

No. 1998-80

AN ACT

SB 252

Providing for a procedure and method of execution; and making repeals.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Department.” The Department of Corrections of the Commonwealth.

“Secretary.” The Secretary of Corrections of the Commonwealth.

“Victim.” The term shall have the same meaning given to it in section 479.1 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

“Victim advocate.” The victim advocate within the Board of Probation and Parole.

Section 2. Issuance of warrant.

(a) Time.—After the receipt of the record pursuant to 42 Pa.C.S. § 9711(i) (relating to sentencing procedure for murder of the first degree), unless a pardon or commutation has been issued, the Governor shall, within 90 days, issue a warrant specifying a day for execution which shall be no later than 60 days after the date the warrant is signed. If because of a reprieve or a judicial stay of the execution the date of execution passes without imposition of the death penalty, unless a pardon or commutation has been issued, the Governor shall, within 30 days after receiving notice of the termination of the reprieve or the judicial stay, reissue a warrant specifying a day for execution which shall be no later than 60 days after the date of reissuance of the warrant.

(b) Secretary.—The warrant shall be directed to the secretary commanding that the subject of the warrant be executed on the day named in the warrant and in the manner prescribed by law.

(c) Failure to timely comply.—If the Governor fails to timely comply with the provisions of this section and a pardon or commutation has not been issued, the secretary shall, within 30 days following the Governor’s failure to comply, schedule and carry out the execution no later than 60 days from the date by which the Governor was required to sign the warrant under subsection (a).

Section 3. Terms of confinement.

Upon receipt of the warrant, the secretary shall, until infliction of the death penalty or until lawful discharge from custody, keep the inmate in solitary confinement. During the confinement, no person except the staff of the department, the inmate's counsel of record or other attorney requested by the inmate and a spiritual adviser selected by the inmate or the members of the immediate family of the inmate shall be allowed access to the inmate without an order of the sentencing court.

Section 4. Method of execution.

(a) Injection.—The death penalty shall be inflicted by injecting the convict with a continuous intravenous administration of a lethal quantity of an ultrashort-acting barbiturate in combination with chemical paralytic agents approved by the department until death is pronounced by the coroner. The coroner shall issue the death certificate. The execution shall be supervised by the superintendent or his designee of the correctional institution designated by the department for the execution.

(b) Injection agents.—Notwithstanding section 13 of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, the secretary or his designee may obtain the injection agents directly from a pharmacist or manufacturer.

Section 5. Witnesses to execution.

(a) List of witnesses.—No person except the following shall witness any execution under the provisions of this act:

- (1) The superintendent or his designee of the institution where the execution takes place.
- (2) Six reputable adult citizens selected by the secretary.
- (3) One spiritual adviser, when requested and selected by the inmate.
- (4) Not more than six duly accredited representatives of the news media.
- (5) Such staff of the department as may be selected by the secretary.
- (6) Not more than four victims registered with and selected by the victim advocate.

(b) Witnesses.—The Secretary of Corrections may refuse participation by a witness for safety or security reasons. The department shall make reasonable efforts to provide victims a viewing area separate and apart from the area to which other witnesses are admitted.

(c) Confidentiality.—The identity of department employees, department contractors or victims who participate in the administration of an execution pursuant to this section shall be confidential.

Section 6. Certification of superintendent.

After the execution, the superintendent of the institution shall certify in writing, under oath or affirmation, to the court of the county where the inmate was sentenced to death that the inmate was duly executed in accordance with this act. The certificate shall be filed in the office of the clerk of such court.

Section 7. Postmortem examination.

Immediately after execution, a postmortem examination of the body of the inmate shall be made at the discretion of the coroner of the county in which the execution is performed. The coroner shall report the nature of any examination made. This report shall be annexed to and filed with the certificate required under section 6. After the postmortem examination, unless claimed by a relative or relatives, the department shall be responsible for disposition of the body.

Section 8. Costs of execution and examination.

The actual and necessary costs of the execution and the postmortem examination shall be paid by the department.

Section 9. Repeals.

The following acts and parts of acts are repealed to the extent specified:

Act of November 29, 1990 (P.L.572, No.145), referred to as the Death Sentence Execution Law.

42 Pa.C.S. § 9711(j), (k), (l), (m), (n) and (o).

Section 10. Effective date.

This act shall take effect in 60 days.

APPROVED—The 18th day of June, A.D. 1998.

THOMAS J. RIDGE