

SENATE BILL 133

IN THE SENATE

January 16, 1979	Introduced and referred to Committee on Judiciary.
January 17, 1979	Fiscal note requested.
January 23, 1979	Fiscal note returned.
January 24, 1979	Committee recommend bill, do not pass.

1 *Senators* BILL NO. *133*
 2 INTRODUCED BY *Watt*

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A MORE
 5 HUMANE METHOD OF EXECUTING A DEATH SENTENCE; AMENDING
 6 SECTION 46-19-103, MCA."

7
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 46-19-103, MCA, is amended to read:
 10 "46-19-103. Execution of death. (1) In pronouncing the
 11 sentence of death, the court shall set the date of execution
 12 which must not be less than 30 days or more than 60 days
 13 from the date the sentence is pronounced.

14 (2) The punishment of death must be inflicted by
 15 ~~hanging the defendant by the neck until he is dead placing~~
 16 ~~the defendant in a small room and quietly replacing the air~~
 17 ~~in the room with carbon dioxide. The room must be empty~~
 18 ~~except for a mattress for the defendant to lie on, and the~~
 19 ~~defendant must not be able to obstruct the vents. If the~~
 20 ~~defendant so requests, he must be given a tranquilizing drug~~
 21 ~~by the attending physician before being placed in the room.~~
 22 ~~If, after the air has been replaced, for any reason the~~
 23 ~~defendant has not died from lack of oxygen but is comatose,~~
 24 ~~the attending physician shall inject him with a painless~~
 25 ~~lethal drug.~~

1 (3) A sentence of death must be executed within the
 2 walls or yard of a jail or some convenient private place in
 3 the county where the trial took place.

4 (4) The sheriff of the county must be present and
 5 shall supervise such execution which shall be conducted in
 6 the presence of a physician, the county attorney of the
 7 county, and at least 12 reputable citizens to be selected by
 8 the sheriff. The sheriff shall, at the request of the
 9 defendant, permit such priests or ministers, not exceeding
 10 two, as the defendant may name and only persons, relatives,
 11 or friends, not to exceed five, to be present at the
 12 execution together with such peace officers as he may think
 13 expedient to witness the execution. No other persons than
 14 those mentioned in this subsection can be present at the
 15 execution, nor can any person under age be allowed to
 16 witness the same.

17 (5) After the execution, the sheriff must make a
 18 return upon the death warrant showing time, mode, and manner
 19 in which it was executed."

-End-

STATE OF MONTANA

REQUEST NO. 21-79

FISCAL NOTE

Form BD-15

In compliance with a written request received January 17, 19 79, there is hereby submitted a Fiscal Note for Senate Bill 133 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to provide a more humane method of executing a death sentence.

ASSUMPTIONS:

1. One defendant will be executed in a county during the next biennium.
2. An existing room in the county jail will have to be renovated to be airtight, specially ventilated and unalterable by the defendant.
3. The bill will not become operative until a county is faced with the responsibility to execute a defendant within the county.

LOCAL IMPACT:

Attending physician -- 4 hours @ \$50	\$200
Drugs -- tranquilizing and lethal	25
Ventilation equipment	250
Room renovation (air-sealing, install vents)	<u>750</u>
Total	<u>\$1,225</u>

As counties are faced with execution responsibilities, each must bear the initial cost of room renovation. The room used for execution could probably not be reused for prisoner detention purposes. The implied cost of this lost detention space has not been computed.

COMMENT:

The cost to the county for hanging is limited to transportation costs of the gallows and expenses associated with securing a private facility for the execution. Costs for the "carbon dioxide" method would probably be the same as for the current method of hanging.

Richard L. Drang

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1/23/79