



# ***News Release***

STATE OF MARYLAND

DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

Martin O'Malley  
Governor

Anthony G. Brown  
Lt. Governor

Gary D. Maynard  
Secretary

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FOR IMMEDIATE RELEASE

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## **LETHAL INJECTION REGULATIONS MOVING FORWARD**

ANNAPOLIS, MD (June 24, 2009) –Maryland's Department of Public Safety and Correctional Services Secretary Gary Maynard announced today that DPSCS has completed drafting regulations for administering the death penalty through lethal injection. These regulations will be sent through the proper administrative channels – for review by the General Assembly's Joint Committee on Administrative, Executive, and Legislative Review (AELR Committee) and for publication in the Maryland Register for public comment.

There has been a de facto moratorium on executions in Maryland since December 2006 because of a ruling by the State's highest court, the Court of Appeals. In *Evans v. State*, the Court of Appeals invalidated the State's lethal injection protocol, holding that the protocol was not properly promulgated as a regulation under the Administrative Procedure Act.

Since the Court of Appeals ruling in *Evans*, the General Assembly has considered legislation about the death penalty in its past three legislative sessions. In 2007, the Senate Judicial Proceedings Committee considered a bill to repeal the death penalty, but the bill fell one vote short of passage out of committee to be considered by the General Assembly as a whole. In 2008, the General Assembly created the Maryland Commission on Capital Punishment to make recommendations to the General Assembly about the application and administration of death penalty in this state. Chaired by former U.S. Attorney General Benjamin Civiletti, the Commission issued its report in December 2008, in which the majority of its members recommended repealing the death penalty. In 2009, the General Assembly passed legislation restricting the circumstances in which the death penalty can be sought by prosecutors.

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In promulgating the draft regulations, DPSCS made the following changes to the existing protocol (among others):

- Inclusion of Maryland's lethal injections protocols in COMAR;
- Requirement that certified medical personnel perform alternative medical procedures to establish an injection location should the inmate's physical condition prevent use of routine Division of Correction procedures in administering pharmaceuticals at the time of execution;

Further detail regarding the changes between the DOC Executions Operations Manual and these new regulations is attached. Additionally, a [draft of the new regulations](#) is available on the DPSCS site.

Over the last 12 months, DPSCS has undertaken a diligent review of Maryland's lethal injection protocols. This includes a survey of the best practices of other states, input from the MD Attorney General's Office, the Public Defender's Office and various correctional professional associations.

"I feel comfortable the General Assembly's AELR Committee will find that these draft regulations meet the requirements set forth in Evans vs. State," said Secretary Gary D. Maynard. "It has always been the duty of the Department of Public Safety and Correctional Services to carry out the laws and regulations of the State of Maryland. These new regulations will ensure we can meet those obligations."

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## Changes to Lethal Injection Regulations

- Clarifies prohibitions preventing a DOC employee from performing a medical procedure known as a "cut down" at the time of execution in order to administer pharmaceuticals;
- Reinforces requirements for pre-execution examination of the inmate to determine availability of appropriate locations to insert IVs at the time of execution;
- Reduces from four hours to three hours before the execution the time limit that the inmate may have visitors, excluding attorney and clergy;
- Requires that an inmate with multiple attorneys decide which attorney, if requested, witness the execution;
- If an execution team member is not a certified paramedic, requires that a contracted paramedic be present immediately outside the execution area;
- Granting a request for a "last meal" is left to the discretion of the Commissioner, consistent with statutory requirements under Correctional Services Article, §3-902, Annotated Code of Maryland which prevents providing advanced notice of the time of execution and security requirements;
- Clarifies existing requirements for non-Department execution team members to possess appropriate credentials to perform assigned duties.

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