

By: Representative Bain

To: Judiciary B

HOUSE BILL NO. 1479

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 INFLECT 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 sole discretion of the Commissioner of
9 the Mississippi Department of Corrections, the manner of
10 inflicting the punishment of death shall be by * * * one of the
11 following: (a) intravenous * * *, injection of a substance or
12 substances in a lethal quantity into the body; (b) nitrogen
13 hypoxia; (c) electrocution or (d) firing squad, until death is
14 pronounced by the county coroner where the execution takes place
15 or by a licensed physician according to accepted standards of
16 medical practice. * * * Upon receipt of the warrant of execution
17 from the Mississippi Supreme Court, the Commissioner of
18 Corrections shall, within seven (7) days, provide written notice
19 to the condemned person of the manner of execution.



20 * * *

21 (* * *2) The Commissioner of Corrections has the authority
22 and discretion to select and obtain the substances and the means
23 necessary to carry out an execution, and may adopt and promulgate
24 rules and regulations as the Commissioner deems necessary to
25 administer and implement the provisions of this section.

26 (* * *3) (a) The Commissioner of Corrections shall select
27 an execution team to assist the State Executioner and his
28 deputies. * * * The execution team shall consist of those
29 persons, * * * including all medical personnel, who provide direct
30 support for the administration of lethal chemicals * * * , those
31 individuals involved in assisting in the execution in any
32 capacity * * * and those personnel assigned to specific duties
33 related to an execution.

34 (b) For the purposes of this section, "supplier of
35 lethal injection chemicals" means a supplier or suppliers of
36 lethal injection chemicals located within the State of
37 Mississippi.

38 (c) The identities of the State Executioner and his
39 deputies, all members of the execution team, a supplier of lethal
40 injection chemicals, and * * * those witnesses listed in Section
41 99-19-55(2) who attend as members of the victim's family or
42 designated by the condemned * * * person shall at all times remain
43 confidential, and the information is exempt from disclosure under
44 the provisions of the Mississippi Public Records Act of 1983.



45 (* * *4) Notwithstanding any provision of law to the
46 contrary, any portion of any record of any kind that could
47 identify a person as being a current or former State Executioner,
48 his or her deputies, a member of an execution team * * *, a
49 current or former supplier of lethal injection chemicals, or those
50 witnesses listed in Section 99-19-55(2) who attend as members of
51 the victim's family or designated by the condemned * * * person,
52 shall at all times be confidential, exempt, and protected from
53 disclosure, but the remainder of the record shall not be protected
54 unless otherwise provided by law. A court shall preserve the
55 secrecy of all confidential and exempt information described in
56 this section by reasonable means, which may include granting
57 protective orders, holding in-camera hearings, sealing the records
58 of the action, and ordering any person involved in the litigation
59 not to disclose such information without prior court approval.

60 (* * *5) Notwithstanding any provision of law to the
61 contrary, if the State Executioner, his or her deputies, a member
62 of the execution team or supplier of lethal injection chemicals is
63 licensed by a board or department, the licensing board or
64 department shall not censure, reprimand, suspend, revoke, or take
65 any other disciplinary action against the person's license because
66 the person participated in a lawful execution. Any person or
67 institution assisting with or participating in carrying out an
68 execution in accordance with this statute shall be presumed to be
69 acting in good faith. Any person or institution acting in good



70 faith in connection with carrying out an execution shall be immune
71 from any liability, civil or criminal, that might otherwise be
72 incurred or imposed. The State Executioner and his deputies, and
73 all members of the execution team perform their respective
74 functions as official duties on behalf of the state or any agency
75 of the state.

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

78 99-19-53. (1) The Governor shall appoint the State
79 Executioner who shall serve at the pleasure of the Governor and
80 until his successor shall have been duly appointed to replace him.

81 (2) The State Executioner, or his duly authorized
82 representative, shall supervise and inflict the punishment of
83 death as the same is hereby provided. All duties and necessary
84 acts pertaining to the execution of a convict shall be performed
85 by the Commissioner of Corrections except where such duties and
86 actions are vested in the State Executioner. The State
87 Executioner shall receive for his services in connection therewith
88 compensation in the sum of Five Hundred Dollars (\$500.00) plus all
89 actual and necessary expenses for each such execution, to be paid
90 by the county where the crime was committed. The county of
91 conviction shall likewise pay the fees of the attending physician
92 or physicians in attendance. The State Executioner may appoint
93 not more than two (2) deputies who shall be paid One Hundred Fifty
94 Dollars (\$150.00) per execution and mileage as authorized by law,



95 to be paid by the county where the crime was committed, to assist
96 in the infliction of the punishment of death. The Executioner may
97 appoint such other assistants as may be required; however, such
98 assistants shall not be entitled to compensation or travel
99 expenses. The State Executioner and his deputies may waive
100 compensation, per diem or travel expenses.

101 (3) Any infliction of the punishment of death by
102 administration of the required lethal substance or substances in
103 the manner required by law shall not be construed to be the
104 practice of medicine or nursing. Any pharmacist is authorized to
105 dispense drugs to the State Executioner or the Commissioner of the
106 Mississippi Department of Corrections without a prescription for
107 the purpose of this chapter.

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

115 (5) The State Executioner shall receive the per diem
116 compensation authorized in Section 25-3-69 in addition to actual
117 and necessary expenses, including mileage as authorized by law,
118 for each day, not to exceed three (3) days each month, spent in
119 maintaining the equipment and supplies involved in the infliction



120 of the death penalty or preparing for an execution which does not
121 occur. Such payments shall be paid out of funds designated by law
122 for that purpose or out of the general support fund of the
123 Mississippi Department of Corrections.

124 * * *

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

127 99-19-55. (1) Whenever any person shall be condemned to
128 suffer death for any crime for which such person shall have been
129 convicted in any court of any county of this state, such
130 punishment shall be inflicted at 6:00 p.m. or as soon as possible
131 thereafter within the next twenty-four (24) hours at an
132 appropriate place designated by the Commissioner of the
133 Mississippi Department of Corrections. * * * All male persons
134 convicted of a capital offense wherein the death sentence has been
135 imposed shall be immediately committed to the Department of
136 Corrections and transported to the maximum security cell
137 block * * *. All female persons convicted of a capital offense
138 wherein the death sentence has been imposed shall be immediately
139 committed to the Department of Corrections and housed in an
140 appropriate facility designated by the Commissioner of the
141 Mississippi Department of Corrections. Upon final affirmance of
142 the conviction, the punishment shall be imposed in the manner
143 provided by law. The State Executioner or his duly authorized
144 deputy shall supervise and perform such execution.



145 (2) When a person is sentenced to suffer death in the manner
146 provided by law, it shall be the duty of the clerk of the court to
147 deliver forthwith to the Commissioner of Corrections a warrant for
148 the execution of the condemned person. It shall be the duty of
149 the commissioner forthwith to notify the State Executioner of the
150 date of the execution and it shall be the duty of the said State
151 Executioner, or any person deputized by him in writing, in the
152 event of his physical disability, as hereinafter provided, to be
153 present at such execution, to perform the same, and have general
154 supervision over said execution. In addition to the above
155 designated persons, the Commissioner of Corrections shall secure
156 the presence at such execution of the sheriff, or his deputy, of
157 the county of conviction, at least one (1) but not more than two
158 (2) physicians or the county coroner where the execution takes
159 place, and bona fide members of the press, not to exceed eight (8)
160 in number, and at the request of the condemned, such ministers of
161 the gospel, not exceeding two (2), as said condemned person shall
162 name. The Commissioner of Corrections shall also name to be
163 present at the execution such * * * members of the execution team
164 deemed by him or her to be necessary to insure proper security.
165 No other persons shall be permitted to witness the execution,
166 except the commissioner may permit the condemned person to
167 designate two (2) * * * witnesses, if they so request and two (2)
168 members of the victim's * * * family as witnesses, if they so
169 request. Provided further, that the Governor may * * * designate



170 two (2) additional persons of good and reputable character to
171 witness an execution. No person shall be allowed to take
172 photographs or other recordings of any type during the execution.
173 The absence of the sheriff, or deputy, after due notice to attend,
174 shall not delay the execution.

175 (3) * * * The Commissioner of Corrections, or his duly
176 authorized representative, and the physician or physicians or
177 county coroner who witnessed such execution shall prepare and sign
178 officially a certificate setting forth the time and place thereof
179 and that such * * * condemned person was then and there executed
180 in conformity to the sentence of the court and the provisions of
181 Sections 99-19-51 through 99-19-55, * * * which certificate shall
182 be filed with the clerk of the court where the conviction of the
183 criminal was had, and the clerk shall subjoin the certificate to
184 the record of the conviction and sentence.

185 (4) The body of the person so executed shall be released
186 immediately by the State Executioner, or his duly authorized
187 representative, to the relatives of the dead person, or to such
188 friends as may claim the body. The Commissioner of the
189 Mississippi Department of Corrections shall have sole charge of
190 burial in the event the body is not claimed as aforesaid, and his
191 discretion in the premises shall be final. The Commissioner may
192 donate the unclaimed body of an executed person to the University
193 of Mississippi Medical Center for scientific purposes. The county
194 of conviction shall bear the reasonable expense of burial in the



195 event the body is not claimed by relatives or friends or donated
196 to the University of Mississippi Medical Center.

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

