

SENATE BILL No. 534

By Committee on Federal and State Affairs

3-4

1 AN ACT concerning criminal procedure; relating to execution of death
2 sentences; requiring the secretary of corrections to select the method of
3 carryout of a sentence of death by hypoxia; requiring the district court
4 to send the secretary a warrant commanding the secretary to proceed to
5 carry out a sentence of death within 30 days after judgment is final;
6 amending K.S.A. 22-4001 and 22-4013 and repealing the existing
7 sections.
8

9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. K.S.A. 22-4001 is hereby amended to read as follows: 22-
11 4001. (a) The mode of carrying out a sentence of death in this state shall be
12 by intravenous injection of a substance or substances in a quantity
13 sufficient to cause death in a swift and humane manner *or by hypoxia*
14 *administered in such a way to cause death in a swift and humane manner.*

15 (b) The secretary of corrections shall supervise the carrying out of
16 each sentence of death and shall determine the procedures therefor, which
17 shall be consistent with ~~this act~~ *article 40 of chapter 22 of the Kansas*
18 *Statutes Annotated, and amendments thereto*, and the other laws of the
19 state. The secretary of corrections shall designate one or more executioners
20 and other persons necessary to assist in carrying out the sentence of death
21 as provided in this section. The identity of executioners and other persons
22 designated to assist in carrying out the sentence of death shall be
23 confidential.

24 (c) (1) *Not later than December 31, 2024*, the secretary of corrections
25 shall select the:

26 (A) Type of substance or substances to be administered in carrying
27 out a sentence of death by intravenous injection in a swift and humane
28 manner. ~~The secretary of health and environment shall certify to the~~
29 ~~secretary of corrections that the substance or substances selected by the~~
30 ~~secretary of corrections will result in death in a swift and humane manner.~~
31 ~~If the secretary of corrections desires to change the substance or~~
32 ~~substances to be administered from those previously certified by the~~
33 ~~secretary of health and environment, the proposed substance or substances~~
34 ~~also shall be certified as provided in this section; and~~

35 (B) *the method of carrying out a sentence of death by hypoxia in a*
36 *swift and humane manner.*

1 (2) *The secretary may change the substance or substances to be*
2 *administered pursuant to paragraph (1)(A) and the method of carrying out*
3 *a sentence of death by hypoxia pursuant to paragraph (1)(B) at any time*
4 *the secretary deems necessary. The selections made by the secretary*
5 *pursuant to paragraph (1) for carrying out a sentence of death shall be*
6 *adopted by the secretary in rules and regulations.*

7 (d) The secretary of corrections may designate in writing a warden of
8 one of the correctional institutions under the secretary's supervision to
9 perform the duties imposed upon the secretary by this section and by
10 K.S.A. 22-4002, 22-4003, 22-4013 and 22-4014, and amendments thereto.

11 (e) *As used in this section, "swift and humane manner" means a*
12 *manner consistent with the requirements of the eighth amendment to the*
13 *constitution of the United States.*

14 Sec. 2. K.S.A. 22-4013 is hereby amended to read as follows: 22-
15 4013. (a) It shall be the duty of the secretary of corrections or the warden
16 designated by the secretary to proceed to execute a sentence of death in the
17 manner prescribed by ~~this act~~ *article 40 of chapter 22 of the Kansas*
18 *Statutes Annotated, and amendments thereto. When executing a sentence*
19 *of death, the secretary shall determine whether to use an intravenous*
20 *injection or hypoxia and shall use the substance or method selected*
21 *pursuant to K.S.A. 22-4001, and amendments thereto.*

22 (b) ~~Upon receipt of an order of the district court as provided by this~~
23 ~~act, the supreme court~~ *During the pendency of any appeal or post-*
24 *conviction proceedings, the execution of a sentence of death shall be*
25 *stayed. Upon receipt of the mandate or order of the relevant court ending*
26 *appellate or post-conviction proceedings, the district court before which*
27 *the conviction was rendered shall issue, within 30 days, to the secretary of*
28 *corrections a warrant under seal of the ~~supreme~~ district court, commanding*
29 *the secretary or a warden designated pursuant to K.S.A. 22-4001, and*
30 *amendments thereto, to proceed to carry out the sentence of execution*
31 *during the week designated by the ~~supreme~~ district court. The week*
32 *designated in the warrant shall be sufficient to enable the secretary to give*
33 *notice as provided in subsection (c). A copy of the warrant shall be*
34 *delivered to the secretary of corrections and the clerk of the district court.*
35 *For purposes of ~~this act~~ article 40 of chapter 22 of the Kansas Statutes*
36 *Annotated, and amendments thereto, the term "week" shall mean the time*
37 *period from 12:01 a.m. Sunday through and including 11:59 p.m. the*
38 *following Saturday. If the week designated in the warrant commanding the*
39 *execution of a death sentence begins on a day of the week other than a*
40 *Sunday, or sets out a particular date for the execution, the secretary of*
41 *corrections shall notify the clerk of the ~~supreme court~~ district court that*
42 *issued the warrant.*

43 (c) The secretary of corrections shall carry out the execution

1 commanded by the warrant issued by the ~~supreme~~ *district* court during the
2 week designated by the ~~supreme~~ *district* court on a date selected by the
3 secretary. The secretary shall give notice of the date selected by the
4 secretary for the execution at least seven calendar days before the
5 execution to the clerk of the supreme court, the clerk of the district court in
6 which the defendant was convicted, the defendant, the defendant's counsel
7 and the attorney general. The secretary may carry out the execution at any
8 time during the date selected or as soon thereafter as the secretary deems
9 appropriate.

10 Sec. 3. K.S.A. 22-4001 and 22-4013 are hereby repealed.

11 Sec. 4. This act shall take effect and be in force from and after its
12 publication in the statute book.