IC 35-38-6

Chapter 6. Execution of Death Sentence

IC 35-38-6-1

Execution of death sentence; specified time and date; executioner

Sec. 1. (a) The punishment of death shall be inflicted by intravenous injection of a lethal substance or substances into the convicted person:

(1) in a quantity sufficient to cause the death of the convicted person; and

(2) until the convicted person is dead.

(b) The death penalty shall be inflicted before the hour of sunrise on a date fixed by the sentencing court. However, the execution must not occur until at least one hundred (100) days after the conviction.

(c) The superintendent of the state prison, or persons designated by the superintendent, shall designate the person who is to serve as the executioner.

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

As added by P.L.311-1983, SEC.3. Amended by P.L.294-1995, SEC.1; P.L.20-2002, SEC.1.

IC 35-38-6-2

Court to issue warrant to sheriff; contents

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 superintendent of the state prison; and

(4) that orders the superintendent to execute the convicted person at a specified time and date in the state prison.

As added by P.L.311-1983, SEC.3. Amended by P.L.20-2002, SEC.2.

IC 35-38-6-3

Delivery of person to superintendent; receipt of delivery of person

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 state prison;

(2) deliver the person and the warrant to the superintendent 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.

As added by P.L.311-1983, SEC.3. Amended by P.L.20-2002, SEC.3.

IC 35-38-6-4

Confinement of convicted person; segregation of female prisoner; visits by certain persons

Sec. 4. (a) The convicted person shall be confined in the 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 visits.

As added by P.L.311-1983, SEC.3. Amended by P.L.20-2002, SEC.4.

IC 35-38-6-5

Place of execution of death sentence

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 to carry out the execution as provided in this chapter.

As added by P.L.311-1983, SEC.3. Amended by P.L.294-1995, SEC.2.

IC 35-38-6-6

Persons permitted to be present at execution of death sentence; exclusion of persons for safety or security reasons; confidentiality of identity of persons assisting in execution

Sec. 6. (a) Only the following persons may be present at the execution:

(1) The superintendent of the state prison.
(2) The person designated by the superintendent 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 ten (10) friends or relatives of the convicted person who are invited by the convicted person to attend.

(b) The superintendent of the state prison may exclude a person from viewing the execution if the superintendent determines that the presence of the person would threaten the safety or security of the state prison and sets forth this determination in writing.

(c) The department of correction:

(1) shall keep confidential the identities of persons who assist the superintendent 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 superintendent in the execution.

As added by P.L.311-1983, SEC.3. Amended by P.L.20-2002, SEC.5.

IC 35-38-6-7

Escape and recapture of convicted person

Sec. 7. (a) If the convicted person:

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

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

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

(b) If the convicted person:

(1) escapes from custody before delivery to the superintendent of the state prison; and

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

any person may arrest and commit the convicted person to the jail of the county in which the convicted person was sentenced. The sheriff shall notify the sentencing court of the recapture, 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 new warrant in the form prescribed by 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 of the state prison to execute the convicted person at a specified time and date in the state prison.

As added by P.L.311-1983, SEC.3. Amended by P.L.20-2002, SEC.6.

IC 35-38-6-8

Suspension of execution of death sentence; reason for delay

Sec. 8. (a) If the execution of the death sentence is suspended, the department of correction shall note the reason for the delay on the warrant but shall proceed with the execution when the period of suspension ends.

(b) The warrant shall be returned to the clerk of the sentencing court after:

(1) the convicted person is executed;

(2) the convicted person has been pardoned;

(3) the convicted person's judgment has been reversed;

(4) the convicted person's sentence has been commuted; or
(5) the convicted person dies before his execution;
with a statement concerning the completion of the execution or the reason why the person was not executed.
As added by P.L.311-1983, SEC.3. Amended by P.L.20-2002, SEC.7.

IC 35-38-6-9
Application of chapter to women convicted and sentenced to death
Sec. 9. The provisions of this chapter in relation to the infliction of the death penalty extend equally, so far as applicable, to the case of any woman convicted and sentenced to death.
As added by P.L.311-1983, SEC.3.

IC 35-38-6-10
Suspension of execution of sentence when condemned woman is pregnant; certification of physicians
Sec. 10. If the physician of the state prison and one (1) other physician certify in writing to the superintendent of the state prison and the sentencing court that a condemned woman is pregnant, the superintendent shall suspend the execution of the sentence. When the state prison physician and one (1) other physician certify in writing to the superintendent 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.
As added by P.L.311-1983, SEC.3. Amended by P.L.20-2002, SEC.8.