

SENATE BILL NO. 392
INTRODUCED BY DANIELS

IN THE SENATE

February 12, 1985	Introduced and referred to Committee on Judiciary.
February 23, 1985	Committee recommend bill do pass. Report adopted.
February 25, 1985	Bill printed and placed on members' desks.
February 26, 1985	Second reading, do pass. Considered correctly engrossed.
February 27, 1985	Third reading, passed. Ayes, 34; Noes, 16. Transmitted to House.

IN THE HOUSE

March 7, 1985	Introduced and referred to Committee on Judiciary.
March 22, 1985	Committee recommend bill be not concurred in as amended.
March 23, 1985	Objection to adverse committee report.
March 26, 1985	Second reading, concurred in as amended.
March 28, 1985	Third reading, concurred in. Returned to Senate with amendments.

IN THE SENATE

March 28, 1985	Received from House.
April 2, 1985	Second reading, amendments concurred in.
April 4, 1985	Third reading, amendments concurred in. Ayes, 48; Noes, 2.
	Sent to enrolling.
April 10, 1985	Correctly enrolled.
April 11, 1985	Signed by President.
	Signed by Speaker
April 12, 1985	Delivered to Governor.
April 17, 1985	Returned from Governor with recommended amendments.
April 18, 1985	On motion, passed consideration until the 87th Legislative Day. Motion adopted.
April 22, 1985	Second reading, Governor's amendments concurred in.
	On motion, rules suspended. Bill placed on calendar for third reading this day.
	Third reading, Governor's amendments concurred in.
	Governor's amendments transmitted to House.

IN THE HOUSE

April 23, 1985

Received from Senate.

Second reading, Governor's
amendments not concurred in.

Returned to Senate.

IN THE SENATE

April 23, 1985

Received from House.

April 24, 1985

Free Conference Committee
requested and appointed.

Free Conference Committee
reported.

Second reading, Free
Conference Committee report
adopted.

Third reading, Free Conference
Committee report adopted.

Free Conference Committee
report adopted by House.

April 25, 1985

Sent to enrolling.

Reported correctly enrolled.

1 Senate BILL NO. 392
 2 INTRODUCED BY Amick
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE IMPOSITION
 5 OF THE DEATH PENALTY FOR INMATES OF THE STATE PRISON WHO
 6 HAVE BEEN DETERMINED TO BE PERSISTENT FELONY OFFENDERS OR
 7 HAVE BEEN CONVICTED OF DELIBERATE HOMICIDE AND WHO COMMIT
 8 CERTAIN ENUMERATED CRIMES WHILE INCARCERATED; AMENDING
 9 SECTION 46-18-303, MCA."
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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 NEW SECTION. Section 1. When death sentence may be
 13 imposed. If an inmate confined at the state prison has been
 14 determined to be a persistent felony offender or has
 15 previously been convicted of the offense of deliberate
 16 homicide and while incarcerated at the prison is convicted
 17 of the offense of deliberate homicide, attempted deliberate
 18 homicide, mitigated deliberate homicide, aggravated assault,
 19 or aggravated kidnapping, the inmate may be sentenced to
 20 death pursuant to Title 46, chapter 18, part 3.

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 23 circumstances are any of the following:

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 25 committed by a person serving a sentence of imprisonment in

1 the state prison.

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 3 committed by a defendant who had been previously convicted
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 6 committed by means of torture.

7 (4) The offense was deliberate homicide and was
 8 committed by a person lying in wait or ambush.

9 (5) The offense was deliberate homicide and was
 10 committed as a part of a scheme or operation which, if
 11 completed, would result in the death of more than one
 12 person.

13 (6) The offense was deliberate homicide as defined in
 14 subsection (1)(a) of 45-5-102, and the victim was a peace
 15 officer killed while performing his duty.

16 (7) The offense was aggravated kidnapping which
 17 resulted in the death of the victim.

18 (8) The offense was one which is specified and was
 19 committed under circumstances set forth in [section 1]."

-End-

**INTRODUCED BILL
 SB 392**



APPROVED BY COMMITTEE
ON JUDICIARY

Senate BILL NO. 392

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- 11 completed, would result in the death of more than one
- 12 person.
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- 14 subsection (1)(a) of 45-5-102, and the victim was a peace
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- 17 resulted in the death of the victim.
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-End-



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15 officer killed while performing his duty.

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17 resulted in the death of the victim.

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19 committed under circumstances set forth in [section 1]."

-End-



STANDING COMMITTEE REPORT

HOUSE

March 22

19 85

MR. Speaker:

We, your committee on Judiciary

having had under consideration Senate Bill No. 392

Third reading copy (Blue)
color

AUTHORIZING DEATH PENALTY FOR CERTAIN CRIMES COMMITTED
BY INMATES AT MSP

Respectfully report as follows: That Senate Bill No. 392

be amended as follows:

1. Page 1, line 18.
Following: "homicide,"
Strike: "mitigated" through "assault,"

AND AS AMENDED,
BE NOT CONCURRED IN

~~XXXXXX~~

OBJECTION FILED

KMK
ANA 3-22-85

Tom Hannah

REP. TOM HANNAH

Chairman.

COMMITTEE OF THE WHOLE AMENDMENT

3260815b.cw

HOUSE

3-26-85
DATE

8:15
TIME

MR. CHAIRMAN: I MOVE TO AMEND Senate Bill

No. 392

3rd reading copy (blue) as follows:
Color

1. Title, lines 5 through 8.

Following: "PENALTY"

Strike: Remainder of line 5 through "INCARCERATED" on line 8

Insert: "OR LIFE IMPRISONMENT FOR PERSONS INCARCERATED IN THE STATE PRISON WHO COMMIT CERTAIN ENUMERATED CRIMES WHILE INCARCERATED AND HAVE BEEN PREVIOUSLY DETERMINED TO BE PERSISTENT FELONY OFFENDERS OR HAVE BEEN PREVIOUSLY CONVICTED OF DELIBERATE HOMICIDE"

2. Page 1, following line 11.

Strike: section 1 in its entirety

Insert: "NEW SECTION. Section 1. Additional sentences for offenses committed in state prison -- death penalty. A person serving a sentence of imprisonment in the state prison convicted of the offense of attempted deliberate homicide, aggravated assault, or aggravated kidnapping committed while incarcerated at the state prison shall be sentenced to death or life imprisonment as provided in 46-18-301 through 46-18-310.

3. Page 2, following line 17.

Strike: subsection (8) in its entirety

Insert: "(8) The offense was attempted deliberate homicide, aggravated assault, or aggravated kidnapping committed while incarcerated at the state prison by a person that has been previously:

(a) convicted of the offense of deliberate homicide;

or

(b) determined to be a persistent felony offender pursuant to Title 46, chapter 18, part 5."

ADOPT

REJECT

BA

Morgan

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 11 HAVE BEEN PREVIOUSLY DETERMINED TO BE PERSISTENT FELONY
 12 OFFENDERS OR HAVE BEEN PREVIOUSLY CONVICTED OF DELIBERATE
 13 HOMICIDE; AMENDING SECTION 46-18-303, MCA."

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 16 NEW SECTION: Section 1: When death sentence may be
 17 imposed: If an inmate confined at the state prison has been
 18 determined to be a persistent felony offender or has
 19 previously been convicted of the offense of deliberate
 20 homicide and while incarcerated at the prison is convicted
 21 of the offense of deliberate homicide, attempted deliberate
 22 homicide, mitigated deliberate homicide, aggravated assault,
 23 or aggravated kidnapping, the inmate may be sentenced to
 24 death pursuant to Title 46, chapter 18, part 3.

25 NEW SECTION. SECTION 1. ADDITIONAL SENTENCES FOR

1 OFFENSES COMMITTED IN STATE PRISON -- DEATH PENALTY. A
 2 PERSON SERVING A SENTENCE OF IMPRISONMENT IN THE STATE
 3 PRISON CONVICTED OF THE OFFENSE OF ATTEMPTED DELIBERATE
 4 HOMICIDE, AGGRAVATED ASSAULT, OR AGGRAVATED KIDNAPPING
 5 COMMITTED WHILE INCARCERATED AT THE STATE PRISON SHALL BE
 6 SENTENCED TO DEATH OR LIFE IMPRISONMENT AS PROVIDED IN
 7 46-18-301 THROUGH 46-18-310.

8 Section 2. Section 46-18-303, MCA, is amended to read:
 9 "46-18-303. Aggravating circumstances. Aggravating
 10 circumstances are any of the following:

- 11 (1) The offense was deliberate homicide and was
 12 committed by a person serving a sentence of imprisonment in
 13 the state prison.
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 15 committed by a defendant who had been previously convicted
 16 of another deliberate homicide.
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 18 committed by means of torture.
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 20 committed by a person lying in wait or ambush.
- 21 (5) The offense was deliberate homicide and was
 22 committed as a part of a scheme or operation which, if
 23 completed, would result in the death of more than one
 24 person.
- 25 (6) The offense was deliberate homicide as defined in



1 subsection (1)(a) of 45-5-102, and the victim was a peace
2 officer killed while performing his duty.

3 (7) The offense was aggravated kidnapping which
4 resulted in the death of the victim.

5 ~~(8) The offense was one which is specified and was~~
6 ~~committed under circumstances set forth in section 11.~~

7 (8) THE OFFENSE WAS ATTEMPTED DELIBERATE HOMICIDE,
8 AGGRAVATED ASSAULT, OR AGGRAVATED KIDNAPPING COMMITTED WHILE
9 INCARCERATED AT THE STATE PRISON BY A PERSON THAT HAS BEEN
10 PREVIOUSLY:

11 (A) CONVICTED OF THE OFFENSE OF DELIBERATE HOMICIDE;

12 OR

13 (B) DETERMINED TO BE A PERSISTENT FELONY OFFENDER
14 PURSUANT TO TITLE 46, CHAPTER 18, PART 5."

-End-

GOVERNOR'S PROPOSED AMENDMENTS
TO SENATE BILL NO. 392,
REFERENCE COPY
April 17, 1985

1. Title, lines 4 and 5.
Following: "AUTHORIZE" on line 4
Strike: "IMPOSITION OF THE DEATH PENALTY"

2. Title, line 8.
Following: " ~~INGARGERATED~~ "
Strike: " OR "

3. Title, line 13.
Following: "HOMICIDE"
Strike: "~~;~~ AMENDING SECTION 46-18-303, MCA"

4. Page 2, line 1.
Following: " PRISON "
Strike: " ~~--~~ DEATH PENALTY "

5. Page 2, line 3.
Following: " PRISON "
Insert: "who has previously been convicted of the offense of deliberate homicide or who has been determined to be a persistent felony offender pursuant to Title 46, Chapter 18, Part 5, and who is"

6. Page 2, line 6.
Following: " TO "
Strike: " DEATH OR "
Following: "IMPRISONMENT"
Strike: " AS PROVIDED IN 46-18-301 THROUGH 46-18-310 "

7. Page 2, line 8 through page 3, line 14.
Strike: Section 2 in its entirety

-END-

CONFERENCE COMMITTEE REPORT

Report No. 1

APR 25, 19 85

MR. SPEAKER

We, your FREE Conference Committee on

SENATE BILL NO. 392, reference copy,

met and considered SENATE BILL NO. 392 in its entirety

We recommend as follows:

1. Page 3, line 9.
Following: "PERSON"
Strike: "THAT"
Insert: "who"

2. Page 3, line 13.
Following: "(B)"
Strike: "DETERMINED"
Insert: "Found"

3. Page 3, line 14.
Following: "PART 5"
Insert: "and one of the convictions was for an offense against the person in violation of Title 45, chapter 5, for which the minimum prison term is not less than 2 years"

FCCSB392

And that this Conference Committee report be adopted.

FOR THE SENATE

FOR THE HOUSE

[Signature]
DANIELS, CHM.
[Signature]
PINSONEAULT

[Signature]
SHAW

ADOPT REJECT

ADDY
[Signature]
FRITZ
[Signature]
HANNAH
[Signature]

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16 VIOLATION OF TITLE 45, CHAPTER 5, FOR WHICH THE MINIMUM
17 PRISON TERM IS NOT LESS THAN 2 YEARS."

-End-