

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013

A Bill

SENATE BILL 73

4
5 By: Senator Hester

For An Act To Be Entitled

8 AN ACT REGARDING THE ADMINISTRATION AND METHOD OF
9 CAPITAL PUNISHMENT; AND FOR OTHER PURPOSES.

Subtitle

12 AN ACT REGARDING THE ADMINISTRATION AND
13 METHOD OF CAPITAL PUNISHMENT.

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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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19 SECTION 1. Arkansas Code § 5-4-617 is amended to read as follows:

20 5-4-617. ~~Method~~ Preparation, method, and administration of execution.

21 (a)(1) The sentence of death is to be carried out by intravenous
22 lethal injection of one (1) or more chemicals, as determined in kind and
23 amount in the discretion of the Director of the Department of Correction.

24 (2) The chemical or chemicals injected ~~may~~ shall include one (1)
25 or more of the following substances:

26 (A) ~~One (1) or more ultra short-acting barbiturates~~ Sodium
27 Pentothal or sodium thiopental;

28 (B) ~~One (1) or more chemical paralytic agents~~ Pancuronium
29 bromide;

30 (C) Potassium chloride; or

31 (D) ~~Any other chemical or chemicals, including but not~~
32 ~~limited to saline~~ Saline solution.

33 (3) The condemned ~~convict's~~ inmate's death will be pronounced
34 according to accepted standards of medical practice.

35 ~~(4) The director shall determine in his or her discretion any~~
36 ~~and all policies and procedures to be applied in connection with carrying out~~



1 ~~the sentence of death, including but not limited to:~~

2 ~~(A) Matters concerning logistics and personal~~
3 ~~correspondence concerning witnesses;~~

4 ~~(B) Security;~~

5 ~~(C) Injection preparations;~~

6 ~~(D) Injection implementation; or~~

7 ~~(E) Arrangements for disposition of the executed convict's~~
8 ~~body and personal property.~~

9 (4) The director or his or her designee shall perform the
10 following duties before the execution of a condemned inmate:

11 (A) Procure the chemicals and other necessary supplies for
12 the lethal injection and have the chemicals and other necessary supplies
13 available for use on the scheduled date of execution;

14 (B) Confirm the type and concentration of the chemicals
15 when they have been received by the department;

16 (C) Supervise any necessary mixing or reconstitution of
17 the chemicals in accordance with the manufacturer's instructions;

18 (D) Transfer the chemicals to an appropriate syringe and
19 place the syringe in a designated lethal injection drug box;

20 (E) Maintain personal, physical custody of the lethal
21 injection drug box and physically convey it to the Department of Correction's
22 Cummins Unit for secure storage in an institutional vault until it is
23 delivered to the execution chamber for use;

24 (F) Conduct orientation of the executioner or executioners
25 of the department's lethal injection procedure, if needed, before the day of
26 the execution;

27 (G) Supervise the executioner or executioners when they
28 enter the execution chamber on the evening of the execution but before the
29 scheduled time of the execution to inventory the lethal injection drug box to
30 ensure that all the chemicals are accounted for and that the injection
31 devices are considered ready;

32 (H) Order the Deputy Director for Health and Correctional
33 Programs or his or her designee to affix cardiac monitor leads to the
34 condemned inmate as determined by lethal injection protocol before personnel
35 are summoned to initiate the intravenous injection devices;

36 (I) Order the deputy director or his or her designee to

1 arrange the execution chamber so that he or she and the executioner or
 2 executioners can directly observe the condemned inmate's face and intravenous
 3 injection site or sites when the condemned inmate is on the execution gurney;
 4 and

5 (J) Oversee all matters regarding:

6 (1) Security;

7 (2) Logistics and personal correspondence concerning
 8 witnesses; and

9 (3) Arrangements for disposition of the condemned
 10 inmate's body and personal property.

11 (5) The set-up and administration procedure and protocol for the
 12 lethal injection shall be determined by the director and shall have the
 13 following features:

14 (A) An intravenous injection system, consisting of a
 15 number of syringes, tubing, and other machinery and medical devices that is
 16 designed to intravenously inject the chemicals described in subdivision
 17 (a)(2) in certain doses into each arm of the condemned inmate at certain
 18 intervals to the point that the condemned inmate dies;

19 (B) A cardiac monitor to display the heart function of the
 20 condemned inmate, which shall be used to determine at what point the
 21 condemned inmate dies; and

22 (C) An ability to reduce, redirect, or cease the injection
 23 of the chemicals.

24 ~~(5)(A)(6)(A)~~ The policies and procedures for carrying out the sentence
 25 of death and any ~~and all~~ matters related to the policies and procedures for
 26 the sentence of death ~~including but not limited to,~~ including without
 27 limitation the director's determinations under this subsection, are not
 28 subject to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

29 (B) The policies and procedures for carrying out the
 30 sentence of death and any ~~and all~~ matters related to the policies and
 31 procedures for the sentence of death are not subject to the Freedom of
 32 Information Act of 1967, § 25-19-101 et seq., except for the choice of
 33 chemical or chemicals that may be injected, including the quantity, method,
 34 and order of the administration of the chemical or chemicals.

35 (b)(1) If this section is held unconstitutional by an appellate court
 36 of competent jurisdiction, the sentence of death shall be carried out by

1 electrocution in a manner determined by the director in his or her
2 discretion.

3 (2) However, if the holding of the appellate court described in
4 subdivision (b)(1) of this section is subsequently vacated, overturned,
5 overruled, or reversed, the sentence of death shall be carried out by lethal
6 injection as described in this section.

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