

STATEMENT OF PURPOSE

RS18536

This proposed legislation will amend Idaho Code Section 19-2716 to eliminate reference to specific lethal injection substances in light of the authority of the director of the department of correction to determine the substance or substances used. This amendment is also consistent with the standard operating procedures for executions, which currently provides for four lethal injection substances, which include an ultra-short-acting barbiturate and a paralytic agent. This amendment will also enable the director to approve alternative substances as necessary to comply with evolving medical and legal standards. This proposed legislation will also amend Idaho Code Section 19-2716 to permit a coroner or deputy coroner, rather than a licensed physician, to pronounce death. This amendment will avoid issues that may arise relating to a physician's ability to participate in an execution in light of medical professional standards and the interpretation of those standards. This proposed legislation will further amend Idaho Code Section 19-2716 to eliminate death by firing squad as an alternative method of execution. The elimination of the alternative method of death by firing squad is deemed appropriate in light of the United States Supreme Court's opinion in *Baze v. Rees*, 128 S.Ct. 1520 (2008), in which the Court concluded that a "humane lethal injection protocol" does not constitute cruel and unusual punishment. There is no similar Supreme Court authority addressing whether the firing squad, as a method of execution, would constitute cruel and unusual punishment in violation of the Eighth Amendment. In addition, Idaho is one of only two states that have the firing squad as a method of execution; the rarity of this method of execution could form the basis of an Eighth Amendment claim. Elimination of the firing squad option will allow the state to avoid such a challenge.

FISCAL NOTE

This bill would have no fiscal impact on the general fund.

Contact:

Name: Bill von Tagen

Office: Attorney Generals Office

Phone: (208) 334-4140