

# PROPOSED AMENDMENT

## SB 11 # 4

### DIGEST

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

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- 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.

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

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 victim  
16 described in subsection (a)(8) to offer support to the immediate  
17 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 the  
24 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. IC 35-38-6-7, AS AMENDED BY P.L.67-2017,  
31 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
32 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:

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;

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

8 (c) If the convicted person:

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

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

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

32 Delete pages 3 through 5.

33 Renumber all SECTIONS consecutively.

(Reference is to SB 11 as introduced.)