

AMENDMENTS TO LB970

Introduced by Hunt, 8.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. For purposes of sections 1 to 11 of this act:

4 (1) Department means the Department of Correctional Services;

5 (2) Director means the Director of Correctional Services;

6 (3) Legislative firing squad means a firing squad composed of all
7 members of the Legislature, who shall use firearms to shoot the convicted
8 person; and

9 (4) Lethal injection means intravenous injection of a substance or
10 substances in a quantity sufficient to cause death.

11 Sec. 2. Section 83-964, Revised Statutes Cumulative Supplement,
12 2022, is amended to read:

13 ~~83-964~~ A sentence of death shall be enforced by either lethal
14 injection or legislative firing squad, with the method to be determined
15 by the department ~~the intravenous injection of a substance or substances~~
16 ~~in a quantity sufficient to cause death.~~ The execution shall be carried
17 out lethal substance or substances shall be administered in compliance
18 with an execution protocol created and maintained by the department
19 ~~Department of Correctional Services.~~

20 Sec. 3. Section 83-965, Revised Statutes Cumulative Supplement,
21 2022, is amended to read:

22 ~~83-965~~ (1) A sentence of death shall be enforced by the director
23 ~~Director of Correctional Services.~~ Upon receipt of an execution warrant,
24 the director shall proceed at the time named in the warrant to enforce
25 the sentence, unless the director is informed that enforcement of the
26 sentence has been stayed by competent judicial authority, the sentence
27 has been commuted, or the conviction has been pardoned.

1 (2) The director shall create, modify, and maintain a written
2 execution protocol describing the process and procedures by which an
3 execution will be carried out consistent with this section. The director
4 shall (a) select the substance or substances to be employed in an
5 execution by lethal injection, (b) select the equipment, methods, and any
6 nonlegislative personnel to be employed in an execution by legislative
7 firing squad, (c) create a documented process for obtaining the necessary
8 substances or equipment, ~~(e)~~ (d) for executions by lethal injection,
9 designate an execution team composed of one or more executioners and any
10 other personnel deemed necessary to effectively and securely conduct an
11 execution, (e) ~~(d)~~ describe the respective responsibilities of each
12 member of the execution team, (f) ~~(e)~~ describe the training required of
13 each member of the execution team, and (g) ~~(f)~~ perform or authorize any
14 other details deemed necessary and appropriate by the director.

15 (3) For an execution by lethal injection, the ~~The~~ execution protocol
16 shall require that the first or only substance injected be capable of
17 rendering the convicted person unconscious and that a determination
18 sufficient to reasonably verify that the convicted person is unconscious
19 be made before the administration of any additional substances, if any.

20 Sec. 4. Section 83-966, Revised Statutes Cumulative Supplement,
21 2022, is amended to read:

22 ~~83-966~~ Notwithstanding any other provision of law:

23 (1) Any prescription, preparation, compounding, dispensing,
24 obtaining, or administration of the substances or equipment deemed
25 necessary to perform an execution by a lethal injection shall not
26 constitute the practice of medicine or any other profession relating to
27 health care which is subject by law to regulation, licensure, or
28 certification;

29 (2) A pharmacist or pharmaceutical supplier may dispense the
30 designated substances, without a prescription, to the Director of
31 Correctional Services or the director's designee upon production of a

1 written request from the director for the designated substances necessary
2 to conduct an execution;

3 (3) Obtaining, preparing, compounding, dispensing, and administering
4 the substance or substances designated by the execution protocol does not
5 violate the Uniform Controlled Substances Act or sections 71-2501 to
6 71-2512; and

7 (4) If a person who is a member of the execution team is licensed by
8 a board or department, the licensing board or department shall not
9 censure, reprimand, suspend, revoke, or take any other disciplinary
10 action against that person's license as a result of that person's
11 participation in a court-ordered execution.

12 Sec. 5. For an execution by lethal injection, the director may
13 designate any person qualified under the terms of the execution protocol
14 to administer to the convicted person the substances necessary to comply
15 with the execution protocol.

16 Sec. 6. Section 83-967, Revised Statutes Cumulative Supplement,
17 2022, is amended to read:

18 ~~83-967 (1) The Director of Correctional Services may designate any~~
19 ~~person qualified under the terms of the execution protocol to administer~~
20 ~~to the convicted person the substances necessary to comply with the~~
21 ~~execution protocol.~~

22 Except for the members of a legislative firing squad, the (2) The
23 identity of all members of the execution team, and any information
24 reasonably calculated to lead to the identity of such members, shall be
25 confidential and exempt from disclosure pursuant to sections 84-712 to
26 84-712.09 and shall not be subject to discovery or introduction as
27 evidence in any civil proceeding unless extraordinary good cause is shown
28 and a protective order is issued by a district court limiting
29 dissemination of such information.

30 Sec. 7. Section 83-968, Revised Statutes Cumulative Supplement,
31 2022, is amended to read:

1 ~~83-968~~ No death sentence shall be voided or reduced as a result of a
2 determination that a method of execution was declared unconstitutional
3 under the Constitution of Nebraska or the Constitution of the United
4 States. In any case in which an execution method is declared
5 unconstitutional, the death sentence shall remain in force until the
6 sentence can be lawfully executed by any valid method of execution.

7 Sec. 8. Section 83-969, Revised Statutes Cumulative Supplement,
8 2022, is amended to read:

9 ~~83-969~~ When any convicted person is sentenced to death, such
10 punishment shall be inflicted at a department ~~Department of Correctional~~
11 ~~Services~~ facility under the supervision of the director ~~Director of~~
12 ~~Correctional Services~~ and in such a manner as to exclude the view of all
13 persons except those permitted to be present as provided in sections 9
14 and 10 of this act ~~83-970 and 83-971~~.

15 Sec. 9. Section 83-970, Revised Statutes Cumulative Supplement,
16 2022, is amended to read:

17 ~~83-970~~ Besides the director ~~Director of Correctional Services~~ and
18 those persons required to be present under the execution protocol, the
19 following persons, and no others, except as provided in section 10 of
20 this act ~~83-971~~, may be present at the execution: (1) The member of the
21 clergy in attendance upon the convicted person; (2) no more than three
22 persons selected by the convicted person; (3) no more than three persons
23 representing the victim or victims of the crime; and (4) such other
24 persons, not exceeding six in number, as the director may designate. At
25 least two persons designated by the director shall be professional
26 members of the Nebraska news media.

27 Sec. 10. Section 83-971, Revised Statutes Cumulative Supplement,
28 2022, is amended to read:

29 ~~83-971~~ Whenever the director ~~Director of Correctional Services~~ shall
30 deem the presence of a military force necessary to carry into effect the
31 provisions of sections 2 and 8 of this act ~~83-964 and 83-969~~, he or she

1 shall make the fact known to the Governor ~~of the state~~, who may ~~is hereby~~
2 ~~authorized to~~ call out so much of the military force of the state as in
3 his or her judgment may be necessary for the purpose.

4 Sec. 11. Section 83-972, Revised Statutes Cumulative Supplement,
5 2022, is amended to read:

6 ~~83-972~~ Whenever the director ~~Director of Correctional Services~~ shall
7 inflict the punishment of death upon a convicted person, in obedience to
8 the command of the court, he or she shall make return of his or her
9 proceedings as soon as may be to the clerk of the court where the
10 conviction was had, and the clerk shall subjoin the return to the record
11 of conviction and sentence.

12 Sec. 12. Original sections 83-964, 83-965, 83-966, 83-967, 83-968,
13 83-969, 83-970, 83-971, and 83-972, Revised Statutes Cumulative
14 Supplement, 2022, are repealed.