

By Senator Campbell

33-1359-00

1                                   A bill to be entitled  
2           An act relating to execution of the death  
3           sentence; amending s. 922.105, F.S.; providing  
4           that specified provisions may not be construed  
5           to block media access; providing an effective  
6           date.

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8 Be It Enacted by the Legislature of the State of Florida:

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10           Section 1. Section 922.105, Florida Statutes, as  
11           amended by section 2 of chapter 2000-2, Laws of Florida, is  
12           amended to read:

13           922.105 Execution of death sentence; prohibition  
14           against reduction of death sentence as a result of  
15           determination that a method of execution is  
16           unconstitutional.--

17           (1) A death sentence shall be executed by lethal  
18           injection, unless the person sentenced to death affirmatively  
19           elects to be executed by electrocution. The sentence shall be  
20           executed under the direction of the Secretary of Corrections  
21           or the secretary's designee.

22           (2) A person convicted and sentenced to death for a  
23           capital crime at any time shall have one opportunity to elect  
24           that his or her death sentence be executed by electrocution.  
25           The election for death by electrocution is waived unless it is  
26           personally made by the person in writing and delivered to the  
27           warden of the correctional facility within 30 days after the  
28           issuance of mandate pursuant to a decision by the Florida  
29           Supreme Court affirming the sentence of death or, if mandate  
30           issued before the effective date of this act, the election  
31           must be made and delivered to the warden within 30 days after

1 the effective date of this act. If a warrant of execution is  
2 pending on the effective date of this act, or if a warrant is  
3 issued within 30 days after the effective date of this act,  
4 the person sentenced to death who is the subject of the  
5 warrant shall have waived election of electrocution as the  
6 method of execution unless a written election signed by the  
7 person is submitted to the warden of the correctional facility  
8 no later than 48 hours after a new date for execution of the  
9 death sentence is set by the Governor under s. 922.06.

10 (3) If electrocution or lethal injection is held to be  
11 unconstitutional by the Florida Supreme Court under the State  
12 Constitution, or held to be unconstitutional by the United  
13 States Supreme Court under the United States Constitution, or  
14 if the United States Supreme Court declines to review any  
15 judgment holding a method of execution to be unconstitutional  
16 under the United States Constitution made by the Florida  
17 Supreme Court or the United States Court of Appeals that has  
18 jurisdiction over Florida, all persons sentenced to death for  
19 a capital crime shall be executed by any constitutional method  
20 of execution.

21 (4) The provisions of the opinion and all points of  
22 law decided by the United States Supreme Court in *Malloy v.*  
23 *South Carolina*, 237 U.S. 180 (1915), finding that the Ex Post  
24 Facto Clause of the United States Constitution is not violated  
25 by a legislatively enacted change in the method of execution  
26 for a sentence of death validly imposed for previously  
27 committed capital murders, are adopted by the Legislature as  
28 the law of this state.

29 (5) A change in the method of execution does not  
30 increase the punishment or modify the penalty of death for  
31 capital murder. Any legislative change to the method of

1 execution for the crime of capital murder does not violate s.  
2 10, Art. I or s. 9, Art. X of the State Constitution.

3 (6) Notwithstanding any law to the contrary, a person  
4 authorized by state law to prescribe medication and designated  
5 by the Department of Corrections may prescribe the drug or  
6 drugs necessary to compound a lethal injection.

7 Notwithstanding any law to the contrary, a person authorized  
8 by state law to prepare, compound, or dispense medication and  
9 designated by the Department of Corrections may prepare,  
10 compound, or dispense a lethal injection. Notwithstanding  
11 chapter 401, chapter 458, chapter 459, chapter 464, chapter  
12 465, or any other law to the contrary, for purposes of this  
13 section, prescription, preparation, compounding, dispensing,  
14 and administration of a lethal injection does not constitute  
15 the practice of medicine, nursing, or pharmacy.

16 (7) The policies and procedures of the Department of  
17 Corrections for execution of persons sentenced to death shall  
18 be exempt from chapter 120. This subsection may not be  
19 construed to permit blocking media access.

20 (8) Notwithstanding s. 775.082(2), s. 775.15(1)(a), or  
21 s. 790.161(4), or any other provision to the contrary, no  
22 sentence of death shall be reduced as a result of a  
23 determination that a method of execution is declared  
24 unconstitutional under the State Constitution or the  
25 Constitution of the United States. In any case in which an  
26 execution method is declared unconstitutional, the death  
27 sentence shall remain in force until the sentence can be  
28 lawfully executed by any valid method of execution.

29 (9) Nothing contained in this chapter is intended to  
30 require any physician, nurse, pharmacist, or employee of the  
31 Department of Corrections or any other person to assist in any

1 aspect of an execution which is contrary to the person's moral  
2 or ethical beliefs.

3 Section 2. This act shall take effect upon becoming a  
4 law.

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7 SENATE SUMMARY

8 Provides that provisions exempting from the  
9 Administrative Procedure Act policies and procedures of  
10 the Department of Corrections for execution of persons  
11 sentenced to death may not be construed to permit  
12 blocking media access.  
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