

VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

CHAPTER 921

An Act to amend and reenact §§ 53.1-233 and 53.1-234 of the Code of Virginia, relating to death penalty; method of execution.

[H 862]

Approved April 20, 1994

Be it enacted by the General Assembly of Virginia:

1. That §§ 53.1-233 and 53.1-234 of the Code of Virginia are amended and reenacted as follows:

§ 53.1-233. Death chamber; who to execute death sentence.

The Director is hereby authorized and directed to provide and maintain a permanent death chamber *and necessary appurtenant facilities* within the confines of a state correctional facility. The death chamber shall have all the necessary appliances for the proper execution of prisoners by electrocution *or by continuous intravenous injection of a substance or combination of substances sufficient to cause death. Any such substance shall be applied until the prisoner is pronounced dead by a physician licensed in the Commonwealth.* ~~In the death chamber shall be executed~~ All prisoners upon whom the death penalty has been imposed *shall be executed in the death chamber.* Each execution shall be conducted by the Director or one or more assistants designated by him.

§ 53.1-234. Transfer of prisoner; how death sentence executed; who to be present.

The clerk of the circuit court in which is pronounced the sentence of death against any person shall, after such judgment becomes final in the circuit court, deliver a certified copy thereof to the Director. Such person so sentenced to death shall be confined prior to the execution of the sentence in a state correctional facility designated by the Director. Not less than fifteen days before the time fixed in the judgment of the court for the execution of the sentence, the Director shall cause the condemned prisoner to be conveyed to the state correctional facility housing the death chamber.

The Director, or the assistants appointed by him, shall at the time named in the sentence, *unless a suspension of execution is ordered,* cause the prisoner under sentence of death to be electrocuted *or injected with a lethal substance,* until he is dead ~~unless a suspension of execution be ordered.~~ *The method of execution shall be chosen by the prisoner. In the event the prisoner refuses to make a choice at least fifteen days prior to the scheduled execution, the method of execution shall be by lethal injection. Execution by lethal injection shall be permitted in accordance with procedures developed by the Department.* At the execution there shall be present the Director or an assistant, a physician employed by the Department or his assistant, such other employees of the Department as may be required by the Director and, in addition thereto, at least six citizens who shall not be employees of the Department. In addition, the counsel for the prisoner and a clergyman may be present.

2. That the provisions of this act shall not take effect until January 1, 1995.