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REPRESENTATIVES Trakas, Seaver, Husted, D. Miller, Jerse, Kearns,
Damschroder, Perry, Barnes, Latta, Sullivan, Gilb, Schneider, Britton,
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A B I L L

To amend sections 2949.22 and 2949.25 of the Revised Code to eliminate electrocution as an option for the execution of a death sentence, to require the use of lethal injection as the means of executing all death sentences, to provide a procedure for determining the manner of execution of a sentence of death if lethal injection is determined to be unconstitutional, and to declare an emergency.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2949.22 and 2949.25 of the Revised Code be amended to read as follows:

Sec. 2949.22. (A) Except as provided in division ~~(B)~~~~(1)~~(C) of this section, a death sentence shall be executed by causing a ~~current of electricity, of sufficient intensity to cause death, to pass through the body of the person upon whom the sentence was imposed. The application of the current shall be continued until the person upon whom the sentence was imposed is dead. The warden of the correctional institution in which the sentence is to be executed or another person selected by the director of~~

~~rehabilitation and correction shall ensure that the death sentence
is executed.~~ 19
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~~(B)(1) Any person sentenced to death may elect to be executed
by lethal injection instead of by electrocution as described in
division (A) of this section. The election shall be made no later
than one week prior to the scheduled date of execution of the
person by filing a written notice of the election with the
department of rehabilitation and correction. If a person sentenced
to death timely files with the department a written notice of an
election to be executed by lethal injection, the person's death
sentence shall be executed by causing the application to the
person, upon whom the sentence was imposed, of a lethal injection
of a drug or combination of drugs of sufficient dosage to quickly
and painlessly cause death instead of by electrocution as
described in division (A) of this section. The application of the
drug or combination of drugs shall be continued until the person
is dead. The warden of the correctional institution in which the
sentence is to be executed or another person selected by the
director of rehabilitation and correction shall ensure that the
death sentence is executed.~~ 21
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~~If a person sentenced to death does not timely file with the
department a written notice of election to be executed by lethal
injection, his death sentence shall be executed by electrocution
in accordance with division (A) of this section.~~ 39
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~~(2) Neither a person's timely filing of a written notice of
election under division (B)(1) of this section nor a person's
failure to file or timely file a written notice of election under
that division shall affect or waive any right of appeal or
postconviction relief that may be available under the laws of this
state or the United States relative to the conviction for which
the sentence of death was imposed upon the person or relative to
the imposition or execution of that sentence of death.~~ 43
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~~(C)(B)~~ A death sentence shall be executed within the walls of the state correctional institution designated by the director of rehabilitation and correction as the location for executions, within an enclosure to be prepared for that purpose, under the direction of the warden of the institution or, in ~~his~~ the warden's absence, a deputy warden, and on the day designated by the judge passing sentence or otherwise designated by a court in the course of any appellate or postconviction proceedings. The enclosure shall exclude public view.

~~(D) If a death sentence is required to be executed by lethal injection because the person sentenced to death elected to be executed by lethal injection pursuant to division (B)(1) of this section and if the execution of a death sentence by lethal injection is determined to be unconstitutional, the death sentence shall be executed by causing a current of electricity, of sufficient intensity to cause death, to pass through the body of the person upon whom the sentence was imposed. The application of the current shall be continued until the person is dead. The warden of the state correctional institution in which the sentence is to be executed or another person selected by the director of rehabilitation and correction shall ensure that the death sentence is executed.~~

(C) If a person is sentenced to death, and if the execution of a death sentence by lethal injection has been determined to be unconstitutional, the death sentence shall be executed by using any different manner of execution prescribed by law subsequent to the effective date of this amendment instead of by causing the application to the person of a lethal injection of a drug or combination of drugs of sufficient dosage to quickly and painlessly cause death, provided that the subsequently prescribed different manner of execution has not been determined to be unconstitutional. The use of the subsequently prescribed different

manner of execution shall be continued until the person is dead. 83
The warden of the state correctional institution in which the 84
sentence is to be executed or another person selected by the 85
director of rehabilitation and correction shall ensure that the 86
sentence of death is executed. 87

~~(E)~~ (D) No change in the law made by the amendment to this 89
section that took effect on October 1, 1993, or by this amendment 90
constitutes a declaration by or belief of the general assembly 91
that execution of a death sentence by electrocution is a cruel and 92
unusual punishment proscribed by the Ohio Constitution or the 93
United States Constitution. 94

Sec. 2949.25. (A) At the execution of a death sentence, only 95
the following persons may be present: 96

(1) The warden of the state correctional institution in which 97
the sentence is executed or a deputy warden, any other person 98
selected by the director of rehabilitation and correction to 99
ensure that the death sentence is executed, any persons necessary 100
to execute the death sentence by ~~electrocution~~ or lethal 101
injection, and the number of correction officers that the warden 102
thinks necessary; 103

(2) The sheriff of the county in which the prisoner was tried 104
and convicted; 105

(3) The director of rehabilitation and correction, or ~~his~~ the 106
director's agent; 107

(4) Physicians of the state correctional institution in which 108
the sentence is executed; 109

(5) The ~~clergyman~~ clergyperson in attendance upon the 110
prisoner, and not more than three other persons, to be designated 111
by the prisoner, who are not confined in any state institution; 112

(6) Not more than three persons to be designated by the 113
immediate family of the victim; 114

(7) Representatives of the news media as authorized by the 115
director of rehabilitation and correction. 116

(B) The director shall authorize at least one representative 117
of a newspaper, at least one representative of a television 118
station, and at least one representative of a radio station to be 119
present at the execution of the sentence under division (A)(7) of 120
this section. 121

Section 2. That existing sections 2949.22 and 2949.25 of the 122
Revised Code are hereby repealed. 123

Section 3. This act is hereby declared to be an emergency 124
measure necessary for the immediate preservation of the public 125
peace, health, and safety. The reason for such necessity is that 126
it is urgently in the public interest to eliminate electrocution 127
as an option for the execution of a death sentence before any 128
execution is carried out. Therefore, this act shall go into 129
immediate effect. 130