

By: Representatives Foster, Monsour,  
Kinkade, Hale

To: Judiciary B

HOUSE BILL NO. 638  
(As Passed the House)

1 AN ACT TO AMEND SECTION 99-19-51, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE METHODS BY WHICH THE DEATH PENALTY MAY BE CARRIED  
3 OUT; AND FOR RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 **SECTION 1.** Section 99-19-51, Mississippi Code of 1972, is  
6 amended as follows:

7 99-19-51. (1) The manner of inflicting the punishment of  
8 death shall be by \* \* \* the sequential intravenous administration  
9 of a lethal quantity of \* \* \* the following combination \* \* \* of  
10 substances: (a) an appropriate anesthetic or sedative; (b) a  
11 chemical paralytic agent; and (c) potassium chloride, or other  
12 similarly effective substance, until death is pronounced by the  
13 county coroner where the execution takes place or by a licensed  
14 physician according to accepted standards of medical practice. As  
15 used in this section, the term "appropriate anesthetic or  
16 sedative" means any substance that, if properly administered in a  
17 sufficient quantity, is likely to render the condemned inmate



18 unconscious, so that the execution process should not entail a  
19 substantial risk of severe pain.

20 (2) If the method of execution authorized in subsection (1) of  
21 this section is held unconstitutional by a court of competent  
22 jurisdiction or is otherwise unavailable, then the sentence of death  
23 shall be carried out by nitrogen hypoxia.

24 (3) If the methods of execution authorized in subsections (1)  
25 and (2) of this section are held unconstitutional by a court of  
26 competent jurisdiction or are otherwise unavailable, then the  
27 sentence of death shall be carried out by firing squad.

28 (4) If the methods of execution authorized in subsections (1),  
29 (2) and (3) of this section are held unconstitutional by a court of  
30 competent jurisdiction or are otherwise unavailable, then the  
31 sentence of death shall be carried out by electrocution.

32 (5) The Commissioner of Corrections has the authority and  
33 discretion to select and obtain the substances and the means  
34 necessary to carry out an execution, and may adopt and promulgate  
35 rules and regulations as the Commissioner deems necessary to  
36 administer and implement the provisions of this section.

37 (6) (a) The Commissioner \* \* \* of Corrections shall select  
38 an execution team to assist the executioner and his deputies.  
39 This team, including the State Executioner and his deputies who  
40 are responsible for the administration of lethal chemicals, shall  
41 consist of those persons, such as medical personnel, who provide  
42 direct support for the administration of lethal chemicals. This



43 team shall also include those individuals involved in assisting in  
44 the execution in any capacity, as well as those personnel assigned  
45 to specific duties related to an execution.

46 (b) For the purposes of this section, "supplier of  
47 lethal injection chemicals" means a supplier or suppliers of  
48 lethal injection chemicals located within the State of  
49 Mississippi.

50 (c) The identities of all members of the execution  
51 team, a supplier of lethal injection chemicals, and the identities  
52 of those witnesses listed in Section 99-19-55(2) who attend as  
53 members of the victim's or the condemned person's immediate family  
54 shall at all times remain confidential, and the information is  
55 exempt from disclosure under the provisions of the Mississippi  
56 Public Records Act of 1983.

57 (7) Notwithstanding any provision of law to the contrary,  
58 any portion of any record of any kind that could identify a person  
59 as being a current or former member of an execution team or a  
60 current or former supplier of lethal injection chemicals, or those  
61 witnesses listed in Section 99-19-55(2) who attend as members of  
62 the victim's or the condemned person's immediate family, shall at  
63 all times be confidential, exempt, and protected from disclosure,  
64 but the remainder of the record shall not be protected unless  
65 otherwise provided by law. A court shall preserve the secrecy of  
66 all confidential and exempt information described in this section  
67 by reasonable means, which may include granting protective orders,



68 holding in-camera hearings, sealing the records of the action, and  
69 ordering any person involved in the litigation not to disclose  
70 such information without prior court approval.

71 (8) Notwithstanding any provision of law to the contrary, if  
72 a member of the execution team or supplier of lethal injection  
73 chemicals is licensed by a board or department, the licensing  
74 board or department shall not censure, reprimand, suspend, revoke,  
75 or take any other disciplinary action against the person's license  
76 because the person participated in a lawful execution. Any person  
77 or institution assisting with or participating in carrying out an  
78 execution in accordance with this statute shall be presumed to be  
79 acting in good faith. Any person or institution acting in good  
80 faith in connection with carrying out an execution shall be immune  
81 from any liability, civil or criminal, that might otherwise be  
82 incurred or imposed. All members of the execution team perform  
83 their respective functions as official duties on behalf of the  
84 state or any agency of the state.

85 **SECTION 2.** This act shall take effect and be in force from  
86 and after its passage.

