

January 17, 2022



The Honorable Patt Maney
1102 The Capitol
402 South Monroe Street
Tallahassee, FL 32399-1300

Re: HB 873 Pub. Rec./Execution Information

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Dear Representative Maney:

The First Amendment Foundation writes to express its opposition to HB 873, exempting identifying information or information that could reasonably lead to identification of a person or entity participating in any aspect of an execution. The exemption fails to meet the constitutional requirement for public records exemptions.

The state constitution requires public records exemptions to state *with specificity* the public necessity justifying the exemption. The public necessity statement for HB 873 provides that disclosure of information *could* lead to identification to persons or entities involved in executions, which *could* jeopardize the safety of such persons or entities by exposing them to *potential* harm and *could* prevent the Department of Corrections from obtaining the necessary personnel, drugs, or supplies needed to carry out an execution. The public necessity statement is based on unsubstantiated hypotheticals.

Florida has long been considered a national leader in access to public records and open government. With this exemption, Florida would join just a handful of states that exempt the identities of entities involved in supplying drugs or equipment necessary for an execution. Florida should continue to be a leader in open government and permit access to information on the companies, organizations, and entities involved in manufacturing drugs for executions. Transparency leads to good governance and accountability.

Notably, a records exemption already exists to protect the identity of an executioner or a person prescribing or

administering a lethal injection. HB 873 fails to demonstrate why it is necessary to extend protection so broadly to "any person or entity that participates in an execution." Accordingly, FAF opposes the exemption and requests that it be withdrawn.

Thank you for your consideration. Please don't hesitate to contact the Foundation if you have any questions or concerns.

With best regards,

FIRST AMENDMENT FOUNDATION



Pamela C. Marsh
President

cc: The Honorable Chris Sprowls, Speaker, Florida House
Amy Hollyfield, Tampa Bay Times, Chair, FAF
Samuel Morley, General Counsel, Florida Press Association
Dana Banker, President, Florida Society of News Edi