~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 6, 2018

**S. 871**

Introduced by Senator Timmons

S. Printed 2/6/18--S.

Read the first time January 9, 2018.

**THE COMMITTEE ON CORRECTIONS AND PENOLOGY**

To whom was referred a Bill (S. 871) to amend Section 24‑3‑580 of the 1976 Code, relating to the disclosure of the identity of a member of an execution team and penalties related to the unlawful, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, page 2, by striking lines 18 through 27 and inserting:

/ (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 quasi-legislative 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./

Amend the bill further, as and if amended, page 3, by striking lines 10 through 15 and inserting:

/ (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./

Renumber sections to conform.

Amend title to conform.

SHANE R. MARTIN for Committee.

**A** **BILL**

TO AMEND SECTION 24‑3‑580 OF THE 1976 CODE, RELATING TO THE DISCLOSURE OF THE IDENTITY OF A MEMBER OF AN EXECUTION TEAM AND PENALTIES RELATED TO THE UNLAWFUL DISCLOSURE OF THIS INFORMATION, TO PROVIDE THAT CERTAIN INFORMATION REGARDING THE IDENTITY OF A PERSON OR ENTITY THAT PARTICIPATES IN THE PLANNING OR ADMINISTRATION OF THE EXECUTION OF A DEATH SENTENCE IS CONFIDENTIAL AND CLASSIFIED AS A STATE SECRET, TO MAKE TECHNICAL CHANGES, TO PROVIDE THAT THE PURCHASE OF DRUGS AND MEDICAL SUPPLIES USED IN THE ADMINISTRATION OF A DEATH SENTENCE IS EXEMPT FROM THE SOUTH CAROLINA PROCUREMENT CODE, TO PROVIDE THAT OUT‑OF‑STATE ACQUISITIONS OF A DRUG USED IN THE ADMINISTRATION OF A DEATH SENTENCE ARE EXEMPT FROM PROVISIONS ADMINISTERED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL AND THE BOARD OF PHARMACY, TO PROVIDE THAT A PHARMACY OR PHARMACIST INVOLVED IN SUPPLYING, MANUFACTURING, OR COMPOUNDING ANY DRUG USED IN THE ADMINISTRATION OF A DEATH SENTENCE IS EXEMPT FROM REGULATION BY THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, AND TO DEFINE NECESSARY TERMS.

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)(1) As used in this section, the term ‘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 member of an execution team shall be confidential and, without exception, 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 quasi‑legislative 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 or any identifying information 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.

(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 quasi‑government 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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