

An Act

ENROLLED HOUSE
BILL NO. 1991

By: Sullivan and Ritze of the
House

and

Sykes and Shortey of the
Senate

—An Act relating to criminal procedure; amending 22 O.S. 2001, Sections 1014 and 1015, as last amended by Section 3, Chapter 275, O.S.L. 2009 (22 O.S. Supp. 2010, Section 1015), which relate to death sentences; clarifying administration procedures for executions; allowing certain persons to witness executions; providing confidentiality for persons involved in the execution process; making identities nondiscoverable in civil or criminal proceedings; making the purchase of certain products exempt from the Oklahoma Central Purchasing Act; and providing an effective date.

SUBJECT: Death sentences and executions

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 22 O.S. 2001, Section 1014, is amended to read as follows:

Section 1014. A. The punishment of death ~~must~~ shall be inflicted carried out by continuous, intravenous the administration of a lethal quantity of an ultrashort-acting barbiturate in combination with a chemical paralytic agent drug or drugs until death is pronounced by a licensed physician according to accepted standards of medical practice.

B. If the execution of the sentence of death as provided in subsection A of this section is held unconstitutional by an appellate court of competent jurisdiction, then the sentence of death shall be carried out by electrocution.

C. If the execution of the sentence of death as provided in subsections A and B of this section is held unconstitutional by an appellate court of competent jurisdiction, then the sentence of death shall be carried out by firing squad.

SECTION 2. AMENDATORY 22 O.S. 2001, Section 1015, as last amended by Section 3, Chapter 275, O.S.L. 2009 (22 O.S. Supp. 2010, Section 1015), is amended to read as follows:

Section 1015. A. A judgment of death must be executed at the Oklahoma State Penitentiary at McAlester, Oklahoma, said prison to be designated by the court by which judgment is to be rendered.

B. The judgment of execution shall take place under the authority of the Director of the ~~Oklahoma~~ Department of Corrections and the warden must be present along with other necessary prison and corrections officials to carry out the execution. The warden must invite the presence of a physician and the district attorney of the county in which the crime occurred or ~~his or her~~ a designee, the judge who presided at the trial issuing the sentence of death, the chief of police of the municipality in which the crime occurred, if applicable, and lead law enforcement officials of any state, county or local law enforcement agency who investigated the crime or testified in any court or clemency proceeding related to the crime, including but not limited to the sheriff of the county wherein the conviction was had, to witness the execution; in addition, the Cabinet Secretary of Safety and Security must be invited ~~and~~ as well as any other personnel or correctional personnel deemed appropriate and approved by the Director. The warden shall, at the request of the defendant, permit the presence of such ministers ~~of the defendant's choice~~ chosen by the defendant, not exceeding two, and any persons, relatives or friends, not to exceed five, as the defendant may name; provided, reporters from recognized members of the news media will be admitted upon proper identification, application and approval of the warden. The identity of all persons who participate in or administer the execution process and persons who supply the drugs, medical supplies or medical equipment for the execution shall be confidential and shall not be subject to discovery in any civil or criminal proceedings. The purchase of drugs, medical supplies or medical equipment necessary to carry out

the execution shall not be subject to the provisions of the Oklahoma Central Purchasing Act.

C. In the event the defendant has been sentenced to death in one or more criminal proceedings in this state, or has been sentenced to death in this state and by one or more courts of competent jurisdiction in another state or pursuant to federal authority, or any combination thereof, and this state has priority to execute the defendant, the warden must invite the prosecuting attorney or his or her designee, the judge, and the chief law enforcement official from each jurisdiction where any death sentence has issued. The above mentioned officials shall be allowed to witness the execution or view the execution by closed circuit television as determined by the Director of the Department of Corrections.

D. A place shall be provided at the Oklahoma State Penitentiary at McAlester so that individuals who are eighteen (18) years of age or older and who are members of the immediate family of any deceased victim of the defendant may witness the execution. The immediate family members shall be allowed to witness the execution from an area that is separate from the area to which other nonfamily member witnesses are admitted; provided, however, if there are multiple deceased victims, the Department shall not be required to provide separate areas for each family of each deceased victim. If facilities are not capable or sufficient to provide all immediate family members with a direct view of the execution, the Department of Corrections may broadcast the execution by means of a closed circuit television system to an area in which other immediate family members may be located.

Immediate family members may request individuals not directly related to the deceased victim but who serve a close supporting role or professional role to the deceased victim or an immediate family member, including, but not limited to, a minister or licensed counselor. The warden in consultation with the Director shall approve or disapprove such requests. Provided further, the Department may set a limit on the number of witnesses or viewers within occupancy limits.

As used in this section, "members of the immediate family" means the spouse, a child by birth or adoption, a stepchild, a parent, a grandparent, a grandchild, a sibling of a deceased victim, or the spouse of any immediate family member specified in this subsection.

E. Any surviving victim of the defendant who is eighteen (18) years of age or older may view the execution by closed circuit television with the approval of both the Director of the Department of Corrections and the warden. The Director and warden shall prioritize persons to view the execution, including immediate family members, surviving victims, and supporting persons, and may set a limit on the number of viewers within occupancy limits. Any surviving victim approved to view the execution of ~~their perpetrator~~ the defendant may have an accompanying support person as provided for members of the immediate family of a deceased victim. As used in this subsection, "surviving victim" means any person who suffered serious harm or injury due to the criminal acts of the defendant of which the defendant has been convicted in a court of competent jurisdiction.

SECTION 3. This act shall become effective November 1, 2011.

Passed the House of Representatives the 21st day of February, 2011.

John Steele

Presiding Officer of the House of Representatives

Passed the Senate the 11th day of April, 2011.

Kim Dail

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 12th
day of April, 20 11,
at 12:01 o'clock P.M.

By: Jamie R. Peyton

Approved by the Governor of the State of Oklahoma the 18th day of
April, 20 11, at 2:24 o'clock P.M.

Mary Fallin

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this
18th day of April, 20 11,
at 3:21 o'clock P.M.

By: Michelle R. Day