

HOUSE BILL REPORT

ESB 5151

*As Reported By House Committee on:
Judiciary*

Title: An act relating to method of execution.

Brief Description: Requiring that the death penalty be carried out by lethal injection.

Sponsor(s): Senators Hayner, Niemi, Thorsness, Nelson and Roach; by request of Department of Corrections.

Brief History:

Reported by House Committee on:
Judiciary, February 28, 1992, DP.

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *Do pass.* Signed by 11 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Broback; 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 states with capital punishment, lethal injection is the most common form of execution.

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: None.

Testimony Against: None.

Witnesses: None.