

AMENDMENTS TO LB432

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, Reissue Revised Statutes of Nebraska, is  
12 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, Reissue Revised Statutes of Nebraska, is  
21 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, (d) for executions by lethal injection, (e)  
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, Reissue Revised Statutes of Nebraska, is  
21 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 ~~Director~~  
31 ~~of 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, Reissue Revised Statutes of Nebraska, is  
17 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, Reissue Revised Statutes of Nebraska, is  
31 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, Reissue Revised Statutes of Nebraska, is  
8 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, Reissue Revised Statutes of Nebraska, is  
16 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, Reissue Revised Statutes of Nebraska, is  
28 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, Reissue Revised Statutes of Nebraska, is  
5 amended to read:

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14 are repealed.