

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2268

BY: BENSON

AS INTRODUCED

AN ACT RELATING TO CRIMINAL PROCEDURE; AMENDING 22

O.S. 1991, SECTIONS 1001.1 AND 1015, WHICH RELATE TO EXECUTION OF JUDGMENT WHERE SENTENCE OF DEATH IS IMPOSED; MODIFYING DATE FOR EXECUTION OF JUDGMENT WHERE SENTENCE OF DEATH IS IMPOSED; PROVIDING THAT EXECUTION OF JUDGMENT SHALL BE AT THE DIRECTION OF THE WARDEN OF THE OKLAHOMA STATE PENITENTIARY; REPEALING 22 O.S. 1991, SECTIONS 1012 AND 1013, WHICH RELATE TO THE DUTY OF THE COURT AND THE SHERIFF IF JUDGMENT IS NOT EXECUTED; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 22 O.S. 1991, Section 1001.1, is amended to read as follows:

Section 1001.1 A. The execution of the judgment in cases where sentence of death is imposed shall be carried out sixty (60) days after the date the ~~last appeal allowed by state or federal law is decided, unless a stay of execution is granted by a court of competent jurisdiction or the Governor~~ Court of Criminal Appeals decides the defendant's original direct appeal. This date shall be set by order of the Court of Criminal Appeals, without necessity of application by the state, upon decision of the original direct appeal. Thereafter, an execution date shall be set by operation of

law sixty (60) days after denial of appeal or review by any court.
The filing of a petition for rehearing in any court shall not serve
to stay the execution date so set unless the defendant makes the
showing set forth in subsection B of this section.

B. When an action challenging the conviction or sentence of
death is pending before it, a district court of the state or the
Court of Criminal Appeals may stay an execution date, or issue any
order which effectively stays an execution date only upon a showing
by the defendant that there exists a significant possibility of
reversal of the defendant's conviction, or vacation of the
defendant's sentence, and that irreparable harm will result if no
stay is issued.

C. Should a stay of execution be issued by any state or federal
court, a new execution date shall be set by operation of law sixty
(60) days after the dissolution of the stay of execution. The new
execution date shall be set by the Court of Criminal Appeals without
necessity of application by the state, but the state may bring to
the attention of the Court of Criminal Appeals the fact of the
dissolution of a stay of execution and suggest the appropriateness
of the setting of a new execution date.

SECTION 2. AMENDATORY 22 O.S. 1991, Section 1015, is amended to read as follows:

Section 1015. A judgment of death must be executed within the walls of the state prison at McAlester, Oklahoma, said prison to be designated by the court by which judgment is to be rendered. The judgment of execution shall take place at the direction of the warden of ~~the~~ said state prison and the warden must be present along with other necessary prison officials at the execution and must invite the presence of a physician and the district attorney, and sheriff of the county wherein the conviction was had, to witness the execution; and he shall, at the request of the defendant, permit the presence of such ministers of the Gospel, not exceeding two, and any

persons, relatives or friends, not to exceed five, as the defendant may name; provided, newspaper men from recognized newspapers, press, and wire services, and radio reporters will be admitted upon proper identification, application and approval of the warden. No other person than those mentioned in this section can be present at the execution.

SECTION 3. REPEALER 22 O.S. 1991, Sections 1012 and 1013, are hereby repealed.

SECTION 4. This act shall become effective September 1, 1992.

43-2-7267 SD