



Reprinted  
March 3, 2016

---

---

## ENGROSSED SENATE BILL No. 146

---

DIGEST OF SB 146 (Updated March 2, 2016 3:28 pm - DI 125)

**Citations Affected:** IC 3-13; IC 4-24; IC 11-8; IC 11-10; IC 11-11; IC 12-26; IC 16-41; IC 34-13; IC 35-38; IC 36-4; IC 36-8.

**Synopsis:** Tort claims immunity and city legislative body vacancies. Provides that the tort claims act applies to a claim against certain approved postsecondary educational institutions and associations acting on behalf of certain approved postsecondary educational institutions if: (1) the institution or association has complied with certain data sharing requirements; and (2) the claim relates to a breach of this data. Provides that a claim or suit in tort against a postsecondary educational institution filed before March 30, 2016, is not eligible for tort claims immunity. Establishes a procedure by which the legislative body of a second or third class city may provide for the appointment of an acting member of the legislative body if a member of the legislative body is unable to perform the duties of the member's office. (Under current law, the legislative body has the power only to declare the member's seat vacant.) Provides that sheriffs may appoint prison matrons. Replaces references to "superintendent" with "warden".

**Effective:** Upon passage; July 1, 2011 (retroactive); July 1, 2016.

---

---

## Charbonneau, Bray, Buck

(HOUSE SPONSORS — FRIEND, PORTER)

---

---

January 5, 2016, read first time and referred to Committee on Civil Law.  
January 12, 2016, amended, reported favorably — Do Pass.  
January 14, 2016, read second time, ordered engrossed. Engrossed.  
January 19, 2016, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 8, 2016, read first time and referred to Committee on Judiciary.  
February 29, 2016, amended, reported — Do Pass.  
March 2, 2016, read second time, amended, ordered engrossed.

---

---

ES 146—LS 6427/DI 106





Reprinted  
March 3, 2016

Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 146

---

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 3-13-11-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **(a)** The caucus  
3 procedure prescribed by this chapter for ~~filling vacancies in local~~  
4 ~~offices~~ must be followed whenever:  
5 **(1)** required by IC 3-13-6-2, IC 3-13-6-3(a), IC 3-13-7-1,  
6 IC 3-13-8-1, IC 3-13-9-1, or IC 3-13-10-1 **for filling vacancies in**  
7 **local offices;**  
8 **(2) IC 5-9-4 requires an officeholder's office to be filled by**  
9 **temporary appointment; or**  
10 **(3) IC 36-4-6-6.5 requires a member's office to be filled by**  
11 **temporary appointment.**  
12 **(b)** Selections made under this chapter (or under IC 3-2-9 before its  
13 repeal on March 4, 1986) are appointments pro tempore for the  
14 purposes of Article 2, Section 11 of the Constitution of the State of  
15 Indiana.  
16 SECTION 2. IC 4-24-1-1 IS AMENDED TO READ AS FOLLOWS  
17 [EFFECTIVE JULY 1, 2016]: Sec. 1. The ~~superintendent~~ **warden** of

ES 146—LS 6427/DI 106



1 any state penal or correctional institution or **the superintendent or**  
 2 **warden** of any state institution (as defined by IC 12-7-2-184) may  
 3 compensate any employee of the institution for damages to the personal  
 4 property of the employee which damages occurred in the ordinary  
 5 course of the employees' employment and which damages were in no  
 6 way caused by the negligence of the employee.

7 SECTION 3. IC 4-24-7-3 IS AMENDED TO READ AS FOLLOWS  
 8 [EFFECTIVE JULY 1, 2016]: Sec. 3. For all claims that the  
 9 Putnamville Correctional Facility may have against any county for any  
 10 money advanced by such institution for transportation allowance to a  
 11 discharged inmate of such institution which inmate was admitted to  
 12 such institution from such county, the ~~superintendent~~ **warden** of such  
 13 institution shall make out an account therefor against such county, in  
 14 a manner as hereinafter provided.

15 SECTION 4. IC 11-8-2-5, AS AMENDED BY P.L.23-2012,  
 16 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JULY 1, 2016]: Sec. 5. (a) The commissioner shall do the following:

- 18 (1) Organize the department and employ personnel necessary to  
 19 discharge the duties and powers of the department.
- 20 (2) Administer and supervise the department, including all state  
 21 owned or operated correctional facilities.
- 22 (3) Except for employees of the parole board, be the appointing  
 23 authority for all positions in the department.
- 24 (4) Define the duties of a deputy commissioner and a  
 25 ~~superintendent.~~ **warden.**
- 26 (5) Accept committed persons for study, evaluation,  
 27 classification, custody, care, training, and reintegration.
- 28 (6) Determine the capacity of all state owned or operated  
 29 correctional facilities and programs and keep all Indiana courts  
 30 having criminal or juvenile jurisdiction informed, on a quarterly  
 31 basis, of the populations of those facilities and programs.
- 32 (7) Utilize state owned or operated correctional facilities and  
 33 programs to accomplish the purposes of the department and  
 34 acquire or establish, according to law, additional facilities and  
 35 programs whenever necessary to accomplish those purposes.
- 36 (8) Develop policies, programs, and services for committed  
 37 persons, for administration of facilities, and for conduct of  
 38 employees of the department.
- 39 (9) Administer, according to law, the money or other property of  
 40 the department and the money or other property retained by the  
 41 department for committed persons.
- 42 (10) Keep an accurate and complete record of all department



- 1 proceedings, which includes the responsibility for the custody and  
 2 preservation of all papers and documents of the department.
- 3 (11) Make an annual report to the governor according to  
 4 subsection (c).
- 5 (12) Develop, collect, and maintain information concerning  
 6 offenders, sentencing practices, and correctional treatment as the  
 7 commissioner considers useful in penological research or in  
 8 developing programs.
- 9 (13) Cooperate with and encourage public and private agencies  
 10 and other persons in the development and improvement of  
 11 correctional facilities, programs, and services.
- 12 (14) Explain correctional programs and services to the public.
- 13 (15) As required under 42 U.S.C. 15483, after January 1, 2006,  
 14 provide information to the election division to coordinate the  
 15 computerized list of voters maintained under IC 3-7-26.3 with  
 16 department records concerning individuals disfranchised under  
 17 IC 3-7-46.
- 18 (b) The commissioner may:
- 19 (1) when authorized by law, adopt departmental rules under  
 20 IC 4-22-2;
- 21 (2) delegate powers and duties conferred on the commissioner by  
 22 law to a deputy commissioner or commissioners and other  
 23 employees of the department;
- 24 (3) issue warrants for the return of escaped committed persons (an  
 25 employee of the department or any person authorized to execute  
 26 warrants may execute a warrant issued for the return of an  
 27 escaped person);
- 28 (4) appoint personnel to be sworn in as correctional police  
 29 officers; and
- 30 (5) exercise any other power reasonably necessary in discharging  
 31 the commissioner's duties and powers.
- 32 (c) The annual report of the department shall be transmitted to the  
 33 governor by September 1 of each year and must contain:
- 34 (1) a description of the operation of the department for the fiscal  
 35 year ending June 30;
- 36 (2) a description of the facilities and programs of the department;
- 37 (3) an evaluation of the adequacy and effectiveness of those  
 38 facilities and programs considering the number and needs of  
 39 committed persons or other persons receiving services; and
- 40 (4) any other information required by law.
- 41 Recommendations for alteration, expansion, or discontinuance of  
 42 facilities or programs, for funding, or for statutory changes may be



1 included in the annual report.

2 SECTION 5. IC 11-8-2-7, AS AMENDED BY P.L.100-2012,  
3 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2016]: Sec. 7. (a) The commissioner shall determine which  
5 state owned or operated correctional facilities are to be maintained for  
6 criminal offenders and which are to be maintained for delinquent  
7 offenders.

8 (b) The commissioner shall determine which state owned or  
9 operated correctional facilities need, for effective management,  
10 administration by a ~~superintendent~~ **warden**. The commissioner shall  
11 appoint a ~~superintendent~~ **warden** for each correctional facility.  
12 However, the commissioner may appoint a person as ~~superintendent~~  
13 **warden** of two (2) or more facilities if the commissioner finds that it  
14 would be economical to do so and would not adversely effect the  
15 management of the facilities.

16 (c) Except as provided in subsection (d), a ~~superintendent~~ **warden**  
17 must hold at least a bachelor's degree from an accredited college or  
18 university.

19 (d) If a ~~superintendent~~ **warden** does not hold at least a bachelor's  
20 degree from an accredited college or university, the ~~superintendent~~  
21 **warden** must have at least ten (10) years of experience in public safety  
22 work.

23 (e) In addition to the requirements described in subsections (c) and  
24 (d), a ~~superintendent~~ **warden** must have held a management position  
25 in correctional or related work for a minimum of five (5) years. A  
26 ~~superintendent~~ **warden** is entitled to a salary to be determined by the  
27 budget agency with the approval of the governor.

28 (f) If a ~~superintendent~~ **warden** position becomes vacant, the  
29 commissioner may appoint an acting ~~superintendent~~ **warden** to  
30 discharge the duties and powers of a ~~superintendent~~ **warden** on a  
31 temporary basis.

32 SECTION 6. IC 11-10-14-4, AS ADDED BY P.L.213-2005,  
33 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
34 JULY 1, 2016]: Sec. 4. (a) The department shall select a person to be  
35 the director of each transitional dormitory. The department may select  
36 a person to be a director who is employed by a faith based organization.

37 (b) The director's responsibilities include the following:

- 38 (1) Implement each program component.
- 39 (2) Recruit volunteers to provide instruction and training in the  
40 transitional dormitory with an emphasis on recruiting volunteers  
41 for religious programs.
- 42 (3) Oversee the day to day operations of the transitional



- 1 dormitory.
- 2 (4) Provide information requested by the ~~superintendent~~ **warden**
- 3 regarding an offender or a program.
- 4 (5) Remove an offender from the transitional dormitory for:
- 5 (A) population management concerns;
- 6 (B) misconduct;
- 7 (C) security or safety concerns;
- 8 (D) mental health concerns; or
- 9 (E) lack of meaningful participation in the programs and
- 10 training.
- 11 SECTION 7. IC 11-10-16-3, AS ADDED BY P.L.73-2015,
- 12 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 13 JULY 1, 2016]: Sec. 3. (a) The ~~superintendent~~ **warden** may appoint a
- 14 person to direct the specialized vocational program. Each facility that
- 15 has a specialized vocational program must have a facility manager to
- 16 direct the program.
- 17 (b) The director shall do the following:
- 18 (1) Establish and oversee the day to day operations of the
- 19 specialized vocational program.
- 20 (2) Recruit volunteers and businesses to provide instruction and
- 21 training in:
- 22 (A) the specialized vocational program; and
- 23 (B) any related certification program.
- 24 (3) Provide information requested by the ~~superintendent~~ **warden**
- 25 regarding an inmate or a specialized vocational program.
- 26 (4) Determine the appropriate number of inmates in each
- 27 specialized vocational program, considering the availability of:
- 28 (A) qualified staff; and
- 29 (B) appropriate facilities and equipment.
- 30 The director may remove one (1) or more inmates from a program
- 31 if necessary to comply with this subdivision.
- 32 (5) Remove an inmate from a specialized vocational program at
- 33 any time due to:
- 34 (A) misconduct;
- 35 (B) security issues;
- 36 (C) safety issues;
- 37 (D) health concerns; or
- 38 (E) lack of meaningful participation in the program.
- 39 (6) Carry out other duties concerning the specialized vocational
- 40 program as directed by the ~~superintendent.~~ **warden.**
- 41 SECTION 8. IC 11-11-3-6, AS AMENDED BY P.L.2-2007,
- 42 SECTION 152, IS AMENDED TO READ AS FOLLOWS



1 [EFFECTIVE JULY 1, 2016]: Sec. 6. (a) A confined person may  
2 acquire and possess printed matter on any subject, from any source.  
3 However, unless a confined person or the sender receives prior  
4 approval from the **superintendent warden** for the confined person to  
5 receive a book, magazine, newspaper, or other periodical from another  
6 source, a confined person may receive a book, magazine, newspaper,  
7 or other periodical only if it is mailed to the confined person directly  
8 from the publisher, the distributor, or an accredited postsecondary  
9 educational institution. The department may inspect all printed matter  
10 and exclude any material that is contraband or prohibited property.  
11 However, in the case of a confined adult, the department may not  
12 exclude printed matter on the grounds it is obscene or pornographic  
13 unless it is obscene under Indiana law. A periodical may be excluded  
14 only on an issue by issue basis. Printed matter obtained at cost to the  
15 confined person must be prepaid.

16 (b) If the department withholds printed matter, it must promptly  
17 notify the confined person. The notice must be in writing and include  
18 the title of the matter, the date the matter was received at the facility or  
19 program, the name of the person who made the decision, whether the  
20 matter is objectionable in whole or in part, the reason for the decision,  
21 and the fact that the department's action may be challenged through the  
22 grievance procedure.

23 SECTION 9. IC 12-26-8-4 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. (a) Within thirty (30)  
25 days after a child is first committed to a facility by a juvenile court, the  
26 child's advocate shall do all of the following:

- 27 (1) Visit the facility.
- 28 (2) Evaluate the services delivered to the child.
- 29 (3) Evaluate whether the commitment continues to be appropriate  
30 for the child.

31 (b) The child's advocate shall conduct a review similar to that  
32 required under subsection (a):

- 33 (1) sixty (60) days after the child is first committed;
- 34 (2) six (6) months after the child is first committed; and
- 35 (3) every six (6) months after the review required by subdivision  
36 (2).

37 (c) The **superintendent warden** of the facility shall provide  
38 necessary assistance to carry out the reviews required by this section.

39 SECTION 10. IC 12-26-8-5 IS AMENDED TO READ AS  
40 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. The child's advocate  
41 shall submit a report of each review required by section 4 of this  
42 chapter to all of the following:

ES 146—LS 6427/DI 106





- 1 (1) The committing juvenile court.  
 2 (2) The ~~superintendent~~ **warden** of the facility.  
 3 (3) A county office that has wardship of the child.  
 4 (4) Each party to the commitment proceeding.
- 5 SECTION 11. IC 16-41-15-15 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 15. Whenever a person  
 7 with a venereal disease is admitted to a benevolent, charitable, or penal  
 8 institution or correctional facility of Indiana, the ~~superintendent~~  
 9 **warden** or official in charge of the institution or correctional facility  
 10 shall institute and provide the proper treatment for the person and shall  
 11 carry out laboratory tests necessary to determine the nature, course,  
 12 duration, and results of the treatment.
- 13 SECTION 12. IC 34-13-3-2, AS AMENDED BY P.L.145-2011,  
 14 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2011 (RETROACTIVE)]: Sec. 2. This chapter applies to a  
 16 claim or suit in tort against any of the following:
- 17 (1) A member of the bureau of motor vehicles commission  
 18 established under IC 9-15-1-1.  
 19 (2) An employee of the bureau of motor vehicles commission who  
 20 is employed at a license branch under IC 9-16, except for an  
 21 employee employed at a license branch operated under a contract  
 22 with the commission under IC 9-16.  
 23 (3) A member of the driver education advisory board established  
 24 by IC 9-27-6-5.  
 25 **(4) An approved postsecondary educational institution (as**  
 26 **defined in IC 21-7-13-6(a)(1)), or an association acting on**  
 27 **behalf of an approved postsecondary educational institution,**  
 28 **that:**  
 29 **(A) shares data with the commission for higher education**  
 30 **under IC 21-12-12-1; and**  
 31 **(B) is named as a defendant in a claim or suit in tort based**  
 32 **on any breach of the confidentiality of the data that occurs**  
 33 **after the institution has transmitted the data in compliance**  
 34 **with IC 21-12-12-1.**
- 35 SECTION 13. IC 34-13-3-2.5 IS ADDED TO THE INDIANA  
 36 CODE AS A **NEW SECTION** TO READ AS FOLLOWS  
 37 [EFFECTIVE JULY 1, 2011 (RETROACTIVE)]: **Sec. 2.5. The**  
 38 **addition of section 2(4) of this chapter by SEA 146-2016, SECTION**  
 39 **1, does not apply to a claim or suit in tort against a postsecondary**  
 40 **educational institution if filed before March 30, 2016.**
- 41 SECTION 14. IC 35-38-6-1 IS AMENDED TO READ AS  
 42 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. (a) The punishment



1 of death shall be inflicted by intravenous injection of a lethal substance  
2 or substances into the convicted person:

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

5 (2) until the convicted person is dead.

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

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

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

14 SECTION 15. IC 35-38-6-2 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. The court in which  
16 a death sentence is ordered shall issue a warrant to the sheriff within  
17 fourteen (14) days of the sentence:

18 (1) that is under the seal of the court;

19 (2) that contains notice of the conviction and the sentence;

20 (3) that is directed to the ~~superintendent~~ **warden** of the state  
21 prison; and

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

24 SECTION 16. IC 35-38-6-3 IS AMENDED TO READ AS  
25 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. A sheriff who  
26 receives a warrant under section 2 ~~or section~~ 7 of this chapter shall  
27 immediately:

28 (1) transport the person to the state prison;

29 (2) deliver the person and the warrant to the ~~superintendent~~  
30 **warden** of the prison;

31 (3) obtain a receipt for the delivery of the person; and

32 (4) deliver the receipt to the clerk of the sentencing court.

33 SECTION 17. IC 35-38-6-6, AS AMENDED BY P.L.56-2006,  
34 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
35 JULY 1, 2016]: Sec. 6. (a) Only the following persons may be present  
36 at the execution:

37 (1) The ~~superintendent~~ **warden** of the state prison.

38 (2) The person designated by the ~~superintendent~~ **warden** of the  
39 state prison and any assistants who are necessary to assist in the  
40 execution.

41 (3) The prison physician.

42 (4) One (1) other physician.



- 1 (5) The spiritual advisor of the convicted person.  
 2 (6) The prison chaplain.  
 3 (7) Not more than five (5) friends or relatives of the convicted  
 4 person who are invited by the convicted person to attend.  
 5 (8) Except as provided in subsection (b), not more than eight (8)  
 6 of the following members of the victim's immediate family who  
 7 are at least eighteen (18) years of age:  
 8 (A) The victim's spouse.  
 9 (B) One (1) or more of the victim's children.  
 10 (C) One (1) or more of the victim's parents.  
 11 (D) One (1) or more of the victim's grandparents.  
 12 (E) One (1) or more of the victim's siblings.  
 13 (b) If there is more than one (1) victim, not more than eight (8)  
 14 persons who are members of the victims' immediate families may be  
 15 present at the execution. The department shall determine which persons  
 16 may be present in accordance with procedures adopted under  
 17 subsection (c).  
 18 (c) The department shall develop procedures to determine which  
 19 family members of a victim may be present at the execution if more  
 20 than eight (8) family members of a victim desire to be present or if  
 21 there is more than one (1) victim. Upon the request of a family member  
 22 of a victim, the department shall establish a support room for the use  
 23 of:  
 24 (1) an immediate family member of the victim described in  
 25 subsection (a)(8) who is not selected to be present at the  
 26 execution; and  
 27 (2) a person invited by an immediate family member of the victim  
 28 described in subsection (a)(8) to offer support to the immediate  
 29 family member.  
 30 (d) The ~~superintendent~~ **warden** of the state prison may exclude a  
 31 person from viewing the execution if the ~~superintendent~~ **warden**  
 32 determines that the presence of the person would threaten the safety or  
 33 security of the state prison and sets forth this determination in writing.  
 34 (e) The department of correction:  
 35 (1) shall keep confidential the identities of persons who assist the  
 36 ~~superintendent~~ **warden** of the state prison in an execution; and  
 37 (2) may:  
 38 (A) classify as confidential; and  
 39 (B) withhold from the public;  
 40 any part of a document relating to an execution that would reveal  
 41 the identity of a person who assists the ~~superintendent~~ **warden** in  
 42 the execution.



1 SECTION 18. IC 35-38-6-7 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 7. (a) If the convicted  
 3 person:

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

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

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

8 (b) If the convicted person:

9 (1) escapes from custody before delivery to the ~~superintendent~~  
 10 **warden** of the state prison; and

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

12 any person may arrest and commit the convicted person to the jail of  
 13 the county in which the convicted person was sentenced. The sheriff  
 14 shall notify the sentencing court of the recapture, and the court shall fix  
 15 a new date for the execution. The new execution date must not be less  
 16 than thirty (30) nor more than sixty (60) days after the recapture of the  
 17 person. The court shall issue a new warrant in the form prescribed by  
 18 section 2 of this chapter.

19 (c) If the convicted person:

20 (1) escapes from confinement; and

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

22 any person may arrest and commit the convicted person to the  
 23 department of correction. When the convicted person is returned to the  
 24 department of correction or a facility or place designated by the  
 25 department of correction, the department shall notify the sentencing  
 26 court, and the court shall fix a new date for the execution. The new  
 27 execution date must not be less than thirty (30) nor more than sixty (60)  
 28 days after the recapture of the person. The court shall issue a warrant  
 29 to the department of correction directing the ~~superintendent~~ **warden** of  
 30 the state prison to execute the convicted person at a specified time and  
 31 date in the state prison.

32 SECTION 19. IC 35-38-6-10 IS AMENDED TO READ AS  
 33 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 10. If the physician of  
 34 the state prison and one (1) other physician certify in writing to the  
 35 ~~superintendent~~ **warden** of the state prison and the sentencing court that  
 36 a condemned woman is pregnant, the ~~superintendent~~ **warden** shall  
 37 suspend the execution of the sentence. When the state prison physician  
 38 and one (1) other physician certify in writing to the ~~superintendent~~  
 39 **warden** of the state prison and the sentencing court that the woman is  
 40 no longer pregnant, the sentencing court shall immediately fix a new  
 41 execution date.

42 SECTION 20. IC 36-4-6-6 IS AMENDED TO READ AS

ES 146—LS 6427/DI 106



1 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The  
2 legislative body may **do any, or any combination, of the following:**

3 (1) Expel any member for violation of an official duty.

4 (2) ~~Declare the seat of any member vacant~~ If ~~he a member~~ is  
5 unable to perform the duties of ~~his the member's~~ office, ~~and the~~  
6 **legislative body may:**

7 (A) **declare the member's seat vacant; or**

8 (B) **act under section 6.5 of this chapter.**

9 ~~(3)~~ (b) **The legislative body may** adopt its own rules to govern  
10 proceedings under this section.

11 ~~However,~~ (c) A two-thirds (2/3) vote **of the legislative body** is  
12 required to expel a member **under subsection (a)(1)** or vacate ~~his the~~  
13 **member's seat under subsection (a)(2)(A).**

14 SECTION 21. IC 36-4-6-6.5 IS ADDED TO THE INDIANA CODE  
15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
16 UPON PASSAGE]: Sec. 6.5. (a) **For purposes of this section, a**  
17 **member is "unable to serve" if the member is unable to perform**  
18 **the duties of the member's office. For purposes of this section, the**  
19 **term may include one (1) or more of the following conditions:**

20 (1) **A member's incarceration.**

21 (2) **A member's physical incapacitation.**

22 (3) **A member's impaired intellectual functioning due to**  
23 **physical illness, psychiatric illness, or injury.**

24 (b) **A member must be unable to perform the duties of the**  
25 **member's office for a continuous period of ninety (90) days or**  
26 **more before the member who is unable to serve may be replaced.**

27 **A member who is unable to serve may be replaced by:**

28 (1) **expulsion;**

29 (2) **temporary appointment; or**

30 (3) **the vacating of the member's seat.**

31 (c) **If a member of the legislative body is unable to perform the**  
32 **duties of the member's office and the legislative body determines**  
33 **to act under this section, the clerk shall report to the legislative**  
34 **body regarding the member as directed by the legislative body. The**  
35 **clerk's report must include a description of the circumstances of**  
36 **the member's inability to serve, including the nature and extent of**  
37 **the member's inability to serve.**

38 (d) **After receiving the clerk's report under this section, the**  
39 **legislative body may adopt a resolution finding that:**

40 (1) **the member is unable to serve and should be expelled;**

41 (2) **the member is unable to serve and should be succeeded**  
42 **with a temporary appointment; or**



- 1           (c) the member is unable to serve and the member's seat  
2           should be declared vacant.
- 3           (e) If the legislative body adopts a resolution under subsection  
4 (c), the clerk shall give the circuit court clerk notice of adoption of  
5 the resolution not later than five (5) days after the legislative body  
6 adopts the resolution. The circuit court clerk shall give notice of  
7 the resolution to the person who has the power to call a caucus  
8 under IC 3-13-11. After receiving notice under this subsection, the  
9 person who has the power to call a caucus under IC 3-13-11 shall  
10 call a caucus as provided in IC 3-13-11.
- 11           (f) A member is unable to serve does not vacate the member's  
12 office if the legislative body adopts a resolution under subsection  
13 (d)(2). However, the member who is unable to serve is not entitled  
14 to the compensation established for a member of the legislative  
15 body during the period of the member's inability to serve.
- 16           (g) During a member's inability to serve, the member's office  
17 must be exercised by a temporary appointment made under  
18 IC 3-13-11 if:
- 19           (1) the member who is unable to serve is not expelled; and  
20           (2) the seat of the member who is unable to serve is not  
21           declared vacant.
- 22           (h) The individual who has a temporary appointment as  
23 provided in this section serves until the earlier of:
- 24           (1) the date the member's inability to serve ends as provided  
25           in subsection (j); or  
26           (2) the member's term of office expires.
- 27           (i) The individual who has a temporary appointment under this  
28 section:
- 29           (1) serves as an acting member of the legislative body;  
30           (2) assumes all the powers and duties of a member of the  
31           legislative body; and  
32           (3) is entitled to the compensation established for a member  
33           of the legislative body;  
34           for the period of the temporary appointment.
- 35           (j) A member whose inability to serve has ended may give notice  
36 to the clerk that the member's inability to serve has ended. A notice  
37 under this subsection must be in writing. The clerk shall report to  
38 the legislative body the receipt of the member's notice at the  
39 meeting of the legislative body that first occurs after the clerk  
40 receives the notice.
- 41           (k) A member's inability to serve ends after the member gives  
42 notice under subsection (j) if the legislative body adopts a



1 resolution finding that the member's inability to serve has ended.

2 (l) If the legislative body adopts a resolution under subsection  
3 (k), the following apply upon the adoption of the resolution, if the  
4 member's term of office has not expired:

5 (1) The member shall resume the duties of the member's office  
6 for the remainder of the term to which the member was  
7 elected.

8 (2) The member has all the powers of a member of the  
9 legislative body.

10 (3) The member is entitled to the compensation as a member  
11 of the legislative body.

12 (4) The temporary appointment of the individual under  
13 subsection (g) ends.

14 SECTION 22. IC 36-8-10-5 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) Each sheriff ~~shall~~  
16 **may** appoint a prison matron for the county. The sheriff shall set the  
17 qualifications for that position. Except as provided in subsection (b),  
18 the sheriff has complete hiring authority over the position of prison  
19 matron.

20 (b) A prison matron who was a county police officer appointed  
21 under section 10(b) of this chapter immediately before being hired as  
22 prison matron is entitled to the discipline and removal procedures  
23 under section 11 of this chapter before:

24 (1) being reduced in grade to a rank below the rank that the  
25 person held before being hired as prison matron; or

26 (2) removal from the department.

27 (c) The sheriff may employ assistant prison matrons if necessary.

28 (d) The prison matron or the prison matron's assistants shall receive,  
29 search, and care for all female prisoners and all boys under fourteen  
30 (14) years of age who are committed to or detained in the county jail,  
31 municipal lockup, or other detention center in the county.

32 (e) The prison matron and assistant matrons:

33 (1) are members of the department;

34 (2) have the powers and duties of members of the department; and

35 (3) are entitled to the same salary that other members of the  
36 department of the same rank, grade, or position are paid.

37 SECTION 23. **An emergency is declared for this act.**



## COMMITTEE REPORT

Madam President: The Senate Committee on Civil Law, to which was referred Senate Bill No. 146, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 7.

Page 2, delete lines 3 through 4, begin a new line block indented and insert:

**"(4) An approved postsecondary educational institution (as defined in IC 21-7-13-6(a)(1)) that:**

**(A) shares data with the commission for higher education under IC 21-12-12-1; and**

**(B) is named as a defendant in a claim or suit in tort based on any breach of the confidentiality of the data that occurs after the institution has transmitted the data in compliance with IC 21-12-12-1."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 146 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 0.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 146, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-13-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The caucus procedure prescribed by this chapter ~~for filling vacancies in local offices~~ must be followed whenever:

**(1) required by IC 3-13-6-2, IC 3-13-6-3(a), IC 3-13-7-1, IC 3-13-8-1, IC 3-13-9-1, or IC 3-13-10-1 for filling vacancies in local offices;**

**(2) IC 5-9-4 requires an officeholder's office to be filled by**

ES 146—LS 6427/DI 106





**temporary appointment; or**

**(3) IC 36-4-6-6.5 requires a member's office to be filled by temporary appointment.**

**(b)** Selections made under this chapter (or under IC 3-2-9 before its repeal on March 4, 1986) are appointments pro tempore for the purposes of Article 2, Section 11 of the Constitution of the State of Indiana."

Page 1, line 3, delete "JULY 1, 2016]:" and insert "JULY 1, 2011 (RETROACTIVE)]:".

Page 2, after line 3, begin a new paragraph and insert:

"SECTION 3. IC 34-13-3-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011 (RETROACTIVE)]: **Sec. 2.5. The addition of section 2(4) of this chapter by SEA 146-2016, SECTION 1, does not apply to a claim or suit in tort against a postsecondary educational institution if filed before March 30, 2016.**

SECTION 4. IC 36-4-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. **(a)** The legislative body may **do any, or any combination, of the following:**

- (1) Expel any member for violation of an official duty.
- (2) ~~Declare the seat of any member vacant If he a member is unable to perform the duties of his the member's office, and the legislative body may:~~

- (A) declare the member's seat vacant; or**
- (B) act under section 6.5 of this chapter.**

~~(3)~~ **(b)** The legislative body may adopt its own rules to govern proceedings under this section.

~~However;~~ **(c)** A two-thirds (2/3) vote of the legislative body is required to expel a member **under subsection (a)(1)** or vacate ~~his the~~ **member's seat under subsection (a)(2)(A).**

SECTION 5. IC 36-4-6-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.5. (a) For purposes of this section, a member has a "disability" if the member is unable to perform the duties of the member's office. For purposes of this section, the term "disability" may include one (1) or more of the following conditions:**

- (1) A member's incarceration.**
  - (2) A member's physical incapacitation.**
  - (3) A member's impaired intellectual functioning due to physical illness, psychiatric illness, or injury.**
- (b) A member must be unable to perform the duties of the**



member's office for a continuous period of ninety (90) days or more before the member with a disability may be replaced. A member with a disability may be replaced by:

- (1) expulsion;
- (2) temporary appointment; or
- (3) the vacating of the member's seat.

(c) If a member of the legislative body is unable to perform the duties of the member's office and the legislative body determines to act under this section, the clerk shall report to the legislative body regarding the member as directed by the legislative body. The clerk's report must include a description of the circumstances of the member's disability, including the nature and extent of the disability.

(d) After receiving the clerk's report under this section, the legislative body may adopt a resolution finding that:

- (1) the member has a disability and should be expelled;
- (2) the member has a disability and should be succeeded with a temporary appointment; or
- (c) the member has a disability and the member's seat should be declared vacant.

(e) If the legislative body adopts a resolution under subsection (c), the clerk shall give the circuit court clerk notice of adoption of the resolution not later than five (5) days after the legislative body adopts the resolution. The circuit court clerk shall give notice of the resolution to the person who has the power to call a caucus under IC 3-13-11. After receiving notice under this subsection, the person who has the power to call a caucus under IC 3-13-11 shall call a caucus as provided in IC 3-13-11.

(f) A member with a disability does not vacate the member's office if the legislative body adopts a resolution under subsection (d)(2). However, the member with a disability is not entitled to the compensation established for a member of the legislative body during the period of the member's disability.

(g) During a member's disability, the member's office must be exercised by a temporary appointment made under IC 3-13-11 if:

- (1) the member with a disability is not expelled; and
- (2) the seat of the member with a disability is not declared vacant.

(h) The individual who has a temporary appointment as provided in this section serves until the earlier of:

- (1) the date the member's disability ends as provided in subsection (j); or



**(2) the member's term of office expires.**

**(i) The individual who has a temporary appointment under this section:**

- (1) serves as an acting member of the legislative body;**
- (2) assumes all the powers and duties of a member of the legislative body; and**
- (3) is entitled to the compensation established for a member of the legislative body;**

**for the period of the temporary appointment.**

**(j) A member whose disability has ended may give notice to the clerk that the member's disability has ended. A notice under this subsection must be in writing. The clerk shall report to the legislative body the receipt of the member's notice at the meeting of the legislative body that first occurs after the clerk receives the notice.**

**(k) A member's disability ends after the member gives notice under subsection (j) if the legislative body adopts a resolution finding that the member's disability has ended.**

**(l) If the legislative body adopts a resolution under subsection (k), the following apply upon the adoption of the resolution, if the member's term of office has not expired:**

- (1) The member shall resume the duties of the member's office for the remainder of the term to which the member was elected.**
- (2) The member has all the powers of a member of the legislative body.**
- (3) The member is entitled to the compensation as a member of the legislative body.**

**(4) The temporary appointment of the individual under subsection (g) ends.**

**SECTION 6. An emergency is declared for this act."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 146 as printed January 13, 2016.)

STEUERWALD

Committee Vote: yeas 11, nays 0.



## HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 146 be amended to read as follows:

Page 2, line 12, after "IC 21-7-13-6(a)(1))" insert "**, or an association acting on behalf of an approved postsecondary educational institution,**".

(Reference is to ESB 146 as printed February 29, 2016.)

FRIEND

---

 HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 146 be amended to read as follows:

Page 1, between lines 15 and 16, begin a new paragraph and insert: "SECTION 2. IC 4-24-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. The ~~superintendent~~ **warden** of any state penal or correctional institution or ~~the superintendent or warden~~ of any state institution (as defined by IC 12-7-2-184) may compensate any employee of the institution for damages to the personal property of the employee which damages occurred in the ordinary course of the employees' employment and which damages were in no way caused by the negligence of the employee.

SECTION 3. IC 4-24-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. For all claims that the Putnamville Correctional Facility may have against any county for any money advanced by such institution for transportation allowance to a discharged inmate of such institution which inmate was admitted to such institution from such county, the ~~superintendent~~ **warden** of such institution shall make out an account therefor against such county, in a manner as hereinafter provided.

SECTION 4. IC 11-8-2-5, AS AMENDED BY P.L.23-2012, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) The commissioner shall do the following:

- (1) Organize the department and employ personnel necessary to discharge the duties and powers of the department.
- (2) Administer and supervise the department, including all state owned or operated correctional facilities.
- (3) Except for employees of the parole board, be the appointing

ES 146—LS 6427/DI 106



authority for all positions in the department.

(4) Define the duties of a deputy commissioner and a ~~superintendent.~~ **warden.**

(5) Accept committed persons for study, evaluation, classification, custody, care, training, and reintegration.

(6) Determine the capacity of all state owned or operated correctional facilities and programs and keep all Indiana courts having criminal or juvenile jurisdiction informed, on a quarterly basis, of the populations of those facilities and programs.

(7) Utilize state owned or operated correctional facilities and programs to accomplish the purposes of the department and acquire or establish, according to law, additional facilities and programs whenever necessary to accomplish those purposes.

(8) Develop policies, programs, and services for committed persons, for administration of facilities, and for conduct of employees of the department.

(9) Administer, according to law, the money or other property of the department and the money or other property retained by the department for committed persons.

(10) Keep an accurate and complete record of all department proceedings, which includes the responsibility for the custody and preservation of all papers and documents of the department.

(11) Make an annual report to the governor according to subsection (c).

(12) Develop, collect, and maintain information concerning offenders, sentencing practices, and correctional treatment as the commissioner considers useful in penological research or in developing programs.

(13) Cooperate with and encourage public and private agencies and other persons in the development and improvement of correctional facilities, programs, and services.

(14) Explain correctional programs and services to the public.

(15) As required under 42 U.S.C. 15483, after January 1, 2006, provide information to the election division to coordinate the computerized list of voters maintained under IC 3-7-26.3 with department records concerning individuals disfranchised under IC 3-7-46.

(b) The commissioner may:

(1) when authorized by law, adopt departmental rules under IC 4-22-2;

(2) delegate powers and duties conferred on the commissioner by law to a deputy commissioner or commissioners and other



employees of the department;

(3) issue warrants for the return of escaped committed persons (an employee of the department or any person authorized to execute warrants may execute a warrant issued for the return of an escaped person);

(4) appoint personnel to be sworn in as correctional police officers; and

(5) exercise any other power reasonably necessary in discharging the commissioner's duties and powers.

(c) The annual report of the department shall be transmitted to the governor by September 1 of each year and must contain:

(1) a description of the operation of the department for the fiscal year ending June 30;

(2) a description of the facilities and programs of the department;

(3) an evaluation of the adequacy and effectiveness of those facilities and programs considering the number and needs of committed persons or other persons receiving services; and

(4) any other information required by law.

Recommendations for alteration, expansion, or discontinuance of facilities or programs, for funding, or for statutory changes may be included in the annual report.

SECTION 5. IC 11-8-2-7, AS AMENDED BY P.L.100-2012, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 7. (a) The commissioner shall determine which state owned or operated correctional facilities are to be maintained for criminal offenders and which are to be maintained for delinquent offenders.

(b) The commissioner shall determine which state owned or operated correctional facilities need, for effective management, administration by a ~~superintendent~~ **warden**. The commissioner shall appoint a ~~superintendent~~ **warden** for each correctional facility. However, the commissioner may appoint a person as ~~superintendent~~ **warden** of two (2) or more facilities if the commissioner finds that it would be economical to do so and would not adversely effect the management of the facilities.

(c) Except as provided in subsection (d), a ~~superintendent~~ **warden** must hold at least a bachelor's degree from an accredited college or university.

(d) If a ~~superintendent~~ **warden** does not hold at least a bachelor's degree from an accredited college or university, the ~~superintendent~~ **warden** must have at least ten (10) years of experience in public safety work.



(e) In addition to the requirements described in subsections (c) and (d), a **superintendent warden** must have held a management position in correctional or related work for a minimum of five (5) years. A **superintendent warden** is entitled to a salary to be determined by the budget agency with the approval of the governor.

(f) If a **superintendent warden** position becomes vacant, the commissioner may appoint an acting **superintendent warden** to discharge the duties and powers of a **superintendent warden** on a temporary basis.

SECTION 6. IC 11-10-14-4, AS ADDED BY P.L.213-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. (a) The department shall select a person to be the director of each transitional dormitory. The department may select a person to be a director who is employed by a faith based organization.

(b) The director's responsibilities include the following:

- (1) Implement each program component.
- (2) Recruit volunteers to provide instruction and training in the transitional dormitory with an emphasis on recruiting volunteers for religious programs.
- (3) Oversee the day to day operations of the transitional dormitory.
- (4) Provide information requested by the **superintendent warden** regarding an offender or a program.
- (5) Remove an offender from the transitional dormitory for:
  - (A) population management concerns;
  - (B) misconduct;
  - (C) security or safety concerns;
  - (D) mental health concerns; or
  - (E) lack of meaningful participation in the programs and training.

SECTION 7. IC 11-10-16-3, AS ADDED BY P.L.73-2015, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. (a) The **superintendent warden** may appoint a person to direct the specialized vocational program. Each facility that has a specialized vocational program must have a facility manager to direct the program.

(b) The director shall do the following:

- (1) Establish and oversee the day to day operations of the specialized vocational program.
- (2) Recruit volunteers and businesses to provide instruction and training in:
  - (A) the specialized vocational program; and



- (B) any related certification program.
- (3) Provide information requested by the ~~superintendent~~ **warden** regarding an inmate or a specialized vocational program.
- (4) Determine the appropriate number of inmates in each specialized vocational program, considering the availability of:
  - (A) qualified staff; and
  - (B) appropriate facilities and equipment.
 The director may remove one (1) or more inmates from a program if necessary to comply with this subdivision.
- (5) Remove an inmate from a specialized vocational program at any time due to:
  - (A) misconduct;
  - (B) security issues;
  - (C) safety issues;
  - (D) health concerns; or
  - (E) lack of meaningful participation in the program.
- (6) Carry out other duties concerning the specialized vocational program as directed by the ~~superintendent~~ **warden**.

SECTION 8. IC 11-11-3-6, AS AMENDED BY P.L.2-2007, SECTION 152, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 6. (a) A confined person may acquire and possess printed matter on any subject, from any source. However, unless a confined person or the sender receives prior approval from the ~~superintendent~~ **warden** for the confined person to receive a book, magazine, newspaper, or other periodical from another source, a confined person may receive a book, magazine, newspaper, or other periodical only if it is mailed to the confined person directly from the publisher, the distributor, or an accredited postsecondary educational institution. The department may inspect all printed matter and exclude any material that is contraband or prohibited property. However, in the case of a confined adult, the department may not exclude printed matter on the grounds it is obscene or pornographic unless it is obscene under Indiana law. A periodical may be excluded only on an issue by issue basis. Printed matter obtained at cost to the confined person must be prepaid.

(b) If the department withholds printed matter, it must promptly notify the confined person. The notice must be in writing and include the title of the matter, the date the matter was received at the facility or program, the name of the person who made the decision, whether the matter is objectionable in whole or in part, the reason for the decision, and the fact that the department's action may be challenged through the grievance procedure.





SECTION 9. IC 12-26-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. (a) Within thirty (30) days after a child is first committed to a facility by a juvenile court, the child's advocate shall do all of the following:

- (1) Visit the facility.
- (2) Evaluate the services delivered to the child.
- (3) Evaluate whether the commitment continues to be appropriate for the child.

(b) The child's advocate shall conduct a review similar to that required under subsection (a):

- (1) sixty (60) days after the child is first committed;
- (2) six (6) months after the child is first committed; and
- (3) every six (6) months after the review required by subdivision (2).

(c) The ~~superintendent~~ **warden** of the facility shall provide necessary assistance to carry out the reviews required by this section.

SECTION 10. IC 12-26-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. The child's advocate shall submit a report of each review required by section 4 of this chapter to all of the following:

- (1) The committing juvenile court.
- (2) The ~~superintendent~~ **warden** of the facility.
- (3) A county office that has wardship of the child.
- (4) Each party to the commitment proceeding.

SECTION 11. IC 16-41-15-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 15. Whenever a person with a venereal disease is admitted to a benevolent, charitable, or penal institution or correctional facility of Indiana, the ~~superintendent~~ **warden** or official in charge of the institution or correctional facility shall institute and provide the proper treatment for the person and shall carry out laboratory tests necessary to determine the nature, course, duration, and results of the treatment."

Page 2, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 14. IC 35-38-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: 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~~ **warden** of the state prison, or persons designated by the ~~superintendent~~, **warden**, 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).

SECTION 15. IC 35-38-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: 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~~ **warden** of the state prison; and
- (4) that orders the ~~superintendent~~ **warden** to execute the convicted person at a specified time and date in the state prison.

SECTION 16. IC 35-38-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: 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~~ **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 17. IC 35-38-6-6, AS AMENDED BY P.L.56-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 6. (a) Only the following persons may be present at the execution:

- (1) The ~~superintendent~~ **warden** of the state prison.
- (2) The person designated by the ~~superintendent~~ **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 ~~superintendent~~ **warden** of the state prison may exclude a person from viewing the execution if the ~~superintendent~~ **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 ~~superintendent~~ **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 ~~superintendent~~ **warden** in the execution.

SECTION 18. IC 35-38-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: 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.

ES 146—LS 6427/DI 106



(b) If the convicted person:

- (1) escapes from custody before delivery to the ~~superintendent~~ **warden** 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~~ **warden** of the state prison to execute the convicted person at a specified time and date in the state prison.

SECTION 19. IC 35-38-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 10. If the physician of the state prison and one (1) other physician certify in writing to the ~~superintendent~~ **warden** of the state prison and the sentencing court that a condemned woman is pregnant, the ~~superintendent~~ **warden** shall suspend the execution of the sentence. When the state prison physician and one (1) other physician certify in writing to the ~~superintendent~~ **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."

Page 4, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 22. IC 36-8-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) Each sheriff ~~shall~~ **may** appoint a prison matron for the county. The sheriff shall set the qualifications for that position. Except as provided in subsection (b), the sheriff has complete hiring authority over the position of prison matron.

(b) A prison matron who was a county police officer appointed



under section 10(b) of this chapter immediately before being hired as prison matron is entitled to the discipline and removal procedures under section 11 of this chapter before:

- (1) being reduced in grade to a rank below the rank that the person held before being hired as prison matron; or
- (2) removal from the department.
- (c) The sheriff may employ assistant prison matrons if necessary.
- (d) The prison matron or the prison matron's assistants shall receive, search, and care for all female prisoners and all boys under fourteen (14) years of age who are committed to or detained in the county jail, municipal lockup, or other detention center in the county.
- (e) The prison matron and assistant matrons:
  - (1) are members of the department;
  - (2) have the powers and duties of members of the department; and
  - (3) are entitled to the same salary that other members of the department of the same rank, grade, or position are paid."

Renumber all SECTIONS consecutively.

(Reference is to ESB 146 as printed February 29, 2016.)

ARNOLD L

---

#### HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 146 be amended to read as follows:

Page 2, line 42, delete "has a "disability"" and insert "**is "unable to serve"**".

Page 3, line 2, delete ""disability"".

Page 3, line 10, delete "with a disability" and insert "**who is unable to serve**".

Page 3, line 11, delete "with a disability" and insert "**who is unable to serve**".

Page 3, line 20, delete "disability" and insert "**inability to serve**".

Page 3, line 20, after "of the" insert "**member's inability to serve**".

Page 3, delete line 21.

Page 3, line 24, delete "has a disability" and insert "**is unable to serve**".

Page 3, line 25, delete "has a disability" and insert "**is unable to serve**".

Page 3, line 27, delete "has a disability" and insert "**is unable to**

ES 146—LS 6427/DI 106



serve".

Page 3, line 37, delete "with a disability" and insert "**is unable to serve**".

Page 3, line 39, delete "with a disability" and insert "**who is unable to serve**".

Page 3, line 41, delete "disability" and insert "**inability to serve**".

Page 3, line 42, delete "disability" and insert "**inability to serve**".

Page 4, line 2, delete "with a disability" and insert "**who is unable to serve**".

Page 4, line 3, delete "with a disability" and insert "**who is unable to serve**".

Page 4, line 7, delete "disability" and insert "**inability to serve**".

Page 4, line 18, delete "disability" and insert "**inability to serve**".

Page 4, line 19, delete "disability" and insert "**inability to serve**".

Page 4, line 24, delete "disability" and insert "**inability to serve**".

Page 4, line 26, delete "disability" and insert "**inability to serve**".

(Reference is to ESB 146 as printed February 29, 2016.)

LAWSON L

