

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	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
FEBRUARY 20, 1989	FIRST READING.
MARCH 14, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 18, 1989	SECOND READING, CONCURRED IN.
MARCH 21, 1989	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.

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INTRODUCED BY *Sen. Van Cough* BILL NO. 108
BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE
PROCEDURE FOR EXECUTION OF A DEATH SENTENCE; PROVIDING A
TIME FOR CHOOSING THE METHOD OF EXECUTION; PROVIDING THAT
THE SELECTION, TRAINING, AND IDENTITY OF THE EXECUTIONER ARE
CONFIDENTIAL; PROVIDING FOR A DESCRIPTION OF THE CONTENT OF
THE DEATH WARRANT AND FOR ITS RETURN; AMENDING SECTION
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 sentence. (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.
If execution has been stayed by any court and the date set
for execution has passed prior to dissolution of the stay,
the court in which the defendant was previously sentenced
shall, upon dissolution of the stay, set a new date of
execution for not less than 5 20 or more than 90 days from
the day the date is set. The defendant is entitled to be
present in court on the day the new date of execution is

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set.

(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.

(3) The punishment of death must be inflicted by
hanging the defendant by the neck until he is dead or, at
the election of the defendant, by administration of a
continuous, intravenous injection of a lethal quantity of an
ultra-fast-acting barbiturate in combination with a chemical
paralytic agent until a licensed physician pronounces that
the defendant is dead according to accepted standards of
medical practice. A defendant who wishes to choose
execution by lethal injection shall do so at the hearing at
which an execution date is set, and if he does not, the
option to choose death by lethal injection is waived.

(4) When an execution date is set, a death warrant
signed by the judge and attested by the clerk of court under
the seal of the court must, within 5 days, be prepared. The
warrant and a certified copy of the judgment must be
delivered to the warden of the state prison. The warrant
must be directed to the warden and recite the conviction,
judgment, method of execution, and appointed date of
execution.

(4)(5) The warden of the Montana state prison shall

1 provide a suitable and efficient room or place in which
 2 executions will be carried out, enclosed from public view,
 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
 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
 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 NEW SECTION. 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.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

1
2 INTRODUCED BY Sen. Dan Gould BILL NO. 108
3 BY REQUEST OF THE DEPARTMENT OF JUSTICE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE
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10 THE DEATH WARRANT AND FOR ITS RETURN; AMENDING SECTION
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17 date of execution which must not be less than 30 days or
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20 for execution has passed prior to dissolution of the stay,
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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

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
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11 paralytic agent until a licensed physician pronounces that
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1 *Frank* BILL NO. 108
2 INTRODUCED BY *For Sen. read*
3 BY REQUEST OF THE DEPARTMENT OF JUSTICE
4
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-End-

STANDING COMMITTEE REPORT

March 14, 1989

Page 1 of 1

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

Signed: 

Dave Brown, Chairman

[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"

SB 108

HOUSE

RT

SENATE BILL NO. 108

INTRODUCED BY PINSONEAULT

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