

SENATE BILL NO. 393

Introduced: 02/10/83

Referred to Committee on Judiciary: 02/10/83

Hearing: 2/17/83

Died in Committee.

1 *LC 2310* BILL NO. *393*
 2 INTRODUCED BY *Sen. Smith*
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE
 5 MANDATORY EXECUTION OF HABITUAL CRIMINALS."
 6
 7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 8 Section 1. Habitual offender point system -- hearing
 9 -- execution. (1) The sentence of a person pleading guilty
 10 to or convicted of one of the following offenses must
 11 include an assessment of the following points:
 12 (a) deliberate homicide, 90 points;
 13 (b) mitigated deliberate homicide, 70 points;
 14 (c) aggravated assault, 30 points;
 15 (d) intimidation, the number of points for any
 16 threatened crime included in this section;
 17 (e) kidnapping, 10 points;
 18 (f) aggravated kidnapping, 90 points if the victim is
 19 injured or is not voluntarily released and 20 points if the
 20 victim is voluntarily released unharmed;
 21 (g) robbery, 30 points;
 22 (h) sexual assault in which the circumstances of
 23 45-5-502(3) are met, 25 points;
 24 (i) sexual intercourse without consent, 30 points if
 25 the circumstances of 45-5-503(1) are met and 35 points if

1 the circumstances of 45-5-503(3) are met;
 2 (j) deviate sexual conduct without consent, 30 points.
 3 (2) Points assessed under subsection (1) must be
 4 certified to the warden of the Montana state prison and kept
 5 in a permanent file by the prison's custodian of records.
 6 (3) When a person has accumulated more than 125
 7 points, a hearing must be held before the district court
 8 that last sentenced the person to determine and certify
 9 whether the person's criminal record is accurate and that
 10 the points have been properly assessed. Upon a finding and
 11 certification by the court that the record and points
 12 assessed are accurate and that the person has accumulated
 13 over 125 points, the person must be sentenced to death.
 14 (4) A finding and certification of the district court
 15 that the person has accumulated over 125 points must be in
 16 writing and is subject to automatic and immediate review by
 17 the Montana supreme court. The review shall consist of
 18 verification of the district court's finding.
 19 (5) Upon a verification by the Montana supreme court
 20 that a person has accumulated over 125 points, the Montana
 21 supreme court shall set the date of execution as provided in
 22 46-19-103, the provisions of that section apply, and the
 23 person must be executed in the county in which he pleaded
 24 guilty to or was convicted of the offense that raised his
 25 points assessment above 125 points.

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1 (5) For purposes of this section, the provisions of
2 part 3 of this chapter do not apply.

3 Section 2. Habitual offender death penalty. This part
4 does not apply to defendants subject to or proceedings and
5 death sentences under [section 1].

6 Section 3. Codification instructions. (1) Section 1
7 is intended to be codified as an integral part of Title 46,
8 chapter 18, part 2.

9 (2) Section 2 is intended to be codified as an
10 integral part of Title 46, chapter 18, part 3.

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