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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** hour of sunset carried out on a date fixed by the sentencing
11 court. However, the execution must not occur until at least one hundred
12 (100) days after the conviction.
13 (c) The warden of the appropriate state prison, or persons
14 designated by the warden, shall designate the person who is to serve as
15 the executioner.
16 (d) The department of correction may adopt rules under IC 4-22-2
17 necessary to implement subsection (a).
18 (e) The department of correction may make and enter into a
19 contract with an outsourcing facility, a wholesale drug distributor (as

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1 defined in IC 25-26-14-12), a pharmacy (as defined in IC 25-26-13-2),
2 or a pharmacist (as defined in IC 25-26-13-2) for the issuance or
3 compounding of a lethal substance necessary to carry out an execution
4 by lethal injection. A lethal substance provided to the department of
5 correction under this subsection may be used only for the purpose of
6 carrying out an execution by lethal injection. The issuance or
7 compounding of a lethal substance under this subsection:

8 (1) does not constitute the practice of pharmacy (as defined in
9 IC 25-26-13-2);
10 (2) is not subject to the jurisdiction of the Indiana board of
11 pharmacy, the medical licensing board of Indiana, the Indiana
12 department of health, or the Indiana professional licensing
13 agency; and
14 (3) is exempt from the provisions of IC 25.

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

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

24 (1) The identity of a person described in subsection (e) that
25 enters into a contract with the department of correction under
26 subsection (e) for the issuance or compounding of lethal
27 substances necessary to carry out an execution by lethal
28 injection.

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

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

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

37 (A) name;
38 (B) residential or business address;
39 (C) residential or office telephone number; and
40 (D) Social Security number or tax identification number.

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



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

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

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

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

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

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

23 ~~(2) the convicted person, at least thirty (30) days before the~~
 24 ~~scheduled execution date, requests~~ [that] execution by
 25 firing squad~~[is advisable in light of availability~~
 26 ~~considerations and the resources of the department].~~

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

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

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

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

39 ~~(d) [I may not carry out an execution by firing squad until it has~~
 40 ~~established a room and a protocol for execution by firing squad.~~

41 (e) An execution by firing squad shall be carried out in
 42 accordance with a protocol established by the department.



1 However, a firing squad may only consist of individuals who have
 2 volunteered to be a member of a firing squad.

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

5 (~~↔~~[g]) The following are confidential, are not subject to
 6 discovery, and may not be introduced as evidence in any civil or
 7 criminal proceeding:

8 (1) The identity of any member of a~~firing squad~~[n
 9 execution team].

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

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

14 [SECTION 2. IC 35-38-6-2, AS AMENDED BY P.L.67-2017,
 15 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2026]: Sec. 2. The court in which a death sentence is ordered
 17 shall issue a warrant to the sheriff within fourteen (14) days of the
 18 sentence:

19 (1) that is under the seal of the court;
 20 (2) that contains notice of the conviction and the sentence;
 21 (3) that is directed to the warden of the **appropriate** state prison;
 22 and
 23 (4) that orders the warden to execute the convicted person at a
 24 specified time and date in the **appropriate** state prison.

25 SECTION 3. IC 35-38-6-3, AS AMENDED BY P.L.67-2017,
 26 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2026]: Sec. 3. A sheriff who receives a warrant under section
 28 2 or section 7 of this chapter shall immediately:

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

34 SECTION 4. IC 35-38-6-4 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 4. (a) The convicted
 36 person shall be confined in the a state prison until the date of the
 37 convicted person's execution. The convicted person may temporarily
 38 be held in a maximum security facility for security purposes or during
 39 renovation of the state prison. A convicted female shall be confined in
 40 a maximum security women's prison until not more than thirty (30)
 41 days before the date of her execution. A convicted female shall be
 42 segregated from male prisoners after her transfer from the women's



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 ~~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 ~~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 ~~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



1 section 2 of this chapter.

2 (c) If the convicted person:

3 (1) escapes from confinement; and

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

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

15 SECTION 8. IC 35-38-6-10, AS AMENDED BY P.L.67-2017,
16 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 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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