



Neb. senator will propose repeal of death penalty

Posted: Thursday, January 08, 2009

LINCOLN, Neb. (AP) -- State Sen. Brenda Council says she'll pick up the fight to keep prisoners from being executed in Nebraska, introducing a bill to repeal the death penalty and vowing to battle a bill changing the state's method of execution.

Council, of Omaha, said Thursday that she's adamantly opposed to capital punishment and assured her constituents she'd pick up where her predecessor -- Ernie Chambers -- left off. Chambers was forced out of office by term limits.

Speaker Mike Flood of Norfolk was flanked by the state's top two Republicans -- Gov. Dave Heineman and Attorney General Jon Bruning -- as he announced Thursday that he would introduce a bill to make lethal injection the state's method of execution.

The Nebraska Supreme Court in February declared electrocution -- the state's only means of capital punishment -- cruel and unusual punishment. Unless the law is changed to allow a different method, no one can be put to death.

But Sen. Danielle Nantkes of Lincoln says Flood's bill could face a filibuster from death penalty opponents, and Council said she'll work to block the bill "by all means necessary."

Flood's bill (LB36) was introduced Thursday, and Council said she'll introduce her measure either Thursday or Friday.

Chambers single-handedly filibustered lethal injection bills during his tenure because, although he couldn't get enough votes to repeal the death penalty, he was convinced the electric chair eventually would be ruled unconstitutional.

Nebraska justices proved him right in 2008, saying that evidence shows electrocution inflicts "intense pain and agonizing suffering."

Council said she'd seek advice from anyone -- including Chambers -- who could help with legislative strategy.

And both Council and Nantkes said years of watching Chambers provided valuable lessons about how he got things done.

Chambers, who had represented Omaha's District 11 since 1971, honed an ability to prolong debate through the filing of amendments and a use of the rules to delay, cripple or kill legislation he did not like.

It takes "yes" votes by 33 of the 49 senators to cease debate.

Heineman and Flood made clear Thursday they want to see an up-or-down vote on the lethal injection bill.

Flood pointed out that the full body has debated repealing the death penalty three times in the past two years, and Heineman said he'd like to see the same respect shown to the lethal injection bill.

"I'd like to hope that those who favor a repeal of the death penalty would be just as thoughtful and serious in this debate as what we've seen the last three times," Heineman said. "We didn't filibuster, those of us who favor the death penalty, we allowed that serious and thoughtful debate, and I hope that's what will occur this time."

Before either bill even makes it to the floor, it has to make it through the Legislature's Judiciary Committee, which in the past has had an anti-death penalty majority.

But turnover on the committee makes it unclear whether the eight-member committee has the four votes to block the lethal injection bill this year. Council is on the committee and has vowed to fight it there, and several senators say they haven't decided how to vote.

One committee member, Sen. Amanda McGill of Lincoln, who opposes capital punishment, said she realizes the

Legislature has voted not to repeal the death penalty, so perhaps there should be a method of carrying out the penalty.

But on the other hand, she said, by blocking a change in method, "our same goal is achieved without having to repeal the death penalty."

Another committee member, Sen. Colby Coash of Lincoln, said that while he opposes capital punishment, he'll vote to move the bill to consideration by the full Legislature, where he plans to vote against it.

"This is a big issue that 49 people need to have an intelligent discussion about," Coash said.

The committee's chairman, Sen. Brad Ashford of Omaha, is out of the country and unavailable to comment, his staff said.

Flood said his bill will follow Bruning's recommendation that the state corrections department devise the lethal recipe and administration of drugs to execute prisoners. It's the process used by 22 other states and the federal government.

Flood said giving the corrections department flexibility would allow the chemical makeup to be changed based on the most up-to-date court rulings on lethal injection.

Flood also said Thursday that his bill would amend the state's death penalty law to specify that death sentences wouldn't automatically be voided as a result of a court's determination that the method is unconstitutional.

When the Nebraska Supreme Court declared electrocution unconstitutional, it was the state's only means of execution. The judges said they weren't striking the death penalty -- just electrocution as the method.

But some lawyers involved in death row cases are arguing that an inmate who is sentenced to die in the electric chair can't be executed by another means.

Bruning said that adding this amendment to the law will clear up the issue, although "it seemed clear as a bell to me."

Copyright © 2009 siouxcityjournal.com

[Print Page](#)