



# HOUSE BILL 774: Restoring Proper Justice Act

2015-2016 General Assembly

<b>Committee:</b>	Senate Judiciary II	<b>Date:</b>	July 23, 2015
<b>Introduced by:</b>	Rep. Daughtry	<b>Prepared by:</b>	Janice Paul
<b>Analysis of:</b>	PCS to Third Edition H774-CSTJ-50		Committee Counsel

**SUMMARY:** *House Bill 774 would authorize a medical professional other than a physician to monitor lethal injection for death penalty executions and clarify that matters relating to executions are 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. Any licensed health care professional who renders assistance in an execution is not subject to discipline by his or her licensing or regulatory board, commission or authority, and the administration of the legal substances is not considered "the practice of medicine." G.S. 15-188.1.

With respect to rulemaking, G.S. 150B-1 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:**

**Sections 1 and 2** of House Bill 774 would allow a medical professional other than a physician to monitor an execution. "Medical professional other than a physician" would be defined for purposes of the statute to include a licensed or credentialed physician assistant, nurse practitioner, registered nurse, emergency medical technician or emergency medical technician-paramedic.

The bill would provide 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, and must certify the fact of the execution to the clerk of superior court in the jurisdiction where the sentence of death was pronounced.

**Sections 3 and 4** of HB 774 would clarify that execution procedures are exempt from the rulemaking and contested case requirements of the Administrative Procedure Act.

**Section 5** of the bill would eliminate the provision that execution shall be "only by the administration of a lethal quantity of an ultrashort acting barbiturate in combination with a chemical paralytic agent," and provide that the manner of execution shall be in accordance with the provisions of G.S. 15-188 and the remainder of Article 19 of Chapter 15.

**Section 6** would amend G.S. 132-1.2 to add that nothing in the Public Records Law is to be construed to require or authorize a public agency to disclose specified identifying information relating to the drugs or supplies obtained for executions.

**EFFECTIVE DATE:** This act is 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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