

By: Representatives Foster, Monsour,
Kinkade, Hale

To: Judiciary B

HOUSE BILL NO. 638
(As Sent to Governor)

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 electrocution.

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 firing squad.

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.

