

# HOW IT WORKS

ONLY AVAILABLE FOR MURDER + 1 OF 18 AVAILABLE AGGREGATING FACTORS.\*

## TRIAL

PROSECUTOR HAS DISCRETION TO REQUEST THE DEATH PENALTY BY ALLEGING THAT 1 OR MORE OF 18 POSSIBLE AGGRAVATING FACTORS EXISTS. THIS TRIGGERS SPECIAL RULES REQUIRING TWO DEFENSE ATTORNEYS PAID AT A SPECIAL RATE. CASE MAY BE RESOLVED BY PLEA AGREEMENT OR GO TO JURY TRIAL.

## SENTENCING

UNLIKE A NORMAL CASE WHERE A JUDGE HANDS DOWN A SENTENCE, IN A DEATH PENALTY CASE THE JURY DETERMINES WHETHER OR NOT THE DEFENDANT WILL BE SENTENCED TO DEATH. HERE, DURING A SECOND "TRIAL," THE JURY WILL HEAR EVIDENCE ON THE EXISTENCE OF AGGRAVATING AND MITIGATING FACTORS BEFORE DECIDING THE DEFENDANT'S FATE.

## APPEAL

IF THE JURY IMPOSES THE DEATH SENTENCE, A DEFENDANT CAN APPEAL THE CONVICTION AND SENTENCE EITHER DIRECTLY TO THE INDIANA SUPREME COURT, PETITION FOR STATE POST-CONVICTION RELIEF, AND/OR REQUEST FEDERAL HABEAS CORPUS REVIEW. THE DEFENDANT MAY ALSO PETITION THE GOVERNOR FOR CLEMENCY.

## EXECUTION

IF A PRISONER IS EXECUTED, THE STATE OF INDIANA WILL STRAP HIM OR HER TO A GURNEY, INSERT AN IV LINE, AND INJECT INTO THAT LINE A LETHAL SUBSTANCE OR SUBSTANCES. IN THE PAST 10 - 15 YEARS, CONDEMNED INMATES HAVE CHALLENGED THE SUBSTANCES AND THE PROTOCOLS USED, ALLEGING THAT THEY CONSTITUTE CRUEL AND UNUSUAL PUNISHMENT. THESE CLAIMS HAVE BEEN REJECTED, BUT LITIGATION AND ACTIVISM HAVE RESULTED IN LETHAL INJECTION DRUGS BECOMING MORE DIFFICULT TO OBTAIN. THE INDIANA SUPREME COURT HAS RULED THAT THE INDIANA DEPARTMENT OF CORRECTION CAN ALTER THE DRUG PROTOCOL WITHOUT PUBLIC REVIEW, IN ORDER TO USE CHEMICALS THAT THEY ARE ABLE TO OBTAIN, BUT THE ISSUE OF SECRECY CONTINUES TO BE LITIGATED.



**Indiana Public Defender Council**

\* IND. CODE § 35-50-2-9