

As Reported by the House Criminal Justice Committee

124th General Assembly

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Am. H. B. No. 362

REPRESENTATIVES Trakas, Seaver, Husted, D. Miller, Jerse, Kearns,
Damschroder, Perry, Barnes, Latta

A BILL

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.~~ 20

~~(B)(1) Any person sentenced to death may elect to be executed 21
by lethal injection instead of by electrocution as described in 22
division (A) of this section. The election shall be made no later 23
than one week prior to the scheduled date of execution of the 24
person by filing a written notice of the election with the 25
department of rehabilitation and correction. If a person sentenced 26
to death timely files with the department a written notice of an 27
election to be executed by lethal injection, the person's death 28
sentence shall be executed by causing the application to the 29
person, upon whom the sentence was imposed, of a lethal injection 30
of a drug or combination of drugs of sufficient dosage to quickly 31
and painlessly cause death ~~instead of by electrocution as 32
described in division (A) of this section.~~ The application of the 33
drug or combination of drugs shall be continued until the person 34
is dead. The warden of the correctional institution in which the 35
sentence is to be executed or another person selected by the 36
director of rehabilitation and correction shall ensure that the 37
death sentence is executed. 38~~

~~If a person sentenced to death does not timely file with the 39
department a written notice of election to be executed by lethal 40
injection, his death sentence shall be executed by electrocution 41
in accordance with division (A) of this section. 42~~

~~(2) Neither a person's timely filing of a written notice of 43
election under division (B)(1) of this section nor a person's 44
failure to file or timely file a written notice of election under 45
that division shall affect or waive any right of appeal or 46
postconviction relief that may be available under the laws of this 47
state or the United States relative to the conviction for which 48
the sentence of death was imposed upon the person or relative to 49
the imposition or execution of that sentence of death. 50~~

~~(C)(B) A death sentence shall be executed within the walls of 51~~

the state correctional institution designated by the director of 52
rehabilitation and correction as the location for executions, 53
within an enclosure to be prepared for that purpose, under the 54
direction of the warden of the institution or, in ~~his~~ the warden's 55
absence, a deputy warden, and on the day designated by the judge 56
passing sentence or otherwise designated by a court in the course 57
of any appellate or postconviction proceedings. The enclosure 58
shall exclude public view. 59

~~(D) If a death sentence is required to be executed by lethal 60
injection because the person sentenced to death elected to be 61
executed by lethal injection pursuant to division (B)(1) of this 62
section and if the execution of a death sentence by lethal 63
injection is determined to be unconstitutional, the death sentence 64
shall be executed by causing a current of electricity, of 65
sufficient intensity to cause death, to pass through the body of 66
the person upon whom the sentence was imposed. The application of 67
the current shall be continued until the person is dead. The 68
warden of the state correctional institution in which the sentence 69
is to be executed or another person selected by the director of 70
rehabilitation and correction shall ensure that the death sentence 71
is executed. 72~~

(C) If a person is sentenced to death, and if the execution 73
of a death sentence by lethal injection has been determined to be 74
unconstitutional, the death sentence shall be executed by using 75
any different manner of execution prescribed by law subsequent to 76
the effective date of this amendment instead of by causing the 77
application to the person of a lethal injection of a drug or 78
combination of drugs of sufficient dosage to quickly and 79
painlessly cause death, provided that the subsequently prescribed 80
different manner of execution has not been determined to be 81
unconstitutional. The use of the subsequently prescribed different 82
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