

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: H3/17/15

A Bill

HOUSE BILL 1751

5 By: Representative House
6

For An Act To Be Entitled

8 AN ACT CONCERNING THE ADMINISTRATION OF A LETHAL
9 INJECTION AT THE DEPARTMENT OF CORRECTION; TO DECLARE
10 AN EMERGENCY; AND FOR OTHER PURPOSES.
11

Subtitle

12 CONCERNING THE ADMINISTRATION OF A LETHAL
13 INJECTION AT THE DEPARTMENT OF
14 CORRECTION; AND TO DECLARE AN EMERGENCY.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 *SECTION 1. Arkansas Code § 5-4-617 is amended to read as follows:*

22 *5-4-617. Method of execution.*

23 *(a) The Department of Correction shall carry out the sentence of death*
24 *by intravenous lethal injection of a barbiturate described in subsection (c)*
25 *of this section in an amount sufficient to cause death.*

26 *(b) The Director of the Department of Correction or his or her*
27 *designee may order the dispensation and administration of the drug or drugs*
28 *for the purpose of carrying out the lethal-injection procedure, and a*
29 *prescription is not required.*

30 *(c) The department shall select one (1) of the following options for a*
31 *lethal-injection protocol, depending on the availability of the drugs:*

32 *(1) Pentobarbital, followed by vecuronium bromide, followed by*
33 *potassium chloride; or*

34 *(2) Midazolam, followed by vecuronium bromide, followed by*
35 *potassium chloride.*

36 *(d) The drug or drugs used to carry out the lethal injection shall be:*



1 (1) Approved by the United States Food and Drug Administration
2 and made by an administration-approved pharmaceutical manufacturer;

3 (2) Obtained from an administration-registered facility; or

4 (3) Obtained from a compounding pharmacy that has been
5 accredited by a national organization that accredits compounding pharmacies.

6 ~~(b)~~(e) Before the intravenous lethal injection is administered, the
7 condemned prisoner shall be intravenously administered a benzodiazepine.

8 ~~(e)~~(f) The drugs set forth in subsections ~~(a) and (b)~~ (c) and (e) of
9 this section shall be administered along with any substances that the
10 manufacturer has mixed with the drugs and any additional substances, such as
11 saline solution, called for in the manufacturer's instructions.

12 ~~(d)~~(g) Catheters, sterile intravenous solution, and other equipment
13 used for the intravenous injection of the drugs set forth in subsections ~~(a)~~
14 ~~and (b)~~ (c) and (e) of this section shall be sterilized and prepared in a
15 manner that is safe and commonly performed in connection with the intravenous
16 administration of drugs of that type.

17 ~~(e)~~(h) The ~~Director of the Department of Correction~~ director shall
18 develop logistical procedures necessary to carry out the sentence of death,
19 including:

20 (1) The following matters:

21 (A) Ensuring that the drugs and substances set forth in
22 ~~subsections (a)–(d)~~ of this section and other necessary supplies for the
23 lethal injection are available for use on the scheduled date of the
24 execution;

25 (B) Conducting employee orientation of the lethal
26 injection procedure before the day of the execution;

27 (C) Logistics of the viewing;

28 (D) Coordinating with other governmental agencies involved
29 with security and law enforcement;

30 (E) Transferring the condemned prisoner to the facility
31 where the sentence of death will be carried out;

32 (F) Escorting the condemned prisoner from the holding cell
33 to the execution chamber;

34 (G) The identity, arrival, and departure of the persons
35 involved with carrying out the sentence of death at the facility where the
36 sentence of death will be carried out; and

1 (H) Making arrangements for the disposition of the
2 condemned prisoner's body and personal property; and

3 (2) The following matters pertaining to other logistical issues:

4 (A) Chaplaincy services;

5 (B) Visitation privileges;

6 (C) Determining the condemned prisoner's death, which ~~must~~
7 shall be pronounced according to accepted medical standards;

8 (D) Confirming the type and concentration of the drugs and
9 substances set forth in ~~subsections (a)–(d)~~ of this section when they have
10 been received by the department; and

11 (E) Establishing a protocol for any necessary mixing or
12 reconstitution of the drugs and substances set forth in ~~subsections (a)–(d)~~
13 ~~of~~ this section in accordance with the manufacturer's instructions.

14 (i) The director shall ensure that the person or persons who
15 administer the lethal injection or establish a venous line or lines has at
16 least two (2) years of professional experience as one (1) or more of the
17 following:

18 (1) Emergency medical technician, intermediate;

19 (2) Emergency medical technician, paramedic;

20 (3) Registered nurse;

21 (4) Physician assistant; or

22 (5) Physician.

23 ~~(f)(j)~~ The procedures for carrying out the sentence of death and
24 related matters are not subject to the Arkansas Administrative Procedure Act,
25 § 25-15-201 et seq.

26 ~~(g)(k)(1)~~ The procedures under subdivision ~~(e)(1)(h)(1)~~ of this
27 section, ~~and~~ the implementation of the procedures under subdivision
28 ~~(e)(1)(h)(1)~~ of this section, and the identities of the entities and persons
29 who participate in the execution process or administer the lethal injection
30 are not subject to disclosure under the Freedom of Information Act of 1967, §
31 25-19-101 et seq.

32 (2) The department shall keep confidential all information that
33 may identify or lead to the identification of:

34 (A) The entities and persons who participate in the
35 execution process or administer the lethal injection; and

36 (B) The entities and persons who compound, test, sell, or

1 supply the drug or drugs, medical supplies, or medical equipment for the
2 execution process.

3 (3) The department shall not disclose the information covered
4 under this subsection in litigation without first applying to the court for a
5 protective order regarding the information under this subsection.

6 (1) The department shall make available to the public any of the
7 following information upon request, so long as the information that may be
8 used to identify the compounding pharmacy, testing laboratory, seller, or
9 supplier is redacted and maintained as confidential:

10 (1) Package inserts and labels, if the drug or drugs in
11 subsection (c) of this section have been made by an administration-approved
12 pharmaceutical manufacturer;

13 (2) Reports obtained from an independent testing laboratory; and

14 (3) The department's procedure for administering the drug or
15 drugs set forth in subsection (c) of this section, including the contents of
16 the lethal-injection drug box.

17 ~~(h)~~(m) The department shall carry out the sentence of death by
18 electrocution if this section is invalidated by a final and unappealable
19 court order.

20 (n) This section applies to all inmates who have been sentenced to
21 death at any time, including an inmate who was sentenced to death before the
22 effective date of this act.

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24 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
25 General Assembly of the State of Arkansas that the constitutional
26 administration of a lethal injection to the state's most dangerous convicted
27 persons furthers the health, safety, and welfare of the people of Arkansas.
28 Therefore, an emergency is declared to exist, and this act being immediately
29 necessary for the preservation of the public peace, health, and safety shall
30 become effective on:

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

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

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

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/s/House