

AM2699
LB 526
NPN-02-18

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AMENDMENTS TO LB 526

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

3 "Section 1. Section 29-2524, Revised Statutes
4 Supplement, 2003, is amended to read:

5 29-2524. Nothing in sections 25-1140.09, 28-303, 28-313,
6 and 29-2519 to 29-2546 and sections 7 to 9 of this act shall be in
7 any way deemed to repeal or limit existing procedures for automatic
8 review of capital cases, nor shall they in any way limit the right
9 of the Supreme Court to reduce a sentence of death to a sentence of
10 life imprisonment without parole in accordance with the provisions
11 of section 29-2308, nor shall they limit the right of the Board of
12 Pardons to commute any sentence of death to a sentence of life
13 imprisonment without parole.

14 Sec. 2. Section 29-2532, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 29-2532. (1) (a) The mode of inflicting the punishment of
17 death, in all cases, shall be, at the option of the convicted
18 person being punished, (i) by causing to pass through the body of
19 the convicted person a current or currents of electricity of
20 sufficient intensity to cause death, and the application of such
21 current or currents shall be continued until such convicted person
22 is dead, (ii) by intravenous administration of a lethal quantity of
23 an ultra-short-acting barbiturate in combination with a chemical
24 paralytic agent and potassium chloride, or other equally effective

1 substances, sufficient to cause death, or (iii) by beheading by
2 means of a heavy blade that slides down vertical guides.

3 (b) The warden of the Department of Correctional Services
4 facility designated by the Director of Correctional Services to
5 carry out the sentence of death, or his or her designee, shall
6 provide written notice to the convicted person of the requirement
7 to choose a mode of inflicting the punishment of death set forth in
8 this section within thirty days after the effective date of this
9 act. Such notice shall state that a failure to choose shall result
10 in the punishment of death being inflicted pursuant to subdivision
11 (1)(a)(iii) of this subsection. If a choice is made by the
12 convicted person, it shall be made in writing and received by the
13 warden or his or her designee within thirty days after receipt by
14 the convicted person of the warden's written notice.

15 (c) If the convicted person being punished fails to
16 choose as provided in this subsection, the mode of inflicting the
17 punishment of death shall be pursuant to subdivision (1)(a)(iii) of
18 this section.

19 (2) The warden of the ~~Nebraska Penal and Correctional~~
20 ~~Complex~~ Department of Correctional Services facility designated by
21 the Director of Correctional Services to carry out the sentence of
22 death, and in case of ~~his~~ such warden's death, sickness, absence,
23 or inability to act, then the deputy warden, shall be the
24 executioner. The ~~+~~ PROVIDED, the warden may in writing specially
25 designate and appoint a suitable and competent person to act for
26 him or her, and under his or her direction, as executioner in any
27 particular case. A crime punishable by death ~~must~~ shall be

1 punished according to ~~the provisions herein made~~ this section and
2 not otherwise.

3 (3) If the Supreme Court of the United States declares
4 that the mode of inflicting the punishment of death under
5 subdivision (1)(a)(i), (ii), or (iii) of this section violates the
6 United States Constitution, or if the Nebraska Supreme Court
7 declares that the mode of inflicting the punishment of death under
8 subdivision (1)(a)(i), (ii), or (iii) of this section violates the
9 United States Constitution or the Constitution of Nebraska, the
10 mode of inflicting the punishment of death shall be by the other
11 remaining statutory modes of inflicting the punishment of death.

12 Sec. 3. Section 29-2533, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 29-2533. When any convicted person ~~shall be sentenced to~~
15 ~~be electrocuted~~ is punished by death, such punishment shall be
16 inflicted ~~within the walls of the Department of Correctional~~
17 ~~Services adult correctional facility,~~ at a Department of
18 Correctional Services facility ~~or within the yard or enclosure~~
19 ~~adjacent thereto,~~ under the supervision of the warden of such
20 facility and in such a manner as to exclude the view of all persons
21 ~~save~~ except those permitted to be present as provided in sections
22 29-2534 and 29-2535.

23 Sec. 4. Section 29-2542, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 29-2542. If any person escapes who has been convicted of
26 a crime punishable by death, ~~and~~ has been sentenced to ~~be~~
27 ~~electrocuted~~ death, ~~shall escape,~~ ~~and shall not be~~ and has not been

1 retaken before the time fixed for his or her execution, ~~it shall be~~
2 ~~lawful for the warden~~ the Director of Correctional Services or his
3 or her designee may rearrest such person, or any sheriff or other
4 officer or person ~~to~~ may rearrest such person and return him or her
5 to the custody of the ~~warden of the Nebraska Penal and Correctional~~
6 ~~Complex, who~~ Department of Correctional Services. The director
7 ~~shall thereupon make return thereof to~~ then notify the Governor of
8 the state, and the Governor shall ~~thereupon~~ issue a warrant, fixing
9 and appointing a day for the execution. The director shall ensure
10 that the designated ~~, which shall be carried into effect by the~~
11 warden carry out the execution in the same manner as ~~herein~~
12 provided for the execution of ~~an original~~ a sentence of death.

13 Sec. 5. Section 29-2543, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 29-2543. Whenever any person has been tried and
16 convicted before any district court in this state of a crime
17 punishable by death and under the conviction has been sentenced ~~by~~
18 ~~the court to suffer to~~ death, it shall be the duty of the clerk of
19 the court before which the conviction was had to issue a warrant,
20 under the seal of the court, reciting therein the conviction and
21 sentence directed to the ~~warden of the Nebraska Penal and~~
22 ~~Correctional Complex~~ Director of Correctional Services, commanding
23 ~~him or her~~ the director to proceed at the time named in the
24 ~~sentence to carry the same into execution by causing the person so~~
25 ~~convicted and sentenced to be electrocuted by the passage of an~~
26 ~~electric current through the body until dead~~ cause the death of the
27 ~~convicted person~~. The clerk shall deliver the warrant to the

1 sheriff of the county in which conviction was had and such sheriff
2 shall thereupon forthwith remove such convicted person to a
3 Department of Correctional Services ~~adult correctional~~ facility of
4 the state and there deliver him or her, together with the warrant,
5 into the custody of the ~~warden~~ director who shall receive and
6 safely keep such ~~convict~~ convicted person within a Department of
7 Correctional Services ~~adult correctional~~ facility until the time of
8 execution or until otherwise ordered by competent authority.

9 Sec. 6. Section 29-2544, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 29-2544. It shall be the duty of the ~~warden of the~~
12 ~~Nebraska Penal and Correctional Complex~~ Director of Correctional
13 Services on receipt of such warrant, if the Supreme Court or a
14 judge thereof shall not have ordered a suspension of the execution,
15 and if the Board of Pardons shall not have commuted such sentence,
16 or granted a reprieve or pardon to such convict, to proceed at the
17 time named in the warrant to carry the sentence into execution in
18 the manner herein provided; and of the manner of his or her
19 executing the warrant, and of his or her doings thereon, he or she
20 shall forthwith make return to the clerk, who shall cause the
21 warrant and return to be recorded as a part of the records of the
22 case.

23 Sec. 7. Notwithstanding any other provision of law, the
24 assistance with, participation in, or performance of ancillary or
25 other functions pursuant to the administration of the substance or
26 substances described in subdivision (1)(a)(ii) of section 29-2532
27 in order to carry out the punishment of death as provided by law

1 shall not be construed to constitute the practice of medicine and
2 shall not be a violation of the Uniform Controlled Substances Act
3 or sections 71-2501 to 71-2512.

4 Sec. 8. Notwithstanding any other provision of law, any
5 pharmacist or pharmaceutical supplier is authorized to distribute
6 drugs to the Director of Correctional Services or his or her
7 designee, without prescription, in order to carry out the
8 punishment of death as provided by law.

9 Sec. 9. The Department of Correctional Services shall
10 adopt and promulgate rules and regulations establishing the
11 policies and procedures for carrying out the method of inflicting
12 the death penalty.

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

17 Sec. 11. Original sections 29-2532, 29-2533, 29-2542,
18 29-2543, and 29-2544, Reissue Revised Statutes of Nebraska, and
19 section 29-2524, Revised Statutes Supplement, 2003, are repealed.

20 Sec. 12. Since an emergency exists, this act takes
21 effect when passed and approved according to law."