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

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

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

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

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

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

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

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

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

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

37 (A) name;

38 (B) residential or business address;

39 (C) residential or office telephone number; and

40 (D) Social Security number or tax identification number.

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

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

6 ~~[1] (1) lethal injection;~~
 7 ~~[1] (2) firing squad; or~~
 8 ~~[2] (3) nitrogen hypoxia;~~

9 ~~if as determined by~~ the commissioner of the department of
 10 correction ~~determines, not later than seven (7) days after receipt~~
 11 ~~of the supreme court's order setting the execution date, that~~
 12 ~~execution by firing squad or nitrogen hypoxia is advisable in light~~
 13 ~~of availability considerations and the resources of the~~
 14 ~~department.~~

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

19 ~~(1) requests execution by:~~
 20 ~~(A) firing squad; or~~
 21 ~~(B) nitrogen hypoxia; and~~
 22 ~~(2) waives in writing any legal challenge to the method of~~
 23 ~~execution.~~

24 (c) The department of correction ~~may not carry out an~~
 25 ~~execution by firing squad until it has established a room~~ ~~shall~~
 26 ~~establish a facility~~ and a protocol for ~~execution by firing squad.~~

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

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

32 ~~(f) An execution by firing squad shall be carried out by~~
 33 ~~a firing squad consisting of three (3) individuals who are selected~~
 34 ~~by the warden of the prison where the execution will be carried~~
 35 ~~out. Each individual shall fire a weapon containing live~~
 36 ~~ammunition. No blanks may be used.~~ ~~1~~

37 ~~(g) The department of correction may adopt rules under~~
 38 ~~IC 4-22-2 necessary to implement this chapter.~~

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

42 (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

(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 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



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;

any part of a document relating to an execution that would reveal 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;

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

any person may arrest and commit the convicted person to the department of correction. When the convicted person is returned to the department of correction or a facility or place designated by the department of correction, the department shall notify the sentencing 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.1

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