

FIRST REGULAR SESSION

# HOUSE BILL NO. 291

## 98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KELLEY (127).

0917H.011

D. ADAM CRUMBLISS, Chief Clerk

### AN ACT

To repeal section 546.720, RSMo, and to enact in lieu thereof one new section relating to the death penalty.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 546.720, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 546.720, to read as follows:

546.720. 1. The manner of inflicting the punishment of death shall be by the administration of lethal gas [or] , by means of the administration of lethal injection, **or by any other legally recognized method of execution in the United States.** [And for such purpose] The director of the department of corrections is hereby authorized and directed to provide a suitable and efficient room or place, enclosed from public view, within the walls of a correctional facility of the department of corrections, and the necessary appliances for carrying into execution the death penalty by means of the administration of lethal gas or by means of the administration of lethal injection. **The department of corrections has the authority to determine the manner of inflicting the punishment of death, and it may take into consideration the defendant's wishes, if any, as to the manner utilized.**

2. **If the manner of inflicting the punishment of death is to be carried out by the administration of lethal gas or by means of the administration of lethal injection,** the director of the department of corrections shall select an execution team which shall consist of those persons who administer lethal gas or lethal chemicals and those persons, such as medical personnel, who provide direct support for the administration of lethal gas or lethal chemicals. The identities of members of the execution team, as defined in the execution protocol of the department of corrections, shall be kept confidential. Notwithstanding any provision of law to

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 the contrary, any portion of a record that could identify a person as being a current or former  
19 member of an execution team shall be privileged and shall not be subject to discovery, subpoena,  
20 or other means of legal compulsion for disclosure to any person or entity, the remainder of such  
21 record shall not be privileged or closed unless protected from disclosure by law. The section of  
22 an execution protocol that directly relates to the administration of lethal gas or lethal chemicals  
23 is an open record, the remainder of any execution protocol of the department of corrections is  
24 a closed record.

25 3. A person may not, without the approval of the director of the department of  
26 corrections, knowingly disclose the identity of a current or former member of an execution team  
27 or disclose a record knowing that it could identify a person as being a current or former member  
28 of an execution team. Any person whose identity is disclosed in violation of this section shall:

29 (1) Have a civil cause of action against a person who violates this section;

30 (2) Be entitled to recover from any such person:

31 (a) Actual damages; and

32 (b) Punitive damages on a showing of a willful violation of this section.

33 4. Notwithstanding any provision of law to the contrary, if a member of the execution  
34 team is licensed by a board or department, the licensing board or department shall not censure,  
35 reprimand, suspend, revoke, or take any other disciplinary action against the person's license  
36 because of his or her participation in a lawful execution. All members of the execution team are  
37 entitled to coverage under the state legal expense fund established by section 105.711 for  
38 conduct of such execution team member arising out of and performed in connection with his or  
39 her official duties on behalf of the state or any agency of the state, provided that moneys in this  
40 fund shall not be available for payment of claims under chapter 287.

41 **5. The general assembly of this state finds that the death penalty shall not be**  
42 **considered a cruel and unusual punishment, and that a minimal amount of pain inflicted**  
43 **upon the defendant is acceptable in inflicting the punishment of death.**

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