

AMENDMENTS TO LB268

(Amendments to Standing Committee amendments, AM754)

Introduced by Kintner, 2.

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

3 Section 1. Section 83-964, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 83-964 A sentence of death shall be enforced by firing squad. The
6 convicted person shall be chemically sedated prior to death by firing
7 squad. Sedation of the convicted person and death by firing squad shall
8 be carried out ~~the intravenous injection of a substance or substances in~~
9 ~~a quantity sufficient to cause death. The lethal substance or substances~~
10 ~~shall be administered~~ in compliance with an execution protocol created
11 and maintained by the Department of Correctional Services.

12 Sec. 2. Section 83-965, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 83-965 (1) A sentence of death shall be enforced by the Director of
15 Correctional Services. Upon receipt of an execution warrant, the director
16 shall proceed at the time named in the warrant to enforce the sentence,
17 unless the director is informed that enforcement of the sentence has been
18 stayed by competent judicial authority, the sentence has been commuted,
19 or the conviction has been pardoned.

20 (2) The director shall create, modify, and maintain a written
21 execution protocol describing the process and procedures by which
22 sedation of the convicted person and death by firing squad ~~an execution~~
23 will be carried out consistent with this section. The director shall (a)
24 select the substance or substances to be employed for sedation of the
25 convicted person ~~in an execution by lethal injection~~, (b) create a
26 documented process for obtaining the necessary substances for sedation of

1 the convicted person and for the necessary equipment and firearms for
2 carrying out death by firing squad, (c) designate an execution team
3 composed of the person administering sedation and two ~~one~~ or more
4 executioners and any other personnel deemed necessary to effectively and
5 securely conduct an execution, (d) describe the respective
6 responsibilities of the person administering sedation and each member of
7 the execution team, (e) describe the training required of the person
8 administering sedation and each member of the execution team, and (f)
9 perform or authorize any other details deemed necessary and appropriate
10 by the director.

11 ~~(3) The execution protocol shall require that the first or only~~
12 ~~substance injected be capable of rendering the convicted person~~
13 ~~unconscious and that a determination sufficient to reasonably verify that~~
14 ~~the convicted person is unconscious be made before the administration of~~
15 ~~any additional substances, if any.~~

16 Sec. 3. Section 83-966, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 83-966 Notwithstanding any other provision of law:

19 (1) Any prescription, preparation, compounding, dispensing,
20 obtaining, or administration of the substances deemed necessary for
21 sedation of the convicted person to perform a lethal injection shall not
22 constitute the practice of medicine or any other profession relating to
23 health care which is subject by law to regulation, licensure, or
24 certification;

25 (2) A pharmacist or pharmaceutical supplier may dispense the
26 designated substances for sedation of the convicted person, without a
27 prescription, to the Director of Correctional Services or the director's
28 designee upon production of a written request from the director for the
29 designated substances necessary for sedation of the convicted person ~~to~~
30 ~~conduct an execution;~~

31 (3) Obtaining, preparing, compounding, dispensing, and administering

1 the substance or substances designated by the execution protocol for
2 sedation of the convicted person does not violate the Uniform Controlled
3 Substances Act or sections 71-2501 to 71-2512; and

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

10 Sec. 4. Section 83-967, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 83-967 (1) The Director of Correctional Services may designate any
13 person qualified under the terms of the execution protocol to administer
14 to the convicted person the substances necessary for sedation of the
15 convicted person and any persons qualified under the terms of the
16 execution protocol to comply with the execution protocol.

17 (2) The identity of all members of the execution team, and any
18 information reasonably calculated to lead to the identity of such
19 members, shall be confidential and exempt from disclosure pursuant to
20 sections 84-712 to 84-712.09 and shall not be subject to discovery or
21 introduction as evidence in any civil proceeding unless extraordinary
22 good cause is shown and a protective order is issued by a district court
23 limiting dissemination of such information.

24 Sec. 5. Section 83-970, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 83-970 Besides the Director of Correctional Services and those
27 persons required to be present under the execution protocol, the
28 following persons, and no others, except as provided in section 83-971,
29 may be present at the execution: (1) The members of the execution team;
30 (2) the member of the clergy in attendance upon the convicted person; (3
31 2) no more than three persons selected by the convicted person; (4 3) no

1 more than three persons representing the victim or victims of the crime;
2 and (5 4) such other persons, not exceeding six in number, as the
3 director may designate. At least two persons designated by the director
4 shall be professional members of the Nebraska news media.

5 Sec. 6. Original sections 83-964, 83-965, 83-966, 83-967, and
6 83-970, Reissue Revised Statutes of Nebraska, are repealed.