To: Judiciary, Division A

MISSISSIPPI LEGISLATURE
REGULAR SESSION 2016

By: Senator(s) Fillingane

SENATE BILL NO. 2237

AN ACT TO AMEND SECTION 99-19-51, MISSISSIPPI CODE OF 1972, TO PROTECT THE IDENTITIES OF ALL INDIVIDUALS AND ENTITIES WHO COMPRIZE THE EXECUTION TEAM, INCLUDING, BUT NOT LIMITED TO, ANY SUPPLIER OF LETHAL INJECTION DRUGS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 99-19-51, Mississippi Code of 1972, is amended as follows:

99-19-51. (1) The manner of inflicting the punishment of death shall be by continuous intravenous administration of a lethal quantity of an ultra short-acting barbiturate or other similar drug in combination with a chemical paralytic agent until death is pronounced by the county coroner where the execution takes place or by a licensed physician according to accepted standards of medical practice.

(2) The Commissioner of the Department of Corrections shall select an execution team to assist the executioner and his deputies. This team, including the state executioner and his deputies who are responsible for the administration of lethal chemicals, shall consist of those persons, such as medical
personnel, who provide direct support for the administration of lethal chemicals. This team shall also include those individuals involved in assisting in the execution in any capacity, as well as those personnel assigned to specific duties related to an execution.

The identities of all members of the execution team, the supplier or suppliers of lethal injection drugs, and the identities of those witnesses as provided for in Section 99-19-55(2) shall at all times remain confidential, and the information is exempt from disclosure under the provisions of the Mississippi Public Records Act of 1983.

Notwithstanding any provision of law to the contrary, any portion of any record of any kind that could identify a person as being a current or former member of an execution team or a current or former supplier of lethal injection drugs, or a witness who wishes to remain confidential, shall be privileged and shall not be subject to discovery, subpoena, or other means of legal compulsion for disclosure to any person or entity, but the remainder of the record shall not be privileged or closed unless protected from disclosure by law.

A person may not knowingly disclose the identity of a current or former member of an execution team, supplier or former supplier of lethal injection chemicals, or witness who wishes to remain confidential, or disclose any record of any kind knowing that it could identify a person as being a current or former member of an
execution team, current or former supplier of lethal injection chemicals or confidential witness. Any person whose identity is disclosed in violation of this section shall:

(a) Have a civil cause of action against a person who violates this section;

(b) Be entitled to recover from any such person:

(i) Actual damages; and

(ii) Punitive damages on a showing of a willful violation of this section.

Notwithstanding any provision of law to the contrary, if a member of the execution team or supplier of lethal injection chemicals is licensed by a board or department, the licensing board or department shall not censure, reprimand, suspend, revoke, or take any other disciplinary action against the person's license because the person participated in a lawful execution. Any person or institution assisting with or participating in carrying out an execution in accordance with this statute shall be presumed to be acting in good faith. Any person or institution acting in good faith in connection with carrying out an execution shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed. All members of the execution team perform their respective functions as official duties on behalf of the state or any agency of the state. The supplier or suppliers of lethal injection chemicals shall also be considered part of this execution team.
SECTION 2. This act shall take effect and be in force from and after its passage.