



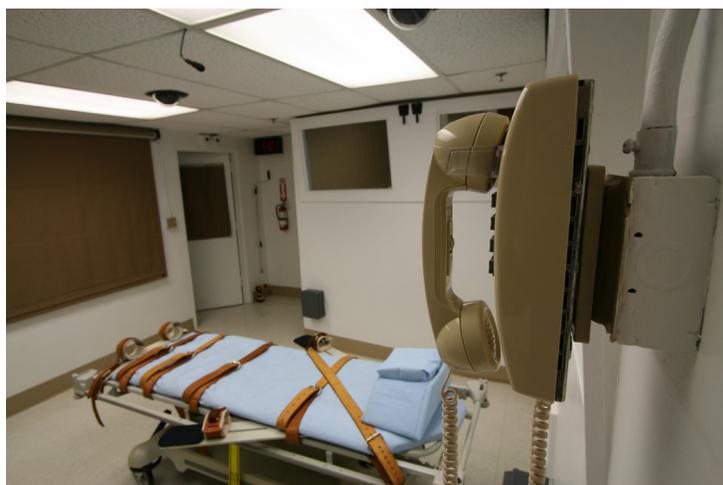
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## STATE QUESTION 776: CONSTITUTIONAL AMENDMENT ON THE DEATH PENALTY

### The Gist

SQ 776 is a constitutional amendment that affirms the state of Oklahoma's right to perform executions. It gives the Legislature the power to designate any method of execution, prohibits the reduction of death sentence due to an invalid method of execution, and prohibits the death penalty from being ruled "cruel and unusual punishment" or unconstitutional according to the Oklahoma Constitution.



### Background Information

Recent problems with the administration of the death penalty in Oklahoma led to a lawsuit that reached the U.S. Supreme Court. During Oklahoma's attempted execution of Clayton Lockett in April 2014, Lockett's vein apparently ruptured, causing him to writhe for about 45 minutes before the execution was halted. He died of a heart attack minutes later. Another man on death row, Charles Warner, challenged the use of the drug midazolam in the execution protocol. In January 2015, Warner was executed. It was later discovered that the Department of Corrections had used the wrong drug.

A grand jury investigation of Oklahoma's botched executions did not return any indictments but did find numerous flaws in the state's execution protocol and in state officials' conduct related to executions. Oklahoma courts put all executions in Oklahoma on hold during the investigation, and executions remain on hold until Oklahoma approves a new execution protocol.

Arguing that Oklahoma's right to carry out the death penalty was under threat, lawmakers proposed Senate Joint Resolution 31 in 2015. The Oklahoma Legislature overwhelmingly passed the measure, sending SQ 776 to the ballot. In June 2015, the U.S. Supreme Court upheld the state's execution protocol on a 5-4 vote in the case of *Glossip v. Gross*. However, a 2016 ruling in a death penalty case in Arkansas could lead the U.S. Supreme Court to re-examine its *Glossip* decision.

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## STATE QUESTION 776 (CONTINUED)

### Supporters Say...

- Oklahomans strongly support the death penalty, and the state should protect its ability to carry it out.
- The state should have the opportunity to find a workable method of execution if one is found to be invalid, rather than ending executions.

### Opponents Say...

- Death penalty opponents will likely challenge the measure, costing the state additional resources and energy to defend it.
- In specifying that the death penalty is not cruel and unusual punishment, the question attempts to eliminate the role of the Courts in its checks and balances role.
- Even if SQ 776 is approved, a U.S. Supreme Court decision that the death penalty violates the U.S. Constitution would override the state Constitution.

### Ballot Language

This measure adds a new section to the Oklahoma Constitution, Section 9A of Article 2. The new Section deals with the death penalty. The Section establishes State constitutional mandates relating to the death penalty and methods of execution. Under these constitutional requirements:

- The Legislature is expressly empowered to designate any method of execution not prohibited by the United States Constitution.
- Death sentences shall not be reduced because a method of execution is ruled to be invalid.
- When an execution method is declared invalid, the death penalty imposed shall remain in force until it can be carried out using any valid execution method, and
- The imposition of a death penalty under Oklahoma law—as distinguished from a method of execution—shall not be deemed to be or constitute the infliction of cruel or unusual punishment under Oklahoma’s Constitution, nor to contravene any provision of the Oklahoma Constitution.

To learn more, go to <http://bit.ly/oksq2016>.