

SENATE BILL NO. 7

INTRODUCED BY ARLESTAD

BY REQUEST OF THE JOINT SUBCOMMITTEE ON JUDICIARY

IN THE SENATE

January 3, 1983	Introduced and referred to Committee on Judiciary.
January 4, 1983	Fiscal Note requested.
January 10, 1983	Fiscal Note returned.
January 14, 1983	Committee recommend bill do pass as amended. Report adopted.
January 15, 1983	Bill printed and placed on members' desks.
January 17, 1983	Second reading, do pass.
January 18, 1983	Considered correctly engrossed.
January 19, 1983	Third reading, passed. Ayes, 46; Noes, 0. Transmitted to House.

IN THE HOUSE

January 20, 1983	Introduced and referred to Committee on Judiciary.
March 17, 1983	Committee recommend bill be concurred in. Report adopted.
March 21, 1983	Second reading, concurred in.
March 22, 1983	Third reading, concurred in.

IN THE SENATE

March 23, 1983

Returned to Senate. Sent to
enrolling.

Reported correctly enrolled.

1 SENATE Bill NO. 7

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4
5 A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING A DEFENDANT
6 SENTENCED TO DEATH TO BE CONFINED AT THE STATE PRISON AT
7 STATE EXPENSE PENDING EXECUTION; AMENDING SECTION 46-19-103,
8 MCA."

9
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, set a new date of execution for not
20 less than 5 or more than 90 days from the day the date is
21 set. The defendant is entitled to be present in court on the
22 day the new date of execution is set.

23 ~~(2) Pending execution of a sentence of death, the~~
24 ~~sheriff may deliver the defendant to the state prison for~~
25 ~~confinement, and the state shall bear the costs of~~

1 ~~imprisoning the defendant from the date of delivery.~~

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

4 ~~(3)(4) A sentence of death must be executed within the~~
5 ~~walls or yard of a jail or some convenient private place in~~
6 ~~the county where the trial took place.~~

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

20 ~~(5)(6) After the execution, the sheriff must make a~~
21 ~~return upon the death warrant showing time, mode, and manner~~
22 ~~in which it was executed."~~

-End-

STATE OF MONTANA

REQUEST NO. 003-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 4, , 19 83 , there is hereby submitted a Fiscal Note or Senate Bill 7 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

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:

Senate Bill 7 proposes that defendants sentenced to death be confined at Montana State Prison pending execution at state expense.

ASSUMPTIONS:

- 1) 1982 Fiscal Year to be base.
- 2) No Medical Costs.
- 3) \$10 per day to be constant.
- 4) One defendant in 1984 and one in 1985.

FISCAL IMPACT:

	FY 84	FY 85
General Fund Cost	(\$3,650)	(\$3,650)

LOCAL IMPACT:

County general fund revenue is same amount as state general fund cost.

FISCAL1:W/1

David M Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-10-83

Approved by Committee
on Judiciary

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

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

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(2) Pending execution of a sentence of death, the sheriff may deliver the defendant to the state prison for confinement, and the state shall bear the costs of

imprisoning the defendant from the date of delivery.

~~(2)(3)~~ The punishment of death must be inflicted by hanging the defendant by the neck until he is dead.

~~(3)(4)~~ 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)(5)~~ 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)(6)~~ After the execution, the sheriff must make a return upon the death warrant showing time, mode, and manner in which it was executed."

NEW SECTION. SECTION 2. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ON PASSAGE AND APPROVAL.

-End-

SECOND READING

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