

HOUSE BILL REPORT

HB 2489

*As Reported By House Committee on:
Judiciary*

Title: An act relating to method of execution.

Brief Description: Specifying the method of execution.

Sponsor(s): Representatives Schmidt, Neher, Mitchell and May.

Brief History:

Reported by House Committee on:
Judiciary, January 17, 1992, DP.

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *Do pass.* Signed by 11 members:
Representatives Appelwick, Chair; Ludwig, Vice Chair;
Brobback; Hargrove; Locke; R. Meyers; Mielke; H. Myers;
Riley; Scott; and Vance.

Minority Report: *Do not pass.* Signed by 8 members:
Representatives Padden, Ranking Minority Member; Paris,
Assistant Ranking Minority Member; Belcher; Forner; Inslee;
D. Sommers; Tate; and Wineberry.

Staff: Bill Perry (786-7123).

Background: Washington law provides for the death penalty in certain cases of aggravated first-degree murder. The death penalty may be imposed if in a special sentencing proceeding following conviction it is found that there are not sufficient mitigating circumstances to merit leniency. If, on the other hand, such mitigating circumstances are found, the sentence will be life imprisonment without the possibility of parole.

The death penalty in Washington is carried out by hanging or, at the election of the condemned person, by lethal injection. The last execution in this state was by hanging in 1963. No state has hanging as its sole method of execution, and only two other states have hanging as an optional method. The last hangings in the other states that still have that method as an option were in the 1940s. Among the 36 states with capital punishment, lethal

injection is the most common form of execution in 22 of the states.

The Washington State Supreme Court has rejected the argument that the state's choice of method of execution provision amounts to cruel and unusual punishment. However, that same argument is now being made in the federal courts, along with the argument that hanging itself is cruel and unusual.

The United States Supreme Court has rejected *ex post facto* arguments in upholding a change in a state's method of execution.

Summary of Bill: Lethal injection is made the exclusive method of execution for defendants who commit capital offenses after the effective date of this act. If, however, lethal injection is invalidated by the courts, then hanging will become the method of execution.

For defendants who have committed or will commit a capital offense before the effective date of this act, the presumption regarding the method of execution is reversed. Lethal injection will be the method of execution unless the condemned person chooses hanging.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The trend nationally is to lethal injection. That method is easier for the Department of Corrections to administer, and is less susceptible to legal challenge.

Testimony Against: Capital punishment should not be sanitized to the point it becomes easy to accept. Any change in the statute will just provide further grounds for legal appeals.

Witnesses: James Spalding, Department of Corrections (in favor); and Mike Redman, Washington Association of Prosecuting Attorneys (in favor).