

**SENATE BILL REPORT**

**EHB 1043**

**AS OF MARCH 17, 1993**

**Brief Description:** Specifying the method of execution.

**SPONSORS:** Representatives Schmidt, Appelwick, Morris, Long, Ballasiotes, Riley, Springer, Shin, Brough, Eide, Johanson, Fuhrman, Silver and J. Kohl

**HOUSE COMMITTEE ON JUDICIARY**

**SENATE COMMITTEE ON LAW & JUSTICE**

**Staff:** Lidia Mori (786-7755)

**Hearing Dates:** March 18, 1993

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

The United States Supreme Court has upheld a change in a state's method of execution statute even when the change was applied retroactively to crimes committed before the change was made. The court rejected arguments that the change amounted to prohibited ex post facto legislation.

**SUMMARY:**

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 sole 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 from that of

current law. That is, lethal injection will be the method of execution unless the condemned person chooses hanging.

The Office of the Administrator for the Courts is required to study the racial and gender proportionalities of defendants in death penalty cases before and after the change in method of execution takes effect.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** none requested