

Senate Bill 182

In The Senate

January 19, 1981	Introduced and referred to Committee on Judiciary.
February 7, 1981	Committee recommend bill do pass as amended.
February 9, 1981	Bill printed and placed on members' desks.
February 10, 1981	Second reading do pass.
February 11, 1981	Correctly engrossed.
February 12, 1981	Third reading not passed.
February 13, 1981	On motion Senate reconsider its action take on third reading previous legislative day and place on second reading. Motion adopted.
February 17, 1981	Second reading pass consideration.
February 18, 1981	On motion taken from second reading and referred to Committee on Judiciary. Motion adpoted.
April 23, 1981	Died in Committee.

1 *Senate* BILL NO. *182*
 2 INTRODUCED BY *Bob Brown*

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE METHOD OF
 5 EXECUTION OF A DEATH SENTENCE; AMENDING SECTION 46-19-103,
 6 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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~~
 16 administration of a continuous intravenous injection of a
 17 lethal quantity of an ultra-short-acting barbiturate in
 18 combination with a chemical paralytic agent.

19 (3) ~~A sentence of death must be executed within the~~
 20 ~~walls or yard of a jail or some convenient private place in~~
 21 ~~the county where the trial took place. The warden of the~~
 22 ~~Montana state prison shall provide a suitable and efficient~~
 23 ~~room or place enclosed from public view, within the walls of~~
 24 ~~the state prison, and shall provide all necessary appliances~~
 25 ~~needed to carry out the execution of death.~~

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

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

18 Section 2. Applicability. Section 1 applies to a
 19 person who has already been sentenced to death on the
 20 effective date of this act, and the manner of his execution
 21 shall be as provided in section 1.

22 Section 3. Effective date. This act is effective on
 23 passage and approval.

-End-

Approved by Committee on Judiciary

SENATE BILL NO. 182
INTRODUCED BY B. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE METHOD OF EXECUTION OF A DEATH SENTENCE; AMENDING ~~SECTIONS~~ SECTIONS 37-3-103, 37-8-103, AND 46-19-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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.

(2) The punishment of death must be inflicted by ~~hanging the defendant by the neck until he is dead~~ administration of a continuous intravenous injection of a lethal quantity of an ultra-short-acting barbiturate in combination with a chemical paralytic agent.

(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~~ The warden of the Montana state prison shall provide a suitable and efficient room or place enclosed from public view, within the walls of the state prison, and shall provide all necessary appliances

needed to carry out the execution of death.

(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~~ A sentence of death shall be inflicted under the direction of the warden BY THE WARDEN OR ANOTHER PERSON WHO IS TRAINED TO ADMINISTER THE INJECTION. THE PERSON ADMINISTERING THE INJECTION IS NOT REQUIRED TO BE A PHYSICIAN, REGISTERED NURSE, OR LICENSED PRACTICAL NURSE, LICENSED OR REGISTERED UNDER THE LAWS OF THIS OR ANY OTHER STATE. THE WARDEN SHALL ALLOW THE EXECUTION TO BE OBSERVED BY SUCH WITNESSES AS THE CONDEMNED PERSON MAY CHOOSE, NOT TO EXCEED FIVE IN NUMBER.

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

1 SECTION 2. SECTION 37-3-103, MCA, IS AMENDED TO READ:

2 "37-3-103. Exemptions from licensing requirements. (1)

3 This chapter does not prohibit or require a license with
4 respect to any of the following acts:

5 (a) the gratuitous rendering of services in cases of
6 emergency or catastrophe;

7 (b) the rendering of services in this state by a
8 physician lawfully practicing medicine in another state or
9 territory. However, if the physician does not limit the
10 services to an occasional case or if he has any established
11 or regularly used hospital connections in this state or
12 maintains or is provided with, for his regular use, an
13 office or other place for rendering the services, he must
14 possess a license to practice medicine in this state.

15 (c) the practice of dentistry under the conditions and
16 limitations defined by the laws of this state;

17 (d) the practice of podiatry under the conditions and
18 limitations defined by the laws of this state;

19 (e) the practice of optometry under the conditions and
20 limitations defined by the laws of this state;

21 (f) the practice of osteopathy under the conditions
22 and limitations defined in chapter 5 of this title for those
23 doctors of osteopathy who do not receive a physician's
24 certificate under this chapter;

25 (g) the practice of chiropractic under the conditions

1 and limitations defined by the laws of this state;

2 (h) the practice of Christian Science, with or without
3 compensation, and ritual circumcisions by rabbis;

4 (i) the performance by commissioned medical officers
5 of the armed forces of the United States, of the United
6 States public health service, or of the United States
7 veterans administration of their lawful duties in this state
8 as officers;

9 (j) the rendering of nursing services by registered or
10 other nurses in the lawful discharge of their duties as
11 nurses or of midwife services by registered nurse-midwives
12 under the supervision of a licensed physician;

13 (k) the rendering of services by interns or resident
14 physicians in a hospital or clinic in which they are
15 training, subject to the conditions and limitations of this
16 chapter. The board may require a resident physician to be
17 licensed if he otherwise engages in the practice of medicine
18 in the state of Montana.

19 (l) the rendering of services by a physical therapist,
20 technician, or other paramedical specialist under the
21 personal and responsible direction and supervision of a
22 person licensed under the laws of this state to practice
23 medicine, but this exemption does not extend the scope of a
24 paramedical specialist; and

25 (m) the practice by persons licensed under the laws of

1 this state to practice a limited field of the healing arts,
2 and not specifically designated, under the conditions and
3 limitations defined by law; and

4 (n) the execution of a death sentence pursuant to
5 46-19-103(4).

6 (2) Licensees referred to in subsection (1) of this
7 section who are licensed to practice a limited field of
8 healing arts shall confine themselves to the field for which
9 they are licensed or registered and to the scope of their
10 respective licenses and may not use the title "M.D." or any
11 word or abbreviation to indicate or to induce others to
12 believe that they are engaged in the diagnosis or treatment
13 of persons afflicted with disease, injury, or defect of body
14 or mind except to the extent and under the conditions
15 expressly provided by the law under which they are
16 licensed."

17 SECTION 3. SECTION 37-8-103, MCA, IS AMENDED TO READ:

18 "37-8-103. Exemptions -- limitations on authority
19 conferred. (1) No provisions of this law may be construed as
20 prohibiting:

21 (a) gratuitous nursing by friends or members of the
22 family;

23 (b) incidental care of the sick by domestic servants
24 or persons primarily employed as housekeepers;

25 (c) nursing assistance in the case of an emergency;

1 (d) the practice of nursing by students enrolled in
2 approved schools of nursing or approved courses or by the
3 graduates of such schools or courses pending the results of
4 the first licensing examination scheduled by the board
5 following their graduation;

6 (e) the practice of nursing in this state by any
7 legally qualified nurse of another state whose engagement
8 requires the nurse to accompany and care for a patient
9 temporarily residing in this state during the period of one
10 such engagement not to exceed 6 months in length, provided
11 that person does not represent or hold herself or himself
12 out to be a nurse licensed to practice in this state;

13 (f) the practice of any legally qualified nurse of
14 another state who is employed by the United States
15 government or any bureau, division, or agency thereof while
16 in the discharge of that nurse's official duties;

17 (g) nursing or care of the sick, with or without
18 compensation, when done in connection with the practice of
19 the religious tenets of any well-established religion or
20 denomination by adherents thereof;

21 (h) nursing or care of a minor who is in the care of a
22 licensed foster parent, to the same extent such care may be
23 provided by a parent or guardian;

24 (i) the execution of a death sentence pursuant to
25 46-19-103(4).

1 (2) This chapter may not be construed as conferring
2 any authority to practice medicine, surgery, or any
3 combination thereof; to confer any authority to practice any
4 of the healing arts prescribed by law to be practiced in the
5 state of Montana; or to permit any person to undertake the
6 treatment of disease by any of the methods employed in those
7 arts unless the licensee has been qualified under the
8 applicable law or laws licensing the practice of those
9 professions or healing arts in the state of Montana."

10 Section 4. Applicability. Section 1 applies to a
11 person who has already been sentenced to death on the
12 effective date of this act, and the manner of his execution
13 shall be as provided in section 1.

14 Section 5. Effective date. This act is effective on
15 passage and approval.

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(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~~ A sentence of death shall be inflicted under the direction of the warden BY THE WARDEN OR ANOTHER PERSON WHO IS TRAINED TO ADMINISTER THE INJECTION. THE PERSON ADMINISTERING THE INJECTION IS NOT REQUIRED TO BE A PHYSICIAN, REGISTERED NURSE, OR LICENSED PRACTICAL NURSE, LICENSED OR REGISTERED UNDER THE LAWS OF THIS OR ANY OTHER STATE. THE WARDEN SHALL ALLOW THE EXECUTION TO BE OBSERVED BY SUCH WITNESSES AS THE CONDEMNED PERSON MAY CHOOSE, NOT TO EXCEED FIVE IN NUMBER.

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12 maintains or is provided with, for his regular use, an
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22 and limitations defined in chapter 5 of this title for those
23 doctors of osteopathy who do not receive a physician's
24 certificate under this chapter;

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1 and limitations defined by the laws of this state;

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3 compensation, and ritual circumcisions by rabbis;

4 (i) the performance by commissioned medical officers
5 of the armed forces of the United States, of the United
6 States public health service, or of the United States
7 veterans administration of their lawful duties in this state
8 as officers;

9 (j) the rendering of nursing services by registered or
10 other nurses in the lawful discharge of their duties as
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13 (k) the rendering of services by interns or resident
14 physicians in a hospital or clinic in which they are
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