

By: Lucio

S.B. No. 831

A BILL TO BE ENTITLED

AN ACT

relating to the presence of a spiritual leader during an execution.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 43.20, Code of Criminal Procedure, is amended to read as follows:

Art. 43.20. PRESENT AT EXECUTION. The following persons may be present at the execution: the executioner, and such persons as may be necessary to assist him in conducting the execution; the Texas Board of Criminal Justice [~~Directors of the Department of Corrections~~], two physicians, including the prison physician, the spiritual leader [~~advisor~~] of the condemned subject to Article 43.205, the chaplains of the Texas Department of Criminal Justice [~~Corrections~~], the county judge and sheriff of the county in which the Texas Department of Criminal Justice [~~Corrections~~] is situated, and any of the relatives or friends of the condemned person that he may request, not exceeding five in number, shall be admitted. No convict shall be permitted by the prison authorities to witness the execution.

SECTION 2. Chapter 43, Code of Criminal Procedure, is amended by adding Article 43.205 to read as follows:

Art. 43.205. PRESENCE OF SPIRITUAL LEADER DURING EXECUTION.

(a) Not later than the 30th day after the date the convicting court enters an order setting the execution date under Article 43.141(b-1), the condemned person may choose a spiritual leader to

1 be present during the person's execution. The condemned person  
2 shall promptly notify the Texas Department of Criminal Justice of  
3 the spiritual leader chosen by the person.

4 (b) Unless the spiritual leader is determined to be a  
5 security risk in accordance with the rules adopted under Section  
6 492.018, Government Code, the Texas Department of Criminal Justice  
7 shall ensure that the spiritual leader chosen by the condemned  
8 person is:

- 9 (1) present in the room during the execution;  
10 (2) in close proximity to the condemned person; and  
11 (3) not separated from the condemned person by a wall,  
12 window, or any other barrier.

13 (c) If the spiritual leader chosen by the condemned person  
14 is determined to be a security risk, the Texas Department of  
15 Criminal Justice shall make a good faith effort to ensure the  
16 presence of one of the following who is of the same faith or  
17 denomination as the spiritual leader chosen by the condemned  
18 person:

- 19 (1) a chaplain employed by the Texas Department of  
20 Criminal Justice; or  
21 (2) a spiritual leader chosen by the Texas Board of  
22 Criminal Justice.

23 SECTION 3. Chapter 492, Government Code, is amended by  
24 adding Section 492.018 to read as follows:

25 Sec. 492.018. POLICY ON PRESENCE OF SPIRITUAL LEADER DURING  
26 EXECUTION. (a) The board by rule shall establish a policy regarding  
27 the presence of a spiritual leader at an execution for purposes of

1 Article 43.205, Code of Criminal Procedure. The policy must  
2 establish:

3 (1) appropriate criteria for the department to  
4 determine whether the spiritual leader chosen by a condemned person  
5 presents a security risk to the orderly carrying out of the  
6 execution; and

7 (2) a process for the condemned person to appeal to the  
8 board a determination by the department that the spiritual leader  
9 presents a security risk.

10 (b) The decision of the board on appeal is final and not  
11 subject to judicial review.

12 SECTION 4. Not later than December 1, 2021, the Texas Board  
13 of Criminal Justice shall adopt the rules required by Section  
14 492.018, Government Code, as added by this Act.

15 SECTION 5. This Act takes effect September 1, 2021.