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SENATE BILL No. 11

Proposed Changes to introduced printing by AM001107

DIGEST OF PROPOSED AMENDMENT

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

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) "Approved execution method" means a method of execution that:

(A) was authorized for use in any state on January 1, 2026, except for:

(i) hanging;

(ii) electrocution; or

(iii) a method that involves the administration of a gas; and

(B) is approved by the governor.

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

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

(4) "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 execution by firing squad:~~

~~— (1) [may carry out an execution by an approved execution method 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 execution by firing squad.~~

~~— (b) [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.

~~(<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~~

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~~— (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 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.

~~(c)~~ [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~~ [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 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 ~~4~~ [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 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;

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

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



1 (1) escapes from custody before the date set for execution; and
 2 (2) is recaptured before the date set for execution;
 3 the convicted person shall be confined and executed according to the
 4 terms of the warrant.

5 (b) If the convicted person:

6 (1) escapes from custody before delivery to the warden of the
 7 appropriate state prison; and
 8 (2) is recaptured after the date set for execution;
 9 any person may arrest and commit the convicted person to the jail of
 10 the county in which the convicted person was sentenced. The sheriff
 11 shall notify the sentencing court of the recapture, and the court shall fix
 12 a new date for the execution. The new execution date must not be less
 13 than thirty (30) nor more than sixty (60) days after the recapture of the
 14 person. The court shall issue a new warrant in the form prescribed by
 15 section 2 of this chapter.

16 (c) If the convicted person:

17 (1) escapes from confinement; and
 18 (2) is recaptured after the date set for execution;
 19 any person may arrest and commit the convicted person to the
 20 department of correction. When the convicted person is returned to the
 21 department of correction or a facility or place designated by the
 22 department of correction, the department shall notify the sentencing
 23 court, and the court shall fix a new date for the execution. The new
 24 execution date must not be less than thirty (30) nor more than sixty (60)
 25 days after the recapture of the person. The court shall issue a warrant
 26 to the department of correction directing the superintendent warden of
 27 the appropriate state prison to execute the convicted person at a
 28 specified time and date in the state prison.

29 SECTION 8. IC 35-38-6-10, AS AMENDED BY P.L.67-2017,
 30 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2026]: Sec. 10. If the physician of the state prison where a
 32 condemned woman is scheduled to be executed, and one (1) other
 33 physician, certify in writing to the warden of the state prison and the
 34 sentencing court that a the condemned woman is pregnant, the warden
 35 shall suspend the execution of the sentence. When the state prison
 36 physician and one (1) other physician certify in writing to the warden
 37 of the state prison and the sentencing court that the woman is no longer
 38 pregnant, the sentencing court shall immediately fix a new execution
 39 date.

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