

PROPOSED AMENDMENT

SB 11 # 4

DIGEST

Protocol. Establishes the manner under which an execution may be carried out by firing squad.

- 1 Page 1, line 4, strike "inflicted" and insert "**carried out**".
- 2 Page 1, line 10, strike "inflicted before the hour of sunrise" and
- 3 insert "**carried out**".
- 4 Page 1, line 13, after "of the" insert "**appropriate**".
- 5 Page 2, delete line 42, begin a new paragraph and insert:
- 6 "SECTION 2. IC 35-38-6-1.5 IS ADDED TO THE INDIANA
- 7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 8 [EFFECTIVE JULY 1, 2026]: **Sec. 1.5. (a) The following definitions**
- 9 **apply throughout this section:**
- 10 (1) "**Commissioner**" includes the chief executive officer of a
- 11 federal agency that is authorized to conduct an execution in
- 12 Indiana.
- 13 (2) "**Department of correction**" or "**department**" includes a
- 14 federal agency that is authorized to conduct an execution in
- 15 Indiana.
- 16 (3) "**Rules under IC 4-22-2**" include rules or regulations
- 17 adopted by a federal agency under federal rulemaking
- 18 authority.
- 19 (b) Subject to the requirements of this section, the department
- 20 of correction may carry out an execution by firing squad if the
- 21 commissioner of the department of correction determines that
- 22 execution by firing squad is advisable in light of availability
- 23 considerations and the resources of the department.
- 24 (c) The execution shall be carried out within the time frame
- 25 described in section 1(b) of this chapter.
- 26 (d) The department of correction may not carry out an
- 27 execution by firing squad until it has established a room and a
- 28 protocol for execution by firing squad.

(e) An execution by firing squad shall be carried out in accordance with a protocol established by the department. However, a firing squad may only consist of individuals who have volunteered to be a member of a firing squad.

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

(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)

1 days before the date of her execution. A convicted female shall be
 2 segregated from male prisoners after her transfer from the women's
 3 prison.

4 (b) The convicted person's:

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

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

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

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

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

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

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

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

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

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

(e) The department of correction:

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

(2) may:

(A) classify as confidential; and

(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.

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

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

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

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

(b) If the convicted person:

(1) escapes from custody before delivery to the warden of the **appropriate** state prison; and

(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.

(c) If the convicted person:

(1) escapes from confinement; and

(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 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 warrant to the department of correction directing the ~~superintendent~~ **warden** of the **appropriate** state prison to execute the convicted person at a specified time and date in the ~~state~~ prison.

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

Delete pages 3 through 5.

Renumber all SECTIONS consecutively.

(Reference is to SB 11 as introduced.)