

28 (1) When judgment of death is rendered, a warrant, signed by the judge and attested by
29 the clerk under the seal of the court, shall be drawn and delivered to the sheriff of the county
30 where the conviction is had. The sheriff shall deliver the warrant and a certified copy of the
31 judgment to the executive director of the Department of Corrections or his designee at the time
32 of delivering the defendant to the custody of the Department of Corrections.

33 (2) The warrant shall state the conviction, the judgment, the method of execution, and
34 the appointed day the judgment is to be executed, which may not be fewer than 30 days nor
35 more than 60 days from the date of issuance of the warrant, and may not be a Sunday, Monday,
36 or a legal holiday, as defined in Section 63-13-2.

37 (3) The Department of Corrections shall determine the hour, within the appointed day,
38 at which the judgment is to be executed.

39 Section 2. Section 77-19-9 is amended to read:

40 **77-19-9. Judgment of death not executed -- Order for execution.**

41 (1) If for any reason a judgment of death has not been executed and remains in force,
42 the court where the conviction was had, on application of the prosecuting attorney, shall order
43 the defendant to be brought before it or, if he is at large, issue a warrant for his apprehension.

44 (2) When the defendant is brought before the court, it shall inquire into the facts and, if
45 no legal reason exists against the execution of judgment, the court shall make an order
46 requiring the executive director of the Department of Corrections or his designee to ensure that
47 the judgment is executed on a specified day, which may not be fewer than 30 nor more than 60
48 days [thereafter, at an hour determined by the Department of Corrections. (3) The court shall
49 also draw and have delivered another warrant under Section 77-19-6.] after the court's order,
50 and may not be a Sunday, Monday, or a legal holiday, as defined in Section 63-13-2. The court
51 shall also draw and have delivered another warrant under Section 77-19-6.

52 (3) The Department of Corrections shall determine the hour, within the appointed day,
53 at which the judgment is to be executed.

54 Section 3. Section 77-19-13 is amended to read:

55 **77-19-13. Incompetency or pregnancy of person sentenced to death -- Procedures.**

56 (1) If, after judgment of death, there is good reason to believe the defendant is
57 incompetent to proceed under this chapter, or is pregnant, the executive director of the
58 Department of Corrections or his designee shall immediately give written notice to the court in

59 which the judgment of death was rendered, to the prosecuting attorney, and counsel for
60 defendant. The judgment shall be stayed pending further order of the court.

61 (2) (a) On receipt of the notice, the mental condition of the defendant shall be
62 examined under the provisions of Title 77, Chapter 15, Inquiry into Sanity of Defendant.

63 (b) If the defendant is found incompetent, the court shall immediately transmit a
64 certificate of the findings to the Board of Pardons and Parole and enter an order for
65 commitment under Title 77, Chapter 15. If the defendant is found competent, the judge shall
66 immediately transmit a certificate of the findings to the Board of Pardons and Parole, and shall
67 draw and have delivered another warrant under Section 77-19-6, together with a copy of the
68 certificate of the findings. The warrant shall state an appointed day on which the judgment is
69 to be executed, which may not be fewer than 30 nor more than 60 days from the date of the
70 drawing of the warrant ~~§ [;at an hour determined by the Department of Corrections]~~ , **AND**
80 **WHICH MAY NOT BE A SUNDAY, MONDAY, OR A LEGAL HOLIDAY, AS DEFINED IN SECTION 63-13-2** § .

71 (3) (a) If the court finds the defendant is pregnant, it shall immediately transmit a
72 certificate of the finding to the Board of Pardons and Parole and to the executive director of the
73 Department of Corrections or his designee, and the court shall issue an order staying the
74 execution of the judgment of death during the pregnancy.

75 (b) When the court determines the defendant is no longer pregnant, it shall immediately
76 transmit a certificate of the finding to the Board of Pardons and Parole and draw and have
77 delivered another warrant under Section 77-19-6, with a copy of the certificate of the finding.
78 The warrant shall state an appointed day on which the judgment is to be executed, which may
79 not be fewer than 30 nor more than 60 days from the date of the drawing of the warrant[-], and
80 which may not be a Sunday, Monday, or a legal holiday, as defined in Section 63-13-2.

81 (4) The Department of Corrections shall determine the hour, within the appointed day,
82 at which the judgment is to be executed.

Legislative Review Note
as of 12-3-03 11:17 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0080

Capital Punishment Amendments - Excluded Days

19-Jan-04

2:42 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst