

Bill No. SB 12-A

Amendment No. ____

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
---------------	----------------	--------------

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

.
.
.
.
.

Senator Holzendorf moved the following amendment:

Senate Amendment (with title amendment)

On page 35, between lines 2 and 3,

insert:

Section 18. Section 922.105, Florida Statutes, is amended to read:

922.105 Execution of death sentence ~~by lethal injection if death by electrocution is declared unconstitutional~~; prohibition against reduction of death sentence as a result of determination that a method of execution is unconstitutional.--

(1) A death sentence shall be executed by lethal injection, unless the person sentenced to death affirmatively elects to be executed by electrocution. The sentence shall be executed under the direction of the Secretary of Corrections or the secretary's designee pursuant to s. 922.10.

(2) A person convicted and sentenced to death for a capital crime at any time shall have one opportunity to elect that his or her death sentence be executed by electrocution.

Bill No. SB 12-A

Amendment No. ____

1 The election for death by electrocution is waived unless it is
2 personally made by the person in writing and delivered to the
3 warden of the correctional facility within 30 days after the
4 issuance of mandate pursuant to a decision by the Florida
5 Supreme Court affirming the sentence of death or, if mandate
6 issued before the effective date of this act, the election
7 must be made and delivered to the warden within 30 days after
8 the effective date of this act. If a warrant of execution is
9 pending on the effective date of this act, or if a warrant is
10 issued within 30 days after the effective date of this act,
11 the person sentenced to death who is the subject of the
12 warrant shall have waived election of electrocution as the
13 method of execution unless a written election signed by the
14 person is submitted to the warden of the correctional facility
15 no later than 48 hours after a new date for execution of the
16 death sentence is set by the Governor under s. 922.06.

17 (3) If electrocution or lethal injection is held to be
18 unconstitutional by the Florida Supreme Court under the State
19 Constitution, or held to be unconstitutional by the United
20 States Supreme Court under the United States Constitution, or
21 if the United States Supreme Court declines to review any
22 judgment holding a method of execution ~~electrocution~~ to be
23 unconstitutional under the United States Constitution made by
24 the Florida Supreme Court or the United States Court of
25 Appeals that has jurisdiction over Florida, all persons
26 sentenced to death for a capital crime shall be executed by
27 any constitutional method of execution ~~lethal injection~~.

28 (4)~~(2)~~ The provisions of the opinion and all points of
29 law decided by the United States Supreme Court in Malloy v.
30 South Carolina, 237 U.S. 180 (1915), finding that the Ex Post
31 Facto Clause of the United States Constitution is not violated

Bill No. SB 12-A

Amendment No. ____

1 by a legislatively enacted change in the method of execution
2 for a sentence of death validly imposed for previously
3 committed capital murders, are adopted by the Legislature as
4 the law of this state.

5 (5)~~(3)~~ A change in the method of execution does not
6 increase the punishment or modify the penalty of death for
7 capital murder. Any legislative change to the method of
8 execution for the crime of capital murder does not violate s.
9 10, Art. I or s. 9, Art. X of the State Constitution.

10 (6)~~(4)~~ Notwithstanding any law to the contrary, a
11 person authorized by state law to prescribe medication and
12 designated by the Department of Corrections may prescribe the
13 drug or drugs necessary to compound a lethal injection.
14 Notwithstanding any law to the contrary, a person authorized
15 by state law to prepare, compound, or dispense medication and
16 designated by the Department of Corrections may prepare,
17 compound, or dispense a lethal injection. For purposes of this
18 section, prescription, preparation, compounding, dispensing,
19 and administration of a lethal injection does not constitute
20 the practice of medicine, nursing, or pharmacy.

21 (7)~~(5)~~ The policies and procedures of the Department
22 of Corrections for execution of persons sentenced to death
23 shall be exempt from chapter 120.

24 (8)~~(6)~~ Notwithstanding s. 775.082(2), s. 775.15(1)(a),
25 or s. 790.161(4), or any other provision to the contrary, no
26 sentence of death shall be reduced as a result of a
27 determination that a method of execution is declared
28 unconstitutional under the State Constitution or the
29 Constitution of the United States. In any case in which an
30 execution method is declared unconstitutional, the death
31 sentence shall remain in force until the sentence can be

Bill No. SB 12-A
Amendment No. ____

1 lawfully executed by any valid method of execution.

2 ~~(9)(7)~~ Nothing contained in this chapter is intended
3 to require any physician, nurse, pharmacist, or employee of
4 the Department of Corrections or any other person to assist in
5 any aspect of an execution which is contrary to the person's
6 moral or ethical beliefs.

7
8 (Redesignate subsequent sections.)

9
10

11 ===== T I T L E A M E N D M E N T =====

12 And the title is amended as follows:

13 On page 2, line 27, after the semicolon,

14

15 insert:

16 amending ss. 922.10, 922.105, F.S.; providing
17 for the death sentence to be executed by lethal
18 injection; providing for a person who is
19 sentenced to death to elect a death sentence
20 executed by electrocution; providing a
21 procedure for making such election; providing
22 for a person whose warrant of execution is
23 pending on a specified date to elect a sentence
24 of death by electrocution; providing a
25 procedure for making such election;

26
27
28
29
30
31