

PROPOSED AMENDMENT

SB 11 # 7

DIGEST

Protocol. Establishes the manner in which an execution may be carried out.

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) "**Approved execution method**" means a method of
11 execution that:
12 (A) was authorized for use in any state on January 1, 2026,
13 except for:
14 (i) hanging;
15 (ii) electrocution; or
16 (iii) a method that involves the administration of a gas;
17 and
18 (B) is approved by the governor.
19 (2) "**Commissioner**" includes the chief executive officer of a
20 federal agency that is authorized to conduct an execution in
21 Indiana.
22 (3) "**Department of correction**" or "**department**" includes a
23 federal agency that is authorized to conduct an execution in
24 Indiana.
25 (4) "**Rules under IC 4-22-2**" include rules or regulations
26 adopted by a federal agency under federal rulemaking
27 authority.

(b) Subject to the requirements of this section, the department of correction may carry out an execution by an approved execution method if the commissioner of the department of correction determines that execution by an approved execution method is advisable in light of availability considerations and the resources of the department.

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

(d) The department of correction may not carry out an execution by an approved execution method until it has established a room and a protocol for execution by the approved execution method.

(e) An execution by an approved execution method shall be carried out in accordance with a protocol established by the department. However, only individuals who have volunteered to carry out the execution may participate in the execution.

(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, or who has volunteered 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

1 JULY 1, 2026]: Sec. 3. A sheriff who receives a warrant under section
2 or section 7 of this chapter shall immediately:

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

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

17 (b) The convicted person's:

18 (1) attorney;
19 (2) physician;
20 (3) relatives;
21 (4) friends; and
22 (5) spiritual advisor;

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

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

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

36 (1) The warden of the ~~state~~ prison.
37 (2) ~~The person~~ **Persons** designated by the warden of the ~~state~~
38 prison and any assistants who are necessary to assist in the
39 execution.
40 (3) The prison physician.

(4) One (1) other physician.

(5) The spiritual advisor of the convicted person.

(6) The prison chaplain.

(7) Not more than five (5) friends or relatives of the convicted person who are invited by the convicted person to attend.

(8) Except as provided in subsection (b), not more than eight (8) of the following members of the victim's immediate family who are at least eighteen (18) years of age:

(A) The victim's spouse.

(B) One (1) or more of the victim's children.

(C) One (1) or more of the victim's parents.

(D) One (1) or more of the victim's grandparents.

(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;

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

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

6 (1) escapes from custody before the date set for execution; and
7 (2) is recaptured before the date set for execution;

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

10 (b) If the convicted person:

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

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

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

21 (c) If the convicted person:

22 (1) escapes from confinement; and

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

24 any person may arrest and commit the convicted person to the
25 department of correction. When the convicted person is returned to the
26 department of correction or a facility or place designated by the
27 department of correction, the department shall notify the sentencing
28 court, and the court shall fix a new date for the execution. The new
29 execution date must not be less than thirty (30) nor more than sixty (60)
30 days after the recapture of the person. The court shall issue a warrant
31 to the department of correction directing the ~~superintendent~~ warden of
32 the **appropriate** state prison to execute the convicted person at a
33 specified time and date in the ~~state~~ prison.

34 SECTION 9. IC 35-38-6-10, AS AMENDED BY P.L.67-2017,
35 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2026]: Sec. 10. If the physician of the ~~state~~ prison **where a**
37 **condemned woman is scheduled to be executed**, and one (1) other
38 physician, certify in writing to the warden of the ~~state~~ prison and the
39 sentencing court that ~~a~~ the condemned woman is pregnant, the warden
40 shall suspend the execution of the sentence. When the ~~state~~ prison

1 physician and one (1) other physician certify in writing to the warden
2 of the ~~state~~ prison and the sentencing court that the woman is no longer
3 pregnant, the sentencing court shall immediately fix a new execution
4 date.".

5 Delete pages 3 through 5.

6 Renumber all SECTIONS consecutively.

(Reference is to SB 11 as introduced.)