

One Hundred Third Legislature - First Session - 2013

Introducer's Statement of Intent

LB543

Chairperson: Senator Brad Ashford

Committee: Judiciary

Date of Hearing: March 13, 2013

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

Legislative Bill 543 replaces the death penalty with a sentence of “life without the possibility of parole,” and the sentencing court may order the payment of restitution. Remaining in place are aggravating and mitigating circumstances by which the sentence is to be determined (section 25).

Section 1 presents “findings” that enumerate problems in executing the death penalty, for example, subsection(2):

The experience of this state with the death penalty has been fraught with errors, frustration, and delay due to the constitutional mistakes in the statutes, defective legal procedures and implementation of the statutes, lack of uniformity in application, and inordinately heavy expenditures of money and time[.]

Subsection (5) notes in pertinent part:

A maximum sentence of life imprisonment without possibility of parole . . . is preferable to the current capital punishment scheme . . . [by reflecting] this state’s desire to ensure the safety of its citizens, assist victims’ families when possible, and yet preserve this state’s values of human life, uniform fairness, and basic decency[.]

Section 21 provides that for those under sentence of death on the effective date of this act, “it is the intent of the Legislature that such penalty shall be changed to life imprisonment without possibility of parole.”

Pope John Paul called for abolition of the death penalty, as did the November 2000 annual Conference of U.S. Catholic Bishops whose Chairman of the Bishops’ Domestic Policy Committee said: “It is time to abandon the death penalty – not just because of what it does to those who are executed, but because of how it diminishes all of us.” Other religions and many denominations have made similar pleas.

The death penalty, in addition to its negative influence on public morality by diminishing the value of human life, has exerted a degrading influence on the State’s highest legal office.

The Office of the Nebraska Attorney General disingenuously obtained from the Nebraska Supreme Court, a death warrant setting an execution date for Carey Dean Moore despite knowing the execution could not be carried out due to the legal unavailability of sodium thiopental, one of the three drugs mandated by law for use in lethal injections, the current statutory method of carrying out judicial executions.

The A. G.'s Office deliberately withheld this critical, material fact from the Supreme Court (which withdrew the death warrant), triggering an extraordinary, harsh rebuke of that Office from the Douglas County District Court in its December 11, 2011 Order Dismissing the Post-Conviction Motion of Moore:

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

(Emphasis added.) (No statute of limitations applies to ethical complaints against attorneys.)

This tawdry, inexcusable ambush of the Supreme Court and the Douglas County Attorney's Office by the A.G. is but another substantive reason to eliminate the corrupting societal and ethical evils spawned by the death penalty.

Sodium thiopental remains unavailable due to ongoing federal litigation.

Principal Introducer: Senator Ernie Chambers