

NewsCrime and Public Safety

Could a Florida death penalty case reshape how U.S. handles child sex abuse?

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Earlier this month, Palm Beach County prosecutors announced that they would be seeking the death penalty against two men accused of repeatedly sexually abusing a 6-year-old girl, crimes they described as “the most horrific imaginable” and worthy of the most severe punishment.

But the road to that punishment — which could be one of the first death sentences for a non-homicide criminal case in the U.S. since the 1970s — is uncertain and unprecedented.

The girl was 7 when she told her babysitters that her father, Josue Mendez-Sales, and his roommate, Pablo Cobon-Mendez, had raped her every day, according to a probable cause affidavit. In interviews with West Palm Beach Police, the men admitted to assaulting her. They are now two of the first defendants facing capital punishment for child sex abuse in the U.S. following a series of laws recently passed in multiple states and led by Florida’s 2023 [death penalty](#) statute.

Their case and others like it could help usher in a dramatic expansion of the death penalty, raising questions about longstanding Eighth Amendment prohibitions against cruel and unusual punishment, as well as the impact on the children themselves.

Some legal experts say that it would be surprising to see the Supreme Court overturn its longstanding precedent against the death penalty for non-homicide crimes, but others believe that a Florida case just like the one in Palm Beach County could serve as the perfect challenge.

“Not only will this case be challenged constitutionally, it should be challenged,” said Michelle Suskauer, a West Palm Beach defense attorney and former president of the Florida Bar. “To test the law, as to whether it’s constitutional to potentially execute someone for a case that does not involve death.”

Death penalty movement gains momentum

The precedent against applying the death penalty to child sex abuse dates back to a case out of Louisiana in the early 2000s. Patrick Kennedy had been convicted of violently raping his 8-year-old stepdaughter and sentenced to death under the state’s existing sexual battery law. He appealed his case to the U.S. Supreme Court in what would become the landmark case *Kennedy v. Louisiana*, arguing that his sentence was too harsh considering the crime.

The Supreme Court narrowly sided with Kennedy, with five justices affirming and four dissenting. In the majority opinion, the justices wrote that the death penalty would be disproportionate to the crime, even for such a heinous act of child rape, and cautioned against interpreting the Eighth Amendment, which forbids cruel and unusual punishment, too broadly. They also stated that “it is not at all evident that the child rape victim’s hurt is lessened” by executing the perpetrator, reasoning backed by social workers and advocates who said that the death penalty could harm victims by forcing them to testify more extensively or make it more difficult for them to come forward, especially if the perpetrator is a family member.

After the ruling, no state sought the death penalty in a case for 15 years. Then, in 2023, Florida lawmakers voted overwhelmingly to pass its death penalty statute. Other states have since followed. In 2024, Tennessee passed its own version, followed by Idaho, Oklahoma and Arkansas in 2025, according to the Death Penalty Information Center, which tracks the use of capital punishment across the U.S.

In recent months, several attorneys general have signed a letter — written by Florida Attorney General James Uthmeier, he said, “on behalf of many red states” — asking U.S. Attorney General Pam Bondi and the Department of Justice to help overturn *Kennedy v. Louisiana*.

“Here in Florida, we disagree with this opinion and we hope that ultimately the Supreme Court will revisit it,” Uthmeier said in announcing the letter on social media. “We believe someone who rapes a child represents the epitome of moral depravity. That individual should face the strongest sentence, the strongest form of punishment. Young children deserve justice.”

Proponents of overturning the Supreme Court precedent point to the often serial nature of child sex abuse, the longterm trauma it causes, and the innocence and vulnerability of the victims compared to some homicides.

“A lot of times you have not-so-innocent victims in murders,” Sen. Jonathan Martin, R-Fort Myers, told the Sun Sentinel. Martin is a former prosecutor and the sponsor of the bill that became the 2023 Florida law. “Kids under the age of 12 should never be victims. It’s a combination of the most evil individual and the most innocent victim in all of these cases.”

Martin added that the law could deter sex criminals from acting and lead to harsher penalties in existing cases, even if the defendant is not sentenced to death.

The law received bipartisan support. Former Senate Minority Leader Lauren Book, a Democrat and sex abuse survivor, had worked with Martin to pass the bill, saying that “there is no statute of limitations” on victims’ suffering. Book declined to comment for this article.

“This is a life sentence that is handed down to young children,” she said in a speech at the time. “We’re talking about the youngest of the young in this bill. I was one of those kids ... It never goes away. Sometimes you close your eyes and you see it. I don’t get a chance to make it stop.”

Advocates warn of further harm to children

Others, including those who work with sex abuse victims, fear that a growing use of the death penalty could further traumatize victims or make it more difficult for them to report a vastly underreported crime; approximately 1 in 10 children come forward about their abuse, research shows. Nearly all sexual abuse is perpetrated by someone known to the victim, often a family member or someone who subjects the child to extensive grooming, making their feelings more complicated.

“When the general public thinks about sex offenders, they think about the kind of creepy person in the white van,” said Elizabeth Jeglic, a professor at John Jay College of Criminal Justice who studies sexual abuse. “For the person experiencing the victimization, this is potentially someone they care about in various capacities, or their family cares about.”

Survivors of sex abuse have varied feelings about what they would like to see happen to their abusers, which may change over time. Surprisingly, some studies show that survivors tend to have more positive feelings towards sex offenders in general, Jeglic said: “While they obviously want the abuse to stop, and want the individual to be punished in some capacity, they also may have mixed feelings because of their relationship to the person.” Abusers also often tell victims they could go to jail as a tactic to keep them from speaking out, something the death

penalty could exacerbate. Those children may already fear that their families won't believe them or even become angry with them for speaking up.

"Is that enough to say don't seek it? I don't know, I don't think that's for us to say," said Justin Grosz, a co-founder of the Justice for Kids firm, which represents victims of child abuse. "But I think that could add another wrinkle in the ability or comfortability of kids to speak up."

Death penalty cases also tend to be long, drawn out, and the subject of widespread media attention, which could further harm children, even before any case reaches the Supreme Court, experts say.

Grosz says he has seen the ways in which going through the court system already traumatizes victims.

"I've watched kids who felt they wanted to testify against their abuser, got themselves ready to do it, and as soon as they finished testifying, whether deposition or trial, they backslide behaviorally, emotionally, start to feel bad about themselves, like 'is this all that I'm about?'" he said.

From a legal perspective, others fear that loosening death penalty laws would set Florida and the country down a dangerous path.

"Where will the line be drawn and what other charges will be included?" Suskauer said. "Will then we say 'well there should be the death penalty for child porn, there should be the death penalty for rape, there should be the death penalty for kidnapping? So where does the line get drawn? You keep moving the line, that's a scary situation.'"

A political shift

The newfound momentum, led by conservatives, comes amid a broader shift by both Florida and the Trump administration to expand the death penalty. Another recent Florida law removed the requirement that juries must be unanimous in recommending death sentences. Both Florida lawmakers and Trump have called for the death penalty for undocumented immigrants convicted of capital crimes.

Top officials in the DeSantis administration have also turned their attention to local cases. In August, Uthmeier, who has often criticized prosecutorial decisions made in Florida's bluer counties, retweeted a video about the Palm Beach County sex abuse case, which also described the defendants as undocumented. Neither the Palm Beach County State Attorney's Office nor West Palm Beach Police have explicitly identified the men as undocumented, though a West Palm Beach Police news release mentioned the involvement of Homeland Security.

"These allegations are beyond horrific," Uthmeier wrote. "Anyone who can commit such heinous crimes must be held accountable to the fullest extent of the law. Based on these reports, I expect the State Attorney for the 15th Judicial Circuit to seek the death penalty."

The State Attorney's Office filed its notice of intent to seek the death penalty in October, two months later. Spokespeople for the State Attorney's Office declined to respond to a list of questions from the South Florida Sun Sentinel about the reasons for seeking the death penalty and the constitutional issues surrounding the case.

How could local cases play out?

So far, Florida appears to be the only state actively trying death penalty cases for child sex abuse. Robin Maher, the executive director for the Death Penalty Information Center, told the Sun Sentinel that she was not aware of any cases outside of the state. Within Florida, only one other known active death penalty case exists outside of Palm Beach County. In June, prosecutors in Putnam County in Central Florida filed their intent to seek the death penalty against Dimeco Henderson, accused of sexually abusing two children over the course of three years. Meanwhile, in

a now-closed case from 2023, Central Florida prosecutors had sought the death penalty against Joseph Andrew Giampa, who filmed himself sexually abusing a child, before reaching a plea agreement to a life sentence.

The existing cases are likely to see constitutional challenges, legal experts say. Defense attorneys like those in Palm Beach County could file a motion seeking to declare the death penalty unconstitutional, Suskauer said, and it's possible that such an argument could head up through the appellate courts and even reach the U.S. Supreme Court.

Whether the Supreme Court would overturn longterm precedent is another question.

Proponents of Florida's death penalty law think it's possible. The U.S. Supreme Court leans more conservative than in years past. None of the judges who ruled in favor of Kennedy in 2008 remain, while three of the dissenters, Samuel Alito, Clarence Thomas and John Roberts, are all still on the Supreme Court.

Florida's statute was also designed to challenge the Supreme Court precedent, according to Martin. The law is substantially different from the law under which Kennedy was sentenced, something he thinks is sufficient to overturn the ruling. When the Supreme Court made its ruling at the time, they noted that Louisiana's sexual battery statute did not include a required "penalty phase" like in murder cases, Martin said, where prosecutors argue that certain aggravating factors qualify the case for the death penalty while defense attorneys point to those that support a lighter punishment. But the 2023 Florida law added language specifically accounting for that penalty phase.

"We're the first state in entire country to do what Kennedy versus Louisiana recommended: put in a penalty phase where the jury has to determine whether there's aggravators and the defense has the opportunity to provide mitigating evidence," Martin said.

In filing their notice to seek the death penalty, Palm Beach County prosecutors cited two aggravators: that "the victim of the capital felony was particularly vulnerable due to age or disability, or because the defendant stood in a position of familial or custodial authority over the victim" and that "the capital felony was especially heinous, atrocious, or cruel."

The same office opted not to seek the death penalty in another recent sex abuse case out of Lake Worth Beach involving a Guatemalan national accused of sexually assaulting a girl in a van.

Other death penalty experts said that upholding Florida's death penalty cases would be a staggering reversal for the Supreme Court.

"I think, generally speaking, it would be quite shocking to have the U.S. Supreme Court overturn a precedent like this," Maher said. "It would signal a completely new expansion of the death penalty and a disrespect for its own precedent."

She pointed out that, so far, the number of states enacting death penalty laws has not reached a national consensus, something the Supreme Court would take into account when deciding if a given punishment is cruel or unusual. In some states, proposed bills have failed. But perhaps the biggest factor preventing a reversal is that of the potential harm to victims.

"The decision in 2008 was a decision made by the Court premised upon the expertise of child advocates," Maher said. "The majority of that court listened to the people who represent children who are sexually abused. And those advocates told the court, in no uncertain terms, that making these crimes death-eligible will harm children."