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HOUSE BILL No. 1119

Proposed Changes to introduced printing by AM111903

DIGEST OF PROPOSED AMENDMENT

Conscience clause. Exempts certain persons from being required to participate in an execution.

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 35-38-6-0.5 IS ADDED TO THE INDIANA
2 CODE AS A NEW SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2026]: Sec. 0.5. (a) As used in this section,
4 "participate in or be in attendance at an execution" includes:
5 (1) personally preparing the convicted person;
6 (2) personally servicing, preparing, or maintaining
7 equipment used for the execution; or
8 (3) supervising the activities of other personnel involved in
9 carrying out an execution.
10 (b) The commissioner of the department of correction may not
11 require, as a condition of employment or as a contractual
12 obligation:
13 (1) an employee of; or
14 (2) a person providing contractual services to;
15 the department of correction to participate in or be in attendance
16 at an execution if this is contrary to the moral or religious beliefs
17 of the employee or person providing contractual services.
18 [SECTION ~~42~~2. IC 35-38-6-1, AS AMENDED BY
19 P.L.56-2023, SECTION 322, IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 1. (a) Except as
21 provided in section 1.5 of this chapter, the punishment of death shall

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1 be **inflicted carried out** by intravenous injection of a lethal substance
2 or substances into the convicted person:

3 (1) in a quantity sufficient to cause the death of the convicted
4 person; and

5 (2) until the convicted person is dead.

6 (b) The death penalty shall be **inflicted carried out before the**
7 **hour of sunrise** on a date fixed by the sentencing court. However, the
8 execution must not occur until at least one hundred (100) days after the
9 conviction.

10 (c) The warden of the **appropriate** state prison, or persons
11 designated by the warden, shall designate the person who is to serve as
12 the executioner.

13 (d) The department of correction may adopt rules under IC 4-22-2
14 necessary to implement subsection (a).

15 (e) The department of correction may make and enter into a
16 contract with an outsourcing facility, a wholesale drug distributor (as
17 defined in IC 25-26-14-12), a pharmacy (as defined in IC 25-26-13-2),
18 or a pharmacist (as defined in IC 25-26-13-2) for the issuance or
19 compounding of a lethal substance necessary to carry out an execution
20 by lethal injection. A lethal substance provided to the department of
21 correction under this subsection may be used only for the purpose of
22 carrying out an execution by lethal injection. The issuance or
23 compounding of a lethal substance under this subsection:

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

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

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

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

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

40 (1) The identity of a person described in subsection (e) that
41 enters into a contract with the department of correction under
42 subsection (e) for the issuance or compounding of lethal



1 substances necessary to carry out an execution by lethal
 2 injection.

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

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

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

11 (A) name;

12 (B) residential or business address;

13 (C) residential or office telephone number; and

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

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

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

22 (1) firing squad; or

23 (2) nitrogen hypoxia;

24 if the commissioner of the department of correction determines,
 25 not later than seven (7) days after receipt of the supreme court's
 26 order setting the execution date, that execution by firing squad or
 27 nitrogen hypoxia is advisable in light of availability considerations
 28 and the resources of the department.

29 (b) The department of correction may carry out an execution
 30 by firing squad or nitrogen hypoxia if the convicted person, at least
 31 thirty (30) days before the scheduled execution date:

32 (1) requests execution by:

33 (A) firing squad; or

34 (B) nitrogen hypoxia; and

35 (2) waives in writing any legal challenge to the method of
 36 execution.

37 (c) The department of correction may not carry out an
 38 execution by firing squad until it has established a room and a
 39 protocol for execution by firing squad.

40 (d) The department of correction may not carry out an
 41 execution by nitrogen hypoxia until it has established a room and
 42 a protocol for execution by nitrogen hypoxia.



(e) The execution shall be carried out within the time frame described in section 1(b) of this chapter.

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

(h) 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 ~~4~~[4]. 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 within the specified time and date in the **appropriate** state prison.

SECTION ~~44~~⁵ 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~~⁶ [6]. 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

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1 renovation of the state prison: A convicted female shall be confined in
 2 a maximum security women's prison until not more than thirty (30)
 3 days before the date of her execution. A convicted female shall be
 4 segregated from male prisoners after her transfer from the women's
 5 prison.

6 (b) The convicted person's:
 7 (1) attorney;
 8 (2) physician;
 9 (3) relatives;
 10 (4) friends; and
 11 (5) spiritual advisor;

12 may visit the convicted person while the convicted person is confined.
 13 The department of correction shall adopt rules, under IC 4-22-2,
 14 governing ~~such these~~ visits.

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

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

25 (1) The warden of the state prison.
 26 (2) The person Persons designated by the warden of the state
 27 prison and any assistants who are necessary to assist in the
 28 execution.
 29 (3) The prison physician.
 30 (4) One (1) other physician.
 31 (5) The spiritual advisor of the convicted person.
 32 (6) The prison chaplain.
 33 (7) Not more than five (5) friends or relatives of the convicted
 34 person who are invited by the convicted person to attend.
 35 (8) Except as provided in subsection (b), not more than eight (8)
 36 of the following members of the victim's immediate family who
 37 are at least eighteen (18) years of age:
 38 (A) The victim's spouse.
 39 (B) One (1) or more of the victim's children.
 40 (C) One (1) or more of the victim's parents.
 41 (D) One (1) or more of the victim's grandparents.
 42 (E) One (1) or more of the victim's siblings.



12 (1) an immediate family member of the victim described in
13 subsection (a)(8) who is not selected to be present at the
14 execution; and

15 (2) a person invited by an immediate family member of the
16 victim described in subsection (a)(8) to offer support to the
17 immediate family member.

18 (d) The warden of the state prison may exclude a person from
19 viewing the execution if the warden determines that the presence of the
20 person would threaten the safety or security of the state prison and sets
21 forth this determination in writing.

22 (e) The department of correction:

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

25 (2) may:

26 (A) classify as confidential; and

27 (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.

30 SECTION ~~8~~⁹[9]. IC 35-38-6-7, AS AMENDED BY
31 P.L.67-2017, SECTION 19, IS AMENDED TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 2026]: Sec. 7. (a) If the convicted person:

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

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

35 the convicted person shall be confined and executed according to the
36 terms of the warrant.

37 (b) If the convicted person:

37 (3) If the convicted person
38 (1) escapes from custody

38 (1) escapes from custody before delivery to the warden of the
39 **appropriate** state prison; and
40 (2) is recaptured after the date set for execution;

(2) is recaptured after the date set for execution, any person may arrest and commit the convicted person

any person may arrest and commit the convicted person to the jail of the county in which the convicted person was sentenced. The sheriff

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1 shall notify the sentencing court of the recapture, and the court shall fix
 2 a new date for the execution. The new execution date must not be less
 3 than thirty (30) nor more than sixty (60) days after the recapture of the
 4 person. The court shall issue a new warrant in the form prescribed by
 5 section 2 of this chapter.

6 (c) If the convicted person:

7 (1) escapes from confinement; and
 8 (2) is recaptured after the date set for execution;

9 any person may arrest and commit the convicted person to the
 10 department of correction. When the convicted person is returned to the
 11 department of correction or a facility or place designated by the
 12 department of correction, the department shall notify the sentencing
 13 court, and the court shall fix a new date for the execution. The new
 14 execution date must not be less than thirty (30) nor more than sixty (60)
 15 days after the recapture of the person. The court shall issue a warrant
 16 to the department of correction directing the ~~superintendent~~ warden of
 17 the **appropriate** state prison to execute the convicted person at a
 18 specified time and date in the ~~state~~ prison.

19 SECTION ~~↔~~[10]. IC 35-38-6-10, AS AMENDED BY
 20 P.L.67-2017, SECTION 20, IS AMENDED TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 2026]: Sec. 10. If the physician of the ~~state~~
 22 prison **where a condemned woman is scheduled to be executed**, and
 23 one (1) other physician, certify in writing to the warden of the ~~state~~
 24 prison and the sentencing court that ~~a~~ the condemned woman is
 25 pregnant, the warden shall suspend the execution of the sentence.
 26 When the ~~state~~ prison physician and one (1) other physician certify in
 27 writing to the warden of the ~~state~~ prison and the sentencing court that
 28 the woman is no longer pregnant, the sentencing court shall
 29 immediately fix a new execution date.
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