**South Carolina General Assembly**

124th Session, 2021-2022

**S. 944**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Hembree and Gustafson

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Introduced in the Senate on January 11, 2022

Currently residing in the Senate Committee on **Corrections and Penology**

Summary: Non disclosure of identity of members of execution team

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/11/2022 Senate Introduced and read first time ([Senate Journal‑page 17](file:///h:\sj\20220111.docx))

1/11/2022 Senate Referred to Committee on **Corrections and Penology** ([Senate Journal‑page 17](file:///h:\sj\20220111.docx))

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=944&session=124&summary=B) at the website

**VERSIONS OF THIS BILL**

[1/11/2022](file:///p:\pprever\2021-22\944_20220111.docx)

**A** **BILL**

TO AMEND SECTION 24‑3‑580, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DISCLOSURE OF THE IDENTITIES OF EXECUTION TEAM MEMBERS AND THE PENALTIES FOR THE UNLAWFUL DISCLOSURE, SO AS TO DEFINE CERTAIN TERMS, TO PROVIDE CERTAIN INFORMATION PERTAINING TO THE IDENTITY OF PERSONS WHO PARTICIPATE IN THE PLANNING OR ADMINISTRATION OF AN EXECUTION OF A DEATH SENTENCE IS CONFIDENTIAL; TO MAKE TECHNICAL CHANGES; TO PROVIDE THE PURCHASE OR ACQUISITION OF DRUGS AND MEDICAL SUPPLIES USED IN THE ADMINISTRATION OF A DEATH SENTENCE IS EXEMPT FROM THE STATE PROCUREMENT CODE; TO PROVIDE THE OUT‑OF‑STATE ACQUISITION OF DRUGS INTENDED FOR USE FOR THE ADMINISTRATION OF THE DEATH PENALTY ARE EXEMPT FROM ALL STATE LICENSING PROCESSES AND REQUIREMENTS ADMINISTERED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL OR ANY OTHER AGENCY, AS WELL AS REGULATIONS PROMULGATED BY THE BOARD OF PHARMACY; TO PROVIDE PHARMACIES OR PHARMACISTS THAT ARE INVOLVED IN THE SUPPLYING, MANUFACTURING, OR COMPOUNDING OF DRUGS INTENDED FOR USE IN THE ADMINISTRATION OF THE DEATH PENALTY ARE EXEMPT FROM CERTAIN LICENSING PROCESSES AND REQUIREMENTS OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION; TO PROVIDE, UNDER CERTAIN CIRCUMSTANCES, NO GOVERNMENTAL AGENCY SHALL DISCLOSE IDENTIFYING INFORMATION OF MEMBERS OF EXECUTION TEAMS OR THE DETAILS REGARDING THE PROCUREMENT OF CERTAIN DRUGS USED IN THE ADMINISTRATION OF THE DEATH PENALTY; AND TO PROVIDE THE INTENT OF THIS SECTION IS TO ENSURE THE ABSOLUTE CONFIDENTIALITY OF IDENTIFYING INFORMATION OF PERSONS OR ENTITIES INVOLVED IN THE PLANNING OR EXECUTION OF A DEATH SENTENCE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 24‑3‑580 of the 1976 Code is amended to read:

“Section 24‑3‑580. (A) As used in this section, the term:

(1) ‘Execution team’ shall be construed broadly to include any person or entity that participates in the planning or administration of the execution of a death sentence, including any person or entity that prescribes, compounds, tests, uses, manufactures, imports, transports, distributes, supplies, prepares, or administers the drugs, medical supplies, or medical equipment utilized in the execution of a death sentence.

(2) ‘Identifying information’ shall be construed broadly to include any record or information that reveals a name, date of birth, social security number, personal identifying information, personal or business contact information, or professional qualifications. The term ‘identifying information’ also includes any residential or business address; any residential, personal, or business telephone number; any residential, personal, or business facsimile number; any residential, personal, or business email address; and any residential, personal, or business social media account or username.

(B) Notwithstanding any other provision of law, any identifying information of a person or entity that participates in the planning or administration of the execution of a death sentence shall be confidential. A court, upon a showing of good cause, may order discovery relating to the identifying information of a member of the execution team if that member is a person or entity that compounds, tests, manufactures, imports, transports, distributes, supplies, or prepares the drugs, medical supplies, or medical equipment utilized in the execution of a death sentence. For all other members of the execution team, identifying information shall not be subject to discovery, subpoena, or any other means of legal compulsion or process for disclosure to any person or entity in any administrative, civil, or criminal proceeding in the courts, administrative agencies, boards, commissions, legislative bodies, or quasilegislative bodies of this State, or in any other similar body that exercises any part of the sovereignty of the State. This identifying information shall be classified as a state secret.

(C) A person ~~may~~ shall not knowingly disclose the ~~identity~~ identifying information of a current or former member of an execution team or disclose a record that would identify a person as being a current or former member of an execution team. ~~However, this information may be disclosed only upon a court order under seal for the proper adjudication of pending litigation.~~ Any person or entity whose identity is disclosed in violation of this section shall have a civil cause of action against the person who is in violation of this section and may recover actual damages and, upon a showing of a wilful violation of this section, punitive damages.

(D) Any purchase or acquisition of drugs, medical supplies, and medical equipment necessary to execute a death sentence shall be exempt from the entirety of the South Carolina Procurement Code and all of its attendant regulations.

(E) The out‑of‑state acquisition of any drug intended for use by the department in the administration of the death penalty shall be exempt from all licensing processes and requirements administered by the Department of Health and Environmental Control or by any other department or agency of the State of South Carolina. Furthermore, the out‑of‑state acquisition of any drug intended for use by the department in the administration of the death penalty shall be exempt from all regulations promulgated by the Board of Pharmacy.

(F) Any pharmacy or pharmacist, whether located within or without the State, that is involved in the supplying, manufacturing, or compounding of any drug intended for use by the department in the administration of the death penalty shall be exempt from all licensing processes and requirements of the Department of Labor, Licensing and Regulation, only to the extent that the licensing processes and requirements pertain to the drugs intended for use in the administration of the death penalty. This exemption shall not apply to any licensure or permitting requirements for the supply, manufacture, or compounding of any other legend drug or pharmaceutical device.

(G) Notwithstanding any other provision of law, including the South Carolina Freedom of Information Act, Section 30‑4‑10, et seq., no department or agency of this State, no political subdivision, and no other government or quasigovernment entity shall disclose the identifying information of any member of an execution team or any details regarding the procurement and administrative processes referenced in subsections (D) through (F).

(H) This section shall be broadly construed by the courts of this State so as to give effect to the General Assembly’s intent to ensure the absolute confidentiality of the identifying information of any person or entity directly or indirectly involved in the planning or execution of a death sentence within this State.”

SECTION 2. This act takes effect upon approval by the Governor.

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