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135th General Assembly  
Regular Session  
2023-2024

. B. No.

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**A BILL**

To amend sections 2921.24, 2949.22, 2949.221, and 1  
2949.25 of the Revised Code to add nitrogen 2  
hypoxia as a method of execution and to prohibit 3  
the disclosure of execution identifying 4  
information. 5

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 2921.24, 2949.22, 2949.221, and 6  
2949.25 of the Revised Code be amended to read as follows: 7

**Sec. 2921.24.** (A) As used in this section: 8

(1) "Correctional employee" and "youth services employee" 9  
have the same meanings as in section 149.43 of the Revised Code. 10

(2) "Execution identifying information" has the same 11  
meaning as in section 2949.221 of the Revised Code. 12

(3) "Peace officer" has the same meaning as in section 13  
2935.01 of the Revised Code. 14

(B) No officer or employee of a law enforcement agency or 15  
court, or of the office of the clerk of any court, shall 16



disclose during the pendency of any criminal case the home  
address of any peace officer, parole officer, prosecuting  
attorney, assistant prosecuting attorney, correctional employee,  
or youth services employee who is a witness or arresting officer  
in the case.

~~(B)~~(C) Except as required by division (B)(4) of section  
2949.221 or section 2949.222 of the Revised Code, no person  
shall recklessly disclose execution identifying information.

(D) Division ~~(A)~~~~(B)~~ of this section does not prohibit a  
peace officer, parole officer, prosecuting attorney, assistant  
prosecuting attorney, correctional employee, or youth services  
employee from disclosing the peace officer's, parole officer's,  
prosecuting attorney's, assistant prosecuting attorney's,  
correctional employee's, or youth services employee's own home  
address, and does not apply to any person who discloses the home  
address of a peace officer, parole officer, prosecuting  
attorney, assistant prosecuting attorney, correctional employee,  
or youth services employee pursuant to a court-ordered  
disclosure under division ~~(C)~~~~(E)~~ of this section.

~~(C)~~~~(E)~~ The court in which any criminal case is pending  
may order the disclosure of the home address of any peace  
officer, parole officer, prosecuting attorney, assistant  
prosecuting attorney, correctional employee, or youth services  
employee who is a witness or arresting officer in the case, if  
the court determines after a written request for the disclosure  
that good cause exists for disclosing the home address of the  
peace officer, parole officer, prosecuting attorney, assistant  
prosecuting attorney, correctional employee, or youth services  
employee.

~~(D)~~~~(F)~~ Whoever violates ~~division (A)~~ of this section is

guilty of disclosure of confidential information, a misdemeanor 47  
of the fourth degree. 48

~~(E) As used in this section:~~ 49

~~(1) "Peace officer" has the same meaning as in section 50  
2935.01 of the Revised Code. 51~~

~~(2) "Correctional employee" and "youth services employee" 52  
have the same meanings as in section 149.43 of the Revised Code. 53~~

**Sec. 2949.22.** (A) Except as provided in ~~division (C)~~ 54  
divisions (B), (C), and (E) of this section, a death sentence 55  
shall be executed by causing the application to the person, upon 56  
whom the sentence was imposed, of a lethal injection of a drug 57  
or combination of drugs of sufficient dosage to quickly and 58  
painlessly cause death. The application of the drug or 59  
combination of drugs shall be continued until the person is 60  
dead. The warden of the correctional institution in which the 61  
sentence is to be executed or another person selected by the 62  
director of rehabilitation and correction shall ensure that the 63  
death sentence is executed. 64

(B) Except as provided in division (E) of this section, a 65  
person upon whom a death sentence was imposed may elect to have 66  
the death sentence executed by lethal injection or by nitrogen 67  
hypoxia. The choice shall be made in writing and shall be 68  
submitted to the director of rehabilitation and correction one 69  
week prior to the day designated in division (D) of this 70  
section. If a person timely elects nitrogen hypoxia, the death 71  
sentence shall be executed by causing the application to the 72  
person, upon whom the sentence of death was imposed, of a lethal 73  
quantity of nitrogen gas of sufficient dosage to quickly cause 74  
death. The application of the nitrogen gas shall be continued 75

until the person is dead. The warden of the correctional 76  
institution in which the sentence is to be executed or another 77  
person selected by the director of rehabilitation and correction 78  
shall ensure that the death sentence is executed. 79

(C) (1) Except as provided in division (C) (2) of this 80  
section, if a person does not timely elect nitrogen hypoxia, 81  
does not elect either nitrogen hypoxia or lethal injection, or 82  
elects lethal injection, the death penalty shall be executed by 83  
lethal injection pursuant to division (A) of this section. 84

(2) If, at the time a death sentence is to be executed, 85  
the death sentence cannot be executed by lethal injection, the 86  
death sentence shall be executed by nitrogen hypoxia, as if the 87  
person upon whom the death sentence was imposed had elected 88  
nitrogen hypoxia under division (B) of this section. 89

(D) A death sentence shall be executed within the walls of 90  
the state correctional institution designated by the director of 91  
rehabilitation and correction as the location for executions, 92  
within an enclosure to be prepared for that purpose, under the 93  
direction of the warden of the institution or, in the warden's 94  
absence, a deputy warden, and on the day designated by the judge 95  
passing sentence or otherwise designated by a court in the 96  
course of any appellate or postconviction proceedings. The 97  
enclosure shall exclude public view. 98

~~(C)~~ (E) If a person is sentenced to death, and if the 99  
execution of a death sentence by lethal injection or nitrogen 100  
hypoxia has been determined to be unconstitutional by the Ohio 101  
supreme court under the Ohio constitution, ~~the death sentence or~~ 102  
has been determined to be unconstitutional by the United States 103  
supreme court under the United States constitution, or if the 104  
United States supreme court declines to review any judgment 105

holding a method of execution to be unconstitutional under the 106  
United States constitution made by the Ohio supreme court or the 107  
United States court of appeals that has jurisdiction over Ohio, 108  
then all persons sentenced to death shall be executed by using 109  
any different manner of execution ~~prescribed by law subsequent~~ 110  
~~to the effective date of this amendment instead of by causing~~ 111  
~~the application to the person of a lethal injection of a drug or~~ 112  
~~combination of drugs of sufficient dosage to quickly and~~ 113  
~~painlessly cause death, provided that the subsequently~~ 114  
~~prescribed different manner of execution~~ has not been determined 115  
to be unconstitutional. The use of the ~~subsequently prescribed~~ 116  
different manner of execution shall be continued until the 117  
person is dead. The warden of the state correctional institution 118  
in which the sentence is to be executed or another person 119  
selected by the director of rehabilitation and correction shall 120  
ensure that the sentence of death is executed. 121

~~(D) No change in the law made by the amendment to this~~ 122  
~~section that took effect on October 1, 1993, or by this~~ 123  
~~amendment constitutes a declaration by or belief of the general~~ 124  
~~assembly that execution of a death sentence by electrocution is~~ 125  
~~a cruel and unusual punishment proscribed by~~ (F) No sentence of 126  
death shall be reduced as a result of a determination that a 127  
method of execution is declared unconstitutional under the Ohio 128  
Constitution or the United States Constitution. In any case in 129  
which an execution method is declared unconstitutional, the 130  
death sentence remains in force until the sentence can be 131  
lawfully executed by any valid method of execution. 132

**Sec. 2949.221.** (A) As used in this section: 133

(1) "Person" has the same meaning as in section 1.59 of 134  
the Revised Code. 135

(2) "Licensing authority" means an entity, board, 136  
department, commission, association, or agency that issues a 137  
license to a person or entity. 138

(3) "Public office" has the same meaning as in section 139  
117.01 of the Revised Code. 140

(4) "Execution identifying information" means any record 141  
or information that directly or indirectly reveals a name, 142  
residential or business address, residential or business 143  
telephone number, day and month of birth, social security 144  
number, or professional qualifications of: 145

(a) Any person who participates in or administers the 146  
execution of a death sentence; 147

(b) Any person that manufactures, compounds, imports, 148  
transports, distributes, prescribes, prepares, administers, or 149  
otherwise supplies any drugs or combination of drugs, active 150  
pharmaceutical ingredients, gas, or other material used in the 151  
execution of a death sentence, or any equipment used to 152  
administer any drugs or combination of drugs, active 153  
pharmaceutical ingredients, gas, or other material to any person 154  
during the execution of a death sentence. 155

~~(B) If, at any time prior to the day that is twenty-four 156~~  
~~months after the effective date of this section, a person 157~~  
~~manufactures, compounds, imports, transports, distributes, 158~~  
~~supplies, prescribes, prepares, administers, uses, or tests any 159~~  
~~of the compounding equipment or components, the active 160~~  
~~pharmaceutical ingredients, the drugs or combination of drugs, 161~~  
~~the medical supplies, or the medical equipment used in the 162~~  
~~application of a lethal injection of a drug or combination of 163~~  
~~drugs in the administration of a death sentence by lethal 164~~

~~injection as provided for in division (A) of section 2949.22 of~~ 165  
~~the Revised Code, notwithstanding~~ Notwithstanding any provision 166  
of law to the contrary, all of the following apply regarding any 167  
information or record in the possession of any public office 168  
that ~~identifies or reasonably leads to the identification of the~~ 169  
~~person and the person's participation in any activity described~~ 170  
~~in this division~~ contains execution identifying information: 171

(1) The information or record shall be classified as 172  
confidential, is privileged under law, and is not subject to 173  
disclosure by any person, state agency, governmental entity, 174  
board, or commission or any political subdivision as a public 175  
record under section 149.43 of the Revised Code or otherwise. 176

(2) The information or record shall not be subject to 177  
disclosure by or during any judicial proceeding, inquiry, or 178  
process, except as described in division (B) (4) of this section 179  
or in section 2949.222 of the Revised Code. 180

(3) The information or record shall not be subject to 181  
discovery, subpoena, or any other means of legal compulsion for 182  
disclosure to any person or entity, except as described in 183  
division (B) (4) of this section or in section 2949.222 of the 184  
Revised Code. 185

(4) (a) If the information or record pertains to the 186  
manufacture, compounding, importing, transportation, 187  
distribution, or supplying of any of the items or materials 188  
described in division (B) of this section, the person or entity 189  
that maintains the information or record shall disclose the 190  
information or record to the Ohio ethics commission and the 191  
commission may use the information or record, subject to 192  
division (B) (1) of this section, only to confirm the following: 193

(i) That the relationship between the person and the 194  
department of rehabilitation and correction is consistent with 195  
and complies with the ethics laws of this state; 196

(ii) That at the time of the specified conduct, the person 197  
has all licenses required under the laws of this state to engage 198  
in that conduct and the licenses are valid. 199

(b) If the Ohio ethics commission receives any information 200  
or record pursuant to division (B) (4) (a) of this section, the 201  
commission shall complete its use of the information or record 202  
for the purposes described in that division within fourteen days 203  
of its receipt and shall promptly report its findings to the 204  
director of rehabilitation and correction. 205

(C) (1) ~~If, at any time prior to the day that is twenty-~~ 206  
~~four months after the effective date of this section,~~ an 207  
employee or former employee of the department of rehabilitation 208  
and correction or any other individual selected or designated by 209  
the director of the department participates or participated in 210  
the administration of a sentence of death ~~by lethal injection,~~ 211  
as provided for in ~~division (A) of~~ section 2949.22 of the 212  
Revised Code, subject to division (C) (2) of this section and 213  
notwithstanding any other provision of law to the contrary, the 214  
protections and limitations specified in divisions (B) (1), (2), 215  
and (3) of this section shall apply regarding any information or 216  
record in the possession of any public office that identifies or 217  
reasonably leads to the identification of the employee, former 218  
employee, or other individual and the employee's, former 219  
employee's, or individual's participation in the administration 220  
of the sentence of death ~~by lethal injection~~ described in this 221  
division. 222

(2) Division (C) (1) of this section does not apply with 223



respect to information or a record that identifies or reasonably 224  
leads to the identification of the director of rehabilitation 225  
and correction or the warden of the state correctional 226  
institution in which the administration of the sentence of death 227  
takes place. 228

(D) The protections and limitations specified in divisions 229  
(B) (1), (2), and (3) of this section regarding information and 230  
records that identify or may reasonably lead to the 231  
identification of a person described in ~~divisions~~ division (B) 232  
or (C) of this section and the person's participation in any 233  
activity described in the particular division are rights that 234  
shall be recognized as follows: 235

(1) With respect to a person that is an individual, 236  
without any requirement for the person to take any action or 237  
specifically apply for recognition of such rights; 238

(2) With respect to a person that is not an individual, 239  
the rights do not exist unless the person requests to have the 240  
rights recognized by applying in writing to the director of 241  
rehabilitation and correction. 242

The director of rehabilitation and correction by rule 243  
shall establish the procedure according to which a person who is 244  
not an individual may apply in writing for the rights described 245  
in divisions (B) (1), (2), and (3) of this section. The director 246  
shall approve an application that is submitted in compliance 247  
with the rules. A person whose application is approved is 248  
entitled to the rights for twenty years after the person ceases 249  
the qualifying activity as contemplated by the first paragraph 250  
of division (B) of this section. The director shall notify any 251  
person, who is not an individual and who is entitled to the 252  
rights, of the application procedures. 253

(E) If a person or entity that, ~~at any time prior to the~~ 254  
~~day that is twenty four months after the effective date of this~~ 255  
~~section,~~ participates in, consults regarding, performs any 256  
function with respect to, including any activity described in 257  
division (B) of this section, or provides any expert opinion 258  
testimony regarding an execution ~~by lethal injection~~ conducted 259  
in accordance with ~~division (A) of~~ section 2949.22 of the 260  
Revised Code is licensed by a licensing authority, 261  
notwithstanding any provision of law to the contrary, the 262  
licensing authority shall not do any of the following as a 263  
result of that participation, consultation, performance, 264  
activity, or testimony by the person or entity: 265

(1) Challenge, reprimand, suspend, or revoke the person's 266  
or entity's license; 267

(2) Take any disciplinary action against the person or 268  
entity or the person's or entity's licensure. 269

(F) A person may not, without the approval of the director 270  
of rehabilitation and correction, knowingly disclose the 271  
identity and participation in an activity described in the 272  
particular division of any person to whom division (B) of this 273  
section applies and that is made confidential, privileged, and 274  
not subject to disclosure under that division or of an employee, 275  
former employee, or other individual to whom division (C) (1) of 276  
this section applies and that is made confidential, privileged, 277  
and not subject to disclosure under that division. Any person, 278  
employee, former employee, or individual whose identity and 279  
participation in a specified activity is disclosed in violation 280  
of this division has a civil cause of action against any person 281  
who discloses the identity and participation in the activity in 282  
violation of this division. In a civil action brought under this 283

division, the plaintiff is entitled to recover from the 284  
defendant actual damages, punitive or exemplary damages upon a 285  
showing of a willful violation of this division, and reasonable 286  
attorney's fees and court costs. 287

~~(G) If division (B), (C), or (D) of this section applies 288  
to a person with respect to any conduct or activity of the 289  
person occurring at a time prior to the day that is twenty-four 290  
months after the effective date of this section, the expiration 291  
of that twenty-four month period does not affect, add to, or 292  
diminish the protections and limitations specified in division 293  
(B) or (C), division (D), and division (E) of this section with 294  
respect to their application to that person. 295~~

**Sec. 2949.25.** (A) At the execution of a death sentence, 296  
only the following persons may be present: 297

(1) The warden of the state correctional institution in 298  
which the sentence is executed or a deputy warden, any other 299  
person selected by the director of rehabilitation and correction 300  
to ensure that the death sentence is executed, any persons 301  
necessary to execute the death sentence by lethal injection or 302  
nitrogen hypoxia, and the number of correction officers that the 303  
warden thinks necessary; 304

(2) The sheriff of the county in which the prisoner was 305  
tried and convicted; 306

(3) The director of rehabilitation and correction, or the 307  
director's agent; 308

(4) Physicians of the state correctional institution in 309  
which the sentence is executed; 310

(5) The clergyperson in attendance upon the prisoner, and 311  
not more than three other persons, to be designated by the 312

prisoner, who are not confined in any state institution;	313
(6) Not more than three persons to be designated by the immediate family of the victim;	314 315
(7) Representatives of the news media as authorized by the director of rehabilitation and correction.	316 317
(B) The director shall authorize at least one representative of a newspaper, at least one representative of a television station, and at least one representative of a radio station to be present at the execution of the sentence under division (A) (7) of this section.	318 319 320 321 322
<b>Section 2.</b> That existing sections 2921.24, 2949.22, 2949.221, and 2949.25 of the Revised Code are hereby repealed.	323 324