

An Act

ENROLLED SENATE
BILL NO. 1702

By: Daniels of the Senate

and

Worthen of the House

An Act relating to death penalty procedure; amending 22 O.S. 2021, Section 1015, which relates to place of execution of judgment; requiring confidentiality of identity of certain persons or entities; providing exception to discovery of certain materials; providing for retroactive application of certain provisions; updating statutory language; updating statutory reference; and declaring an emergency.

SUBJECT: Death penalty procedure

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

SECTION 1. AMENDATORY 22 O.S. 2021, Section 1015, is amended to read as follows:

Section 1015. A. A judgment of death ~~must~~ shall be executed at the Oklahoma State Penitentiary at McAlester, Oklahoma, ~~said~~ such 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 Department of Corrections and the warden ~~must~~ shall be present along with other necessary prison and corrections officials to carry out the execution. The warden ~~must~~ shall invite the presence of a physician and the district attorney of the county in which the crime occurred or 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~~ where the conviction ~~was had~~ occurred, to witness the execution; in addition, the ~~Cabinet~~ Secretary of Public Safety and Security ~~must~~ shall be invited 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 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~~ shall be admitted upon proper identification, application, and approval of the warden. The identity of all persons or entities who participate in or administer the execution process and persons or entities who produce or 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 confidentiality requirement and discovery exemption required by this subsection shall be broadly construed and shall include but not be limited to any documents, records, photographs, or other information that the Director of the Department of Corrections determines may identify or reasonably lead directly or indirectly to the identification of any person or entity who participates in or administers the execution process or any person or entity who produces or supplies the drugs, medical supplies, or medical equipment for the execution. The confidentiality requirement and discovery exemption shall apply to records existing prior to, on, or after the effective date of this act. The purchase of drugs, medical supplies, or medical equipment and any other expenditures necessary to carry out the execution shall not be subject to the provisions of ~~The~~ 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~~ shall 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 designated in this subsection 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 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 2. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 11th day of March, 2024.

Presiding Officer of the Senate

Passed the House of Representatives the 24th day of April, 2024.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____