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A B I L L

To amend sections 2949.22 and 2949.25 of the Revised 1
Code to eliminate electrocution as an option for 2
the execution of a death sentence, to require the 3
use of lethal injection as the means of executing 4
all death sentences, to provide a procedure for 5
determining the manner of execution of a sentence 6
of death if lethal injection is determined to be 7
unconstitutional, and to declare an emergency. 8

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

Section 1. That sections 2949.22 and 2949.25 of the Revised 9
Code be amended to read as follows: 10

Sec. 2949.22. (A) Except as provided in division ~~(B)~~~~(1)~~~~(C)~~ of 11
this section, a death sentence shall be executed by causing a 12
~~current of electricity, of sufficient intensity to cause death, to~~ 13
~~pass through the body of the person upon whom the sentence was~~ 14
~~imposed. The application of the current shall be continued until~~ 15
~~the person upon whom the sentence was imposed is dead. The warden~~ 16
~~of the correctional institution in which the sentence is to be~~ 17

~~executed or another person selected by the director of~~
~~rehabilitation and correction shall ensure that the death sentence~~
~~is executed.~~

~~(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.~~

~~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.~~

~~(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.~~

~~(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.
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
sentence of death is executed.

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

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

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

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

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

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

(5) The ~~clergyman~~ clergyperson in attendance upon the
prisoner, and not more than three other persons, to be designated

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