

By: Representative Bain

To: Judiciary B

HOUSE BILL NO. 1479
(As Sent to Governor)

1 AN ACT TO AMEND SECTIONS 99-19-51, 99-19-53 AND 99-19-55,
2 MISSISSIPPI CODE OF 1972, TO REVISE THE AUTHORITY OF THE
3 COMMISSIONER OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS TO
4 INFLICT THE DEATH PENALTY; AND FOR RELATED PURPOSES.

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

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

8 99-19-51. (1) At the discretion of the Commissioner, the
9 Deputy Commissioner for Finance and Administration and the Deputy
10 Commissioner for Institutions of the Mississippi Department of
11 Corrections, the manner of inflicting the punishment of death
12 shall be by * * *~~the sequential~~ one of the following: (a)
13 ~~intravenous * * * administration of a lethal quantity of the~~
14 ~~following combination of substances: (a) an appropriate~~
15 ~~anesthetic or sedative; (b) a chemical paralytic agent; and (c)~~
16 ~~potassium chloride, or other similarly effective substance,~~
17 injection of a substance or substances in a lethal quantity into
18 the body; (b) nitrogen hypoxia; (c) electrocution; or (d) firing
19 squad, until death is pronounced by the county coroner where the



20 execution takes place or by a licensed physician according to
21 accepted standards of medical practice. * * *~~As used in this~~
22 ~~section, the term "appropriate anesthetic or sedative" means any~~
23 ~~substance that, if properly administered in a sufficient quantity,~~
24 ~~is likely to render the condemned inmate unconscious, so that the~~
25 ~~execution process should not entail a substantial risk of severe~~
26 ~~pain.~~ Upon receipt of the warrant of execution from the
27 Mississippi Supreme Court, the Commissioner of Corrections shall,
28 within seven (7) days, provide written notice to the condemned
29 person of the manner of execution. It is the policy of the State
30 of Mississippi that intravenous injection of a substance or
31 substances in a lethal quantity into the body shall be the
32 preferred method of execution.

33 * * *~~(2) If the method of execution authorized in subsection (1)~~
34 ~~of this section is held unconstitutional by a court of competent~~
35 ~~jurisdiction or is otherwise unavailable, then the sentence of~~
36 ~~death shall be carried out by nitrogen hypoxia.~~

37 ~~— (3) If the methods of execution authorized in subsections~~
38 ~~(1) and (2) of this section are held unconstitutional by a court~~
39 ~~of competent jurisdiction or are otherwise unavailable, then the~~
40 ~~sentence of death shall be carried out by electrocution.~~

41 ~~— (4) If the methods of execution authorized in subsections~~
42 ~~(1), (2) and (3) of this section are held unconstitutional by a~~
43 ~~court of competent jurisdiction or are otherwise unavailable, then~~
44 ~~the sentence of death shall be carried out by firing squad.~~



45 (* * *52) The Commissioner of Corrections has the authority
46 and discretion to select and obtain the substances and the means
47 necessary to carry out an execution, and may adopt and promulgate
48 rules and regulations as the Commissioner deems necessary to
49 administer and implement the provisions of this section.

50 (* * *63) (a) The Commissioner of Corrections shall select
51 an execution team to assist the State Executioner and his
52 deputies. * * *~~This team, including the State Executioner and his~~
53 ~~deputies who are responsible for the administration of lethal~~
54 ~~chemicals,~~ The execution team shall consist of those
55 persons, * * *~~such as~~ including all medical personnel, who provide
56 direct support for the administration of lethal chemicals * * *~~.~~
57 ~~This team shall also include,~~ those individuals involved in
58 assisting in the execution in any capacity * * *~~, as well as~~ and
59 those personnel assigned to specific duties related to an
60 execution.

61 (b) For the purposes of this section, "supplier of
62 lethal injection chemicals" means a supplier or suppliers of
63 lethal injection chemicals located within the State of
64 Mississippi.

65 (c) The identities of the State Executioner and his
66 deputies, all members of the execution team, a supplier of lethal
67 injection chemicals, and * * *~~the identities of~~ those witnesses
68 listed in Section 99-19-55(2) who attend as members of the
69 victim's family or designated by the condemned * * *~~person's~~



70 ~~immediate family person~~ shall at all times remain confidential,
71 and the information is exempt from disclosure under the provisions
72 of the Mississippi Public Records Act of 1983.

73 (* * *74) Notwithstanding any provision of law to the
74 contrary, any portion of any record of any kind that could
75 identify a person as being a current or former State Executioner,
76 his or her deputies, a member of an execution team * * *~~or,~~ a
77 current or former supplier of lethal injection chemicals, or those
78 witnesses listed in Section 99-19-55(2) who attend as members of
79 the victim's family or designated by the condemned * * *~~person's~~
80 ~~immediate family person~~, shall at all times be confidential,
81 exempt, and protected from disclosure, but the remainder of the
82 record shall not be protected unless otherwise provided by law. A
83 court shall preserve the secrecy of all confidential and exempt
84 information described in this section by reasonable means, which
85 may include granting protective orders, holding in-camera
86 hearings, sealing the records of the action, and ordering any
87 person involved in the litigation not to disclose such information
88 without prior court approval.

89 (* * *85) Notwithstanding any provision of law to the
90 contrary, if the State Executioner, his or her deputies, a member
91 of the execution team or supplier of lethal injection chemicals is
92 licensed by a board or department, the licensing board or
93 department shall not censure, reprimand, suspend, revoke, or take
94 any other disciplinary action against the person's license because



95 the person participated in a lawful execution. Any person or
96 institution assisting with or participating in carrying out an
97 execution in accordance with this statute shall be presumed to be
98 acting in good faith. Any person or institution acting in good
99 faith in connection with carrying out an execution shall be immune
100 from any liability, civil or criminal, that might otherwise be
101 incurred or imposed. The State Executioner and his deputies, and
102 all members of the execution team perform their respective
103 functions as official duties on behalf of the state or any agency
104 of the state.

105 **SECTION 2.** Section 99-19-53, Mississippi Code of 1972, is
106 amended as follows:

107 99-19-53. (1) The Governor shall appoint the State
108 Executioner who shall serve at the pleasure of the Governor and
109 until his successor shall have been duly appointed to replace him.

110 (2) The State Executioner, or his duly authorized
111 representative, shall supervise and inflict the punishment of
112 death as the same is hereby provided. All duties and necessary
113 acts pertaining to the execution of a convict shall be performed
114 by the Commissioner of Corrections except where such duties and
115 actions are vested in the State Executioner. The State
116 Executioner shall receive for his services in connection therewith
117 compensation in the sum of Five Hundred Dollars (\$500.00) plus all
118 actual and necessary expenses for each such execution, to be paid
119 by the county where the crime was committed. The county of



120 conviction shall likewise pay the fees of the attending physician
121 or physicians in attendance. The State Executioner may appoint
122 not more than two (2) deputies who shall be paid One Hundred Fifty
123 Dollars (\$150.00) per execution and mileage as authorized by law,
124 to be paid by the county where the crime was committed, to assist
125 in the infliction of the punishment of death. The Executioner may
126 appoint such other assistants as may be required; however, such
127 assistants shall not be entitled to compensation or travel
128 expenses. The State Executioner and his deputies may waive
129 compensation, per diem or travel expenses.

130 (3) Any infliction of the punishment of death by
131 administration of the required lethal substance or substances in
132 the manner required by law shall not be construed to be the
133 practice of medicine or nursing. Any pharmacist is authorized to
134 dispense drugs to the State Executioner or the Commissioner of the
135 Mississippi Department of Corrections without a prescription for
136 the purpose of this chapter.

137 (4) The State Executioner shall be custodian of all
138 equipment and supplies involved in the infliction of the death
139 penalty. All expenses for the maintenance and protection of the
140 property, together with operating expenses, which as a practical
141 matter cannot be allocated to the county of conviction, shall be
142 paid out of funds designated by law for that purpose or out of the
143 general support fund of the Mississippi Department of Corrections.



144 (5) The State Executioner shall receive the per diem
145 compensation authorized in Section 25-3-69 in addition to actual
146 and necessary expenses, including mileage as authorized by law,
147 for each day, not to exceed three (3) days each month, spent in
148 maintaining the equipment and supplies involved in the infliction
149 of the death penalty or preparing for an execution which does not
150 occur. Such payments shall be paid out of funds designated by law
151 for that purpose or out of the general support fund of the
152 Mississippi Department of Corrections.

153 * * *~~The Governor shall appoint the official State Executioner~~
154 ~~who shall serve at the pleasure of the Governor and until his~~
155 ~~successor shall have been duly appointed to replace him.~~

156 **SECTION 3.** Section 99-19-55, Mississippi Code of 1972, is
157 amended as follows:

158 99-19-55. (1) Whenever any person shall be condemned to
159 suffer death for any crime for which such person shall have been
160 convicted in any court of any county of this state, such
161 punishment shall be inflicted at 6:00 p.m. or as soon as possible
162 thereafter within the next twenty-four (24) hours at an
163 appropriate place designated by the Commissioner of the
164 Mississippi Department of Corrections. * * *~~on the premises of the~~
165 ~~Mississippi State Penitentiary at Parchman, Mississippi.~~ All male
166 persons convicted of a capital offense wherein the death sentence
167 has been imposed shall be immediately committed to the Department
168 of Corrections and transported to the maximum security cell



169 block * * *~~at the Mississippi State Penitentiary at Parchman,~~
170 ~~Mississippi. When the maximum inmate capacity at such maximum~~
171 ~~security cell block has been reached, the Commissioner of~~
172 ~~Corrections shall place such male convicts in an appropriate~~
173 ~~facility on the grounds of the Mississippi State Penitentiary at~~
174 ~~Parchman, Mississippi.~~ All female persons convicted of a capital
175 offense wherein the death sentence has been imposed shall be
176 immediately committed to the Department of Corrections and housed
177 in an appropriate facility designated by the Commissioner of the
178 Mississippi Department of Corrections. Upon final affirmance of
179 the conviction, the punishment shall be imposed in the manner
180 provided by law. The State Executioner or his duly authorized
181 deputy shall supervise and perform such execution.

182 (2) When a person is sentenced to suffer death in the manner
183 provided by law, it shall be the duty of the clerk of the court to
184 deliver forthwith to the Commissioner of Corrections a warrant for
185 the execution of the condemned person. It shall be the duty of
186 the commissioner forthwith to notify the State Executioner of the
187 date of the execution and it shall be the duty of the said State
188 Executioner, or any person deputized by him in writing, in the
189 event of his physical disability, as hereinafter provided, to be
190 present at such execution, to perform the same, and have general
191 supervision over said execution. In addition to the above
192 designated persons, the Commissioner of Corrections shall secure
193 the presence at such execution of the sheriff, or his deputy, of



194 the county of conviction, at least one (1) but not more than two
195 (2) physicians or the county coroner where the execution takes
196 place, and bona fide members of the press, not to exceed eight (8)
197 in number, and at the request of the condemned, such ministers of
198 the gospel, not exceeding two (2), as said condemned person shall
199 name. The Commissioner of Corrections shall also name to be
200 present at the execution such * * * ~~officers or guards as may be~~
201 members of the execution team deemed by him or her to be necessary
202 to insure proper security. No other persons shall be permitted to
203 witness the execution, except the commissioner may permit the
204 condemned person to designate two (2) * * * ~~members of the~~
205 ~~condemned person's immediate family as~~ witnesses, if they so
206 request and two (2) members of the victim's * * * ~~immediate~~ family
207 as witnesses, if they so request. Provided further, that the
208 Governor may * * * ~~for good cause shown, permit~~ designate two (2)
209 additional persons of good and reputable character to witness an
210 execution. No person shall be allowed to take photographs or
211 other recordings of any type during the execution. The absence of
212 the sheriff, or deputy, after due notice to attend, shall not
213 delay the execution.

214 (3) * * * ~~The State Executioner, or his duly authorized~~
215 ~~representative,~~ The Commissioner of Corrections, or his duly
216 authorized representative, and the physician or physicians or
217 county coroner who witnessed such execution shall prepare and sign
218 officially a certificate setting forth the time and place thereof



219 and that such * * *~~criminal~~ condemned person was then and there
220 executed in conformity to the sentence of the court and the
221 provisions of Sections 99-19-51 through 99-19-55, * * *~~and shall~~
222 ~~procure the signatures of the other public officers and persons~~
223 ~~who witnessed such execution,~~ which certificate shall be filed
224 with the clerk of the court where the conviction of the criminal
225 was had, and the clerk shall subjoin the certificate to the record
226 of the conviction and sentence.

227 (4) The body of the person so executed shall be released
228 immediately by the State Executioner, or his duly authorized
229 representative, to the relatives of the dead person, or to such
230 friends as may claim the body. The Commissioner of the
231 Mississippi Department of Corrections shall have sole charge of
232 burial in the event the body is not claimed as aforesaid, and his
233 discretion in the premises shall be final. The Commissioner may
234 donate the unclaimed body of an executed person to the University
235 of Mississippi Medical Center for scientific purposes. The county
236 of conviction shall bear the reasonable expense of burial in the
237 event the body is not claimed by relatives or friends or donated
238 to the University of Mississippi Medical Center.

239 **SECTION 4.** This act shall take effect and be in force from
240 and after July 1, 2022.

