

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



20 written notice to the condemned person of the manner of execution.
21 It is the policy of the State of Mississippi that intravenous
22 injection of a substance or substances in a lethal quantity into
23 the body shall be the preferred method of execution.

24 * * *

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

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

38 (b) For the purposes of this section, "supplier of
39 lethal injection chemicals" means a supplier or suppliers of
40 lethal injection chemicals located within the State of
41 Mississippi.

42 (c) The identities of the State Executioner and his
43 deputies, all members of the execution team, a supplier of lethal
44 injection chemicals, and * * * those witnesses listed in Section



45 99-19-55(2) who attend as members of the victim's family or
46 designated by the condemned * * * person shall at all times remain
47 confidential, and the information is exempt from disclosure under
48 the provisions of the Mississippi Public Records Act of 1983.

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

64 (* * *5) Notwithstanding any provision of law to the
65 contrary, if the State Executioner, his or her deputies, a member
66 of the execution team or supplier of lethal injection chemicals is
67 licensed by a board or department, the licensing board or
68 department shall not censure, reprimand, suspend, revoke, or take
69 any other disciplinary action against the person's license because



70 the person participated in a lawful execution. Any person or
71 institution assisting with or participating in carrying out an
72 execution in accordance with this statute shall be presumed to be
73 acting in good faith. Any person or institution acting in good
74 faith in connection with carrying out an execution shall be immune
75 from any liability, civil or criminal, that might otherwise be
76 incurred or imposed. The State Executioner and his deputies, and
77 all members of the execution team perform their respective
78 functions as official duties on behalf of the state or any agency
79 of the state.

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

82 99-19-53. (1) The Governor shall appoint the State
83 Executioner who shall serve at the pleasure of the Governor and
84 until his successor shall have been duly appointed to replace him.

85 (2) The State Executioner, or his duly authorized
86 representative, shall supervise and inflict the punishment of
87 death as the same is hereby provided. All duties and necessary
88 acts pertaining to the execution of a convict shall be performed
89 by the Commissioner of Corrections except where such duties and
90 actions are vested in the State Executioner. The State
91 Executioner shall receive for his services in connection therewith
92 compensation in the sum of Five Hundred Dollars (\$500.00) plus all
93 actual and necessary expenses for each such execution, to be paid
94 by the county where the crime was committed. The county of



95 conviction shall likewise pay the fees of the attending physician
96 or physicians in attendance. The State Executioner may appoint
97 not more than two (2) deputies who shall be paid One Hundred Fifty
98 Dollars (\$150.00) per execution and mileage as authorized by law,
99 to be paid by the county where the crime was committed, to assist
100 in the infliction of the punishment of death. The Executioner may
101 appoint such other assistants as may be required; however, such
102 assistants shall not be entitled to compensation or travel
103 expenses. The State Executioner and his deputies may waive
104 compensation, per diem or travel expenses.

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

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



119 (5) The State Executioner shall receive the per diem
120 compensation authorized in Section 25-3-69 in addition to actual
121 and necessary expenses, including mileage as authorized by law,
122 for each day, not to exceed three (3) days each month, spent in
123 maintaining the equipment and supplies involved in the infliction
124 of the death penalty or preparing for an execution which does not
125 occur. Such payments shall be paid out of funds designated by law
126 for that purpose or out of the general support fund of the
127 Mississippi Department of Corrections.

128 * * *

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

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



144 appropriate facility designated by the Commissioner of the
145 Mississippi Department of Corrections. Upon final affirmance of
146 the conviction, the punishment shall be imposed in the manner
147 provided by law. The State Executioner or his duly authorized
148 deputy shall supervise and perform such execution.

149 (2) When a person is sentenced to suffer death in the manner
150 provided by law, it shall be the duty of the clerk of the court to
151 deliver forthwith to the Commissioner of Corrections a warrant for
152 the execution of the condemned person. It shall be the duty of
153 the commissioner forthwith to notify the State Executioner of the
154 date of the execution and it shall be the duty of the said State
155 Executioner, or any person deputized by him in writing, in the
156 event of his physical disability, as hereinafter provided, to be
157 present at such execution, to perform the same, and have general
158 supervision over said execution. In addition to the above
159 designated persons, the Commissioner of Corrections shall secure
160 the presence at such execution of the sheriff, or his deputy, of
161 the county of conviction, at least one (1) but not more than two
162 (2) physicians or the county coroner where the execution takes
163 place, and bona fide members of the press, not to exceed eight (8)
164 in number, and at the request of the condemned, such ministers of
165 the gospel, not exceeding two (2), as said condemned person shall
166 name. The Commissioner of Corrections shall also name to be
167 present at the execution such * * * members of the execution team
168 deemed by him or her to be necessary to insure proper security.



169 No other persons shall be permitted to witness the execution,
170 except the commissioner may permit the condemned person to
171 designate two (2) * * * witnesses, if they so request and two (2)
172 members of the victim's * * * family as witnesses, if they so
173 request. Provided further, that the Governor may * * * designate
174 two (2) additional persons of good and reputable character to
175 witness an execution. No person shall be allowed to take
176 photographs or other recordings of any type during the execution.
177 The absence of the sheriff, or deputy, after due notice to attend,
178 shall not delay the execution.

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

189 (4) The body of the person so executed shall be released
190 immediately by the State Executioner, or his duly authorized
191 representative, to the relatives of the dead person, or to such
192 friends as may claim the body. The Commissioner of the
193 Mississippi Department of Corrections shall have sole charge of



194 burial in the event the body is not claimed as aforesaid, and his
195 discretion in the premises shall be final. The Commissioner may
196 donate the unclaimed body of an executed person to the University
197 of Mississippi Medical Center for scientific purposes. The county
198 of conviction shall bear the reasonable expense of burial in the
199 event the body is not claimed by relatives or friends or donated
200 to the University of Mississippi Medical Center.

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

