

CHAPTER 11.

Senate File No. 6.

EXECUTION OF DEATH PENALTY.

AN ACT concerning the execution of the death penalty, prescribing the time, place and manner of inflicting the same, the place of confinement after sentence and before execution, defining who shall be the executioner, and the duties of various officers in connection therewith.

Be It Enacted by the Legislature of the State of Wyoming:

PLACE OF EXECUTION.

Section 1. When any person shall be sentenced to be hung, the execution shall take place within the walls of the State Penitentiary, as hereinafter provided, before the hour of sunrise upon the day appointed therefor, which date shall not be less than thirty days after the date of the sentence; and the Warden of the State Penitentiary, or, in the case of his death, disability or absence, his deputy shall be the executioner.

DUTY OF CLERK OF DISTRICT COURT.

Sec. 2. Whenever any person is sentenced to death, the Clerk of the District Court in which sentence is pronounced, at the expiration of one week thereafter, shall issue his warrant, under the seal of the court, reciting the conviction and sentence, and directed to the Warden of the State Penitentiary, commanding him to proceed at the time named in the sentence to carry the same into execution, and shall intrust such warrant to the Sheriff of the county to be by him delivered to the said Warden, together with the condemned person, as provided in the following section.

DUTY OF SHERIFF.

Sec. 3. Immediately upon receipt of such warrant the Sheriff shall transport said condemned person to the State Penitentiary, and shall there deliver him and the warrant aforesaid into the hands of the Warden, and shall take from said Warden his receipt for such person and warrant, which receipt the Sheriff shall return to the office of the Clerk of the District Court where sentence was pronounced.

CONFINEMENT IN PENITENTIARY.

Sec. 4. Upon receipt of such condemned person by the Warden of the State Penitentiary, he shall be confined therein until the time for his execution arrives, and while so confined, all persons outside of said penitentiary shall be denied access to him, except his physician and lawyers, who shall be admitted to see him when necessary to his health or the transaction of business, and the relatives and spiritual advisers of the prisoner, who shall be admitted to see and converse with him at all proper times under such reasonable regulations as may be made by the Warden or other proper authorities of the penitentiary; and in case the prisoner be female, and an inquiry be had as to her pregnancy as hereinafter provided for, then and in any such case such persons as it is proper should see the prisoner in the proper conduct of any such inquiry shall be admitted.

EXECUTION.

Sec. 5. The execution shall take place inside the walls of the State Penitentiary, and within a room to be arranged or an enclosure to be erected for that purpose under the direction of the Warden or other

proper authorities of said penitentiary, which room or enclosure shall be so arranged or constructed as to exclude the gallows from the view of all persons outside thereof. Before the first execution take place after the passage of this act under the provisions hereof, the State Board of Charities and Reform shall provide a suitable room or enclosure within the walls of said penitentiary for the execution of persons sentenced to suffer the death penalty, and erect therein and at all times have in preparation all necessary scaffolding, drops and appliances requisite for carrying into execution the death penalty.

Sec. 6. The following persons may be present at the execution, and none other: The Warden and such persons as may be necessary to assist him in conducting the execution, two physicians, including the prison physician, the spiritual advisers of the prisoner, the Penitentiary Chaplain, the Sheriff of the county where conviction was had and any of the relatives or friends of the prisoner whom he may request, not exceeding ten in number.

ESCAPE OF PRISONER.

Sec. 7. If any person under sentence of death escapes after sentence and before delivery to the Warden of the State Penitentiary, and be not arrested until after the date fixed for his execution, the District Court in which sentence was pronounced, on notice of such arrest being given to the court by the Sheriff, shall again appoint a day for execution of the sentence, which shall not be less than thirty days from the date of making such appointment, and the Sheriff shall thereupon immediately convey the prisoner, together with the warrant for his execution, which warrant shall recite the date last appointed for execution, to the Warden of the State Penitentiary, who shall receipt to the Sheriff for the said person and warrant, and proceed at the appointed date to carry the sentence into execution, as provided in this act. Where any prisoner under the death sentence escapes as aforesaid, any person is authorized without warrant to arrest such convict and deliver him to the Sheriff of the county in which he was convicted and sentenced.

Sec. 8. If the prisoner escapes after his delivery to the Warden of the State Penitentiary, any person may arrest him and deliver him to the said Warden, and if he be not retaken before the time appointed for his execution, but is retaken and delivered to the Warden thereafter, the said Warden shall certify the fact of such escape and recapture to the court in which sentence was pronounced, and thereupon the court

shall again appoint a time for the execution, which shall not be less than thirty days from the date of making such new appointment, and thereupon the Clerk of said court shall certify the same to the Warden of the State Penitentiary, who shall thereupon proceed in accordance with the provisions of this act to carry the sentence into execution on the day so appointed.

SUSPENSION OF SENTENCE.

Sec. 9. When the execution of the sentence is suspended or respited to another day, the same shall be noted on the warrant, and on the arrival of such day the Warden shall proceed with the execution; and in case of the death of the prisoner before the time for his execution arrives, or in case of his pardon, or the commutation of his sentence, by the Governor, or the reversal of the judgment of conviction, no execution shall be had, but in all such cases, as well as when the sentence is executed, the Warden shall return the warrant and certificate, with his

proceedings properly endorsed thereon, to the Clerk of the court in which the prisoner was convicted and sentenced, who shall record said warrant and return in the record of the cause.

Sec. 10. Whenever the execution of the sentence shall be suspended to permit the commencement of proceedings in error, or other proceedings authorized by law, for the review of the judgment of conviction and sentence, or, pending any such proceedings, the prisoner shall nevertheless be transported to the State Penitentiary as in this act provided, and shall remain confined therein during such suspension; and if such suspension be ordered before the delivery of the prisoner at the penitentiary, the warrant shall recite the fact of such suspension. In case a new trial shall thereafter be granted the prisoner, the Clerk of the court granting the same shall certify the fact to the Warden of the penitentiary and the Sheriff of the county wherein the prisoner was convicted and sentenced, and thereupon the said Sheriff shall proceed to the State Penitentiary and receive the prisoner and conduct him to the jail of his county, and confine him therein until the further orders of the proper court; and the Warden shall deliver such prisoner, in such case, to the said Sheriff, taking his receipt therefor, to be so conducted to the jail of the county. Should the prisoner be again convicted and sentenced to death, the same procedure shall be had as hereinbefore provided.

PREGNANCY OF FEMALE PRISONER.

Sec. 11. If a female prisoner sentenced to death appears to be pregnant, and the physician of the penitentiary shall certify that in his opinion such female prisoner is pregnant, the Warden shall forthwith give notice thereof to the Judge of the District Court for the county wherein the said penitentiary is located, together with a copy of the prison physician's certificate, and said Judge shall thereupon appoint a time at which an inquiry shall be had at the State Penitentiary in the

matter of such alleged pregnancy, and direct the Sheriff of said county to summon a jury of six impartial men to attend and determine such inquiry. Thereupon said Sheriff shall summon a jury as directed to meet at the penitentiary at the appointed time, and shall also give immediate notice to the County and Prosecuting Attorney of said county and also to the Attorney General of the State, of the time and place of such inquiry.

Sec. 12. The said District Judge, or, in case of his inability to be present, some other District Judge who may be called upon to act, the Clerk of said District Court and the County and Prosecuting Attorney of said county, and the Sheriff thereof, shall attend the inquiry, and the Attorney General or his assistant may attend the same, and the Clerk of Court shall keep a record of the proceedings. Witnesses may be examined, and the jury shall submit their findings in writing, signed by them, and the same shall be filed in the office of said Clerk of Court, and a certified copy thereof sent to the Clerk of the court where sentence was pronounced.

Sec. 13. If the jury shall find the prisoner is pregnant, the Warden shall suspend the execution of the sentence, and shall transmit a copy of such finding and of the record of the proceedings on such inquiry, duly certified to by the Clerk under the seal of the court, to the Governor, who, on being satisfied that such female prisoner is no longer pregnant, shall issue a warrant appointing a time for her execution.

EXPENSES OF SHERIFF.

Sec. 14. The Sheriff of the county wherein the sentence was pronounced shall receive his actual and necessary traveling expenses incurred in transporting a convict sentenced to death to the penitentiary, the same to be paid in the same manner as the expenses of Sheriffs are paid for transporting other convicts to the said penitentiary; and he shall likewise receive his necessary and actual expenses incurred in conducting such prisoner back to the county jail in case he shall be granted a new trial.

ALLOWANCE TO WARDEN.

Sec. 15. The Warden conducting the execution shall in each case be allowed therefor the sum of one hundred dollars, to be paid him out of the treasury of the county in which the sentence was pronounced.

BURIAL OF BODY.

Sec. 16. The body of any convict who shall have been executed as provided in this act shall be buried in the ordinary manner at the expense of the State, unless the same be claimed by any relative or friend desiring to give the body a Christian burial, in which case the body may be delivered to such relative or friend for the purpose of burial.

APPLICATION OF THIS ACT.

Sec. 17. Nothing contained in any provision of this act shall apply to a crime committed at any time before this act takes effect; such crime must be punished according to the provisions of law existing when it is committed, in the same manner as if this act had not been passed; and the provisions of law for the infliction of the penalty of death upon convicted criminals in existence immediately preceding the passage of this act are continued in existence and applicable to all crimes punishable by death, which have been or may be committed before the time when this act takes effect; a crime punishable by death, committed after the time when this act takes effect, must be punished according to the provisions of this act and not otherwise.

Sec. 18. This act shall take effect and be in force from and after its passage.

Approved February 7th, A. D. 1905.