



SPONSOR: Rep. Lynn & Sen. Henry

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 155

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO CAPITAL PUNISHMENT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 6504, Title 11 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 6504. General powers and duties of the Department.

4 The Department, subject only to powers vested in the judicial and certain executive departments and officers of the
5 State, shall have the duties set forth in this chapter and the exclusive jurisdiction over the care, charge, custody, control,
6 management, ~~administration~~ administration, and supervision of:

7 (11) Executing the orders of the court as to sentences of corporal ~~and capital~~ punishment;

8 Section 2. Amend § 6556, Title 11 of the Delaware Code by making deletions as shown by strike through and
9 insertions as shown by underline as follows:

10 § 6556. Facilities, equipment and supplies.

11 (a) The Department shall acquire, by lease, ~~purchase~~ purchase, or otherwise, all necessary facilities, equipment,
12 supplies or articles for the carrying out of its duties in the safekeeping, maintenance, ~~improvement~~ improvement, and
13 rehabilitation of those in its care.

14 (b) The Department may not allow the following drugs to be administered in lethal doses or combinations to those
15 in its care:

16 (1) Sodium thiopental.

17 (2) Pentobarbital.

18 (3) Midazolam.

19 (4) Etomidate.

20 (5) Hydromorphone.

21 (6) Pancuronium bromide.

22 (7) Tubocurarine chloride.

23 (8) Succinylcholine chloride.

- 24 (9) Vecuronium bromide.
- 25 (10) Potassium acetate.
- 26 (11) Potassium chloride.
- 27 (12) Secobarbital.
- 28 (13) Phenobarbital with chloral hydrate, morphine sulfate, or ethanol.
- 29 (14) Morphine sulfate with propranolol, diazepam, or digoxin.
- 30 (15) A lethal dose of any anesthetic.

31 Section 3. Amend § 4209, Title 11 of the Delaware Code by making deletions as shown by strike through and
32 insertions as shown by underline as follows:

33 § 4209. Punishment, procedure for determining punishment, review of punishment and method of punishment for
34 first-degree murder committed by adult offenders.

35 (f) *Method and imposition of sentence of death.* — The imposition of a sentence of death shall be upon such terms
36 and conditions as the trial court may impose in its sentence, including the place, the number of witnesses which shall not
37 exceed 10, and conditions of privacy, and shall occur between the hours of 12:01 a.m. and 3:00 a.m. on the date set by the
38 trial court. The trial court shall permit one adult member of the immediate family of the victim, as defined in § 4350(e) of
39 this title, or the victim's designee, to witness the execution of a sentence of death pursuant to the rules of the court, if the
40 family provides reasonable notice of its desire to be so represented. ~~Punishment of death shall, in all cases, be inflicted by~~
41 ~~intravenous injection of a substance or substances in a lethal quantity sufficient to cause death and until such person~~
42 ~~sentenced to death is dead, and such execution procedure shall be determined and supervised by the Commissioner of the~~
43 ~~Department of Correction. The administration of the required lethal substance or substances required by this section shall~~
44 ~~not be construed to be the practice of medicine and any pharmacist or pharmaceutical supplier is authorized to dispense~~
45 ~~drugs to the Commissioner or the Commissioner's designee, without prescription, for carrying out the provisions of this~~
46 ~~section, notwithstanding any other provision of law.~~ Such sentence may not be carried out until final review thereof is had
47 by the Delaware Supreme Court as provided for in subsection (g) of this section. The Court or the Governor may suspend
48 the execution of the sentence until a later date to be specified, solely to permit completion of the process of judicial review
49 of the conviction.

50 ~~If the execution of the sentence of death as provided above is held unconstitutional by a court of competent~~
51 ~~jurisdiction, then punishment of death shall, in all cases, be inflicted by hanging by the neck. The imposition of a sentence~~
52 ~~of death shall be upon such terms and conditions as the trial court may impose in its sentence, including the place, the~~
53 ~~number of witnesses and conditions of privacy. Such sentence may not be carried out until final review thereof is had by the~~

54 Delaware Supreme Court as provided in subsection (g) of this section. The Court or the Governor may suspend the
55 execution of the sentence until a later date to be specified, solely to permit completion of the process of judicial review of
56 the conviction.

SYNOPSIS

This Act removes the Department of Correction's authority to execute orders as to sentences of capital punishment and prohibits the Department from using lethal doses of drugs on those in its care. This Act also removes hanging as a method of execution in Delaware.