



HOUSE BILL 774: Restoring Proper Justice Act

2015-2016 General Assembly

Committee:	House Judiciary I	Date:	April 26, 2015
Introduced by:	Rep. Daughtry	Prepared by:	R. Erika Churchill and Jennifer Bedford, Committee Counsel
Analysis of:	PCS to First Edition H774-CSST-33		

SUMMARY: *The Proposed Committee Substitute for House Bill 774 would authorize a medical professional other than a physician to monitor lethal injection for death penalty executions and clarify that the execution is not subject to rulemaking.*

CURRENT LAW: Currently, a licensed physician must be present at an execution. Together, the warden and the surgeon or physician of the penitentiary are to certify the fact of the execution. G.S. 15-190. State licensing boards of health care professionals are prohibited from disciplining any licensed health care professional who renders assistance in an execution. G.S. 15-188.1.

With respect to rulemaking, G.S. 150B-1 currently grants an exemption from all rulemaking to the Department of Public Safety for matters relating solely to persons in its custody or under its supervision, including prisoners, probationers, and parolees.

BILL ANALYSIS: The PCS would allow medical professionals, other than physicians, to monitor the execution. The PCS would specify that if a physician is not present at the execution, a physician must be present on the premises and available to examine the body after execution in order to pronounce the person dead.

"Medical professional other than a physician" would be defined to include a licensed or credentialed physician assistant, nurse practitioner, registered nurse, emergency medical technician or emergency medical technician-paramedic.

The PCS would require that the licensed physician present on the premises at the time of the execution to pronounce death certify the fact of the execution to the applicable clerk of superior court.

The PCS would further clarify that the execution process is not subject to the rulemaking process in Article 2A of Chapter 150B, and grant an exemption from the contested case process for that purpose.

EFFECTIVE DATE: Effective when it becomes law.

BACKGROUND: The American Medical Association Code of Medical Ethics Opinion 2.06 states that a physician should not participate in a legally authorized execution but that certifying death, provided that the condemned has been declared dead by another person, does not constitute physician participation in an execution.

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