

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.

