

RÉSUMÉ DIGEST

ACT 5 (HB 6)

2024 Second Extraordinary Session

Muscarello

Existing law (R.S. 15:569) provides for the place and manner of execution for imposition of a death sentence.

Prior law (R.S. 15:569(A)) required every sentence of death executed in this state prior to Sept. 15, 1991, to 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.

New law provides 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.

Prior law (R.S. 15:569(B)) required every sentence of death executed on or after Sept. 15, 1991, to 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 required every sentence of death imposed in this state to be executed at the La. State Penitentiary at Angola and that every execution be made in a room entirely cut off from view of all except those permitted by law to be in the room.

New law removes 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 existing law (R.S. 15:569(A)).

New law further amends existing 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.

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

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

New 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 existing law (R.S. 39:1551 et seq.).

New 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.

New 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.

New law provides that the state inspector general shall conduct a review of the disclosed information to ensure compliance with the provisions of new 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 new law.

New 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.

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

New 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 existing law (R.S. 37:1164) shall be exempt from existing 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.

New 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.

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

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

New law changes this competent person's duties from administration of lethal injection to carrying out the authorized execution method.

Prior law (R.S. 15:570(F)) required that only certain identities of certain persons named in existing law (R.S. 15:570(A)(1), (2), (5), and (6), (E)) 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.

New law removes the identities of the victim's parents, or guardian, spouse, and any adult children from public disclosure.

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

New law replaces prior 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 new law shall prevail over any conflicting provision in state law related to public disclosure.

New law provides that except as provided in existing 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.

New 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.

New law further provides that new 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.

New 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 new law.

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

New law provides that any person and his immediate family or an entity whose identity is disclosed in violation of new 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 new law, may recover punitive damages.

Existing 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.

New law changes prior law to include a business, organization, or entity that is licensed by a board and participates in or performs ancillary functions in an execution.

New 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.

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

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

Effective July 1, 2024.

(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))