

1  
2 An act relating to the execution of the death  
3 sentence; amending ss. 922.10, 922.105, F.S.;  
4 providing for the death sentence to be executed  
5 by lethal injection; providing for a person who  
6 is sentenced to death to elect a death sentence  
7 executed by electrocution; providing a  
8 procedure for making such election; providing  
9 for a person whose warrant of execution is  
10 pending on a specified date to elect a sentence  
11 of death by electrocution; providing a  
12 procedure for making such election; providing  
13 an effective date.

14

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

16

17 Section 1. Section 922.10, Florida Statutes, is  
18 amended to read:19 922.10 Execution of death sentence; executioner.--A  
20 death sentence shall be executed by electrocution or lethal  
21 injection in accordance with s. 922.105. The warden of the  
22 state prison shall designate the executioner. Information  
23 which, if released, would identify the executioner is  
24 confidential and exempt from the provisions of s. 119.07(1)  
25 and s. 24(a), Art. I of the State Constitution. The warrant  
26 authorizing the execution shall be read to the convicted  
27 person immediately before execution.28 Section 2. Section 922.105, Florida Statutes, is  
29 amended to read:30 922.105 Execution of death sentence ~~by lethal~~  
31 ~~injection if death by electrocution is declared~~

1 ~~unconstitutional~~; prohibition against reduction of death  
2 sentence as a result of determination that a method of  
3 execution is unconstitutional.--

4 (1) A death sentence shall be executed by lethal  
5 injection, unless the person sentenced to death affirmatively  
6 elects to be executed by electrocution. The sentence shall be  
7 executed under the direction of the Secretary of Corrections  
8 or the secretary's designee pursuant to s. 922.10.

9 (2) A person convicted and sentenced to death for a  
10 capital crime at any time shall have one opportunity to elect  
11 that his or her death sentence be executed by electrocution.  
12 The election for death by electrocution is waived unless it is  
13 personally made by the person in writing and delivered to the  
14 warden of the correctional facility within 30 days after the  
15 issuance of mandate pursuant to a decision by the Florida  
16 Supreme Court affirming the sentence of death or, if mandate  
17 issued before the effective date of this act, the election  
18 must be made and delivered to the warden within 30 days after  
19 the effective date of this act. If a warrant of execution is  
20 pending on the effective date of this act, or if a warrant is  
21 issued within 30 days after the effective date of this act,  
22 the person sentenced to death who is the subject of the  
23 warrant shall have waived election of electrocution as the  
24 method of execution unless a written election signed by the  
25 person is submitted to the warden of the correctional facility  
26 no later than 48 hours after a new date for execution of the  
27 death sentence is set by the Governor under s. 922.06.

28 (3) If electrocution or lethal injection is held to be  
29 unconstitutional by the Florida Supreme Court under the State  
30 Constitution, or held to be unconstitutional by the United  
31 States Supreme Court under the United States Constitution, or

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

8 ~~(4)(2)~~ The provisions of the opinion and all points of  
9 law decided by the United States Supreme Court in Malloy v.  
10 South Carolina, 237 U.S. 180 (1915), finding that the Ex Post  
11 Facto Clause of the United States Constitution is not violated  
12 by a legislatively enacted change in the method of execution  
13 for a sentence of death validly imposed for previously  
14 committed capital murders, are adopted by the Legislature as  
15 the law of this state.

16 ~~(5)(3)~~ A change in the method of execution does not  
17 increase the punishment or modify the penalty of death for  
18 capital murder. Any legislative change to the method of  
19 execution for the crime of capital murder does not violate s.  
20 10, Art. I or s. 9, Art. X of the State Constitution.

21 ~~(6)(4)~~ Notwithstanding any law to the contrary, a  
22 person authorized by state law to prescribe medication and  
23 designated by the Department of Corrections may prescribe the  
24 drug or drugs necessary to compound a lethal injection.  
25 Notwithstanding any law to the contrary, a person authorized  
26 by state law to prepare, compound, or dispense medication and  
27 designated by the Department of Corrections may prepare,  
28 compound, or dispense a lethal injection. Notwithstanding  
29 chapter 401, chapter 458, chapter 459, chapter 464, chapter  
30 465, or any other law to the contrary, for purposes of this  
31 section, prescription, preparation, compounding, dispensing,

1 and administration of a lethal injection does not constitute  
2 the practice of medicine, nursing, or pharmacy.

3 (7)~~(5)~~ The policies and procedures of the Department  
4 of Corrections for execution of persons sentenced to death  
5 shall be exempt from chapter 120.

6 (8)~~(6)~~ Notwithstanding s. 775.082(2), s. 775.15(1)(a),  
7 or 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 (9)~~(7)~~ Nothing contained in this chapter is intended  
16 to require any physician, nurse, pharmacist, or employee of  
17 the Department of Corrections or any other person to assist in  
18 any aspect of an execution which is contrary to the person's  
19 moral or ethical beliefs.

20 Section 3. This act shall take effect upon becoming a  
21 law.

22  
23  
24  
25  
26  
27  
28  
29  
30  
31