

AMENDMENTS TO LB 476

Introduced by Kruse, 13

1           1. Strike the original sections and insert the following  
2 new sections:

3           Section 1. Section 29-2532, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           29-2532 (1)(a) The mode of inflicting the punishment of  
6 death, in ~~all cases~~, shall be cases in which the crime for which  
7 the punishment of death has been imposed was committed prior to  
8 the effective date of this act, shall be, at the option of the  
9 convicted person being punished and as provided in subdivisions  
10 (1)(b) and (c) of this subsection, (i) by causing to pass  
11 through the body of the convicted person a current or currents  
12 of electricity of sufficient intensity to cause death, and the  
13 application of such current or currents shall be continued until  
14 such convicted person is dead or (ii) by gunshots administered by  
15 firing squad sufficient to cause death.

16           (b) If the convicted person being punished was sentenced  
17 to death prior to the effective date of this act, then the warden  
18 of the Department of Correctional Services facility designated by  
19 the Director of Correctional Services to carry out the sentence  
20 of death, or his or her designee, shall provide written notice  
21 to the convicted person of the requirement to choose a mode of  
22 inflicting the punishment of death set forth in this section within  
23 thirty days after the effective date of this act. Such notice shall

1 state that a failure to choose shall result in the punishment of  
2 death being inflicted pursuant to subdivision (1)(a)(ii) of this  
3 subsection. If a choice is made by the convicted person, it shall  
4 be made in writing and received by the warden or his or her  
5 designee within thirty days after receipt by the convicted person  
6 of the warden's written notice.

7 (c) If the convicted person being punished was sentenced  
8 to death on or after the effective date of this act, then  
9 the warden of the Department of Correctional Services facility  
10 designated by the Director of Correctional Services to carry out  
11 the sentence of death, or his or her designee, shall provide  
12 written notice to the convicted person of the requirement to choose  
13 a mode of inflicting the punishment of death set forth in this  
14 section within thirty days after the sentence has been affirmed by  
15 the Nebraska Supreme Court pursuant to section 29-2528. Such notice  
16 shall state that a failure to choose shall result in the punishment  
17 of death being inflicted pursuant to subdivision (1)(a)(ii) of  
18 this subsection. If a choice is made by the convicted person, it  
19 shall be made in writing and received by the warden or his or her  
20 designee within thirty days after receipt by the convicted person  
21 of the warden's written notice.

22 (d) If the convicted person being punished fails to  
23 choose as provided in this subsection, the mode of inflicting the  
24 punishment of death shall be pursuant to subdivision (1)(a)(ii) of  
25 this section.

26 (2) The mode of inflicting the punishment of death, in  
27 cases in which the crime for which the punishment of death has been

1 imposed was committed on or after the effective date of this act,  
2 shall be by gunshots administered by firing squad sufficient to  
3 cause death.

4         (3) The warden of the Nebraska Penal and Correctional  
5 Complex Department of Correctional Services facility designated by  
6 the Director of Correctional Services to carry out the sentence  
7 of death, and in case of his such warden's death, sickness,  
8 absence, or inability to act, then the deputy warden, shall be the  
9 executioner. The ~~+~~ PROVIDED, the warden may in writing specially  
10 designate and appoint a suitable and competent person, or, in case  
11 of a firing squad, persons, to act for him or her, and under his  
12 or her direction, as executioner, or, in case of a firing squad,  
13 executioners, in any particular case. A crime punishable by death  
14 must shall be punished according to the provisions herein made this  
15 section and not otherwise.

16         (4) If the Supreme Court of the United States declares  
17 that the mode of inflicting the punishment of death under  
18 subdivision (1)(a)(i) or (ii) of this section violates the  
19 United States Constitution, or if the Nebraska Supreme Court  
20 declares that the mode of inflicting the punishment of death under  
21 subdivision (1)(a)(i) or (ii) of this section violates the United  
22 States Constitution or the Constitution of Nebraska, the mode of  
23 inflicting the punishment of death shall be by the other remaining  
24 statutory mode of inflicting the punishment of death.

25         Sec. 2. Section 29-2533, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27         29-2533 When any convicted person shall be sentenced

1 ~~to be electrocuted~~ is punished by death, such punishment shall  
2 be inflicted ~~within the walls of the Department of Correctional~~  
3 ~~Services adult correctional facility,~~ ~~or within the yard or~~  
4 ~~enclosure adjacent thereto,~~ at a Department of Correctional  
5 Services facility under the supervision of the warden of such  
6 facility and in such a manner as to exclude the view of all persons  
7 ~~save~~ except those permitted to be present as provided in sections  
8 29-2534 and 29-2535.

9           Sec. 3. Section 29-2542, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           29-2542 If any person escapes who has been convicted  
12 of a crime punishable by death, and has been sentenced to be  
13 electrocuted death, ~~shall escape,~~ ~~and shall not be~~ and has not been  
14 retaken before the time fixed for his or her execution, ~~it shall be~~  
15 ~~lawful for the warden~~ the Director of Correctional Services or his  
16 or her designee may rearrest such person, or any sheriff or other  
17 officer or person ~~to~~ may rearrest such person and return him or her  
18 to the custody of the warden of the Nebraska Penal and Correctional  
19 Complex, ~~who shall thereupon make return thereof to~~ Department of  
20 Correctional Services. The director shall then notify the Governor  
21 of the state, and the Governor shall ~~thereupon~~ issue a warrant,  
22 fixing and appointing a day for the execution. The director shall  
23 ensure that the designated warden carries out the execution, ~~which~~  
24 ~~shall be carried into effect by the warden~~ in the same manner as  
25 herein provided for the execution of an ~~original~~ a sentence of  
26 death.

27           Sec. 4. Section 29-2543, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           29-2543 Whenever any person has been tried and convicted  
3 before any district court in this state of a crime punishable by  
4 death and under the conviction has been sentenced by the court  
5 to suffer death, it shall be the duty of the clerk of the court  
6 before which the conviction was had to issue a warrant, under the  
7 seal of the court, reciting therein the conviction and sentence  
8 directed to the ~~warden of the Nebraska Penal and Correctional~~  
9 ~~Complex~~ Director of Correctional Services, commanding ~~him or her~~  
10 to proceed at the time named in the sentence to carry the same  
11 into execution by causing the person so convicted and sentenced to  
12 be electrocuted by the passage of an electric current through the  
13 ~~body until dead~~ the director to cause the death of the convicted  
14 person. The clerk shall deliver the warrant to the sheriff of  
15 the county in which conviction was had and such sheriff shall  
16 thereupon forthwith remove such convicted person to a Department  
17 of Correctional Services ~~adult correctional~~ facility of the state  
18 and there deliver him or her, together with the warrant, into the  
19 custody of the ~~warden~~ director who shall receive and safely keep  
20 such ~~convict~~ convicted person within a Department of Correctional  
21 Services ~~adult correctional~~ facility until the time of execution or  
22 until otherwise ordered by competent authority.

23           Sec. 5. Section 29-2544, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           29-2544 It shall be the duty of the ~~warden of the~~  
26 ~~Nebraska Penal and Correctional Complex~~ Director of Correctional  
27 Services on receipt of such warrant, if the Supreme Court or a

1 judge thereof shall not have ordered a suspension of the execution,  
2 and if the Board of Pardons shall not have commuted such sentence,  
3 or granted a reprieve or pardon to such convict, to proceed at  
4 the time named in the warrant to carry the sentence into execution  
5 in the manner herein provided; and of the manner of his or her  
6 executing the warrant, and of his or her doings thereon, he or  
7 she shall forthwith make return to the clerk, who shall cause the  
8 warrant and return to be recorded as a part of the records of the  
9 case.

10           Sec. 6. If any section in this act or any part of any  
11 section is declared invalid or unconstitutional, the declaration  
12 shall not affect the validity or constitutionality of the remaining  
13 portions.

14           Sec. 7. Original sections 29-2532, 29-2533, 29-2542,  
15 29-2543, and 29-2544, Reissue Revised Statutes of Nebraska, are  
16 repealed.

17           Sec. 8. Since an emergency exists, this act takes effect  
18 when passed and approved according to law.

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