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SENATE BILL No. 11

Proposed Changes to introduced printing by AM001105

DIGEST OF PROPOSED AMENDMENT

Availability. Specifies when a substance is "available" for purposes of lethal injection.

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 inflicted
5 by intravenous injection of a lethal substance or substances into the
6 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 sunrise
11 on a date fixed by the sentencing court. However, the execution must
12 not occur until at least one hundred (100) days after the conviction.
13 (c) The warden of the state prison, or persons designated by the
14 warden, shall designate the person who is to serve as the executioner.
15 (d) The department of correction may adopt rules under IC 4-22-2
16 necessary to implement subsection (a).
17 (e) The department of correction may make and enter into a
18 contract with an outsourcing facility, a wholesale drug distributor (as
19 defined in IC 25-26-14-12), a pharmacy (as defined in IC 25-26-13-2),
20 or a pharmacist (as defined in IC 25-26-13-2) for the issuance or
21 compounding of a lethal substance necessary to carry out an execution

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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 the department of correction establishes a room and a protocol for execution by firing squad:

- (1) 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 execution by firing squad.

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

(e) 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.
- (2) The identity of any individual designated as eligible to serve as a member of a firing squad.
- (3) Information reasonably calculated to lead to the identity of an individual described in this subsection.

[(f) For purposes of subsection (a), a substance is "unavailable" only if there is no viable option available to obtain the substance. A substance is not unavailable merely because it is expensive.

SECTION 3. 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 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. 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 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:

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1 (1) shall keep confidential the identities of persons who assist
2 the warden of the state prison in an execution; and
3 (2) may:
4 (A) classify as confidential; and
5 (B) withhold from the public;
6 any part of a document relating to an execution that would reveal
7 the identity of a person who assists the warden in the execution. [
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