

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H3/9/09 S3/30/09

A Bill

HOUSE BILL 1706

5 By: Representative Pierce
6
7

For An Act To Be Entitled

9 AN ACT TO CLARIFY THE EXISTING PROCEDURES FOR
10 CAPITAL PUNISHMENT BY LETHAL INJECTION; AND FOR
11 OTHER PURPOSES.
12

Subtitle

14 TO CLARIFY THE EXISTING PROCEDURES FOR
15 CAPITAL PUNISHMENT BY LETHAL INJECTION.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. This act shall be known and may be cited as the "Methods of
21 Execution Act."
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23 SECTION 2. Arkansas Code § 5-4-617 is amended to read as follows:
24 5-4-617. Method of execution.

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

28 (2) The chemical or chemicals injected may include one (1) or
29 more of the following substances:

30 (A) One (1) or more ultra-short-acting barbiturates;

31 (B) One (1) or more chemical paralytic agents;

32 (C) Potassium chloride; or

33 (D) Any other chemical or chemicals, including but not
34 limited to saline solution.

35 (3) The condemned convict's death will be pronounced according
36 to accepted standards of medical practice.



1 (4) The Director of the Department of Correction shall determine
2 in his or her discretion any and all policies and procedures to be applied in
3 connection with carrying out the sentence of death, including but not limited
4 to:

5 (A) Matters concerning logistics and personal
6 correspondence concerning witnesses;

7 (B) Security;

8 (C) Injection preparations;

9 (D) Injection implementation; or

10 (E) Arrangements for disposition of the executed convict's
11 body and personal property.

12 (5)(A) The policies and procedures for carrying out the sentence
13 of death and any and all matters related to the policies and procedures for
14 the sentence of death including but not limited to the director's
15 determinations under this subsection are not subject to the Arkansas
16 Administrative Procedure Act, § 25-15-201 et seq.

17 (B) The policies and procedures for carrying out the sentence of
18 death and any and all matters related to the policies and procedures for the
19 sentence of death are not subject to the Freedom of Information Act of 1967,
20 § 25-19-101 et seq., except for the choice of chemical or chemicals that may
21 be injected, including the quantity, method, and order of the administration
22 of the chemical or chemicals.

23 (b)(1) If this section is held unconstitutional by an appellate court
24 of competent jurisdiction, the sentence of death shall be carried out by
25 electrocution in a manner determined by the Director of the Department of
26 Correction in his or her discretion.

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

31 ~~(a)(1) The punishment of death is to be administered by a continuous~~
32 ~~intravenous injection of a lethal quantity of an ultra-short-acting~~
33 ~~barbiturate in combination with a chemical paralytic agent until the~~
34 ~~defendant's death is pronounced according to accepted standards of medical~~
35 ~~practice.~~

36 ~~(2) The Director of the Department of Correction shall determine~~

1 ~~the substances to be uniformly administered and the procedures to be used in~~
2 ~~any execution.~~

3 ~~(b) If the execution of the sentence of death as provided in~~
4 ~~subsection (a) of this section is held unconstitutional by an appellate court~~
5 ~~of competent jurisdiction, then the sentence of death shall be carried out by~~
6 ~~electroecution in a manner determined by the director.~~

7 ~~(c) Nothing in this section shall be construed as a declaration by the~~
8 ~~General Assembly that death by electroecution constitutes cruel and unusual~~
9 ~~punishment in violation of the United States Constitution or the Arkansas~~
10 ~~Constitution.~~

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12 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
13 General Assembly of the State of Arkansas that the prompt administration of
14 the death penalty following conviction of a capital offense is necessary to
15 deter the future commission of capital offenses; and that this act is
16 immediately necessary to deter capital offenses and prevent the loss of lives
17 that result upon the commission of capital offenses. Therefore, an emergency
18 is declared to exist and this act being immediately necessary for the
19 preservation of the public peace, health, and safety shall become effective
20 on:

21 (1) The date of its approval by the Governor;

22 (2) If the bill is neither approved nor vetoed by the Governor,
23 the expiration of the period of time during which the Governor may veto the
24 bill; or

25 (3) If the bill is vetoed by the Governor and the veto is
26 overridden, the date the last house overrides the veto.

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28 /s/ Pierce
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