

SENATE BILL 93

Introduced by Beck

1/07	Introduced
1/07	Referred to Judiciary
1/07	First Reading
1/21	Hearing
1/27	Committee Report--Bill Passed
1/28	2nd Reading Passed
1/29	3rd Reading Passed
	Transmitted to House
1/30	First Reading
1/30	Referred to Judiciary
3/04	Hearing
3/04	Committee Report--Bill Concurred
3/06	2nd Reading Concur Motion Failed
3/06	Motion Failed to Segregate From Committee of the Whole Report

1 Senate BILL NO. 93
2 INTRODUCED BY _____
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING DEATH BY
5 HANGING AS A METHOD OF EXECUTION OF DEFENDANTS SENTENCED TO
6 DEATH; AMENDING SECTION 46-19-103, MCA; AND PROVIDING AN
7 IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."
8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

11 "46-19-103. Execution of death sentence. (1) In
12 pronouncing the sentence of death, the court shall set the
13 date of execution, which must not be less than 30 days or
14 more than 60 days from the date the sentence is pronounced.
15 If execution has been stayed by any court and the date set
16 for execution has passed prior to dissolution of the stay,
17 the court in which the defendant was previously sentenced
18 shall, upon dissolution of the stay, set a new date of
19 execution for not less than 20 or more than 90 days from the
20 day the date is set. The defendant is entitled to be present
21 in court on the day the new date of execution is set.

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

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

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

20 (5) The warden of the Montana state prison shall
21 provide a suitable and efficient room or place in which
22 executions will be carried out, enclosed from public view,
23 within the walls of the state prison, and shall provide all
24 implements necessary to the execution. The warden shall,
25 subject to subsection (6), select the person to perform the

1 execution, and the warden or ~~his~~ a designee shall supervise
2 the execution. The identity of the executioner must remain
3 anonymous. Facts pertaining to the selection and training of
4 the executioner must remain confidential.

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

13 (7) Within 20 days after the execution, the warden
14 shall return the death warrant to the clerk of the court
15 from which it was issued, noting on the warrant the time,
16 mode, and manner in which it was executed."

17 NEW SECTION. Section 2. Applicability. (1) [This act]
18 applies to death sentences imposed for capital crimes
19 committed on or after [the effective date of this act].

20 (2) [This act] does not apply to death sentences
21 imposed for capital crimes committed before [the effective
22 date of this act] regardless of the date of conviction or
23 sentencing.

24 NEW SECTION. Section 3. Effective date. [This act] is
25 effective on passage and approval.

APPROVED BY COMMITTEE
ON JUDICIARY

SENATE BILL NO. 93

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING DEATH BY HANGING AS A METHOD OF EXECUTION OF DEFENDANTS SENTENCED TO DEATH; AMENDING SECTION 46-19-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY 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 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 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, appointed date of execution, and the duration of the warrant.

(5) The warden of the Montana state prison shall provide a suitable and efficient room or place in which executions will be carried out, enclosed from public view, within the walls of the state prison, and shall provide all implements necessary to the execution. The warden shall, subject to subsection (6), select the person to perform the

1 execution, and the warden or his a designee shall supervise
2 the execution. The identity of the executioner must remain
3 anonymous. Facts pertaining to the selection and training of
4 the executioner must remain confidential.

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

13 (7) Within 20 days after the execution, the warden
14 shall return the death warrant to the clerk of the court
15 from which it was issued, noting on the warrant the time,
16 mode, and manner in which it was executed."

17 NEW SECTION. Section 2. Applicability. (1) [This act]
18 applies to death sentences imposed for capital crimes
19 committed on or after [the effective date of this act].

20 (2) [This act] does not apply to death sentences
21 imposed for capital crimes committed before [the effective
22 date of this act] regardless of the date of conviction or
23 sentencing.

24 NEW SECTION. Section 3. Effective date. [This act] is
25 effective on passage and approval.

SENATE BILL NO. 93

INTRODUCED BY Dick

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING DEATH BY HANGING AS A METHOD OF EXECUTION OF DEFENDANTS SENTENCED TO DEATH; AMENDING SECTION 46-19-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY 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 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 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, appointed date of execution, and the duration of the warrant.

(5) The warden of the Montana state prison shall provide a suitable and efficient room or place in which executions will be carried out, enclosed from public view, within the walls of the state prison, and shall provide all implements necessary to the execution. The warden shall, subject to subsection (6), select the person to perform the

1 execution, and the warden or his a designee shall supervise
2 the execution. The identity of the executioner must remain
3 anonymous. Facts pertaining to the selection and training of
4 the executioner must remain confidential.

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

13 (7) Within 20 days after the execution, the warden
14 shall return the death warrant to the clerk of the court
15 from which it was issued, noting on the warrant the time
16 mode, and manner in which it was executed."

17 NEW SECTION. Section 2. Applicability. (1) [This act]
18 applies to death sentences imposed for capital crimes
19 committed on or after [the effective date of this act].

20 (2) [This act] does not apply to death sentences
21 imposed for capital crimes committed before [the effective
22 date of this act] regardless of the date of conviction or
23 sentencing.

24 NEW SECTION. Section 3. Effective date. [This act] is
25 effective on passage and approval.