

**As Reported by the Senate Judiciary--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, Sullivan, Gilb, Schneider, Britton,  
Hartnett, Ogg, Sferra, Carano, Olman, McGregor, Widowfield, Collier, Schmidt**

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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~~ 18

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~~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.~~

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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

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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

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

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

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

**Section 2.** That existing sections 2949.22 and 2949.25 of the Revised Code are hereby repealed.

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