

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 1074
Judiciary

(Delegates Rosenberg and Healey)

Correctional Services - Participation in an Execution - Exclusions

This bill provides that the requirements relating to who must participate in the administration of an execution may not be interpreted to require a physician, nurse, pharmacist, or employee of the Division of Correction (DOC) or any other person to be in attendance at or participate in any aspect of an execution which is contrary to the moral or religious beliefs of the person.

Fiscal Summary

State Effect: None. The bill's requirements do not significantly affect the operations or finances of DOC.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The Commissioner of Correction must:

- provide a suitable and efficient place, enclosed from public view, in which an execution may be carried out;
- provide all of the materials that are necessary to perform the execution; and
- select the individuals to perform the execution.

The commissioner or the commissioner's designee must supervise the execution, which must be performed by individuals who are selected by the commissioner and trained to administer the lethal injection. An individual who administers the paralytic agent and lethal injection need not be licensed or certified as any type of health care practitioner under the Health Occupations Article.

Background: A warrant signed for the February 6, 2006 execution of Vernon L. Evans, Jr., was stayed by the Maryland Court of Appeals. In 2006, the court heard arguments on Evans' appeal based on four claims. The Court of Appeals upheld only one: that the regulatory procedures for carrying out the death sentence, including execution by lethal injection, were adopted without the public input required by law. As a result, imposition of the death penalty in Maryland was halted pending either exemption of the death penalty from the Administrative Procedure Act or adoption of formal regulations after opportunity for public hearing and comment. In July 2009, the Department of Public Safety and Correctional Services began promulgation of regulations to implement the death penalty. The proposed regulations remain under consideration by the Maryland Joint Committee on Administrative, Executive, and Legislative Review because the lethal drugs named in the regulations are no longer available in the United States. As a result, there are currently no regulatory provisions governing executions.

Additional Information

Prior Introductions: None.

Cross File: SB 857 (Senator Ramirez) - Rules.

Information Source(s): Department of Public Safety and Correctional Services,
Department of Legislative Services

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ncs/hlb

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