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## DIGEST

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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))