

Legislative Testimony

In **Opposition** of HB2782
House Committee on Federal and State Affairs
February 15, 2024

| **WRITTEN ONLY** |

Dear Chairman Carpenter and Members of the Committee,

My name is Rashane Hamby, and I serve as the Director of Policy and Research at the American Civil Liberties Union of Kansas. The ACLU of Kansas, a nonpartisan, non-profit organization with over 35,000 supporters statewide, is dedicated to preserving and strengthening the civil rights and liberties of every Kansas resident. We assert that its application in Kansas has been marred by racial disparities, contributing to our staunch opposition. Alongside our principled stance against capital punishment, we have specific, grave concerns regarding the recent amendments to K.S.A. 22-4001, which drastically transform the capital punishment system in Kansas by introducing hypoxia as an execution method and significantly broadening the discretionary powers of the Secretary of Corrections.

Fundamental Opposition to the Death Penalty

Our opposition to the death penalty is rooted in a commitment to human rights and justice. The implementation of capital punishment in Kansas, characterized by racial bias, underscores the inherent flaws within the system. It is within this context that we voice our critique of the proposed legislative changes, which exacerbate our overarching concerns.

Eighth Amendment Concerns

The introduction of hypoxia as an execution method, without solid scientific backing or public consensus, directly challenges the Eighth Amendment's protection against cruel and unusual punishment. We categorically believe that this unproven and dangerous method constitutes a potential constitutional violation, raising immediate and pressing Eighth Amendment concerns.

Transparency Concerns

The amendment's approach to implementing death sentences via hypoxia, determined through regulations set by the Secretary, lacks essential transparency. This process allows execution methods to be unilaterally decided by the Secretary of Corrections without mandatory public or expert consultation. This opacity severely undermines trust in the justice system and impedes meaningful dialogue and oversight on issues of deep ethical and moral significance.

Ethical and Human Rights Violations

The inclusion of hypoxia as a method of execution is, in itself, an ethical and human rights violation. Given its experimental nature and the absence of thorough scientific validation, this method poses a real threat of inhumane outcomes. We reject the notion of "potential" violations in favor of stating unequivocally that this approach constitutes a clear breach of ethical standards and human rights principles.

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Scientific and Medical Concerns

HB2782 permits the Secretary to alter execution methods or substances arbitrarily, including the potential use of hypoxia, without additional external scrutiny, provided the changes receive approval from the Secretary of Health and Environment. This latitude is alarming, as any execution method must be supported by unequivocal scientific evidence of its humanity and effectiveness. The amendment's allowance for rapid changes in execution methods, without rigorous, peer-reviewed investigation, presents significant risks and contravenes the ethical duty of the state to ensure the humane treatment of those condemned.

In summary, HB2782's granting of unprecedented power to the Secretary of Corrections to modify execution methods at will, with minimal oversight, endangers the integrity of our judicial system. Without comprehensive checks and balances, the risk that these changes will not adhere to ethical norms, scientific evidence, or legal standards is too great. We assert that any alteration in execution methods must undergo thorough scrutiny by independent experts, the legal community, and the public to ensure they meet ethical and legal criteria. Therefore, we strongly urge you to oppose HB2782.

Thank you.

Rashane Hamby

Director of Policy and Research