

By Senators Klein and Campbell

28-64-00

See HB

1 A bill to be entitled
2 An act relating to execution of the death
3 sentence; amending s. 922.10, F.S.; providing
4 that a person sentenced to death for a capital
5 crime prior to July 1, 2000, shall be executed
6 by electrocution; providing for execution of
7 the death sentence by means of lethal injection
8 if electrocution is held to be
9 unconstitutional; providing that a person
10 sentenced to death for a capital crime on or
11 after July 1, 2000, shall be executed by lethal
12 injection; providing that the superintendent of
13 the state prison shall designate the
14 executioner; providing an exemption from ch.
15 120, F.S., for the policies and procedures of
16 the Department of Corrections for execution;
17 providing that a person authorized by state law
18 to prescribe medication, when designated by the
19 Department of Corrections, may prescribe the
20 drugs necessary to compound a lethal injection;
21 providing that a person authorized by state law
22 to prepare, compound, or dispense medication,
23 when designated by the Department of
24 Corrections, may prepare, compound, or dispense
25 the lethal injection; providing that the
26 prescription, preparation, compounding,
27 dispensing, or administration of a lethal
28 injection does not constitute practicing
29 medicine, nursing, or pharmacy; prohibiting any
30 physician, nurse, pharmacist, employee of the
31 Department of Corrections, or other person from

1 being required to assist in an execution
2 contrary to the person's moral or ethical
3 beliefs; prohibiting reduction of a sentence of
4 death as the result of a method of execution
5 being held to be unconstitutional; amending ss.
6 922.106, 945.10, F.S.; conforming
7 cross-references; repealing s. 922.105, F.S.,
8 relating to execution of the death sentence by
9 lethal injection if death by electrocution is
10 declared unconstitutional and prohibition
11 against reduction of the death sentence as a
12 result of a determination that a method of
13 execution is unconstitutional; providing an
14 effective date.

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

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18 Section 1. Section 922.10, Florida Statutes, is
19 amended to read:

20 922.10 Execution of death sentence; execution of death
21 sentence by lethal injection if death by electrocution is
22 declared unconstitutional; executioner; prohibition against
23 reduction of death sentence as a result of determination that
24 a method of execution is unconstitutional.--

25 (1) In the case of a person who is sentenced to death
26 for a capital crime prior to July 1, 2000, the A death
27 sentence shall be executed by electrocution. However, if
28 electrocution is held to be unconstitutional by the Florida
29 Supreme Court under the State Constitution, or held to be
30 unconstitutional by the United States Supreme Court under the
31 United States Constitution, or if the United States Supreme

1 Court declines to review any judgment holding electrocution to
2 be unconstitutional under the United States Constitution made
3 by the Florida Supreme Court or the United States Court of
4 Appeals that has jurisdiction over Florida, all persons
5 sentenced to death for a capital crime shall be executed by
6 lethal injection.

7 (2) In the case of a person who is sentenced to death
8 for a capital crime on or after July 1, 2000, the death
9 sentence of such person shall be executed by lethal injection.

10 (3) The superintendent ~~warden~~ of the state prison
11 shall designate the executioner. Information which, if
12 released, would identify the executioner is confidential and
13 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
14 I of the State Constitution. The warrant authorizing the
15 execution shall be read to the convicted person immediately
16 before execution.

17 (4) The policies and procedures of the Department of
18 Corrections for execution of persons sentenced to death shall
19 be exempt from chapter 120.

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

24 Notwithstanding any law to the contrary, a person authorized
25 by state law to prepare, compound, or dispense medication and
26 designated by the Department of Corrections may prepare,
27 compound, or dispense a lethal injection. For purposes of
28 this section, prescription, preparation, compounding,
29 dispensing, and administration of a lethal injection does not
30 constitute the practice of medicine, nursing, or pharmacy.

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1 (6) Nothing contained in this chapter is intended to
2 require any physician, nurse, pharmacist, or employee of the
3 Department of Corrections or any other person to assist in any
4 aspect of an execution which is contrary to the person's moral
5 or ethical beliefs.

6 (7) Notwithstanding s. 775.082(2), s. 775.15(1)(a), or
7 s. 790.161(4), or any other provision to the contrary, no
8 sentence of death shall be reduced as a result of a
9 determination that a method of execution is declared
10 unconstitutional under the State Constitution or the
11 Constitution of the United States. In any case in which an
12 execution method is declared unconstitutional, the death
13 sentence shall remain in force until the sentence can be
14 lawfully executed by any valid method of execution.

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

23 (9) A change in the method of execution does not
24 increase the punishment or modify the penalty of death for
25 capital murder. Any legislative change to the method of
26 execution for the crime of capital murder does not violate s.
27 10, Art. I or s. 9, Art. X of the State Constitution.

28 Section 2. Section 922.106, Florida Statutes, is
29 amended to read:

30 922.106 Exemption from public records
31 requirements.--Information which, if released, would identify

1 the person administering the lethal injection pursuant to s.
2 922.10 ~~922.105~~ is confidential and exempt from the provisions
3 of s. 119.07(1) and s. 24(a), Art. I of the State
4 Constitution. This section is subject to the Open Government
5 Sunset Review Act of 1995 in accordance with s. 119.15 and
6 shall stand repealed on October 2, 2003, unless reviewed and
7 saved from repeal through reenactment by the Legislature.
8 Section 3. Paragraph (g) of subsection (1) of section
9 945.10, Florida Statutes, is amended to read:
10 945.10 Confidential information.--
11 (1) Except as otherwise provided by law or in this
12 section, the following records and information of the
13 Department of Corrections are confidential and exempt from the
14 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
15 Constitution:
16 (g) The identity of an executioner, or a person
17 administering a lethal injection pursuant to s. 922.10 ~~s.~~
18 ~~922.105~~.
19 Section 4. Section 922.105, Florida Statutes, is
20 repealed.
21 Section 5. This act shall take effect July 1, 2000.
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LEGISLATIVE SUMMARY

Amends s. 922.10, F.S., by incorporating the provisions of s. 922.105, F.S. Provides that a person sentenced to death for a capital crime prior to July 1, 2000, shall be executed by electrocution and that a person sentenced to death for a capital crime on or after July 1, 2000, shall be executed by lethal injection. Provides for execution of the death sentence by means of lethal injection if electrocution is held to be unconstitutional. Prohibits reduction of a sentence of death as the result of a method of execution being held to be unconstitutional.

Provides that the superintendent of the state prison shall designate the executioner for the execution of a death sentence for a capital crime. Provides an exemption from ch. 120, F.S., for the policies and procedures of the Department of Corrections for execution.

Designates persons authorized to prescribe the drugs necessary to compound a lethal injection and those authorized to prepare, compound, or dispense a lethal injection. Prohibits any physician, nurse, pharmacist, employee of the Department of Corrections, or other person from being required to assist in an execution contrary to the person's moral or ethical beliefs.