

One Hundred Fifth Legislature - First Session - 2017

Introducer's Statement of Intent

LB446

Chairperson: Senator Laura Ebke

Committee: Judiciary

Date of Hearing: March 22, 2017

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

Legislative Bill 446 replaces the death penalty with a sentence of life without possibility of parole.

Section 22 leaves undisturbed the discretion of the sentencing court to order the payment of restitution.

Section 23 provides: "It is the intent of the Legislature that in any criminal proceeding in which the death penalty has been imposed but not carried out prior to the effective date of this act, such penalty shall be changed to life imprisonment without the possibility of parole."

In addition to the negative propensity to diminish the value of human life, the death penalty in Nebraska has exerted a degrading, corrupting influence on the Office of the Attorney General which disingenuously prevailed on the Nebraska Supreme Court to issue a death warrant setting an execution date for inmate Cary Dean Moore – despite knowing that no execution could be carried out, due to the legal unavailability of sodium thiopental, one of the drugs mandated by law for use in judicial executions.

The Attorney General's Office deliberately withheld this critical, material fact from the Nebraska Supreme Court, which was compelled to withdraw the death warrant – and triggered an extraordinary, harsh rebuke from the Douglas County District Court in its December 11, 2011 "Order Dismissing the Post-Conviction Motion" of Moore, whose aim was to have the Attorney General sanctioned by the Court for its duplicitous, unethical scheme.

Wrote the Court: "Notwithstanding fairly persuasive proof that the (Department of Correctional Services) obtained controlled substances of unknown efficacy from a foreign distributor and manufacturer not inspected, registered or approved by the FDA or DEA, and lack of transparency and candor even with the Nebraska Supreme Court and the Douglas County Attorney's Office by the A. G.'s beginning on January 24, 2011 – and such acts require accountability, it is not available through post-conviction relief." (Emphasis added.)

Paraphrasing a cogent declaration in the U.S. Supreme Court's opinion in the case of Furman v. Georgia which nullified all death penalty laws in the U.S.: "The issue of the death penalty, implicating human dignity, is not to be resolved by means of a popularity contest or opinion poll."

THE FOLLOWING INFORMATIONAL CHART WAS COMPILED BY SENATOR ERNIE CHAMBERS.

TOTAL NUMBER SENTENCED TO DEATH:..... 72 (1903 – 2010)

TOTAL NUMBER EXECUTED:..... 23

HANGING: 8 (1903—1913)
ELECTROCUTION: 15 (1920—1997)
COMMUTED: 31
DIED: 6 (3 Natural Causes; 1 Cancer; 2 Suicide)
FURLOUGHED: 1 (1913, Jay O’Hearn)
VACATED 1 (2001, Jeremy Sheets)
CURRENTLY: 10 (On Death Row)

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WHITE:

TOTAL SENTENCED TO DEATH:..... 49

Hanging: 5
Electrocution: 11
Commutated: 22
Died: 6 (3 Natural Causes; 1 Cancer; 2 Suicide)
Furloughed: 1
Vacated 1
Currently: 4

BLACK:

TOTAL SENTENCED TO DEATH:..... 14

Hanging: 3
Electrocution: 3
Commuted: 6
Currently: 2

HISPANIC:

TOTAL SENTENCED TO DEATH:..... 6

Commuted: 1
Currently: 5

NATIVE AMERICAN:

TOTAL SENTENCE TO DEATH:..... 3

Electrocution: 1
Commuted:: 2

Principal Introducer: _____

Senator Ernie Chambers