

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

S

D

SENATE DRS75003-LH-40 (01/10)

Short Title: Legislative Commission on Lethal Injection. (Public)

Sponsors: Senator Kinnaird.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE LEGISLATIVE STUDY COMMISSION ON
LETHAL INJECTION AND TO DELAY THE SETTING OF EXECUTIONS FOR
A DEFINITE PERIOD UNTIL THE STUDY IS COMPLETED.

Whereas, North Carolina law does not address the means by which the mode
of executing a death sentence through lethal injection is administered; and

Whereas, North Carolina utilizes the same procedure as Florida; and

Whereas, on December 13, 2006, the execution of a prisoner in Florida by
lethal injection caused severe pain to the prisoner, and the medical examiner in Florida
indicated that the lethal injection protocols need to be reviewed to determine if existing
protocols should be modified or additional protocols added; and

Whereas, Dr. Jay Chapman, the forensic pathologist who devised the lethal
injection protocol, no longer recommends the three-drug protocol used in North
Carolina; and

Whereas, Dr. Mark Dershwitz, a professor of anesthesiology at the University
of Massachusetts, has advised that other methods of lethal injection exist; and

Whereas, other states that used this protocol have stayed executions pending a
study of alternative means, including Florida, Maryland, and California; and

Whereas, as a matter of humanity, constitutional imperative, and common
sense, if our State is going to execute persons convicted of capital crimes, it must do so
in a manner that comports with medical procedures and with the United States and
North Carolina constitutions; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) There is created the Legislative Study Commission on
Lethal Injection. The Commission shall consist of 15 members appointed as follows:

(1) Five Senators appointed by the President Pro Tempore of the Senate.

1 (2) Five Representatives appointed by the Speaker of the House of
2 Representatives.

3 (3) Five members from the State's medical community appointed by the
4 Governor.

5 **SECTION 1.(b)** The Legislative Study Commission on Lethal Injection
6 shall consider the way that North Carolina uses lethal injection for executions and shall
7 review the State's lethal injection protocols to determine whether they are medically
8 sound. In its study, the Commission may consider the protocol regarding who
9 administers the drugs, how much of each chemical should be used, how prison officials
10 should proceed if an inmate's veins are too compromised to receive injections, and any
11 other appropriate or relevant subject.

12 **SECTION 1.(c)** The Speaker of the House of Representatives shall appoint a
13 cochair, and the President Pro Tempore of the Senate shall appoint a cochair for the
14 Commission. The Commission may meet at any time upon the joint call of the cochairs.
15 Vacancies on the Commission shall be filled by the same appointing authority as made
16 the initial appointment.

17 The Commission, while in the discharge of its official duties, may exercise all
18 powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The
19 Commission may contract for professional, clerical, or consultant services as provided
20 by G.S. 120-32.02.

21 Subject to the approval of the Legislative Services Commission, the
22 Commission may meet in the Legislative Building or the Legislative Office Building.
23 The Legislative Services Commission, through the Legislative Services Officer, shall
24 assign professional staff to assist the Commission in its work. The House of
25 Representatives' and the Senate's Supervisors of Clerks shall assign clerical support staff
26 to the Commission, and the expenses relating to the clerical employees shall be borne
27 by the Commission. Members of the Commission shall receive subsistence and travel
28 expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

29 **SECTION 1.(d)** The Legislative Study Commission on Lethal Injection
30 shall submit an interim report to the 2008 Regular Session of the 2007 General
31 Assembly on the Commission's findings and recommendations, which may include any
32 statutory changes necessary to implement the recommendations. The Commission shall
33 make a final report to the 2009 General Assembly and shall terminate upon the earlier
34 of the filing of its final report or the convening of the 2009 General Assembly.

35 **SECTION 1.(e)** There is appropriated from the General Fund to the General
36 Assembly the sum of fifty thousand dollars (\$50,000) for the 2007-2008 fiscal year and
37 the sum of fifty thousand dollars (\$50,000) for the 2008-2009 fiscal year to be used by
38 the Legislative Services Commission for the expenses of the Legislative Study
39 Commission on Lethal Injection established by this section.

40 **SECTION 2.** Notwithstanding the provisions of G.S. 15-194, or any other
41 provision of State law, the Secretary of Correction shall not set any date prior to June 1,
42 2009, for the execution for any person that has been sentenced to death under State law.

1 **SECTION 3.** Notwithstanding Section 2 of this act, nothing in this act shall
2 prevent the prosecution of capital cases at trial or appeal nor the imposition of a
3 sentence of death during the period of the study.

4 **SECTION 4.** This act is effective when it becomes law.