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SENATE BILL No. 11

Proposed Changes to introduced printing by AM001104

DIGEST OF PROPOSED AMENDMENT

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

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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
5 inflicted carried out by intravenous injection of a lethal substance
6 or substances 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 before the
11 hour of sunrise carried out on a date fixed by the sentencing
12 court. However, the execution must not occur until at least one hundred
13 (100) days after the 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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defined in IC 25-26-14-12), a pharmacy (as defined in IC 25-26-13-2), or a pharmacist (as defined in IC 25-26-13-2) for the issuance or compounding of a lethal substance necessary to carry out an execution by lethal injection. A lethal substance provided to the department of correction under this subsection may be used only for the purpose of carrying out an execution by lethal injection. The issuance or compounding of a lethal substance under this subsection:

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

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

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

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

(f) 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 a person described in subsection (e) that enters into a contract with the department of correction under subsection (e) for the issuance or compounding of lethal substances necessary to carry out an execution by lethal injection.

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

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

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

(A) name;

(B) residential or business address;

(C) residential or office telephone number; and

(D) Social Security number or tax identification number.

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



SECTION 2. IC 35-38-6-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 1.5. (a) The ~~<punishment of death shall be inflicted by firing squad if, after>~~ [following definitions apply throughout this section:

(1) "Commissioner" includes the chief executive officer of a federal agency that is authorized to conduct an execution in Indiana.

(2) "Department of correction" or "department" includes a federal agency that is authorized to conduct an execution in Indiana.

(3) "Rules under IC 4-22-2" include rules or regulations adopted by a federal agency under federal rulemaking authority.

(b) Subject to the requirements of this section, the department of correction ~~<establishes a room and a protocol for>~~ [may carry out an] execution by firing squad ~~<~~

~~— (1) > [if the commissioner of]~~ the department of correction determines ~~<, at least thirty (30) days before the scheduled execution date, that it is unable to conduct an execution by lethal injection due to the unavailability of one (1) or more required substances; or~~

~~— (2) the convicted person, at least thirty (30) days before the scheduled execution date, requests >~~ [that] execution by firing squad [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.

(~~<c>~~) ~~The execution shall be carried out by a firing squad consisting of five (5) individuals who are:~~

~~— (1) officers of the > [d] The~~ department of correction ~~<, and~~
~~— (2) selected by the warden of the state prison.~~

~~Four (4) individuals shall fire a firearm containing live ammunition. One (1) individual shall fire a firearm containing blank ammunition. The firearms shall be loaded in such a manner as to preclude an individual member of the firing squad from knowing whether the individual's firearm contains live ammunition or blank ammunition.~~

~~— (d) > [may not carry out an execution by firing squad until it has established a room and a 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.

(~~e~~) [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 a ~~firing squad~~ [n execution team].

(2) The identity of any individual designated as eligible to serve as a member of a ~~firing squad~~ [n execution team].

(3) Information reasonably calculated to lead to the identity of an individual described in this subsection.

[SECTION 2. 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 3. 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 4. 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, governing such these visits.

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

SECTION ~~4~~ [6]. IC 35-38-6-6, AS AMENDED BY P.L.67-2017, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 6. (a) Only the following persons may be present at the execution:

(1) The warden of the ~~state~~ **prison**.

(2) ~~The person~~ **Persons** designated by the warden of the ~~state~~ **prison** and any assistants who are necessary to assist in the execution.

(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



1 subsection (c).

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

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

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

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

18 (e) The department of correction:

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

21 (2) may:

22 (A) classify as confidential; and

23 (B) withhold from the public;

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

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

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

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

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

33 (b) If the convicted person:

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

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

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



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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 8. 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.

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