**South Carolina General Assembly**

125th Session, 2023-2024

**A16, R25, S120**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Hembree, Campsen and Martin

Document Path: SEDU-0014DB23.docx

Introduced in the Senate on January 10, 2023

Introduced in the House on February 28, 2023

Last Amended on April 19, 2023

Currently residing in the Senate

Governor's Action: May 12, 2023, Signed

Summary: Executions

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 11/30/2022 Senate Prefiled

 11/30/2022 Senate Referred to Committee on **Corrections and Penology**

 1/10/2023 Senate Introduced and read first time (Senate Journal‑page 67)

 1/10/2023 Senate Referred to Committee on **Corrections and Penology** (Senate Journal‑page 67)

 2/2/2023 Senate Committee report: Favorable with amendment **Corrections and Penology** (Senate Journal‑page 11)

 2/6/2023 Scrivener's error corrected

 2/21/2023 Senate Special order, set for February 21, 2023 (Senate Journal‑page 25)

 2/22/2023 Senate Committee Amendment Adopted

 2/22/2023 Senate Amended (Senate Journal‑page 34)

 2/22/2023 Senate Read second time (Senate Journal‑page 34)

 2/22/2023 Senate Roll call Ayes-39 Nays-5 (Senate Journal‑page 34)

 2/23/2023 Senate Read third time and sent to House (Senate Journal‑page 32)

 2/27/2023 Scrivener's error corrected

 2/28/2023 House Introduced and read first time (House Journal‑page 10)

 2/28/2023 House Referred to Committee on **Judiciary** (House Journal‑page 10)

 3/9/2023 House Committee report: Favorable with amendment **Judiciary** (House Journal‑page 2)

 3/13/2023 Scrivener's error corrected

 3/28/2023 House Requests for debate-Rep(s). Jordan, Hiott, Ligon, Kirby, B Newton, MM Smith, BL Cox, McDaniel, White, Wheeler (House Journal‑page 45)

 3/29/2023 House Debate adjourned (House Journal‑page 95)

 4/5/2023 House Debate adjourned (House Journal‑page 164)

 4/6/2023 House Debate adjourned (House Journal‑page 44)

 4/19/2023 House Amended (House Journal‑page 13)

 4/19/2023 House Read second time (House Journal‑page 13)

 4/19/2023 House Roll call Yeas-75 Nays-21 (House Journal‑page 20)

 4/20/2023 House Read third time and returned to Senate with amendments (House Journal‑page 20)

 4/20/2023 House Roll call Yeas-80 Nays-22 (House Journal‑page 20)

 4/21/2023 Scrivener's error corrected

 5/4/2023 Senate Concurred in House amendment and enrolled (Senate Journal‑page 42)

 5/4/2023 Senate Roll call Ayes-32 Nays-6 (Senate Journal‑page 42)

 5/11/2023 Ratified R 25

 5/12/2023 Signed By Governor

 5/12/2023 Effective date 05/12/23

 5/12/2023 Act No. 16

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**VERSIONS OF THIS BILL**

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[02/02/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/120_20230202.docx)

[02/06/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/120_20230206.docx)

[02/22/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/120_20230222.docx)

[02/27/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/120_20230227.docx)

[03/09/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/120_20230309.docx)

[03/13/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/120_20230313.docx)

[04/19/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/120_20230419.docx)

[04/21/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/120_20230421.docx)

 4/20/2023 House Read third time and returned to Senate with amendments ([House Journal‑page 20](file:///h%3A%5Chj%5C20230420.docx))

 4/20/2023 House Roll call Yeas-80 Nays-22 ([House Journal‑page 20](file:///h%3A%5Chj%5C20230420.docx))

 4/21/2023 Scrivener's error corrected

 5/4/2023 Senate Concurred in House amendment and enrolled ([Senate Journal‑page 42](file:///h%3A%5Csj%5C20230504.docx))

 5/4/2023 Senate Roll call Ayes-32 Nays-6 ([Senate Journal‑page 42](file:///h%3A%5Csj%5C20230504.docx))

 5/11/2023 Ratified R 25 ([Senate Journal‑page 129](file:///h%3A%5Csj%5C20230511.docx))

 5/12/2023 Signed By Governor

 5/12/2023 Effective date 05/12/23

 5/12/2023 Act No. 16

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[04/21/2023](https://www.scstatehouse.gov//sess125_2023-2024/prever/120_20230421.htm)

(A16, R25, S120)

AN ACT to amend the South Carolina Code of Laws by amending Section 24‑3‑580, 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 provide a criminal penalty for a person who violates certain provisions of this section, 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 is 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, the board of pharmacy, or any other state agency under certain circumstances, 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, to provide the comptroller general and state treasurer shall work with the department of corrections to ensure certain financial records relating to an execution are kept in a de-identified condition, 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, to provide the department of corrections shall comply with federal regulations regarding the importation of execution drugs, and to provide members of the general assembly must not offer nor provide drugs, medical supplies, or medical equipment to execute a death sentence.

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

Nondisclosure of identity of members of an execution team and the acquisition of drugs to administer a death sentence

SECTION 1. Section 24‑3‑580 of the S.C. 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.

 (3) “De-identified condition” means data, records, or information from which identifying information is omitted or has been removed.

 (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. For all 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.

 (C) A person shall not knowingly disclose the 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. Any person and his immediate family, 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. A person who violates the provisions of this subsection also must be imprisoned not more than three years.

 (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, dispensing, and possession laws, processes, regulations, and requirements of or administered by the Department of Labor, Licensing and Regulation, the Board of Pharmacy, or any other state agency or entity, found anywhere in the South Carolina Code of Laws or South Carolina Code of Regulations, only to the extent that the licensing, dispensing, and possession laws, processes, regulations, and requirements pertain to the drugs intended for use in the administration of the death penalty, and no prescription from any physician shall be required for any pharmacy or pharmacist to supply, manufacture, or compound any drug 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) The Office of the Comptroller General and the Office of the State Treasurer shall work with the South Carolina Department of Corrections to develop a means to ensure that the state’s accounting and financial records related to any transaction for the purchase, delivery, invoicing, etc. of or for supplies, compounds, drugs, medical supplies, or medical equipment utilized in the execution of a death sentence are kept in a de-identified condition.

 (I) 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.

 (J) The Department of Corrections shall comply with federal regulations regarding the importation of any execution drugs.

 (K) A member of the General Assembly, a member’s immediate family, or any business with which a member or the member’s immediate family member has a controlling interest as an owner, director, officer, or majority shareholder that has voting rights regarding the business’ financial decisions must not offer nor provide drugs, medical supplies, or medical equipment necessary to execute a death sentence.

Severability clause

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 3. This act takes effect upon approval by the Governor and applies to persons sentenced to death as provided by law prior to and after the effective date of this act.

Ratified the 11th day of May, 2023.

Approved the 12th day of May, 2023.

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