

**RECEIVED**

**May 17 2023**

**S.C. SUPREME COURT**

*Exhibit A*

**2023 S.C. Acts No. 16**

No. R25  
CLERK OF THE SENATE

No. \_\_\_\_\_  
CODE COMMISSIONER

### 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

I Certify that the Within Originated in the Senate.

Correctly Enrolled \_\_\_\_\_

*[Signature]*  
Clerk of the Senate

*[Signature]*  
Ashley Harwell-Beach, Director  
Legislative Council

**FILED** 

Delivered to the Governor this MAY 12 2023

Delivered to the Secretary of State this MAY 12 2023

day of \_\_\_\_\_ A.D. 20  
*[Signature]*  
Clerk of the Senate

day of \_\_\_\_\_ A.D. 20  
*[Signature]*  
SECRETARY OF STATE

**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.**

Engrossed by  
SC Legislative Council

MAY 05 2023

THE STATE OF SOUTH CAROLINA

At A General Assembly Begun to be Holden at Columbia, on the Second Tuesday in January, in the Year of Our Lord 2023, and Thence Continued by Divers Adjournments to the \_\_\_\_\_ of \_\_\_\_\_

In the Year of Our Lord 2023

## 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.

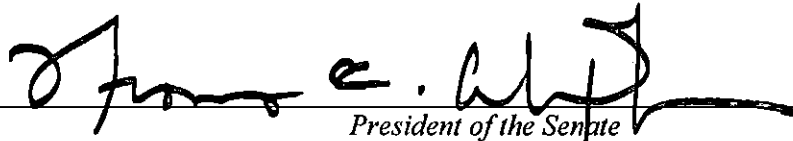
#### **Time effective**

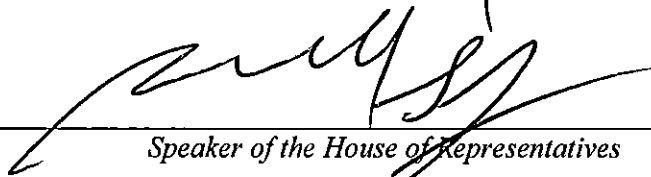
SECTION 3. This act takes effect upon approval by the Governor and applies to persons sentenced to death as provided by law prior to and after the effective date of this act.

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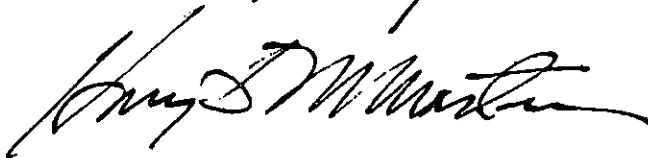
MAY 11 2023

In the Senate House \_\_\_\_\_

  
\_\_\_\_\_  
*President of the Senate*

  
\_\_\_\_\_  
*Speaker of the House of Representatives*

Approved the 12<sup>th</sup> day of May 2023.

  
\_\_\_\_\_  
*Governor*

**LEGISLATIVE COUNCIL**  
of the  
**GENERAL ASSEMBLY OF SOUTH CAROLINA**

**Ashley Harwell-Beach, Director**

*Ashley Harwell-Beach*

**Attorney: McIntosh**

**Drafting Asst.: Thurmond**

**S.120**

**Legislative Council No. 120CM125**

**Doc. No.: 120CM125.docx**

**Statewide:  Local:  Temporary:**

**Proofread by *[Signature]***

**Engrossed by  
SC Legislative Council  
MAY 05 2023**