



January 7, 2000

Special Session on Death Penalty

Following the 1999 execution of Alan "Tiny" Davis and subsequent appeals, the U.S. Supreme Court granted the right to, again, hear the case questioning the constitutionality of Florida's electric chair as being cruel or unusual punishment.

In an effort to keep this case from being heard, Governor Bush called the Legislature into a Special Session beginning January 5, 2000, in order to pass a law granting Death Row inmates a choice, execution by Lethal Injection or Electrocutation via the electric chair. Based on the results of a recent California case, it is thought that the case currently before the U.S. Supreme Court will be moot because the electric chair would no longer be considered an instrument of cruel and unusual punishment if it was only utilized upon the inmates request, or choice.

Governor Bush also wanted the Legislature to address the more controversial issue of Death Penalty Reform by streamlining the appeals' process and therefore the amount of time it takes the State to carry out a capital punishment.

On Friday, January 7, 2000, after a very heated two-day debate between Democrats and Republicans, the Florida Legislature passed two bills which the Governor is expected to sign. The first, SB 10A, Method of Execution/Choice by Convict, by Sen. Ginny Brown-Waite (R-Brooksville), and CS/HB1A, Death Penalty Reform Act of 2000, by Rep. Victor Crist (R-Temple Terrace). Although both issues were very important to legislators, shortening the appeals process was far more controversial and consumed the majority of debate time than the debate over whether to change the method of execution.

Below is a brief summary of the legislation lawmakers passed:

Method of Execution/Choice by Convict ([SB 10A](#)):

- Provides that inmates sentenced to death may elect either electrocution or lethal injection.
- If choice of method is waived by the condemned, execution will be by lethal injection.

- Choice of method of execution must be made by the inmate in writing and delivered to the warden of the correctional facility within 30 days of the issuance of the Florida Supreme Court's mandate affirming the sentence of death on the direct appeal.
- If an execution by electrocution or lethal injection is held to be unconstitutional by the courts, then the death sentence shall be carried out by any constitutional method.

Death Penalty Reform Act of 2000 ([CS/HB 1A](#)):

- The purpose of this bill is to reduce delays in capital cases and to ensure that all appeals and post-conviction actions in capital cases are resolved within five years after the date a sentence of death is imposed in the circuit court.
- All post-conviction actions shall be filed as early as possible after imposition of the death sentence, and that all such actions be filed in compliance with time limitations.
- States that no death sentenced person, or that person's capital post-conviction counsel, can file more than one post-conviction action in a sentencing court and one appeal therefrom to the Florida Supreme Court.

CS/HB 1A also requires death row inmates to file a post-conviction appeal during the time the Florida Supreme Court considers the murderer's direct appeal. Direct appeals are those relating to the case and/or subsequent trials. Successive post-conviction actions, with the exception of actual innocence claims, would be barred from consideration by the state courts. The goal of the Governor and Legislature with this issue was to stop delay tactics by death row inmates and to have capital cases resolved within five years. Therefore, the Death Penalty Reform Act of 2000 (CS/HB 1A) provides time limitations for the commencement and disposition of post-convictions actions and appeals. Time limits are also set for appointment of counsel, public records production. Also, any claim filed after the statutory time limit is barred and no claim filed after the time limit constitutes grounds for judicial stay of a death warrant.

Governor Bush Issues Executive Order Number 2000-1

Senate leadership raised issues with the Governor's Office regarding the sentencing of certain defendants in capital cases. As a result the Governor has agreed to establish a 15 member Task Force on Capital Cases. Members of the Task Force will be appointed no later than January 14, 2000.

The Task Force will:

- Study evidence of discrimination, if any, in the sentencing of defendants in capital cases, including consideration of race, ethnicity, gender and the possible mental retardation of the defendant.
- Submit a report to the Governor, the Florida Supreme Court, and the Legislature by March 1, 2000.

Although legislators passed and the Governor has commented that he will sign the legislation, oral arguments are scheduled to begin in February before the U.S. Supreme Court as to the issue of electrocution as a means of capitol punishment.

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This report was prepared by Curt Leonard, Manager – Governmental Affairs at Associated Industries of Florida (AIF). Please send your comments or suggestions to us at aif@aif.com or call the Governmental Affairs department at (850)224-7173.

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