

House Bill 36: FAQ

Dangers of Nitrogen Gas Executions

Current as of 3/6/2025

OVERVIEW

State lawmakers recently reintroduced House Bill 36, legislation that would authorize so-called “nitrogen hypoxia” as a method of execution. Currently, lethal injection is the only authorized method of execution under state law.

However, [Gov. Mike DeWine has said since the beginning of his tenure in 2019](#) that the state is unable to procure the drugs required to carry out a lethal injection execution. He also has [questioned](#) whether the death penalty actually serves as a deterrent to violent crime ([spoiler alert: it doesn't!](#)).

With that in mind, Gov. DeWine repeatedly has delayed [death row inmates' execution dates](#), and has said that the state will not carry out an execution under his administration.

INSTEAD OF FOLLOWING THE GOVERNOR'S LEAD, HB 36 WOULD TAKE OHIO IN THE WRONG DIRECTION.

WHAT IS “NITROGEN HYPOXIA?”

- For starters, [“nitrogen hypoxia” is not a medical term](#); it is simply execution by nitrogen gas.
- This execution method entails forcing a person to breathe pure, poisonous nitrogen gas, causing asphyxiation as the nitrogen deprives them of the oxygen in their system.
- Nitrogen is an odorless, colorless lethal gas. Our senses can't detect nitrogen-enriched atmospheres.

DO ANY STATES USE THIS EXECUTION METHOD?

- Four states—Alabama, Louisiana, Mississippi, and Oklahoma—have authorized nitrogen gas suffocation as an execution method, but only Alabama has carried out any such executions.
- Alabama became the first state to carry out a nitrogen gas execution on January 25, 2024, when the state executed Kenneth Smith. Despite [assurances from state officials](#) that the gas would knock Smith out and kill him within seconds, media witnesses reported that [Smith writhed violently and gasped for breath](#) for several minutes.
- As of 2/7, Alabama now has carried out [four nitrogen gas executions](#).
- Alabama also is the only state thus far to develop a protocol for using nitrogen gas in executions. [Significant questions remain](#) about that protocol, given that much of it is redacted and thus not publicly available.



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WHAT ARE SOME OF THE RISKS ASSOCIATED WITH THIS EXECUTION METHOD

- Questions about Alabama’s protocol, and the protocol any other state might adopt, are magnified by concerns for the safety of corrections staff and any individuals who are present during an execution.
- For example, a [nitrogen gas leak at a poultry plant in Gainesville, Georgia](#) resulted in the deaths of six people and hospitalization of 13 others.
- The U.S. [Chemical Safety Board reports](#) an average of eight deaths and five injuries every year from nitrogen exposure.
- In acknowledgment of this risk, Alabama’s Department of Corrections required Kenneth Smith’s spiritual advisor [to sign a waiver](#) acknowledging possible exposure to the gas.

WHAT DO OTHER ORGANIZATIONS HAVE TO SAY ABOUT NITROGEN GAS EXECUTIONS?

[The United Nations repeatedly has called for a prohibition on nitrogen gas executions in the United States](#), given that they are a violation of international law.

The American Veterinary Medical Association warns against using nitrogen gas on most mammals, and two years ago the Ohio legislature [prohibited its use for pet euthanasia](#).

Jewish leaders [here in Ohio](#), [in Louisiana](#), and elsewhere have opposed the use of nitrogen gas executions.

[National ACLU](#), the [Equal Justice Initiative](#), and [Amnesty International](#), among many other national organizations, oppose both the use of nitrogen gas in executions as well as the death penalty more broadly. [Equal Justice USA](#) and [Conservatives Concerned about the Death Penalty](#) also share this opposition to the death penalty.

WHO SUPPORTS THIS BILL?

[HB 36 is jointly sponsored](#) by State Reps. Brian Stewart (R-Ashville) and Phil Plummer (R-Dayton).

Ohio Attorney General Dave Yost has voiced his support for the legislation, both in [the previous General Assembly](#) and this year. This support comes despite his office’s own admission in its [2023 Capital Crimes Report](#) that “Ohio’s capital punishment system makes promises of justice that it does not keep” and that “this broken system is also enormously expensive.”

The Ohio Prosecuting Attorneys Association also supports the bill.



TAKE ACTION WITH US:

TELL OUR LAWMAKERS NOT TO DOUBLE DOWN
ON A FAILED SYSTEM AND REJECT HB 36.

