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## HOUSE BILL No. 1119

Proposed Changes to introduced printing by AM111902

### DIGEST OF PROPOSED AMENDMENT

Execution methods. Requires the DOC to establish a protocol and facility for execution by firing squad or nitrogen hypoxia.

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 35-38-6-1, AS AMENDED BY P.L.56-2023,  
2 SECTION 322, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2026]: Sec. 1. (a) **Except as provided in**  
4 **section 1.5 of this chapter**, the punishment of death shall be ~~inflicted~~  
5 **carried out** by intravenous injection of a lethal substance or substances  
6 into the convicted person:  
7 (1) in a quantity sufficient to cause the death of the convicted  
8 person; and  
9 (2) until the convicted person is dead.  
10 (b) The death penalty shall be ~~inflicted~~ **carried out before the**  
11 ~~hour of sunrise~~ on a date fixed by the sentencing court. However, the  
12 execution must not occur until at least one hundred (100) days after the  
13 conviction.  
14 (c) The warden of the **appropriate** state prison, or persons  
15 designated by the warden, shall designate the person who is to serve as  
16 the executioner.  
17 (d) The department of correction may adopt rules under IC 4-22-2  
18 necessary to implement subsection (a).  
19 (e) The department of correction may make and enter into a  
20 contract with an outsourcing facility, a wholesale drug distributor (as

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defined in IC 25-26-14-12), a pharmacy (as defined in IC 25-26-13-2), or a pharmacist (as defined in IC 25-26-13-2) for the issuance or compounding of a lethal substance necessary to carry out an execution by lethal injection. A lethal substance provided to the department of correction under this subsection may be used only for the purpose of carrying out an execution by lethal injection. The issuance or compounding of a lethal substance under this subsection:

(1) does not constitute the practice of pharmacy (as defined in IC 25-26-13-2);

(2) is not subject to the jurisdiction of the Indiana board of pharmacy, the medical licensing board of Indiana, the Indiana department of health, or the Indiana professional licensing agency; and

(3) is exempt from the provisions of IC 25.

A pharmacist, a pharmacy, a wholesale drug distributor, or an outsourcing facility that provides a lethal substance to the department of correction under this subsection shall label the lethal substance with the name of the lethal substance, its dosage, a projected expiration date, and a statement that the lethal substance shall be used only by the department of correction for the purpose of carrying out an execution by lethal injection.

(f) The following are confidential, are not subject to discovery, and may not be introduced as evidence in any civil or criminal proceeding:

(1) The identity of a person described in subsection (e) that enters into a contract with the department of correction under subsection (e) for the issuance or compounding of lethal substances necessary to carry out an execution by lethal injection.

(2) The identity of an officer, an employee, or a contractor of a person described in subdivision (1).

(3) The identity of a person contracted by a person described in subdivision (1) to obtain equipment or a substance to facilitate the compounding of a lethal substance described in subsection (e).

(4) Information reasonably calculated to lead to the identity of a person described in this subsection, including a:

(A) name;

(B) residential or business address;

(C) residential or office telephone number; and

(D) Social Security number or tax identification number.

This subsection applies retroactively to any request for information, discovery request, or proceeding, no matter when made or initiated.



SECTION 2. IC 35-38-6-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 1.5. (a) ~~<Subject to the requirements of this section, >~~ [T]he department of correction may carry out an execution by:

[ (1) lethal injection;

[ (~~<1>~~ [2]) firing squad; or

[ (~~<2>~~ [3]) nitrogen hypoxia;

~~<it>~~ [as determined by] the commissioner of the department of correction ~~<determines, not later than seven (7) days after receipt of the supreme court's order setting the execution date, that execution by firing squad or nitrogen hypoxia is advisable in light of availability considerations and the resources of the department>~~.

(b) The department of correction ~~<may carry>~~ [shall establish a facility and a protocol for carrying] out an execution by firing squad ~~<or nitrogen hypoxia if the convicted person, at least thirty (30) days before the scheduled execution date:~~

~~— (1) requests execution by:~~

~~— (A) firing squad; or~~

~~— (B) nitrogen hypoxia; and~~

~~— (2) waives in writing any legal challenge to the method of execution>~~.

(c) The department of correction ~~<may not carry out an execution by firing squad until it has established a room>~~ [shall establish a facility] and a protocol for ~~<execution by firing squad:~~

~~— (d) The department of correction may not carry out an execution by nitrogen hypoxia until it has established a room and a protocol for>~~ [carrying out an] execution by nitrogen hypoxia.

~~<e>~~ [d] ~~<The>~~ [An] execution shall be carried out within the time frame described in section 1(b) of this chapter. [ ]

[ ] ~~<e>~~ [e] An execution by firing squad shall be carried out by a firing squad consisting of three (3) individuals who are selected by the warden of the prison where the execution will be carried out. Each individual shall fire a weapon containing live ammunition. No blanks may be used. [ ]

[ ] ~~<g>~~ [f] The department of correction may adopt rules under IC 4-22-2 necessary to implement this chapter.

~~<h>~~ [g] The following are confidential, are not subject to discovery, and may not be introduced as evidence in any civil or criminal proceeding:

(1) The identity of any member of an execution team.



(2) **The identity of any individual designated as eligible to serve as a member of an execution team.**

(3) **Information reasonably calculated to lead to the identity of an individual described in this subsection.**

SECTION 3. IC 35-38-6-2, AS AMENDED BY P.L.67-2017, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 2. The court in which a death sentence is ordered shall issue a warrant to the sheriff within fourteen (14) days of the sentence:

- (1) that is under the seal of the court;
- (2) that contains notice of the conviction and the sentence;
- (3) that is directed to the warden of the **appropriate** state prison; and
- (4) that orders the warden to execute the convicted person at a specified time and date in the **appropriate** state prison.

SECTION 4. IC 35-38-6-3, AS AMENDED BY P.L.67-2017, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 3. A sheriff who receives a warrant under section 2 or section 7 of this chapter shall immediately:

- (1) transport the person to the **appropriate** state prison;
- (2) deliver the person and the warrant to the warden of the prison;
- (3) obtain a receipt for the delivery of the person; and
- (4) deliver the receipt to the clerk of the sentencing court.

SECTION 5. IC 35-38-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 4. (a) The convicted person shall be confined in ~~the a~~ state prison until the date of the convicted person's execution. ~~The convicted person may temporarily be held in a maximum security facility for security purposes or during renovation of the state prison.~~ A convicted female shall be confined in a maximum security women's prison until not more than thirty (30) days before the date of her execution. A convicted female shall be segregated from male prisoners after her transfer from the women's prison.

(b) The convicted person's:

- (1) attorney;
- (2) physician;
- (3) relatives;
- (4) friends; and
- (5) spiritual advisor;

may visit the convicted person while the convicted person is confined.

The department of correction shall adopt rules, under IC 4-22-2,



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1 governing ~~such~~ **these** visits.

2 SECTION 6. IC 35-38-6-5 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 5. The execution must  
4 take place inside the walls of ~~the an~~ **an Indiana** state prison in a room  
5 arranged for that purpose. The department of correction shall provide  
6 the necessary room and ~~appliances~~ **equipment** to carry out the  
7 execution as provided in this chapter.

8 SECTION 7. IC 35-38-6-6, AS AMENDED BY P.L.67-2017,  
9 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
10 JULY 1, 2026]: Sec. 6. (a) Only the following persons may be present  
11 at the execution:

- 12 (1) The warden of the ~~state~~ prison.
- 13 (2) ~~The person~~ **Persons** designated by the warden of the ~~state~~  
14 prison and any assistants who are necessary to assist in the  
15 execution.
- 16 (3) The prison physician.
- 17 (4) One (1) other physician.
- 18 (5) The spiritual advisor of the convicted person.
- 19 (6) The prison chaplain.
- 20 (7) Not more than five (5) friends or relatives of the convicted  
21 person who are invited by the convicted person to attend.
- 22 (8) Except as provided in subsection (b), not more than eight (8)  
23 of the following members of the victim's immediate family who  
24 are at least eighteen (18) years of age:  
25 (A) The victim's spouse.  
26 (B) One (1) or more of the victim's children.  
27 (C) One (1) or more of the victim's parents.  
28 (D) One (1) or more of the victim's grandparents.  
29 (E) One (1) or more of the victim's siblings.

30 (b) If there is more than one (1) victim, not more than eight (8)  
31 persons who are members of the victims' immediate families may be  
32 present at the execution. The department shall determine which persons  
33 may be present in accordance with procedures adopted under  
34 subsection (c).

35 (c) The department shall develop procedures to determine which  
36 family members of a victim may be present at the execution if more  
37 than eight (8) family members of a victim desire to be present or if  
38 there is more than one (1) victim. Upon the request of a family member  
39 of a victim, the department shall establish a support room for the use  
40 of:

- 41 (1) an immediate family member of the victim described in  
42 subsection (a)(8) who is not selected to be present at the



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1 execution; and  
 2 (2) a person invited by an immediate family member of the  
 3 victim described in subsection (a)(8) to offer support to the  
 4 immediate family member.

5 (d) The warden of the ~~state~~ prison may exclude a person from  
 6 viewing the execution if the warden determines that the presence of the  
 7 person would threaten the safety or security of the ~~state~~ prison and sets  
 8 forth this determination in writing.

9 (e) The department of correction:

10 (1) shall keep confidential the identities of persons who assist  
 11 the warden of the ~~state~~ prison in an execution; and

12 (2) may:

13 (A) classify as confidential; and

14 (B) withhold from the public;

15 any part of a document relating to an execution that would reveal  
 16 the identity of a person who assists the warden in the execution.

17 SECTION 8. IC 35-38-6-7, AS AMENDED BY P.L.67-2017,  
 18 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 JULY 1, 2026]: Sec. 7. (a) If the convicted person:

20 (1) escapes from custody before the date set for execution; and

21 (2) is recaptured before the date set for execution;

22 the convicted person shall be confined and executed according to the  
 23 terms of the warrant.

24 (b) If the convicted person:

25 (1) escapes from custody before delivery to the warden of the

26 **appropriate** state prison; and

27 (2) is recaptured after the date set for execution;

28 any person may arrest and commit the convicted person to the jail of  
 29 the county in which the convicted person was sentenced. The sheriff  
 30 shall notify the sentencing court of the recapture, and the court shall fix  
 31 a new date for the execution. The new execution date must not be less  
 32 than thirty (30) nor more than sixty (60) days after the recapture of the  
 33 person. The court shall issue a new warrant in the form prescribed by  
 34 section 2 of this chapter.

35 (c) If the convicted person:

36 (1) escapes from confinement; and

37 (2) is recaptured after the date set for execution;

38 any person may arrest and commit the convicted person to the  
 39 department of correction. When the convicted person is returned to the  
 40 department of correction or a facility or place designated by the  
 41 department of correction, the department shall notify the sentencing  
 42 court, and the court shall fix a new date for the execution. The new



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1 execution date must not be less than thirty (30) nor more than sixty (60)  
 2 days after the recapture of the person. The court shall issue a warrant  
 3 to the department of correction directing the ~~superintendent~~ **warden** of  
 4 the **appropriate** state prison to execute the convicted person at a  
 5 specified time and date in the ~~state~~ prison.

6 SECTION 9. IC 35-38-6-10, AS AMENDED BY P.L.67-2017,  
 7 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8 JULY 1, 2026]: Sec. 10. If the physician of the ~~state~~ prison **where a**  
 9 **condemned woman is scheduled to be executed**, and one (1) other  
 10 physician, certify in writing to the warden of the ~~state~~ prison and the  
 11 sentencing court that ~~a the~~ condemned woman is pregnant, the warden  
 12 shall suspend the execution of the sentence. When the ~~state~~ prison  
 13 physician and one (1) other physician certify in writing to the warden  
 14 of the ~~state~~ prison and the sentencing court that the woman is no longer  
 15 pregnant, the sentencing court shall immediately fix a new execution  
 16 date. [

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