

Bill No. SJR 124

Amendment No. 1 Barcode 750096

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
1		.	
2		.	
3		.	
4		.	
5	<hr/>		
6			
7			
8			
9			
10	<hr/>		
11	The Committee on Criminal Justice recommended the following		
12	amendment:		
13			
14	Senate Amendment		
15	On page 2, lines 6-26, delete those lines		
16			
17	and insert:		
18	BE IT FURTHER RESOLVED that the following statement be		
19	placed on the ballot:		
20	CONSTITUTIONAL AMENDMENT		
21	ARTICLE I, SECTION 17		
22	UNITED STATES SUPREME COURT INTERPRETATION OF CRUEL AND		
23	UNUSUAL PUNISHMENT.--Proposing an amendment to the State		
24	Constitution identical to a proposed amendment to Section 17		
25	of Article I of the State Constitution which was approved by a		
26	statewide vote in 1998. The Supreme Court of Florida struck		
27	the 1998 amendment in a ruling in which four of the seven		
28	justices found that the ballot summary was inaccurate. The		
29	proposed amendment expressly authorizes the death penalty for		
30	capital crimes, and expressly authorizes retroactive changes		
31	in the method of execution. The amendment changes the		

Bill No. SJR 124Amendment No. 1 Barcode 750096

1 prohibition against "cruel or unusual punishment," currently
2 provided in Section 17 of Article I of the State Constitution,
3 to a prohibition against "cruel and unusual punishment" to
4 conform with the wording of the Eighth Amendment to the
5 Federal Constitution. The amendment prohibits reduction of a
6 death sentence based on invalidity of an execution method, and
7 provides for continued force of the sentence. The amendment
8 permits any execution method unless prohibited by the Federal
9 Constitution. The amendment requires construction of the
10 prohibition against cruel or unusual punishment and the
11 proposed prohibition against cruel and unusual punishment to
12 conform to United States Supreme Court interpretation of the
13 Eighth Amendment. The amendment would prevent state courts,
14 including the Florida Supreme Court, from treating the state
15 constitutional prohibition against cruel or unusual punishment
16 as being more expansive than the federal constitutional
17 prohibition against cruel and unusual punishment or United
18 States Supreme Court interpretations thereof. The amendment
19 effectively nullifies rights currently allowed under the state
20 prohibition against cruel or unusual punishment which may
21 afford greater protections for those subject to punishment for
22 crimes than will be provided by the amendment. Under the
23 amendment, the protections afforded those subject to
24 punishment for crimes under the "cruel or unusual punishment"
25 clause, as that clause currently appears in Section 17 of
26 Article I of the State Constitution, will be the same as the
27 minimum protections provided under the "cruel and unusual"
28 punishments clause of the Eighth Amendment of the Federal
29 Constitution. The amendment provides for retroactive
30 applicability.

31

Bill No. SJR 124

Amendment No. 1 Barcode 750096

1 Specifically, the proposal amends Section 17 of Article I of
2 State Constitution, to read as set forth below. The word
3 ~~stricken~~ is deleted; words underlined are additions:
4

5 SECTION 17. Excessive punishments.--Excessive fines,
6 cruel and ~~or~~ unusual punishment, attainder, forfeiture of
7 estate, indefinite imprisonment, and unreasonable detention of
8 witnesses are forbidden. The death penalty is an authorized
9 punishment for capital crimes designated by the Legislature.
10 The prohibition against cruel or unusual punishment, and the
11 prohibition against cruel and unusual punishment, shall be
12 construed in conformity with decisions of the United States
13 Supreme Court which interpret the prohibition against cruel
14 and unusual punishment provided in the Eighth Amendment to the
15 United States Constitution. Any method of execution shall be
16 allowed, unless prohibited by the United States Constitution.
17 Methods of execution may be designated by the Legislature, and
18 a change in any method of execution may be applied
19 retroactively. A sentence of death shall not be reduced on the
20 basis that a method of execution is invalid. In any case in
21 which an execution method is declared invalid, the death
22 sentence shall remain in force until the sentence can be
23 lawfully executed by any valid method. This section shall
24 apply retroactively.
25
26
27
28
29
30
31