

HOUSE BILL NO. 598

INTRODUCED BY ASAY, KEEDY

BY REQUEST OF THE ATTORNEY GENERAL

IN THE HOUSE

January 31, 1981	Introduced and referred to Committee on Judiciary.
February 12, 1981	Committee recommend bill do pass as amended. Report adopted.
February 13, 1981	Bill printed and placed on members' desks.
February 14, 1981	Second reading, do pass.
February 16, 1981	Correctly engrossed.
February 17, 1981	Third reading, passed. Ayes, 98; Noes, 0. Transmitted to Senate.

IN THE SENATE

February 18, 1981	Introduced and referred to Committee on Judiciary.
March 5, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 9, 1981	Second reading, pass consideration.
March 10, 1981	Second reading, concurred in as amended.
March 12, 1981	Third reading, concurred in as amended. Ayes, 50; Noes, 0.

IN THE HOUSE

March 13, 1981	Returned from Senate with amendments.
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March 18, 1981

Second reading, amendments concurred in.

March 20, 1981

Third reading, amendments concurred in. Ayes, 83; Noes, 0. Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 598

INTRODUCED BY

BY REQUEST OF THE ATTORNEY GENERAL

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE SETTING OF A DATE FOR EXECUTION OF A CRIMINAL DEFENDANT FOLLOWING DISSOLUTION OF A COURT-ORDERED STAY OF A PREVIOUS EXECUTION DATE; AMENDING SECTION 46-19-103, MCA."

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

Section 1. Section 46-19-103, MCA, is amended to read:

"46-19-103. Execution of death. (1) In pronouncing the sentence of death, the court shall set the date of execution which must not be less than 30 days or more than 60 days from the date the sentence is pronounced. If execution has been stayed by any court and the date set for execution has passed prior to dissolution of the stay, the court in which the defendant was previously sentenced shall, upon dissolution of the stay, set a new date of execution for not less than 2 or more than 90 days from the date of dissolution of the stay. The defendant is entitled to be present in court on the day the new date of execution is set.

(2) The punishment of death must be inflicted by hanging the defendant by the neck until he is dead.

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

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

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

-End-

Approved by Committee
on Judiciary

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been stayed by any court and the date set for execution has
passed prior to dissolution of the stay, the court in which
the defendant was previously sentenced shall, upon
dissolution of the stay AND PETITION BY THE STATE, set a new
date of execution for not less than 2 or more than 90 days
from the date--of--dissolution-of-the-stay DAY THE DATE IS
SET. The defendant is entitled to be present in court on the
day the new date of execution is set.

(2) The punishment of death must be inflicted by
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walls or yard of a jail or some convenient private place in
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shall supervise such execution which shall be conducted in
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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 46-19-103, MCA, is amended to read:

12 "46-19-103. Execution of death. (1) In pronouncing the
13 sentence of death, the court shall set the date of execution
14 which must not be less than 30 days or more than 60 days
15 from the date the sentence is pronounced. If execution has
16 been stayed by any court and the date set for execution has
17 passed prior to dissolution of the stay, the court in which
18 the defendant was previously sentenced shall, upon
19 dissolution of the stay AND PETITION BY THE STATE, set a new
20 date of execution for not less than 2 or more than 90 days
21 from the date--of--dissolution-of-the-stay DAY THE DATE IS
22 SET. The defendant is entitled to be present in court on the
23 day the new date of execution is set.

24 (2) The punishment of death must be inflicted by
25 hanging the defendant by the neck until he is dead.

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
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9 defendant, permit such priests or ministers, not exceeding
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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
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18 return upon the death warrant showing time, mode, and manner
19 in which it was executed."

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 15 from the date the sentence is pronounced. If execution has
 16 been stayed by any court and the date set for execution has
 17 passed prior to dissolution of the stay, the court in which
 18 the defendant was previously sentenced shall, upon
 19 dissolution of the stay ~~AND PETITION BY THE STATE,~~ set a new
 20 date of execution for not less than 25 or more than 90 days
 21 from the ~~date of dissolution of the stay~~ DAY THE DATE IS
 22 SET. The defendant is entitled to be present in court on the
 23 day the new date of execution is set.

24 (2) The punishment of death must be inflicted by
 25 hanging the defendant by the neck until he is dead.

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 2 walls or yard of a jail or some convenient private place in
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 18 return upon the death warrant showing time, mode, and manner
 19 in which it was executed."

-End-

March 5, 1981

SENATE STANDING COMMITTEE REPORT
(Judiciary)

That House Bill No. 598 be amended as follows:

1. Page 1, line 20.
Following: "than"
Strike: "2"
Insert: "5"

March 10, 1981

SENATE COMMITTEE OF THE WHOLE

PROPOSED AMENDMENTS TO HOUSE BILL 598, THIRD READING COPY, AS FOLLOWS:

1. Page 1, line 19.

Following: "of the stay"

Strike: "AND PETITION BY THE STATE,"