters of capital punishment won passage of a rival initiative aimed at speeding up executions. While that measure has reduced review of the execution process in state courts, California’s lethal-injection procedures are still being scrutinized in federal court.

The governor lacks authority to change the state death penalty law, which was enacted by the voters in 1978 and can be repealed only at the ballot box.

Newsom, elected to a four-year term last November, did not say whether he would support another repeal initiative in 2020. But he said he would grant reprieves to anyone sentenced to death while he holds office.
“The intentional killing of another person is wrong,” he said. “And, as governor, I will not oversee the execution of any individual.”

Michele Hanisee, president of the Association of Deputy District Attorneys, criticized Newsom’s decision.

“The voters of the state of California support the death penalty,” she said. “That is powerfully demonstrated by their approval of Proposition 66 in 2016 to ensure the death penalty is implemented, and their rejection of measures to end the death penalty in 2016 and 2006. Gov. Newsom ... is usurping the expressed will of California voters.”

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The announcement appears to contradict Newsom’s public position during
his campaign for governor. When The Chronicle asked candidates for their views on the death penalty, Dan Newman, a spokesman for then-Lt. Gov. Newsom, cited his long-standing opposition to capital punishment. But he added that Newsom “recognizes that California voters have spoken on the issue and, if elected governor, he’d respect the will of the electorate by following and implementing the law.”

The governor’s statement lays out the case against the death penalty as biased, costly and pointless. While the state has spent $5 billion on trying, convicting, imprisoning and executing Death Row inmates since voters approved the current law in 1978, Newsom said, there is no evidence that the death penalty deters murder, and there has been no increase in homicides in states that ended capital punishment.

The death penalty has also “discriminated against defendants who are mentally ill, black and brown, or can’t afford expensive legal representation,” Newsom said. He said more than three-fifths of California’s Death Row inmates are people of color, while studies have shown that those convicted of killing whites are far more likely to be sentenced to death than killers of blacks or Latinos.

“But most of all, the death penalty is absolute, irreversible and irreparable in the event of human error,” Newsom said. He noted that 164 condemned prisoners nationwide, including five in California, have been freed from Death Row since 1973 based on evidence that they were wrongfully convicted or sentenced.

The reprieves granted by Newsom are temporary orders, in effect during his governorship, as opposed to executive clemency that would reduce an inmate’s sentence to life in prison without parole. Clemency for any inmate with two or more felony convictions would require approval from a majority of the state Supreme Court.

Governors in several other states have granted clemency to condemned
prisoners, most notably Illinois’ Republican Gov. George Ryan, who spared the lives of all 167 inmates on his state’s Death Row in 2003. Illinois abolished the death penalty in 2011. Moratoriums on the death penalty are in place in Pennsylvania and Oregon, where a 2011 order by Gov. John Kitzhaber was extended in 2016 by his successor, Kate Brown.

In December, six former Democratic governors in other states wrote a column in the New York Times urging outgoing California Gov. Jerry Brown to commute all death sentences in the state to life in prison. But Brown, despite his longtime opposition to the death penalty, never sought clemency for any Death Row inmates.

The last inmate to be executed in California was Clarence Ray Allen in January 2006. Before the next scheduled execution, U.S. District Judge Jeremy Fogel in San Jose ruled that the state’s capital punishment procedures were unconstitutional because of flaws in lethal injection procedures, equipment and staff training that could subject inmates to an agonizing death.

For much of the past 13 years, the state has been searching for alternatives that would satisfy the federal judiciary. Newsom’s order ends those efforts, at least for as long as he is governor. With the state pulling back its attempts to win judicial approval for an execution method, California has no legal method of putting anyone to death — although supporters of capital punishment may argue that the voter-approved 2016 measure, Proposition 66, prohibits challenges to execution procedures at the state level.

Of the 737 condemned inmates, 25 have lost all appeals of their convictions and death sentences. Their cases are still awaiting review in a San Francisco federal court, which has yet to approve a new single-drug execution procedure authorized by Brown’s administration.

But the U.S. Supreme Court has rejected similar challenges in other states,
ruling that the possibility of a painful execution by injection does not violate constitutional standards. Had he not announced a moratorium, Newsom most likely would have faced decisions within the next year on whether to allow individual executions to proceed.

Bob Egelko and Alexei Koseff are San Francisco Chronicle staff writers. Email: begelko@sfchronicle.com, alexei.koseff@sfchronicle.com Twitter: @BobEgelko, @akoseff