

77-19-202 Incompetency or pregnancy of person sentenced to death -- Procedures.

- (1) If, after judgment of death, the executive director of the Department of Corrections has good reason to believe that an inmate sentenced to death is pregnant, or has good reason to believe that an inmate's competency to be executed under this chapter should be addressed by a court, the executive director of the Department of Corrections or the executive director's designee shall immediately give written notice to the court in which the judgment of death was rendered, to the prosecuting attorney, and counsel for the inmate. The judgment shall be stayed pending further order of the court.
- (2)
 - (a) On receipt of the notice under Subsection (1) of good reason for the court to address an inmate's competency to be executed, the court shall order that the mental condition of the inmate shall be examined under the provisions of Section 77-19-204.
 - (b) If the inmate is found incompetent, the court shall immediately transmit a certificate of the findings to the Board of Pardons and Parole and continue the stay of execution pending further order of the court.
 - (c) If the inmate is subsequently found competent at any time, the judge shall immediately transmit a certificate of the findings to the Board of Pardons and Parole, and shall draw and have delivered another warrant under Section 77-19-6, together with a copy of the certificate of the findings. The warrant shall state an appointed day on which the judgment is to be executed, which may not be fewer than 30 nor more than 60 days from the date of the drawing of the warrant, and which may not be a Sunday, Monday, or a legal holiday, as defined in Section 63G-1-301.
- (3)
 - (a) If the court finds the inmate is pregnant, it shall immediately transmit a certificate of the finding to the Board of Pardons and Parole and to the executive director of the Department of Corrections or the executive director's designee, and the court shall issue an order staying the execution of the judgment of death during the pregnancy.
 - (b) When the court determines the inmate is no longer pregnant, it shall immediately transmit a certificate of the finding to the Board of Pardons and Parole and draw and have delivered another warrant under Section 77-19-6, with a copy of the certificate of the finding. The warrant shall state an appointed day on which the judgment is to be executed, which may not be fewer than 30 nor more than 60 days from the date of the drawing of the warrant, and which may not be a Sunday, Monday, or a legal holiday, as defined in Section 63G-1-301.
- (4) The Department of Corrections shall determine the hour, within the appointed day, at which the judgment is to be executed.

Amended by Chapter 382, 2008 General Session