

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 6

2024 Second Extraordinary Session

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)

Synopsis of Senate Amendments

1. Makes technical changes.
2. Adds a severability clause to the bill.
3. Makes effective date July 1, 2024.
4. Provides for disclosure of certain information to the state inspector general pertaining to the provision of drugs, medical supplies, or medical equipment for execution purposes.
5. Provides for duties of the state inspector general relative to review procedures of disclosed information.
6. Provides for certification procedures issued by the inspector general.
7. Clarifies applicability of a prohibition on the disclosure of identity or information related to drugs, medical supplies, or medical equipment obtained for execution purposes.

Digest of Bill as Finally Passed by Senate

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 and with no preference to the method of execution, 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) Electrocution, 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.

Present law (R.S. 15:569(C)) provides that 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 further provides that a member of the legislature, the governor, or an immediate family member of a member of the legislature or the governor, or any business with which a member of the legislature or the governor or their immediate family member has a controlling interest as an owner, director, officer, or majority shareholder that has voting rights regarding the financial decisions of the business shall not offer or provide drugs, medical supplies, or medical equipment necessary to execute a death sentence.

Proposed law provides that entity responsible for maintaining records or information pertaining to the provision of drugs, medical supplies, or medical equipment for execution purposes shall disclose the information to the state inspector general.

Proposed law provides that the state inspector general shall conduct a review of the disclosed information to ensure compliance with the provisions of proposed law. Further provides that upon completion of the review, the state inspector general shall return the disclosed information and issue a certification stating whether the purchase of drugs, medical supplies, or medical equipment procured for the purpose of carrying out executions complies with proposed law.

Proposed law provides that the certification shall also state whether the drugs, medical supplies, or medical equipment were procured from an individual, business, organization, or entity possessing the requisite licenses pursuant to the laws of their respective state to engage in such activities, and affirming the validity of the licenses.

Proposed law provides that the certification shall be a public record, but shall not disclose any of the information protected by present law (R.S. 15:570(G)).

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.

Proposed law (R.S. 15:570(J)) provides that the DPS&C shall make counseling services available for any person involved in the execution for a death sentence in this state.

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) and (J))