# SENATE BILL NO. 108

# INTRODUCED BY PINSONEAULT

BY REQUEST OF THE DEPARTMENT OF JUSTICE

IN THE SENATE

JANUARY 13, 1989 INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.

FIRST READING.

JANUARY 21, 1989 COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.

JANUARY 23, 1989 PRINTING REPORT.

JANUARY 24, 1989 SECOND READING, DO PASS.

JANUARY 25, 1989 ENGROSSING REPORT.

JANUARY 26, 1989 THIRD READING, PASSED. AYES, 46; NOES, 1.

TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 27, 1989

FEBRUARY 20, 1989

MARCH 14, 1989

MARCH 18, 1989 MARCH 21, 1989 INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.

FIRST READING.

COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.

SECOND READING, CONCURRED IN.

THIRD READING, CONCURRED IN. AYES, 81; NOES, 12.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 1, 1989

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS CONCURRED IN.

APRIL 4, 1989 THIRD READING, AMENDMENTS CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

LC 0728/01 🚄

LC 0728/01

Finate BILL NO. 10! 1 INTRODUCED BY 2

BY REQUEST OF THE DEPARTMENT OF JUSTICE

5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE 6 PROCEDURE FOR EXECUTION OF A DEATH SENTENCE; PROVIDING A 7 TIME FOR CHOOSING THE METHOD OF EXECUTION; PROVIDING THAT 8 THE SELECTION, TRAINING, AND IDENTITY OF THE EXECUTIONER ARE 9 CONFIDENTIAL; PROVIDING FOR A DESCRIPTION OF THE CONTENT OF 10 THE DEATH WARRANT AND FOR ITS RETURN; AMENDING SECTION 11 46-19-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

14 Section 1. Section 46-19-103, MCA, is amended to read: "46-19-103. Execution of death sentence. (1) In 15 16 pronouncing the sentence of death, the court shall set the date of execution which must not be less than 30 days or 17 18 more than 60 days from the date the sentence is pronounced. If execution has been stayed by any court and the date set 19 for execution has passed prior to dissolution of the stay, 20 the court in which the defendant was previously sentenced 21 shall, upon dissolution of the stay, set a new date of 22 execution for not less than 5 20 or more than 90 days from 23 the day the date is set. The defendant is entitled to be 24 present in court on the day the new date of execution is 25

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1 set.

2 (2) Pending execution of a sentence of death, the
3 sheriff may deliver the defendant to the state prison for
4 confinement, and the state shall bear the costs of
5 imprisoning the defendant from the date of delivery.

6 (3) The punishment of death must be inflicted by 7 hanging the defendant by the neck until he is dead or, at 8 the election of the defendant, by administration of a 9 continuous, intravenous injection of a lethal quantity of an 10 ultra-fast-acting barbiturate in combination with a chemical paralytic agent until a licensed physician pronounces that 11 12 the defendant is dead according to accepted standards of 13 medical practice. A defendant who wishes to choose execution by lethal injection shall do so at the hearing at 14 15 which an execution date is set, and if he does not, the 16 option to choose death by lethal injection is waived. 17 (4) When an execution date is set, a death warrant 18 signed by the judge and attested by the clerk of court under 19 the seal of the court must, within 5 days, be prepared. The 20 warrant and a certified copy of the judgment must be 21 delivered to the warden of the state prison. The warrant 22 must be directed to the warden and recite the conviction, 23 judgment, method of execution, and appointed date of 24 execution. 25 (4)(5) The warden of the Montana state prison shall

> -2- INTRODUCED BILL SB108

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provide a suitable and efficient room or place in which 1 executions will be carried out, enclosed from public view, 2 3 within the walls of the state prison, and shall provide all implements necessary to the execution. The warden shall, 4 5 subject to subsection (5) (6), select the person to perform 6 the execution, and the warden or his designee shall 7 supervise the execution. The identity of the executioner 8 must remain anonymous. Facts pertaining to the selection and 9 training of the executioner must remain confidential.

10 (5)(6) An execution carried out by lethal injection 11 must be performed by a person selected by the warden and 12 trained to administer the injection. The person administering the injection need not be a physician, 13 registered nurse, or licensed practical nurse licensed or 14 15 registered under the laws of this or any other state. The 16 warden must allow the execution to be observed by 12 17 witnesses, 3 of whom may be designated by the person to be 18 executed.

19 (6)(7) After Within 20 days after the execution, the 20 warden shall make-a return upon the death warrant showing to 21 the clerk of the court from which it was issued, noting on 22 the warrant the time, mode, and manner in which it was 23 executed."

24 <u>NEW SECTION.</u> Section 2. Extension of authority. Any
25 existing authority to make rules on the subject of the

LC 0728/01

- 1 provisions of [this act] is extended to the provisions of
- 2 [this act].
- 3 NEW SECTION. Section 3. Effective date. [This act] is
- 4 effective on passage and approval.

-End-

- 3 -

51st Legislature

LC 0728/01

APPROVED BY COMMITTEE ON JUDICIARY

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2 INTRODUCED BY

BY REQUEST OF THE DEPARTMENT OF JUSTICE

Sinch BILL NO. 105

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE 5 PROCEDURE FOR EXECUTION OF A DEATH SENTENCE; PROVIDING A 6 7 TIME FOR CHOOSING THE METHOD OF EXECUTION; PROVIDING THAT 8 THE SELECTION, TRAINING, AND IDENTITY OF THE EXECUTIONER ARE CONFIDENTIAL; PROVIDING FOR A DESCRIPTION OF THE CONTENT OF 9 10 THE DEATH WARRANT AND FOR ITS RETURN; AMENDING SECTION 11 46-19-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

12

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

Section 1. Section 46-19-103, MCA, is amended to read: 14 15 "46-19-103. Execution of death sentence. (1) In 16 pronouncing the sentence of death, the court shall set the date of execution which must not be less than 30 days or 17 18 more than 60 days from the date the sentence is pronounced. If execution has been stayed by any court and the date set 19 20 for execution has passed prior to dissolution of the stay, the court in which the defendant was previously sentenced 21 22 shall, upon dissolution of the stay, set a new date of 23 execution for not less than 5 20 or more than 90 days from 24 the day the date is set. The defendant is entitled to be 25 present in court on the day the new date of execution is

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1 set.

(2) Pending execution of a sentence of death, the 2 3 sheriff may deliver the defendant to the state prison for confinement, and the state shall bear the costs of 4 5 imprisoning the defendant from the date of delivery.

6 (3) The punishment of death must be inflicted by 7 hanging the defendant by the neck until he is dead or, at the election of the defendant, by administration of a 8 9 continuous, intravenous injection of a lethal quantity of an ultra-fast-acting barbiturate in combination with a chemical 10 11 paralytic agent until a licensed physician pronounces that the defendant is dead according to accepted standards of 12 13 medical practice. A defendant who wishes to choose execution by lethal injection shall do so at the hearing at 14 15 which an execution date is set, and if he does not, the 16 option to choose death by lethal injection is waived. 17 (4) When an execution date is set, a death warrant 18 signed by the judge and attested by the clerk of court under the seal of the court must, within 5 days, be prepared. The 19 20 warrant and a certified copy of the judgment must be 21 delivered to the warden of the state prison. The warrant 22 must be directed to the warden and recite the conviction, judgment, method of execution, and appointed date of 23 24 execution. (4)(5) The warden of the Montana state prison shall 25

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1 provide a suitable and efficient room or place in which executions will be carried out, enclosed from public view, 2 3 within the walls of the state prison, and shall provide all 4 implements necessary to the execution. The warden shall, 5 subject to subsection (5) (6), select the person to perform 6 the execution, and the warden or his designee shall 7 supervise the execution. The identity of the executioner must remain anonymous. Facts pertaining to the selection and 8 9 training of the executioner must remain confidential.

10 (5)(6) An execution carried out by lethal injection 11 must be performed by a person selected by the warden and 12 trained to administer the injection. The person 13 administering the injection need not be a physician, 14 registered nurse, or licensed practical nurse licensed or 15 registered under the laws of this or any other state. The 16 warden must allow the execution to be observed by 12 witnesses, 3 of whom may be designated by the person to be 17 18 executed.

19 (6)(7) After Within 20 days after the execution, the 20 warden shall make-a return upon the death warrant showing to 21 the clerk of the court from which it was issued, noting on 22 the warrant the time, mode, and manner in which it was 23 executed."

24 <u>NEW SECTION.</u> Section 2. Extension of authority. Any
25 existing authority to make rules on the subject of the

1 provisions of [this act] is extended to the provisions of

2 [this act].

3 NEW SECTION. Section 3. Effective date. [This act] is

4 effective on passage and approval.

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first BILL NO. 10.1 INTRODUCED BY 2

BY REQUEST OF THE DEPARTMENT OF JUSTICE

"AN ACT CLARIFYING THE 5 A BILL FOR AN ACT ENTITLED: 6 PROCEDURE FOR EXECUTION OF A DEATH SENTENCE; PROVIDING A TIME FOR CHOOSING THE METHOD OF EXECUTION; PROVIDING THAT 7 8 THE SELECTION, TRAINING, AND IDENTITY OF THE EXECUTIONER ARE 9 CONFIDENTIAL: PROVIDING FOR A DESCRIPTION OF THE CONTENT OF 10 THE DEATH WARRANT AND FOR ITS RETURN: AMENDING SECTION 46-19-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." 11

12

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 13

14 Section 1. Section 46-19-103, MCA, is amended to read: 15 \*46-19-103. Execution of death sentence. (1) In 16 pronouncing the sentence of death, the court shall set the date of execution which must not be less than 30 days or 17 18 more than 60 days from the date the sentence is pronounced. If execution has been stayed by any court and the date set 19 20 for execution has passed prior to dissolution of the stay, 21 the court in which the defendant was previously sentenced 22 shall, upon dissolution of the stay, set a new date of 23 execution for not less than 5 20 or more than 90 days from 24 the day the date is set. The defendant is entitled to be 25 present in court on the day the new date of execution is

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2 (2) Pending execution of a sentence of death, the 3 sheriff may deliver the defendant to the state prison for confinement, and the state shall bear the costs of 4 5 imprisoning the defendant from the date of delivery.

6 (3) The punishment of death must be inflicted by 7 hanging the defendant by the neck until he is dead or, at 8 the election of the defendant, by administration of a continuous, intravenous injection of a lethal quantity of an 9 10 ultra-fast-acting barbiturate in combination with a chemical paralytic agent until a licensed physician pronounces that 11 12 the defendant is dead according to accepted standards of A defendant who wishes to choose 13 medical practice. 14 execution by lethal injection shall do so at the hearing at which an execution date is set, and if he does not, the 15 16 option to choose death by lethal injection is waived. 17 (4) When an execution date is set, a death warrant 18 signed by the judge and attested by the clerk of court under 19 the seal of the court must, within 5 days, be prepared. The warrant and a certified copy of the judgment must be 20 21 delivered to the warden of the state prison. The warrant must be directed to the warden and recite the conviction, 22 23 judgment, method of execution, and appointed date of 24 execution. 25 (4)(5) The warden of the Montana state prison shall

> THIRD READING -2-9B 108

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1 provide a suitable and efficient room or place in which executions will be carried out, enclosed from public view, 2 3 within the walls of the state prison, and shall provide all implements necessary to the execution. The warden shall, 4 5 subject to subsection (5) (6), select the person to perform the execution, and the warden or his designee shall 6 7 supervise the execution. The identity of the executioner must remain anonymous. Facts pertaining to the selection and 8 9 training of the executioner must remain confidential.

10 (5)(6) An execution carried out by lethal injection 11 must be performed by a person selected by the warden and trained to administer the injection. 12 The person 13 administering the injection need not be a physician, 14 registered nurse, or licensed practical nurse licensed or 15 registered under the laws of this or any other state. The 16 warden must allow the execution to be observed by 12 17 witnesses, 3 of whom may be designated by the person to be 18 executed.

19 (6)(7) After Within 20 days after the execution, the 20 warden shall make a return upon the death warrant showing to 21 the clerk of the court from which it was issued, noting on 22 the warrant the time, mode, and manner in which it was 23 executed."

24 <u>NEW SECTION.</u> Section 2. Extension of authority. Any
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LC 0728/01

1 provisions of [this act] is extended to the provisions of

2 [this act].

3 NEW SECTION. Section 3. Effective date. [This act] is

4 effective on passage and approval.

-End-

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# STANDING COMMITTEE REPORT

March 14, 1989 Page 1 of 1

Mr. Speaker: We, the committee on <u>Judiciary</u> report that <u>Senate Bill 108</u> (third reading copy -- blue) <u>be concurred in</u> <u>as amended</u>.

Signed: Brown, Chairman Dave

[REP. GOULD WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Page 2, line 23. Strike: "and"

2. Page 2, line 24.
Following: "execution"
Insert: ", and the duration of the warrant"

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### 51st Legislature

SB 0108/02

1	SENATE BILL NO. 108	1	set.
2	INTRODUCED BY PINSONEAULT	2	
3	BY REQUEST OF THE DEPARTMENT OF JUSTICE	3	sher
4		4	conf.
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7	TIME FOR CHOOSING THE METHOD OF EXECUTION; PROVIDING THAT	7	hang
8	THE SELECTION, TRAINING, AND IDENTITY OF THE EXECUTIONER ARE	8	the
9	CONFIDENTIAL; PROVIDING FOR A DESCRIPTION OF THE CONTENT OF	9	cont
10	THE DEATH WARRANT AND FOR ITS RETURN; AMENDING SECTION	10	ultr
11	46-19-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."	11	para
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24 execution, AND THE DURATION OF THE WARRANT.

25 **+47(5)** The warden of the Montana state prison shall

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REFERENCE BILL

### SB 0108/02

SB 108

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SB 0108/02

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-End-

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