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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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1 by lethal injection. A lethal substance provided to the department of
2 correction under this subsection may be used only for the purpose of
3 carrying out an execution by lethal injection. The issuance or
4 compounding of a lethal substance under this subsection:

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

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

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

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

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

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

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

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

40 SECTION 2. IC 35-38-6-1.5 IS ADDED TO THE INDIANA
41 CODE AS A NEW SECTION TO READ AS FOLLOWS
42 [EFFECTIVE JULY 1, 2026]: **Sec. 1.5. (a) The punishment of death**

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1 shall be inflicted by firing squad if, after the department of
2 correction establishes a room and a protocol for execution by firing
3 squad:

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

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

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

24 (e) The following are confidential, are not subject to discovery,
25 and may not be introduced as evidence in any civil or criminal
26 proceeding:

[**(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.**

35 1 SECTION 3. IC 35-38-6-5 IS AMENDED TO READ AS
36 FOLLOW [EFFECTIVE JULY 1, 2026]: Sec. 5. The execution must
37 take place inside the walls of the state prison in a room arranged for
38 that purpose. The department of correction shall provide the necessary
39 room and **appliances equipment** to carry out the execution as provided
40 in this chapter.

41 SECTION 4. IC 35-38-6-6, AS AMENDED BY P.L.67-2017,
42 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2026]: Sec. 6. (a) Only the following persons may be present
 2 at the execution:

- 3 (1) The warden of the state prison.
- 4 (2) ~~The person~~ Persons designated by the warden of the state
 5 prison and any assistants who are necessary to assist in the
 6 execution.
- 7 (3) The prison physician.
- 8 (4) One (1) other physician.
- 9 (5) The spiritual advisor of the convicted person.

10 (6) The prison chaplain.
 11 (7) Not more than five (5) friends or relatives of the convicted
 12 person who are invited by the convicted person to attend.
 13 (8) Except as provided in subsection (b), not more than eight (8)
 14 of the following members of the victim's immediate family who
 15 are at least eighteen (18) years of age:

- 16 (A) The victim's spouse.
- 17 (B) One (1) or more of the victim's children.
- 18 (C) One (1) or more of the victim's parents.
- 19 (D) One (1) or more of the victim's grandparents.
- 20 (E) One (1) or more of the victim's siblings.

21 (b) If there is more than one (1) victim, not more than eight (8)
 22 persons who are members of the victims' immediate families may be
 23 present at the execution. The department shall determine which persons
 24 may be present in accordance with procedures adopted under
 25 subsection (c).

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

- 32 (1) an immediate family member of the victim described in
 33 subsection (a)(8) who is not selected to be present at the
 34 execution; and
- 35 (2) a person invited by an immediate family member of the
 36 victim described in subsection (a)(8) to offer support to the
 37 immediate family member.

38 (d) The warden of the state prison may exclude a person from
 39 viewing the execution if the warden determines that the presence of the
 40 person would threaten the safety or security of the state prison and sets
 41 forth this determination in writing.

42 (e) The department of correction:



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