

2020 Regular Session

HOUSE BILL NO. 222

BY REPRESENTATIVE MACK

CRIMINAL/SENTENCING: Provides relative to the execution of a death sentence

1 AN ACT

2 To amend and reenact R.S. 15:569(B) and (D) and 570(G) and R.S. 44:4.1(B)(8) and to
3 enact R.S. 15:569(E), relative to the execution of a death sentence; to provide for the
4 confidentiality of identifying information of any person or entity that manufactures,
5 supplies, transports, procures, compounds, dispenses, or prescribes any substance,
6 medical supplies, or medical equipment utilized in the execution of a death sentence;
7 to provide that the identifying information of such persons or entities shall remain
8 confidential, not be subject to disclosure, and not be admissible as evidence nor
9 discoverable in any proceeding; to provide an exception to the Public Records Law
10 for such purposes; to provide certain information with regard to execution of the
11 death penalty; to provide relative to the manner of execution for a death sentence;
12 to provide for the testing of any substance utilized in the execution of a death
13 sentence; and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 15:569(B) and (D) and 570(G) are hereby amended and reenacted
16 and R.S. 15:569(E) is hereby enacted to read as follows:

17 §569. Place for execution of death sentence; manner of execution

18 * * *

19 B. Every sentence of death executed on or after September 15, 1991, shall
20 be by lethal injection; that is, by the intravenous injection of a substance or

1 substances in a lethal quantity into the body of a person convicted until such person
2 is dead. If lethal injection or any practice, mode, or protocol for administering lethal
3 injection is held unconstitutional or otherwise becomes unavailable, the method of
4 execution shall be by nitrogen hypoxia. Every sentence of death imposed in this
5 state shall be executed at the Louisiana State Penitentiary at Angola. Every
6 execution shall be made in a room entirely cut off from view of all except those
7 permitted by law to be in said room.

8 * * *

9 D. Any substance utilized in the execution of a death sentence shall be tested
10 for potency by submitting a request for such information from the Louisiana State
11 Board of Medical Examiners and the Louisiana Board of Pharmacy and shall be
12 tested for purity by a state or local forensics laboratory or an accredited third-party
13 laboratory approved by the Department of Public Safety and Corrections to certify
14 the purity of each substance upon receipt of the substance and prior to the scheduled
15 execution.

16 ~~D.E.~~ The provisions of the Administrative Procedure Act, R.S. 49:950; et
17 seq., shall not apply to the procedures and policies concerning the process for
18 implementing a sentence of death.

19 * * *

20 §570. Execution; officials and witnesses; minors excluded; time of execution; notice
21 to victim's relatives

22 * * *

23 G.(1) The identity of any persons other than the persons specified in
24 Subsection F of this Section who participate or perform ancillary functions in an
25 execution of the death sentence, either directly or indirectly, shall remain strictly
26 confidential and the identities of those persons and information about those persons
27 which could lead to the determination of the identities of those persons shall not be
28 subject to public disclosure in any manner. Any information contained in records
29 that could identify any person other than the persons specified in Subsection F of this

1 Section shall remain confidential, shall not be subject to disclosure, and shall not be
2 admissible as evidence nor discoverable in any proceeding before any court, tribunal,
3 board, agency, or person.

4 (2)(a) The identity of any person or entity that manufactures, supplies,
5 transports, procures, compounds, dispenses, prescribes, synthesizes, prepares, tests,
6 uses, sells, imports, distributes, or administers any substance, medical supplies, or
7 medical equipment utilized in the execution of a death sentence shall remain strictly
8 confidential. The identity of such person or entity, and any information about such
9 person or entity which could lead to the determination of the person's or entity's
10 identity, shall not be subject to public disclosure in any manner. Any information
11 contained in records that identifies or could identify any such person or entity shall
12 remain confidential, shall not be subject to disclosure, and shall not be admissible as
13 evidence nor discoverable in any proceeding before any court, tribunal, board,
14 agency, commission, legislative or quasi-legislative body, or person.

15 (b) For purposes of this Paragraph, a person or entity that manufactures,
16 supplies, transports, procures, compounds, dispenses, prescribes, synthesizes,
17 prepares, tests, uses, sells, imports, distributes, or administers any substance, medical
18 supplies, or medical equipment utilized in the execution of a death sentence includes
19 but is not limited to any pharmacist, pharmacy, wholesale drug distributor, or
20 outsourcing facility, including any officer or employee of such pharmacy, wholesale
21 drug distributor, or outsourcing facility, that supplies any substance, medical
22 supplies, or medical equipment to the Department of Public Safety and Corrections
23 for use in the execution of a death sentence.

24 (c) This Paragraph applies retroactively to any request for information,
25 discovery request, or proceeding, no matter when made or initiated, including
26 pending litigation.

27 * * *

28 Section 2. R.S. 44:4.1(B)(8) is hereby amended and reenacted to read as follows:

1 §4.1. Exceptions

2 * * *

3 B. The legislature further recognizes that there exist exceptions, exemptions,
4 and limitations to the laws pertaining to public records throughout the revised
5 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
6 limitations are hereby continued in effect by incorporation into this Chapter by
7 citation:

8 * * *

9 (8) R.S. 15:242, 440.6, 477.2, 549, 570(F) and (G), 574.12, 578.1, 587,
10 587.1.2, 616, 660, 840.1, 1176, 1204.1, 1212.1(E), 1507

11 * * *

12 Section 3. It is the purpose of this Act to ensure absolute confidentiality of any
13 documents, records, or information that could lead to the identification of a person or entity
14 involved in any way in the Department of Public Safety and Correction's acquisition or
15 preparation of drugs for lethal injections. It is necessary that the confidentiality provisions
16 of this Act be construed as broadly as possible to ensure the absolute confidentiality of this
17 identifying information so as to ensure that the Department of Public Safety and Corrections
18 is able to acquire the drugs necessary for lethal injections.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 222 Original

2020 Regular Session

Mack

Abstract: Provides relative to methods of execution for a death sentence, provides for the testing of any substance utilized in the execution of a death sentence, provides for the confidentiality of identifying information of any person or entity that performs certain functions with respect to any substance, medical supplies, or medical equipment utilized in the execution of a death sentence, and provides for retroactive application.

Present law requires the secretary of the Dept. of Public Safety and Corrections, or a competent person selected by him, to execute an offender who is sentenced to death in conformity with the death warrant issued in the case.

Present law further provides that every sentence of death executed on or after Sept. 15, 1991, shall be by lethal injection which is the intravenous injection of a substance or substances in a lethal quantity into the body of a person until such person is dead.

Proposed law provides that if lethal injection or any practice, mode, or protocol for administering lethal injection is held unconstitutional or otherwise becomes unavailable, the method of execution shall be by nitrogen hypoxia. Further provides that any substance utilized in the execution of a death sentence shall be tested for potency by submitting a request for such information from the La. State Bd. of Medical Examiners and the La. Bd. of Pharmacy and shall be tested for purity by a state or local forensics laboratory or an accredited third-party laboratory approved by the Dept. of Public Safety and Corrections to certify the purity of each substance upon receipt of the substance and prior to the scheduled execution.

Present law provides that every execution of the death sentence shall take place in the presence of the following:

- (1) The warden of the La. State Penitentiary at Angola, or a competent person selected by him.
- (2) The coroner of the parish of West Feliciana, or his deputy.
- (3) A physician summoned by the warden of the La. State Penitentiary at Angola.
- (4) A competent person selected by the warden of the La. State Penitentiary to administer the lethal injection.
- (5) A priest or minister of the gospel, if the person sentenced to death so requests it.
- (6) Not less than five nor more than seven other witnesses.

Present law further authorizes two of the victim's family members, including any parent, guardian, spouse, or adult child, to be present and witness the execution.

Present law provides that only the identities of those persons listed in paragraphs (1), (2), (5), and (6) above, and the family members of the victim who are present at the execution shall be made public. Present law identifies this present law provision as an exception to the Public Records Law.

Present law provides that the identity of any other person who participates or performs ancillary functions in an execution of the death sentence, either directly or indirectly, shall remain strictly confidential and shall not be subject to public disclosure in any manner.

Proposed law retains present law and adds that the identity, and information that could lead to the identity, of any person or entity that manufactures, supplies, transports, procures, compounds, dispenses, prescribes, synthesizes, prepares, tests, uses, sells, imports, distributes, or administers any substance, medical supplies, or medical equipment utilized in the execution of a death sentence shall remain strictly confidential, shall not be subject to public disclosure in any manner, and shall not be admissible as evidence nor discoverable in any proceeding before any court, tribunal, board, agency, commission, legislative or quasi-legislative body, or person. Further provides that proposed law applies retroactively to any request for information, discovery request, or proceeding, no matter when made or initiated, including pending litigation.

Proposed law amends exceptions to present law (Public Records Law) to include proposed law as an exception.

Proposed law provides, in part, that the purpose of proposed law is to ensure absolute confidentiality.

(Amends R.S. 15:569(B) and (D) and 570(G) and R.S. 44:4.1(B)(8); Adds R.S. 15:569(E))