

2C:49-1 to 2C:49-12

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2C:49-1 to 2C:49-12

(Death penalty - lethal injection -
procedures)

LAWS OF: 1983

CHAPTER: 245

Bill No: A1851

Sponsor(s): Paterniti and others

Date Introduced: Sept. 30, 1982

Committee: Assembly: Judiciary, Law, Public Safety and Defense

Senate: Judiciary

Amended during passage: Yes // Assembly Committee Substitute
(OCR) enacted. Amendments during
passage denoted by asterisks.

Date of Passage: Assembly: Jan. 27, 1983

Senate: June 16, 1983

Date of Approval: July 5, 1983

Following statements are attached if available:

Sponsor statement: Yes // Also attached: Senate
amendments adopted
5-23-83 (with statement)

Committee statement: Assembly Yes //

Senate Yes //

Fiscal Note: /// No

Veto Message: /// No

Message on Signing: Yes //

Following were printed:

Reports: /// No

Hearings: /// No

See clipping file "N.J. - Capital Punishment - 1982 and 1983" in New Jersey Reference
Department.

(over)

For background see:

974.90 New Jersey. Legislature. Senate. Judiciary Committee.
C244 Public hearing on S112, held 2-26-82. Trenton, 1982
1982

[OFFICIAL COPY REPRINT]
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1851

STATE OF NEW JERSEY

ADOPTED DECEMBER 13, 1982

By Assemblymen PATERNITI, PANKOK, GORMAN, MARSELLA,
T. GALLO, Assemblywoman PERUN, Assemblymen OTLOWSKI,
McENROE, ZANGARI, VISOTCKY, HAYTAIAN, ALBOHN,
D. GALLO, BISHOP and SHUSTED

AN ACT concerning the procedure for imposing capital punishment
and supplementing Title 2C of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. As used in this act:

2 a. "Commissioner" means the Commissioner of the Department
3 of Corrections.

4 b. "Department" means the Department of Corrections.

5 c. "Inmate" means a person who is incarcerated in the department
6 who is sentenced to death pursuant to the provisions of N. J. S.
7 2C:11-3.

1 2. When a person is sentenced to death pursuant to the pro-
2 visions of N. J. S. 2C:11-3, that punishment shall be imposed by
3 continuous, intravenous administration until the person is dead of
4 a lethal quantity of an ultra short acting barbiturate in combination
5 with a chemical paralytic agent in a quantity sufficient to cause
6 death. Prior to the injection of the lethal substance, the person
7 shall be ***[anesthetized]*** **sedated** by a licensed physician, regis-
8 tered nurse, or other qualified personnel, by either an oral tablet or
9 capsule or an intramuscular injection of a narcotic or barbiturate
10 such as morphine, cocaine or demerol.

1 3. a. The commissioner shall determine the substances and pro-
2 cedure to be used in an execution. Any imposition of the punish-
3 ment of death by administration of the required lethal substances

EXPLANATION—Matter enclosed in bold-faced brackets **[thus]** in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate amendments adopted May 23, 1983.

4 in the manner required by section 2 of this act shall not be construed
5 to be the practice of medicine and any pharmacist or pharma-
6 ceutical supplier is authorized to dispense drugs to the commis-
7 sioner or his designee, without prescription, for carrying out the
8 provisions of section 2, notwithstanding any other provision of
9 law to the contrary.

10 b. The commissioner shall designate persons who are qualified
11 to administer injections and who are familiar with medical pro-
12 cedures, other than licensed physicians, as execution technicians
13 to assist in the carrying out of executions, but the procedures and
14 equipment utilized in imposing the lethal substances shall be de-
15 signed to insure that the identity of the person actually inflicting
16 the lethal substance is unknown even to the person himself.

1 4. The department shall provide and maintain a suitable and
2 efficient facility enclosed from public view, within the confines of a
3 designated State prison for the imposition of the punishment of
4 death. That facility shall contain the apparatus and equipment
5 necessary for the carrying out of executions in accordance with
6 the provisions of this act.

1 5. a. When a person is sentenced to the punishment of death,
2 the judge who presided at the sentencing proceeding or if that
3 judge is unavailable for any reason, then the assignment judge
4 of the vicinage and, if not available, then any Superior Court
5 judge of the vicinage, shall make out, sign and deliver to the
6 sheriff of the county, a warrant directed to the commissioner,
7 stating the conviction and sentence, appointing a date on which the
8 sentence shall be executed, and commanding the commissioner to
9 execute the sentence on that date.

10 b. If the execution of the sentence on the date appointed shall
11 be delayed while the conviction or sentence is being appealed, the
12 judge authorized to act pursuant to subsection a. of this section,
13 at the conclusion of the appellate process, if the conviction or
14 sentence is not set aside, shall make out, sign and deliver another
15 warrant as provided in subsection a. of this section. If the execu-
16 tion of the sentence on the date appointed is delayed by any other
17 cause, the judge shall, as soon as such cause ceases to exist, make
18 out, sign and deliver another warrant as provided in subsection a.
19 of this section.

20 c. The date appointed in the warrant shall be not less than 30
21 days and not more than 60 days after the issuance of the warrant.
22 The commissioner may fix the time of execution on that date.

1 6. a. Within 10 days after issuance of a warrant as provided in
2 section 5 of this act, the sheriff shall deliver the warrant, and also

3 the person sentenced, if he is not already in the custody of the
 4 department, to the department. From the time of the delivery of
 5 the warrant and until the imposition of the punishment of death
 6 upon him, unless discharged from the sentence, the person shall
 7 be kept isolated from the general prison population in a designated
 8 State prison.

9 b. During the confinement and isolation no person shall be
 10 allowed **physical** access to him without a court order **which shall*
 11 *not be unreasonably withheld** except corrections officers and
 12 officials, his counsel, **[his physician,]** and the members of his
 13 immediate family, and then only in accordance with the depart-
 14 ment's rules **for security**. Upon the request of the inmate, a
 15 clergyman **or a member of the press** shall be allowed access to the
 16 inmate without a court order but only in accordance with the
 17 department's rules **for security**.

1 7. a. The commissioner, the persons designated by the commis-
 2 sioner to act as execution technicians, and two licensed physicians
 3 shall be present at the execution. The commissioner shall also select
 4 and invite the presence of, by at least three days' prior notice, six
 5 adult citizens. The names of the execution technicians shall not be
 6 disclosed, and the names of the six adult citizens who witnessed the
 7 execution shall not be disclosed until after the execution.

8 b. The commissioner shall, at the request of the person sentenced
 9 to death, authorize and permit no more than two clergymen, who
 10 are not related to the inmate, to be present at the execution.

11 c. The commissioner shall **[authorize and]** permit **[six duly*
 12 *accredited]* *eight** representatives of the news media to be
 13 present at the execution, for the purpose of giving their respective
 14 newspapers and associations **[correct and authentic]** accounts of
 15 the execution. The **[six]* *eight** representatives shall be com-
 16 posed of **[one representative]* *two representatives** of the
 17 major wire services, two representatives of television news ser-
 18 vices, two representatives of newspapers, and **[one representa-*
 19 *tive]* *two representatives** of radio news services. Immediately
 20 following the execution, the **[six]* *eight** representatives of the
 21 news media **[shall]* *may** hold a press conference for the
 21A purpose of giving other news representatives **[a correct and*
 21B *authentic]* *an** account of the execution.

22 d. The commissioner shall not authorize or permit any person
 23 who is related by either blood or marriage, to the sentenced person,
 24 or to the victim to be present at the execution, nor shall the com-
 25 missioner authorize or permit any other person to be present,
 26 except those authorized by this section.

1 8. a. Immediately after the execution an examination of the
2 body of the inmate shall be made by the licensed physicians present
3 at the execution, and their report in writing stating the nature of
4 the examination and occurrence of death, so made by them, shall
5 be annexed to the certificate hereinafter mentioned and filed there-
6 with.

7 b. The commissioner shall prepare and sign a certificate setting
8 forth the time and place of the execution and stating that the
9 execution was conducted in conformity to the sentence of the court
10 and the provisions of this act*, and he shall request all the persons
11 present and witnessing the execution to sign the certificate*. He
12 shall cause the certificate to be filed, within 10 days after the
13 execution, with the Superior Court in the county in which the
14 person executed was convicted.

15 c. The commissioner may appoint a deputy within the department
16 to execute the warrant of execution and to perform all the other
17 duties imposed upon the commissioner by this act.

1 9. a. Prior to the execution, the inmate shall be given the oppor-
2 tunity to decide in writing to whom his body shall be delivered
3 after the execution. The commissioner or his deputy designated
4 pursuant to subsection c. of section 8 of this act shall sign and
5 authorize the inmate's request if the request is not contrary to
6 public policy or law. If the inmate does not indicate to whom his
7 body shall be delivered or if his request is contrary to public policy
8 or law, then the body of an inmate who has been legally executed
9 shall be embalmed immediately and so directed by the commissioner,
10 unless prior to execution, the inmate, relative, or bona fide friend
11 indicates that the body is to be cremated or buried within 48 hours
12 after death. If the body is not demanded or requested by a relative
13 or bona fide friend within 72 hours after execution then it shall
14 be delivered to a duly authorized and incorporated pathological
15 and anatomical association in the State, if requested by an author-
16 ized association. If the body is requested by a relative or bona fide
17 friend, the State shall pay a fee, not to exceed \$25.00 to the mor-
18 tician for his services in embalming the body for which the mor-
19 tician shall issue to the State a written receipt. If the body is
20 requested by a duly authorized and incorporated pathological and
21 anatomical association, the association shall pay a fee, not to exceed
22 \$25.00 to the mortician for his services in embalming the body
23 for which the mortician shall issue to the association a written
24 receipt. When the receipt is delivered to the commissioner, the
25 body of the deceased shall be delivered to the party named in the
26 receipt or his authorized agent.

27 b. If the body is not delivered to a relative, bona fide friend,
28 or a duly authorized and incorporated pathological and anatomical
29 association, the commissioner shall cause the body to be decently
30 buried, and the fee for embalming shall be paid by the State, and
31 no religious or other services shall be held over the body after the
32 execution, except within the facility selected for the execution by
33 the department, and no one shall be present at the service except
34 the officers of the prison, the person conducting the services and
35 relatives by blood or marriage of the person executed.

36 c. The commissioner shall contact the Social Security Admin-
37 istration, Veteran's Administration, Public Welfare, and appro-
38 priate insurance companies for any possible death benefits to offset
39 the State incurred burial expenses. The inmate's account may also
40 be used for burial expenses.

1 10. a. If there is reasonable ground to believe that a female in-
2 mate, sentenced to the punishment of death, is pregnant, the super-
3 intendent of the State institution having custody of the inmate shall
4 impanel a jury of three licensed physicians to inquire into her
5 pregnancy. A physician acting as a juror upon this inquisition,
6 need not be qualified to serve as a juror in a court of record.

7 b. The inquisition of the jury shall be signed by the jurors and
8 the superintendent of the institution. If it is found by the jury
9 that the inmate is pregnant, the superintendent shall suspend the
10 execution of the warrant directing her execution until he receives
11 a warrant from the commissioner directing that the convict be
12 executed.

13 c. The superintendent shall immediately transmit the inquisition
14 to the commissioner, who, as soon as he is satisfied that the inmate
15 is no longer pregnant, shall issue his warrant, appointing a time
16 and place for her execution, pursuant to her sentence.

1 11. The department may adopt any rules or regulations neces-
2 sary to implement the provisions of this act.

1 12. The Judiciary, Law, Public Safety and Defense Committee of
2 the General Assembly and the Judiciary Committee of the Senate,
3 or their respective successors, are constituted a joint committee
4 for the purposes of monitoring and evaluating the effectiveness
5 of the implementation of this act. The Commissioner of the Depart-
6 ment of Corrections shall, two years from the effective date of this
7 act, report to the joint committee, an evaluation of the effectiveness
8 of this act and the joint committee shall, upon receiving the report,
9 issue as it may deem necessary and proper, recommendations for
10 administrative or legislative changes affecting the implementation
11 of this act.

1 13. This act shall take effect immediately.

ASSEMBLY, No. 1851

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 30, 1982

By Assemblymen PATERNITI, PANKOK, GORMAN, MARSELLA,
T. GALLO, Assemblywoman PERUN, Assemblymen OTLOWSKI,
McENROE, ZANGARI, VISOTCKY, HAYTAIAN, ALBOHN,
D. GALLO, BISHOP and SHUSTED

AN ACT concerning the procedure for inflicting capital punishment
and supplementing Title 2C of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. As used in this act:

2 a. "Commissioner" means the Commissioner of the Department
3 of Corrections.

4 b. "Department" means the Department of Corrections.

1 2. a. When a person is sentenced to death pursuant to the pro-
2 visions of N. J. S. 2C:11-3, that punishment shall be inflicted by
3 continuous, intravenous administration until the person is dead of
4 a lethal quantity of an ultra short-acting barbiturate in combina-
5 tion with a chemical paralytic agent in a quantity sufficient to cause
6 death. Prior to the injection of the lethal substance, the person
7 shall be anesthetized by either an oral tablet or capsule or an
8 intramuscular injection of a narcotic or barbiturate such as mor-
9 phine, cocaine or demerol.

10 b. The commissioner shall determine the substances and pro-
11 cedure to be used in an execution, but the procedures and equip-
12 ment utilized in inflicting the lethal substance shall be designed to
13 insure that the identity of the person actually inflicting the lethal
14 substance is unknown even to the person himself.

15 c. The commissioner may designate persons who are qualified
16 to administer injections and who are familiar with medical pro-

17 cedures as execution technicians to assist in the carrying out of
18 executions.

1 3. a. When a person is sentenced to the punishment of death,
2 the judge who presided at the sentencing proceeding or if that
3 judge is unavailable for any reason, any Superior Court judge,
4 shall make out, sign and deliver to the sheriff of the county, a
5 warrant directed to the commissioner, stating the conviction and
6 sentence, appointing a date on which the sentence shall be executed,
7 and commanding the commissioner to execute the sentence on that
8 date.

9 b. If the execution of the sentence on the date appointed shall
10 be delayed while the conviction or sentence is being appealed, the
11 judge, at the conclusion of the appellate process, if the conviction
12 or sentence is not set aside, shall make out, sign and deliver
13 another warrant as provided in subsection a. of this section. If the
14 execution of the sentence on the date appointed is delayed by any
15 other cause, the judge shall, as soon as such cause ceases to exist,
16 make out, sign and deliver another warrant as provided in sub-
17 section a.

18 c. The date appointed in the warrant shall be not less than 30
19 days and not more than 60 days after the issuance of the warrant.
20 The commissioner may fix the time of execution on that date.

1 4. Within 10 days after issuance of a warrant as provided in
2 section 3 of this act, the sheriff shall deliver the warrant, and also
3 the person sentenced, if he is not already in the custody of the
4 department, to the department. From the time of the delivery of
5 the warrant and until the infliction of the punishment of death
6 upon him, unless discharged from the sentence, the person shall be
7 kept in solitary confinement, and no person shall be allowed access
8 to him without a court order except corrections officers, and officials,
9 his counsel, his physician, a clergyman, upon his request, and the
10 members of his family.

1 5. a. In addition to the commissioner and the persons designated
2 by the commissioner to act as execution technicians, two physicians
3 shall be present at an execution.

4 b. The commissioner shall also, at the request of the person
5 sentenced to death, permit no more than two clergymen to be
6 present at the execution.

7 c. The commissioner shall not permit any person who is related,
8 by either blood or marriage, to the sentenced person, or to the
9 victim to be present at the execution, nor shall the commissioner
10 permit any other person to be present, except those authorized by
11 this section.

1 6. The commissioner shall prepare and sign a certificate setting
 2 forth the time and place of the execution and stating that the
 3 execution was conducted in conformity to the sentence of the court
 4 and the provisions of this act, and he shall request all the persons
 5 present and witnessing the execution to sign the certificate. He
 6 shall file the certificate, within 10 days after the execution, with
 7 the Superior Court in the county in which the person executed was
 8 convicted.

1 7. The commissioner may appoint a deputy to execute the war-
 2 rant of execution and to perform all the other duties imposed upon
 3 the commissioner by this act.

1 8. The department may adopt any rules or regulations necessary
 2 to implement the provisions of this act, including rules or regula-
 3 tions governing the disposal of the body of any person executed.

1 9. This act shall take effect immediately.

STATEMENT

This bill would establish the procedures necessary to carry out death sentences. The method of execution would be by lethal injection. Prior to the actual injection of the lethal solution, the condemned person would be anesthetized. This provision is included in order that executions may be conducted in the most humane manner possible.

The bill requires the Commissioner of the Department of Corrections to employ procedures and equipment in carrying out executions which insure that the identity of the person actually inflicting the lethal substance be unknown even to the person himself.

Additionally, the bill permits the commissioner to designate persons qualified to administer injections and familiar with medical procedures as execution technicians to assist in carrying out executions.

ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND
DEFENSE COMMITTEE

STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1851

STATE OF NEW JERSEY

DATED: DECEMBER 13, 1982

The committee substitute provides that executions in New Jersey under the recently enacted death penalty would be carried out by injection of a lethal drug. Prior to the injection of the lethal drug, the person to be executed would be anesthetized.

Other provisions of the bill require that the procedures used to administer the lethal drug would be designed in a manner to insure that the identity of the person actually inflicting the lethal substance would be unknown to the person himself. Also, the bill provides for the designation of persons qualified to administer injections as execution technicians who would assist in carrying out the executions.

Additionally, the bill limits the number of people that may be present at the execution and also establishes that the execution date be set within 30 to 60 days of the issuance of the death warrant by the presiding judge or, if unavailable, another Superior Court judge of the vicinage.

SENATE JUDICIARY COMMITTEE
STATEMENT TO
ASSEMBLY, No. 1851

STATE OF NEW JERSEY

DATED: MARCH 29, 1983

This bill would establish injection with a lethal quantity of an ultra short acting barbiturate in combination with a chemical paralytic agent as the means of carrying out death sentences in New Jersey.

Other provisions of the bill are as follows:

1. Prior to the lethal injection the person is to be anesthetized.
2. Persons, other than physicians, who are qualified to administer injections are to be designated as execution technicians.
3. The procedures and equipment used in carrying out the execution are to be designed in a manner so as to insure that the identity of the person inflicting the lethal substance is unknown even to that person himself.
4. The place of execution shall not be opened to public view.
5. The date of execution is to be set by the sentencing court.
6. A person sentenced to death is to be kept in isolation and only corrections personnel and the inmate's counsel, physician, clergyman and immediate family are to be permitted access.
7. In addition to the execution technicians, two physicians and six adults selected by the Commissioner of Corrections shall act as witnesses.
8. At the request of the inmate, two clergymen may also be present at the execution.
9. In addition to other witnesses, the Commissioner of Corrections is authorized to permit six representatives of the news media to be present at the execution.
10. Other persons including those related by blood or marriage shall not be permitted to be present at the execution.
11. The inmate may leave written instructions as to whom his body is to be delivered after the execution.
12. If there are no written instructions, the inmate's body may be delivered to a relative or friend or in the alternative to a pathological or anatomical association.
13. A procedure is established for delaying the execution of any female inmate who may be pregnant.
14. The Assembly and Senate Judiciary Committees are designated as a joint committee to oversee the implementation of this act and the Commissioner of Corrections is to report within two years on the effectiveness of the act.

ADOPTED
MAY 23 1983

Senate
_____ Amendments ✓
to
Assembly _____ Bill No. 1851(ACS)
By Senator Bornheimer

Amend:

Page	Sec.	Line	
1	2	7	Omit "anesthetized" insert "sedated"
3	6	11	Omit "his physician,"
3	7	11	Omit "authorize and"
3	7	11-12	Omit "duly accredited"
3	7	14	Omit "correct and authentic"
3	7	20-21	Omit "a correct and authentic" insert "an" ✓

Statement

These amendments, sought by the Press Association, revise the provisions of the death penalty bill regarding press participation at the execution site.

They omit the requirement for "'correct and authentic' accounts of the execution" as unduly restrictive and a possible pretext for improper censorship, and they omit the stipulation that the journalists be "accredited", as it is not clear whose accreditation process would be the standard.

The first two amendments remove language authorizing the condemned the physician of his choice, and make reference to sedation rather than anesthetization as the procedure preceding the execution, assuring that the condemned show life to the legal witnesses before the administration of death.

*- forwarded into set # 3 -
keep in file copy, but do
not send to printer.*

Senate _____ Amendments
by Senator Kennedy

to

Assembly Bill No. 1851 (ACS
by Assemblyman Paterniti

Amend:

Page	Sec.	Line

The second provisions clarify the procedures to be used by the Commissioner in selecting media representatives.

The third increases the number of media representatives from six to eight by adding an additional wire service representative and an additional radio representative.

OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATE

CONTACT: CARL GOLDEN

TUESDAY, JULY 5, 1983

Governor Thomas H. Kean today signed legislation establishing lethal injection as the method of execution for persons sentenced to death upon conviction for murder.

The bill, A-1851, was sponsored by Assemblyman Thomas Paterniti, D-Middlesex.

The legislation provides that the inmate be sedated prior to the administration of the lethal drug. The procedures to be followed to carry out an execution will be established by the Capital Sentencing Committee, headed by Gary Hilton, Assistant Commissioner for Adult Institutions in the Department of Corrections.

The legislation provides for the presence at an execution of two clergymen, eight representatives of the media, and six witnesses. These witnesses are in addition to corrections personnel and execution technicians.

The legislation also requires that the Commissioner of the Department of Corrections report on the capital punishment procedure two years after its implementation. The report is to be submitted to the Judiciary committees of the Senate and Assembly.

The legislation is effective immediately.

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