

**MINUTES OF THE
SENATE HEALTH AND HUMAN SERVICES STANDING COMMITTEE
FRIDAY, FEBRUARY 6TH, 2004
ROOM 414, STATE CAPITOL BUILDING**

Members Present: Sen. James M. Evans, Chair
 Sen. Ron Allen
 Sen. Leonard Blackham
 Sen. Scott K. Jenkins
 Sen. Paula F. Julander
 Sen. Peter Knudson
 Sen. David L. Thomas

Members Excused: Sen. Beverly Evans

Staff Present: Mark Andrews, Policy Analyst
 Jeanne Wride, Secretary

Public Speakers: Richard Anderson, Division of Child and Family Services
 Laura Poe, Occupational and Professional Licensing

Visitor List on File:

Sen. J. Evans Called the meeting to order at 8:10

APPROVAL OF MINUTES:

MOTION: Sen. Allen moved to accept the minutes of February 3, 2004.

The motion passed with Sen. Blackham, Sen. Jenkins, and Sen. Thomas absent for the vote.

1. H. B. 180 DEATH PENALTY PROVISIONS (By Rep. S. Allen)

Sen. Knudson moved to amend the bill as follows:

1. *Page 1, Lines 7 through 8
House Floor Amendments
1-26-2004:*

7 **General Description:**

8 This bill repeals use of a firing squad as a means of carrying out the death

penalty , except in specified situations .

2. *Page 1, Lines 9 through 14b*
House Floor Amendments
1-26-2004:

9 **Highlighted Provisions:**

10 This bill:

11 ▶ repeals references to the use of a firing squad, ~~[[and makes the repeal~~
~~retroactive; h [and] h~~

12 ~~→ makes provision for the possibility that the retroactive provision is~~
~~ruled~~

13 ~~unconstitutional, in which case the defendant who has selected the firing~~
~~squad may~~

14 ~~be so executed h ; AND~~

14a ~~→ PROVIDES FOR EXECUTION BY FIRING SQUAD IF]]~~

unless EXECUTION BY LETHAL INJECTION IS

14b FOUND TO BE UNCONSTITUTIONAL h .

3. *Page 2, Line 33:*

33 competent court in executing a penalty of death under Subsection

~~[[77-18-5.5(4)]]~~ 77-18-5.5(3) or (4) ;

4. *Page 2, Line 46:*

46 77-18-5.5. Judgment of death -- ~~[[Defendant to select method -- Time~~
~~of selection-]]~~ Method is lethal injection -- Exceptions for use of firing
squad .

5. *Page 2, Line 52 through Page 3, Line 62:*

52 (2) Subsection (1) applies to ~~[[~~

53 ~~(a)-]]~~ any defendant sentenced to death on or after the effective date of
this act ~~[[; and~~

54 ~~(b) any defendant sentenced to death prior to the effective date of this~~
~~act, whether or~~

55 not that defendant previously chose a different method of execution]]

56 [[~~(3)~~ (a) If on the effective date of this act any death warrant issued
57 under Section
58 77-19-6 specifying the method of execution as a firing squad is pending, the
59 court shall issue
60 another warrant specifying that the method is lethal intravenous injection.
61 — (b) If a defendant has previously selected a firing squad as the method of
62 execution and
63 no death warrant is pending, the court, upon issuing a death warrant, shall
64 specify that the
65 method is lethal intravenous injection.
66 — (4) Notwithstanding Subsection (3), if]]
67 (3) If a ^h [final judgment] COURT ^h holds that a defendant

6. *Page 3, Line 64a*
House Floor Amendments
1-26-2004:

64a SHALL BE ^h a firing squad. This Subsection ~~[[~~(4)~~]]~~ (3) applies to

7. *Page 3, Line 65a*
House Floor Amendments
1-26-2004:

65a ^h ~~[[~~(5)~~]]~~ (4) (a) IF A COURT HOLDS THAT EXECUTION BY LETHAL
INJECTION IS

8. *Page 3, Lines 75 through 77*
House Floor Amendments
1-26-2004:

75 (2) The warrant shall state the conviction, the judgment, the method of
76 execution, ~~[[~~
77 which is lethal injection except under Subsection 77-18-5.5(4)]] and the
78 appointed day the
79 judgment is to be executed, which may not be fewer than 30 days nor more
80 than 60 days from

9. *Page 4, Lines 95 through 96:*

95 (3) If the judgment of death is to be carried out by firing squad under Subsection

96 [[~~77-18-5.5(4)~~]] 77-18-5.5(3) or(4) , the executive director of the department or his designee shall select a five-person

10. *Page 4, Line 99:*

99 intravenous injections and for members of a firing squad under Subsection
[[~~77-18-5.5(4)~~]] 77-18-5.5(3) or(4) shall

The motion passed with Sen. Blackham and Sen. Jenkins absent for the vote.

MOTION: Sen. Knudson moved to pass H. B. 180 out of committee, as amended, with a favorable recommendation.

The motion passed unanimously with Sen. Blackham and Sen. Jenkins absent for the vote.

2 **S.B. 160 CONTROLLED SUBSTANCES ACT AMENDMENTS (By Sen. P. Julander)**

Sen. Julander presented the bill to the committee.

Laura Poe, Occupational and Professional Licensing, spoke to the bill.

MOTION: Sen. Knudson moved to pass S.B. 160 out of committee with a favorable recommendation.

The motion passed unanimously with Sen. J. Evans, Sen. Blackham, and Sen. Jenkins absent for the vote.

MOTION: Sen. Knudson moved to place S. B.160 on the Consent Calender.

The motion passed unanimously with Sen. J. Evans, Sen. Blackham, and Sen. Jenkins absent for the vote.

3. **H.B. 183 CONDITIONS FOR RELEASE AFTER NOTICE REGARDING ARREST FOR DOMESTIC VIOLENCE (By P. Wallace)**

Rep. P. Wallace presented the bill to the committee.

Richard Anderson, Division of Child and Family Services, spoke to the bill.

MOTION: Sen. Blackham moved to pass H. B.183 out of committee with a favorable recommendation.

The motion passed unanimously with Sen. J. Evans, Sen. Blackham and Sen. Jenkins absent for the vote.

4. **3rd. SUB. S. B. 90 MEDICAL NEGLIGENCE - EXCLUSION (By Sen. D. Thomas)**

MOTION: Sen. Thomas moved to adopt 4th Sub. S. B. 90.

The motion passed unanimously with Sen. J. Evans and Sen. Jenkins absent for the vote.

Sen. Thomas presented the bill to the committee.

MOTION: Sen. Thomas moved to amend 4th. Sub. S. B.90 as follows:

1. *Page 21, Lines 618 through 624:*

618 Section 7. **Legislative intent.**

619 The legislature recognizes that there is a fundamental liberty interest of parents in
620 the

621 care, custody, and management of their child as protected by the 14th Amendment and
622 does not

623 evaporate simply because they have not been model parents or have lost temporary
624 custody of

625 their children to the state. ~~[[A termination of parental rights proceeding interferes~~
626 with that

627 fundamental liberty interest. When the state moves to destroy weakened family
628 bonds, it must

629 provide the parents with fundamentally fair procedures.]]

The motion passed unanimously with Sen. J. Evans and Sen. Jenkins absent at the time of the vote.

Richard Anderson, Division of Children and Family Services, spoke to the bill.

MOTION: Sen. Evans moved to pass 4th Sub. S. B 90, as amended, out of committee with a favorable recommendation.

The motion passed with Sen. Allen and Sen. Julander voting against.

MOTION: Sen. Knudson moved to adjourn.

The motion passed unanimously.

Chair J. Evans adjourned the meeting at 9:00 a.m.

Minutes reported by Jeanne Wride, Secretary

Sen. James Evans, Committee Chair