

**CAPITAL PUNISHMENT AMENDMENTS -**

**EXCLUDED DAYS**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: John L. Valentine**

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**LONG TITLE**

**General Description:**

This bill amends time provisions regarding execution of the death penalty.

**Highlighted Provisions:**

This bill:

▶ provides that executions may not be conducted on Sunday, Monday, or a legal holiday.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**77-19-6**, as last amended by Chapter 190, Laws of Utah 1988

**77-19-9**, as last amended by Chapter 190, Laws of Utah 1988

**77-19-13**, as last amended by Chapter 13, Laws of Utah 1994

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **77-19-6** is amended to read:

**77-19-6. Judgment of death -- Warrant -- Delivery of warrant -- Determination of execution time.**

(1) When judgment of death is rendered, a warrant, signed by the judge and attested by the clerk under the seal of the court, shall be drawn and delivered to the sheriff of the county

where the conviction is had. The sheriff shall deliver the warrant and a certified copy of the judgment to the executive director of the Department of Corrections or his designee at the time of delivering the defendant to the custody of the Department of Corrections.

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

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

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

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

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

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

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

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

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

(1) If, after judgment of death, there is good reason to believe the defendant is incompetent to proceed under this chapter, or is pregnant, the executive director of the

Department of Corrections or his designee shall immediately give written notice to the court in which the judgment of death was rendered, to the prosecuting attorney, and counsel for defendant. The judgment shall be stayed pending further order of the court.

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

(b) If the defendant is found incompetent, the court shall immediately transmit a certificate of the findings to the Board of Pardons and Parole and enter an order for commitment under Title 77, Chapter 15. If the defendant is found competent, the judge shall immediately transmit a certificate of the findings to the Board of Pardons and Parole, and shall draw and have delivered another warrant under Section 77-19-6, together with a copy of the certificate of the findings. The warrant shall state an appointed day on which the judgment is to be executed, which may not be fewer than 30 nor more than 60 days from the date of the drawing of the warrant~~[, at an hour determined by the Department of Corrections]~~, and which may not be a Sunday, Monday, or a legal holiday, as defined in Section 63-13-2.

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

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

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