

Part 1 Judgment Provisions

77-19-1 Judgment for fine or costs -- Enforcement.

If the judgment is for a fine or costs when allowed by statute and the fine is not paid as ordered by the court, execution or garnishment may be issued as on a judgment in a civil action. The prosecuting attorney, upon written request of the court clerk, shall effectuate collection through execution or garnishment when the fine or costs have not been paid as ordered by the court.

Enacted by Chapter 15, 1980 General Session

77-19-2 Judgment of imprisonment -- Commitment.

If the judgment is for imprisonment, the sheriff of the county or other appropriate custodial officer designated by the court shall, upon receipt of a certified copy of the judgment, deliver the defendant to the warden of the state prison or keeper of the jail. Such custodial officer shall also deliver a certified copy of the judgment and take a receipt from the warden or keeper of the jail for the defendant and return it to the court.

Enacted by Chapter 15, 1980 General Session

77-19-3 Special release from city or county jail -- Purposes.

- (1) Any person incarcerated in any city or county jail may, in accordance with the release policy of the facility, be released from jail during those hours which are reasonable and necessary to accomplish any of the purposes under Subsection (2) if:
 - (a) the offense is not one for which release is prohibited under state law; and
 - (b) the judge has not entered an order prohibiting a special release.
- (2) The custodial authority at the jail may release an inmate who qualifies under Subsection (1) for:
 - (a) working at his employment;
 - (b) seeking employment;
 - (c) attending an educational institution;
 - (d) obtaining necessary medical treatment; or
 - (e) any other reasonable purpose as determined by the custodial authority of the jail.

Amended by Chapter 148, 2007 General Session

77-19-4 Special release from city or county jail -- Conditions and limitations.

- (1) All released prisoners under Section 77-19-3 are in the custody of the custodial authority and are subject at any time to being returned to jail, for good cause.
- (2) The judge may order that the prisoner:
 - (a) pay money earned from employment during the jail term to those persons he is legally responsible to support; or
 - (b) retain sufficient money to pay his costs of transportation, meals, and other incidental and necessary expenses related to his special release.
- (3) The custodial authority of the jail shall establish all other conditions of special release.
- (4) During all hours when the prisoner is not serving the function for which he is awarded release time, he shall be confined to jail.

- (5) The prisoner shall obtain his own transportation to and from the place where he performs the function for which he is released.

Amended by Chapter 148, 2007 General Session

Amended by Chapter 306, 2007 General Session

77-19-5 Special release from city or county jail -- Revocation.

The judge may, for good cause, revoke any release time previously awarded, and shall notify the prisoner that, if he makes written request, a hearing shall be afforded to him to challenge the revocation.

Enacted by Chapter 15, 1980 General Session

77-19-6 Judgment of death -- Warrant -- Delivery of warrant -- Determination of execution time.

- (1)
- (a) When judgment of death is rendered, a warrant, signed by the judge and attested by the clerk under the seal of the court, shall be drawn and delivered to the sheriff of the county where the conviction is had.
 - (b) The sheriff shall deliver the warrant and a certified copy of the judgment to the executive director of the Department of Corrections or the executive director's designee at the time of delivering the defendant to the custody of the Department of Corrections.
- (2) The warrant shall state the conviction, the judgment, the method of execution, and the appointed day the judgment is to be executed, which may not be fewer than 30 days nor more than 60 days from the date of issuance of the warrant, and may not be a Sunday, Monday, or a legal holiday, as defined in Section 63G-1-301.
- (3) 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

77-19-7 Judgment of death -- Statement to Board of Pardons and Parole.

The judge of a court where a judgment of death was had shall, immediately after the conviction, transmit to the chair of the Board of Pardons and Parole a statement of the conviction and judgment and a summary of the evidence given at trial.

Amended by Chapter 13, 1994 General Session

77-19-8 Judgment of death, when suspended, and by whom.

- (1) Except as stated in Subsection (2), a judge, tribunal, or officer, other than the governor or the Board of Pardons and Parole, may not stay or suspend the execution of a judgment of death.
- (2)
- (a) A court of competent jurisdiction shall issue a temporary stay of judgment of death when:
 - (i) the judgment is appealed;
 - (ii) the judgment is automatically reviewed;
 - (iii) the person sentenced to death files a first petition for postconviction relief after the direct appeal under Title 78B, Chapter 9, Postconviction Remedies Act;

- (iv) the person sentenced to death requests counsel under Subsection 78B-9-202(2)(a) to represent the person in a first action for postconviction relief under Title 78B, Chapter 9, Postconviction Remedies Act; or
- (v) counsel enters an appearance to represent the person sentenced to death in a first action for postconviction relief under Title 78B, Chapter 9, Postconviction Remedies Act.
- (b) A court may not issue a temporary stay of judgment of death when the person sentenced to death files a petition for postconviction relief under Title 78B, Chapter 9, Postconviction Remedies Act, after a first petition has been denied or dismissed, unless the court first finds all of the following:
 - (i) the claims would not be barred under Section 78B-9-106;
 - (ii) the claims are potentially meritorious; and
 - (iii) the petition may not be reasonably disposed of before the execution date.
- (c)
 - (i) The executive director of the Department of Corrections or a designee under Section 77-19-202 may temporarily suspend the execution if the person sentenced to death appears to be incompetent or pregnant.
 - (ii) A temporary suspension under Subsection (2)(c)(i) shall end if the person is determined to be:
 - (A) competent;
 - (B) not pregnant; or
 - (C) no longer incompetent or pregnant.
- (3)
 - (a) The court must vacate a stay issued pursuant to Subsection (2)(a) when the appeal, automatic review, or action under Title 78B, Chapter 9, Postconviction Remedies Act is concluded.
 - (b) A request for counsel under Section 78B-9-202 does not constitute an application for postconviction or other collateral review and does not toll the statute of limitations under Section 78B-9-107.

Amended by Chapter 165, 2011 General Session

77-19-9 Judgment of death not executed -- Order for execution.

- (1) If for any reason a judgment of death has not been executed and remains in force, the court where the conviction was had, on application of the prosecuting attorney, shall order the defendant to be brought before it or, if the defendant is at large, issue a warrant for the defendant's apprehension.
- (2) When the defendant is brought before the court, it shall inquire into the facts and, if no legal reason exists against the execution of judgment, the court shall make an order requiring the executive director of the Department of Corrections or the executive director's designee to ensure that the judgment is executed on a specified day, which may not be fewer than 30 nor more than 60 days after the court's order, and may not be a Sunday, Monday, or a legal holiday, as defined in Section 63G-1-301. The court shall also draw and have delivered another warrant under Section 77-19-6.
- (3) 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

77-19-10 Judgment of death -- Location and procedures for execution.

- (1) The executive director of the Department of Corrections or a designee shall ensure that the method of judgment of death specified in the warrant or as required under Section 77-18-5.5 is carried out at a secure correctional facility operated by the department and at an hour determined by the department on the date specified in the warrant.
- (2) When the judgment of death is to be carried out by lethal intravenous injection, the executive director of the department or a designee shall select two or more persons trained in accordance with accepted medical practices to administer intravenous injections, who shall each administer a continuous intravenous injection, one of which shall be of a lethal quantity of:
 - (a) sodium thiopental; or
 - (b) other equally or more effective substance sufficient to cause death.
- (3) If the judgment of death is to be carried out by firing squad under Subsection 77-18-5.5(2), (3), or (4) the executive director of the department or a designee shall select a five-person firing squad of peace officers.
- (4) Compensation for persons administering intravenous injections and for members of a firing squad under Subsection 77-18-5.5(2), (3), or (4) shall be in an amount determined by the director of the Division of Finance.
- (5) Death under this section shall be certified by a physician.
- (6) The department shall adopt and enforce rules governing procedures for the execution of judgments of death.

Amended by Chapter 47, 2015 General Session

77-19-11 Who may be present -- Photographic and recording equipment.

- (1) As used in this section:
 - (a) "Close relative of the deceased victim" means:
 - (i) the spouse of the victim;
 - (ii) a parent or stepparent of the victim;
 - (iii) a brother, sister, stepbrother, stepsister, child, or stepchild of the victim; and
 - (iv) any person who had a close relationship with the deceased victim, or with a close relative of the victim, upon the recommendation of the victim assistance coordinator for the Department of Corrections or for the Office of the Attorney General.
 - (b) "Director" means the executive director of the Department of Corrections, or the director's designee.
- (2) At the discretion of the director, the following persons may attend the execution:
 - (a) the prosecuting attorney, or a designated deputy, of the county in which the defendant committed the offense for which he is being executed;
 - (b) no more than two law enforcement officials from the county in which the defendant committed the offense for which he is being executed;
 - (c) the attorney general or a designee;
 - (d) religious representatives, friends, or relatives designated by the defendant, not exceeding a total of five persons; and
 - (e) unless approved by the director, no more than five close relatives of the deceased victim, as selected by the director, but giving priority in the order listed in Subsection (1)(a).
- (3) The persons listed in Subsection (2) may not be required to attend, nor may any of them attend as a matter of right.
- (4) The director shall permit the attendance at the execution of members of the press and broadcast news media:

- (a) as named by the director in accordance with rules of the department; and
 - (b) with the agreement of the selected news media members that they serve as a pool for other members of the news media.
- (5)
- (a) Except as provided in Subsection (5)(b), photographic or recording equipment is not permitted at the execution site until the execution is completed, the body is removed, and the site has been restored to an orderly condition. However, the physical arrangements for the execution may not be disturbed.
 - (b) Audio recording equipment may be used by the department for the purpose of recording the defendant's last words.
 - (c) The department shall permanently destroy the recording made under Subsection (5)(b) not later than 24 hours after the completion of the execution.
 - (d) A violation of this subsection is a class B misdemeanor.
- (6) All persons in attendance are subject to reasonable search as a condition of attendance.
- (7)
- (a) The following persons may also attend the execution:
 - (i) staff as determined by the director; and
 - (ii) no more than three correctional officials from other states that are preparing for executions, but no more than two correctional officials may be from any one state, as designated by the director.
 - (b) A person younger than 18 years of age may not attend.
- (8) The department shall adopt rules governing the attendance of persons, including the number of media representatives, at the execution. These rules shall be in accordance with this section.

Amended by Chapter 1, 2000 General Session
Amended by Chapter 250, 2000 General Session

77-19-12 Return upon death warrant.

After the execution, the executive director of the Department of Corrections or his designee shall make a return upon the death warrant, showing the time, place, and manner in which it was executed.

Amended by Chapter 190, 1988 General Session