

2024 Second Extraordinary Session

HOUSE BILL NO. 6

BY REPRESENTATIVE MUSCARELLO

CRIMINAL/PROCEDURE: Provides relative to the methods of execution and for confidentiality of records or information relating to the execution of a death sentence (Item #15)

1 AN ACT

2 To amend and reenact R.S. 15:569(A) through (C) and 570(A)(4) and (F) through (H) and
3 R.S. 44:4.1(B)(8) and to enact R.S. 15:569(E) and (F) and 570(I), relative to the
4 execution of a death sentence; to provide for the methods of execution; to provide
5 for the confidentiality of records or information relating to the execution of a death
6 sentence; to provide for criminal penalties for the unauthorized disclosure of records
7 or information relating to the execution of a death sentence; to provide for a civil
8 cause of action relative to the unauthorized disclosure of information or records
9 relating to the execution of a death sentence; to provide for an exception to the
10 Public Records Law; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 15:569(A) through (C) and 570(A)(4) and (F) through (H) are hereby
13 amended and reenacted and R.S. 15:569(E) and (F) and 570(I) are hereby enacted to read
14 as follows:

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

16 A. ~~Every sentence of death executed in this state prior to September 15,~~
17 ~~1991, shall be by electrocution, that is, causing to pass through the body of the~~
18 ~~person convicted a current of electricity of sufficient intensity to cause death, and the~~
19 ~~application and continuance of such current through the body of the person convicted~~

1 ~~until such person is dead.~~ Every sentence of death imposed in this state shall be
2 executed at the Louisiana State Penitentiary at Angola. Every execution shall be
3 made in a room entirely cut off from view of all except those permitted by law to be
4 in said room. At the discretion of the secretary of the Department of Public Safety
5 and Corrections, every sentence of death shall be by one of the following methods:

6 (1) Intravenous injection of a substance or substances in a lethal quantity into
7 the body.

8 (2) Nitrogen hypoxia.

9 (3) Electrocutation, causing to pass through the body of the person convicted
10 a current of electricity of sufficient intensity to cause death, and the application and
11 continuance of such current through the body of the person convicted until such
12 person is dead.

13 B. ~~Every sentence of death executed on or after September 15, 1991, shall~~
14 ~~be by lethal injection; that is, by the intravenous injection of a substance or~~
15 ~~substances in a lethal quantity into the body of a person convicted until such person~~
16 ~~is dead. Every sentence of death imposed in this state shall be executed at the~~
17 ~~Louisiana State Penitentiary at Angola. Every execution shall be made in a room~~
18 ~~entirely cut off from view of all except those permitted by law to be in said room.~~
19 Upon receipt of the warrant commanding the secretary to cause the execution of the
20 person condemned as provided by law, the secretary shall, within seven days,
21 provide written notice to the condemned person of the manner of execution. It is the
22 policy of this state that intravenous injection of a substance or substances in a lethal
23 quantity into the body shall be the preferred method of execution.

24 C. No licensed health care professional shall be compelled to administer a
25 lethal injection or to participate in any other authorized execution method.

26 * * *

27 E. The purchase of drugs, medical supplies, medical equipment, or any other
28 materials or supplies necessary to carry out the execution shall not be subject to the
29 provisions of the Louisiana Procurement Code, R.S. 39:1551 et seq.

1 F. A manufacturer, pharmacist, practitioner pharmacy, out-of-state pharmacy
 2 or practitioner, or institutional pharmacy as defined in R.S. 37:1164 shall be exempt
 3 from Parts III, IV, and V of Chapter 14 of Title 37 of the Louisiana Revised Statutes
 4 of 1950, when delivering, dispensing, distributing, supplying, manufacturing, or
 5 compounding any drug, equivalent drug product, pharmacy generated drug, or device
 6 intended for use by the Department of Public Safety and Corrections in the
 7 administration of an execution. The Department of Public Safety and Corrections
 8 shall comply with federal regulations regarding the importation of any drugs,
 9 medical supplies, or medical equipment obtained for execution.

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

12 A. Every execution of the death sentence shall take place in the presence of:

13 * * *

14 (4) A competent person selected by the warden of the Louisiana State
 15 Penitentiary to ~~administer the lethal injection~~ carry out the authorized execution
 16 method.

17 * * *

18 F. Only the identities of those persons named in Paragraphs (A)(1), (2), (5),
 19 and (6), ~~and Subsection E~~ of this Section shall be made public.

20 G. ~~The identity of any persons other than the persons specified in Subsection~~
 21 ~~F of this Section who participate or perform ancillary functions in an execution of~~
 22 ~~the death sentence, either directly or indirectly, shall remain strictly confidential and~~
 23 ~~the identities of those persons and information about those persons which could lead~~
 24 ~~to the determination of the identities of those persons shall not be subject to public~~
 25 ~~disclosure in any manner. Any information contained in records that could identify~~
 26 ~~any person other than the persons specified in Subsection F of this Section shall~~
 27 ~~remain confidential, shall not be subject to disclosure, and shall not be admissible as~~
 28 ~~evidence nor discoverable in any proceeding before any court, tribunal, board,~~
 29 ~~agency, or person. It is the intent of the legislature that the provisions of this~~

1 Subsection shall be construed to ensure the absolute confidentiality of the identifying
2 information of any person, business, organization, or other entity directly or
3 indirectly involved in the execution of a death sentence within this state. This
4 confidentiality provision shall prevail over any conflicting provision in state law
5 related to public disclosure.

6 (1) Except as provided in Subsection F of this Section, the identity of any
7 person who participates in or performs ancillary functions in the execution process,
8 including a person or business that delivers, dispenses, distributes, supplies,
9 manufactures, or compounds the drugs, equivalent drug products, pharmacy
10 generated drugs, or device drugs, medical supplies, medical equipment, or other
11 supplies or materials intended for use by the Department of Public Safety and
12 Corrections in the administration of an execution shall be confidential and shall not
13 be disclosed.

14 (2) Information or records that identify or could reasonably lead to the
15 identification of any person who participates in or performs ancillary functions in the
16 execution process shall not be admissible as evidence nor discoverable in any
17 proceeding before any court, tribunal, board, agency, legislative committee, or
18 person. This shall include the information or records of any person or business that
19 delivers, dispenses, distributes, supplies, manufactures, or compounds the drugs,
20 equivalent drug products, pharmacy generated drugs, or device drugs, medical
21 supplies, medical equipment, or other supplies or materials intended for use by the
22 Department of Public Safety and Corrections in the administration of an execution.

23 H.(1) No person, including an employee of the Department of Public Safety
24 and Corrections, shall disclose the identity or any information leading to the
25 identification of persons, businesses, organizations, or other entities specified in
26 Subsection G of this Section.

27 (2) Whoever violates the provisions of Paragraph (1) of this Subsection shall
28 be imprisoned for not more than two years and fined not more than fifty thousand
29 dollars.

1 (3) Any person and his immediate family or an entity whose identity is
2 disclosed in violation of Paragraph (1) of this Subsection shall have a civil cause of
3 action against the person who disclosed the information and may recover actual
4 damages and, upon a showing of a willful violation of Paragraph (1) of this
5 Subsection, may recover punitive damages.

6 I. If a person, business, organization, or entity who participates in or
7 performs ancillary functions in an execution is licensed by a board, the licensing
8 board shall not suspend or revoke the license of such person, business, organization,
9 or entity, or take any disciplinary or other adverse action against the person,
10 business, organization, or entity as a result of participation in the execution.

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

12 §4.1. Exceptions

13 * * *

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

19 * * *

20 (8) R.S. 15:242, 440.6, 477.2, 549, ~~570(F)~~, 574.12, 578.1, 587, 587.1.2, 616,
21 660, 840.1, 1176, 1204.1, 1212.1(E), 1507

22 * * *

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 6 Original 2024 Second Extraordinary Session Muscarello

Abstract: Provides relative to the execution of the death sentence.

Present law (R.S. 15:569(A)) provides that every sentence of death executed in this state prior to Sept. 15, 1991, shall be by electrocution, that is, causing to pass through the body of the person convicted a current of electricity of sufficient intensity to cause death, and the

application and continuance of such current through the body of the person convicted until such person is dead.

Proposed law amends present law to provide that at the discretion of the secretary of the DPS&C, every sentence of death shall be by one of the following methods:

- (1) Intravenous injection of a substance or substances in a lethal quantity into the body.
- (2) Nitrogen hypoxia.
- (3) Electrocutation, causing to pass through the body of the person convicted a current of electricity of sufficient intensity to cause death, and the application and continuance of such current through the body of the person convicted until such person is dead.

Present law (R.S. 15:569(B)) provides that every sentence of death executed on or after Sept. 15, 1991, shall be by lethal injection; that is, by the intravenous injection of a substance or substances in a lethal quantity into the body of a person convicted until such person is dead. Further provides that every sentence of death imposed in this state shall be executed at the La. State Penitentiary at Angola and that every execution shall be made in a room entirely cut off from view of all except those permitted by law to be in said room.

Proposed law amends present law to remove the requirement that every sentence of death executed on or after Sept. 15, 1991, be administered by lethal injection. Further removes duplicative language relative to the location of every sentence of death that is also provided in present law (R.S. 15:569(A)).

Proposed law further amends present law to provide that upon receipt of the warrant commanding the secretary to cause the execution of the person condemned as provided by law, the secretary shall, within seven days, provide written notice to the condemned person of the manner of execution. Further provides that intravenous injection of a substance or substances in a lethal quantity into the body shall be the preferred method of execution.

Present law (R.S. 15:569(C)) provides no licensed health care professional shall be compelled to administer a lethal injection.

Proposed law retains present law and provides that no licensed health care professional shall be compelled to participate in any other authorized execution method.

Proposed law (R.S. 15:569(E)) provides that the purchase of drugs, medical supplies, medical equipment, or any other materials or supplies necessary to carry out the execution shall not be subject to the provisions of present law (R.S. 39:1551 et seq.).

Proposed law (R.S. 15:569(F)) provides that a manufacturer, pharmacist, practitioner pharmacy, out-of-state pharmacy or practitioner, or institutional pharmacy as defined in present law (R.S. 37:1164) shall be exempt from present law (Parts III-V of Ch. 14 of Title 37 of the La. R.S. of 1950), when delivering, dispensing, distributing, supplying, manufacturing, or compounding any drug, equivalent drug product, pharmacy generated drug, or device intended for use by the DPS&C in the administration of an execution.

Proposed law further provides that the DPS&C shall comply with federal regulations regarding the importation of any drugs, medical supplies, or medical equipment obtained for execution.

Present law (R.S. 15:570(A)) provides for a list of individuals who shall be present for every execution of the death sentence.

Proposed law retains present law.

Present law (R.S. 15:570(A)(4)) provides that a competent person selected by the warden of the La. State Penitentiary shall be present for every execution of the death sentence to administer the lethal injection.

Proposed law amends present law to change this competent person's duties from administration of lethal injection to carrying out the authorized execution method.

Present law (R.S. 15:570(F)) provides that only certain identities of certain persons named in present law (R.S. 15:570(A)(1), (2), (5), and (6), (E)) shall be made public as follows:

- (1) A 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 priest or minister of the gospel, if the convict so requests it.
- (4) Not less than five nor more than seven other witnesses.
- (5) The victim's parents, or guardian, spouse, and any adult children who the DPS&C secretary has given the option of attending the execution.

Proposed law amends present law to remove the identities of the victim's parents, or guardian, spouse, and any adult children from public disclosure.

Present law (R.S. 15:570(G)) provides that the identity of any persons other than the persons specified in present law who participate or perform ancillary functions in an execution of the death sentence, either directly or indirectly, shall remain strictly confidential and the identities of those persons and information about those persons which could lead to the determination of the identities of those persons shall not be subject to public disclosure in any manner. Further provides that any information contained in records that could identify any person other than the persons specified in present law shall remain confidential, shall not be subject to disclosure, and shall not be admissible as evidence nor discoverable in any proceeding before any court, tribunal, board, agency, or person.

Proposed law replaces present law (R.S. 15:570(G)) with a statement of legislative intent relative to the absolute confidentiality of the identifying information of any person, business, organization, or other entity directly or indirectly involved in the execution of a death sentence within this state. Further provides that proposed law shall prevail over any conflicting provision in state law related to public disclosure.

Proposed law provides that except as provided in present law, the identity of any person who participates in or performs ancillary functions in the execution process, including a person or business that delivers, dispenses, distributes, supplies, manufactures, or compounds the drugs, equivalent drug products, pharmacy generated drugs, or device drugs, medical supplies, medical equipment, or other supplies or materials intended for use by the DPS&C in the administration of an execution shall be confidential and shall not be disclosed.

Proposed law provides that information or records that identify or could reasonably lead to the identification of any person who participates in or performs ancillary functions in the execution process shall not be admissible as evidence nor discoverable in any proceeding before any court, tribunal, board, agency, legislative committee, or person.

Proposed law further provides that proposed law shall include the information or records of any person or business that delivers, dispenses, distributes, supplies, manufactures, or compounds the drugs, equivalent drug products, pharmacy generated drugs, or device drugs, medical supplies, medical equipment, or other supplies or materials intended for use by the DPS&C in the administration of an execution.

Proposed law provides that no person, including an employee of the DPS&C, shall disclose the identity or any information leading to the identification of persons, business, organizations, or other entities specified in proposed law.

Proposed law provides that whoever violates the provisions of proposed law shall be imprisoned for not more than two years and fined not more than \$50,000.

Proposed law provides that any person and his immediate family or an entity whose identity is disclosed in violation of proposed law shall have a civil cause of action against the person who disclosed the information and may recover actual damages and, upon a showing of a willful violation of proposed law, may recover punitive damages.

Present law (R.S. 15:570(H)) provides that if a person who participates in or performs ancillary functions in an execution is licensed by a board, the licensing board shall not suspend or revoke the license of such person, or take any disciplinary or other adverse action against the person as a result of participation in the execution.

Proposed law amends present law to include a business, organization, or entity who is licensed by a board and participates in or performs ancillary functions in an execution.

Present law (R.S. 44:4.1(B)(8)) provides for a listing of exemptions from public disclosure of certain information contained in present law (Title 15 of the La. R.S.).

Proposed law removes an incorrect cross-reference from the list of exceptions to the Public Records Law in present law (R.S. 44:4.1(B)(8)).

(Amends R.S. 15:569(A)-(C) and 570(A)(4) and (F)-(H) and R.S. 44:4.1(B)(8); Adds R.S. 15:569(E) and (F) and 570(I))