

FIRST REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

SENATE SUBSTITUTE FOR

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 820

94TH GENERAL ASSEMBLY

2003S.03T

2007

AN ACT

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

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Section A. Section 546.720, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 546.720, to read as follows: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

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

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

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

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

(a) Actual damages; and

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

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