

Judiciary 5/28

SENATE FILE 283

Judiciary *4/*
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SENATE FILE 283

By RAMSEY, SHAW, BISENIUS,
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Jasper, TIEDEN, TAYLOR,
BERGMAN and RODGERS

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing the penalties of death or life
2 imprisonment for certain offenses, and prescribing
3 the procedures applicable thereto.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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5-283

1 Section 1. Chapter one thousand two hundred forty-five
2 (1245), Acts of the Sixty-sixth General Assembly, 1976 Session,
3 chapter one (1), section one hundred seven (107), is amended
4 to read as follows:

5 SEC. 107. NEW SECTION. FELONY DEFINED AND CLASSIFIED.
6 A public offense is a felony of a particular class, when the
7 statute defining the crime declares it to be a felony.
8 Felonies are a capital felony, class A felonies, class B
9 felonies, class C felonies and class D felonies. Where the
10 statute defining the offense declares it to be a felony, but
11 does not state what class of felony it is nor provides for
12 a specific penalty, such felony shall be a class D felony.

13 Sec. 2. Chapter one thousand two hundred forty-five (1245),
14 Acts of the Sixty-sixth General Assembly, 1976 Session, chapter
15 one (1), division seven (VII), is amended by adding the
16 following new section as section seven hundred two (702) and
17 by renumbering the remaining sections of division seven (VII):

18 NEW SECTION. Sec. 702. CAPITAL MURDER.

19 1. A person commits capital murder if the person willfully,
20 deliberately and with premeditation kills another person in
21 any of the following aggravating circumstances:

22 a. The killing was perpetrated for hire;

23 b. The killing was perpetrated by a person under sentence
24 of life imprisonment;

25 c. The killing was perpetrated for the purpose of escaping
26 detection, apprehension, trial, or punishment for another
27 offense committed by the offender;

28 d. The killing was perpetrated against another person
29 for the purpose of preventing the other person from testifying
30 against the offender in a criminal trial;

31 e. The killing is perpetrated as a part of a course of
32 conduct by the defendant involving the purposeful killing
33 of, or attempt to kill two or more persons; or

34 f. The killing was perpetrated while the offender was
35 participating in the crimes of first degree sexual abuse,

1 first degree kidnapping, first degree robbery, first degree
2 burglary or first degree arson.

3 2. Capital murder is a felony punishable either by death
4 or by life imprisonment, as determined pursuant to section
5 nine (9) of this Act.

6 Sec. 3. Chapter one thousand two hundred forty-five (1245),
7 Acts of the Sixty-sixth General Assembly, 1976 Session, chapter
8 one (1), section seven hundred two (702), is amended to read
9 as follows:

10 SEC. ~~702~~ 703. NEW SECTION. MURDER IN THE FIRST DEGREE.

11 A person commits murder in the first degree when he or she
12 commits murder which is not capital murder and which is
13 committed under any of the following circumstances:

14 1. The person willfully, deliberately, and with
15 premeditation kills another person.

16 2. The person kills another person while participating
17 in a forcible felony.

18 ~~3.---The-person-kills-another-person-while-escaping-or~~
19 ~~attempting-to-escape-from-lawful-custody-~~

20 4 3. The person intentionally kills a peace officer,
21 correctional officer, public employee, or hostage while such
22 person is imprisoned in a correctional institution under the
23 jurisdiction of the department of social services, or in a
24 city or county jail. Murder in the first degree is a class
25 A felony.

26 Sec. 4. Chapter one thousand two hundred forty-five (1245),
27 Acts of the Sixty-sixth General Assembly, 1976 Session, chapter
28 one (1), section seven hundred three (703), is amended to
29 read as follows:

30 SEC. ~~703~~ 704. NEW SECTION. MURDER IN THE SECOND DEGREE.

31 A person commits murder in the second degree when he or she
32 commits murder which is not capital murder or murder in the
33 first degree. Murder in the second degree is a class B felony.

34 Sec. 5. Chapter one thousand two hundred forty-five (1245),
35 Acts of the Sixty-sixth General Assembly, 1976 Session, chapter

1 one (1), section seven hundred four (704), unnumbered paragraph
2 two (2), is amended to read as follows:

3 Voluntary manslaughter is an included offense under an
4 indictment for capital murder or murder in the first or second
5 degree.

6 Sec. 6. Chapter one thousand two hundred forty-five (1245),
7 Acts of the Sixty-sixth General Assembly, 1976 Session, chapter
8 one (1), section seven hundred five (705), unnumbered paragraph
9 two (2), is amended to read as follows:

10 Involuntary manslaughter as defined in this section is
11 an included offense under an indictment for capital murder
12 or murder in the first or second degree or voluntary
13 manslaughter.

14 Sec. 7. Chapter one thousand two hundred forty-five (1245),
15 Acts of the Sixty-sixth General Assembly, 1976 Session, chapter
16 two (2), section two hundred one (201), is amended to read
17 as follows:

18 SECTION 201. NEW SECTION. MURDER. A prosecution for
19 capital murder or murder in the first or second degree may
20 be commenced at any time after the death of the victim.

21 Sec. 8. Chapter one thousand two hundred forty-five (1245),
22 Acts of the Sixty-sixth General Assembly, 1976 Session, chapter
23 two (2), section one thousand one hundred one (1101), is
24 amended to read as follows:

25 SECTION 1101. NEW SECTION. BAILABLE AND NONBAILABLE
26 OFFENSES.

27 1. All defendants other than those charged with or
28 convicted of capital murder are bailable both before and after
29 conviction, by sufficient surety, or subject to release upon
30 condition or on their own recognizance, except that a defendant
31 convicted of a class A felony shall not be admitted to bail
32 while appealing such conviction or seeking post-conviction
33 relief.

34 2. Notwithstanding any other provision of this chapter,
35 a person charged with capital murder shall not be admitted

1 to bail prior to entry of judgment if upon hearing held under
2 the provisions of section one thousand two hundred two (1202)
3 of this chapter the prosecuting attorney establishes by clear
4 and convincing evidence that the release of the defendant
5 from custody is likely to pose a danger of physical harm to
6 another person. The court shall consider any lawfully obtained
7 evidence relevant to the required determination, whether or
8 not such evidence would be admissible at trial, but testimony
9 of the person charged shall not be admissible at any subsequent
10 trial on the issue of guilt of the offense charged or any
11 other offense.

12 3. Notwithstanding any other provision of this chapter,
13 a person convicted of capital murder shall not be admitted
14 to bail.

15 Sec. 9. Chapter one thousand two hundred forty-five (1245),
16 Acts of the Sixty-sixth General Assembly, 1976 Session, chapter
17 two (2), section one thousand three hundred one (1301), is
18 amended by adding the following rules and by renumbering rules
19 thirty (30) and thirty-one (31) as rules thirty-one (31) and
20 thirty-two (32), respectively:

21 NEW SECTION. Rule 30.1 CAPITAL MURDER; PROCEDURE.

22 1. Upon a finding that the defendant is guilty of capital
23 murder, the court shall conduct a separate sentencing
24 proceeding to determine whether the defendant shall be
25 sentenced to death or to life imprisonment. The proceeding
26 shall be conducted in the trial court before the trial jury
27 as soon as practicable. In the proceeding, additional evidence
28 may be presented as to any matter which is relevant to
29 sentence. The court shall receive when offered any evidence
30 that is required by the rules of criminal procedure. This
31 subsection shall not be construed to authorize the introduction
32 of any evidence secured in violation of the Constitution of
33 the United States or of the state of Iowa. The state and
34 the defendant or his or her counsel shall be permitted to
35 cross-examine witnesses and to present argument for or against

1 a sentence of death.

2 2. On conclusion of the presentation of the evidence,
3 the court shall submit the following issues to the jury:

4 a. Whether the actual conduct of the defendant was
5 committed with the reasonable expectation that the death of
6 the deceased or another would result; and

7 b. Whether there is a probability that in the future the
8 defendant would commit criminal acts of violence that would
9 constitute a continuing threat to society.

10 In the event the case is not tried to a jury, the court
11 shall determine the issues.

12 3. The state must prove each issue beyond a reasonable
13 doubt, and the jury, or the court if there is no jury, shall
14 return a special verdict of "yes" or "no" on each issue.

15 4. If the case is tried to a jury, the court shall charge
16 the jury that:

17 a. It shall answer any issue "yes" if it agrees
18 unanimously; and

19 b. It must answer any issue "no" if the jurors unanimously
20 agree that the answer is "no" or if the jurors do not
21 unanimously agree that the answer is "yes".

22 5. If the jury, or the court in actions not tried to a
23 jury, returns an affirmative finding on both issues, the court
24 shall sentence the defendant to death. If the jury or the
25 court returns a negative finding on any issue, the court shall
26 sentence the defendant to the custody of the division of adult
27 corrections for confinement in the state penitentiary for
28 life.

29 6. The provisions of divisions one (I) through nine (IX)
30 of chapter three (3) of the Iowa Criminal Code shall not apply
31 to any conviction of capital murder when the defendant is
32 sentenced to death. If the defendant is sentenced to life
33 imprisonment division one (1) of that chapter shall apply
34 as if the conviction were of a class A felony.

35 NEW SECTION. Rule 30.2 AUTOMATIC REVIEW--STAY OF JUDGMENT.

1 1. A judgment of conviction and sentence of death shall
2 be reviewed automatically in the manner provided in section
3 ten (10) of this Act, and the Iowa supreme court shall have
4 exclusive jurisdiction of such review.

5 2. Upon entry of judgment and sentence of death, the
6 sentencing court shall prepare a complete record and transcript
7 of the action in the manner provided in the rules of criminal
8 procedure and shall docket the same with the clerk of the
9 supreme court.

10 3. The judgment and sentence of the trial court is stayed
11 as a matter of law from the time of its entry until the
12 judgment of the supreme court is certified to and entered
13 by the trial court. Upon entry of a judgment of the supreme
14 court which affirms the conviction and sentence, the stay
15 of the judgment and sentence terminates as a matter of law.

16 NEW SECTION. Rule 30.3 ISSUANCE OF WARRANT.

17 1. Upon entry by the district court of the judgment of
18 the supreme court affirming a judgment and sentence of death,
19 a judge of the district court shall within five days thereafter
20 issue a warrant under the seal of the court for the execution
21 of the sentence of death. The warrant shall specifically
22 set forth the offense and the fact of conviction, shall state
23 the judgment and sentence of the court, shall state that the
24 judgment and sentence was affirmed by the supreme court and
25 the date of entry of judgment of the supreme court in the
26 district court, and shall specify the date fixed for execution
27 of the defendant which shall be not less than fifty nor more
28 than sixty days after the date of entry in the district court
29 of the judgment of the supreme court affirming the judgment
30 and sentence of death. The warrant shall be directed to the
31 director of the division of adult corrections commanding him
32 or her to cause the same to be carried into execution on the
33 date specified. The district court shall deliver the warrant
34 to the sheriff of the county in which judgment of conviction
35 was entered and the sheriff shall deliver the warrant and

1 the defendant to the custody of the division of adult
2 corrections for confinement in the state penitentiary. The
3 director of the division of adult corrections shall acknowledge
4 receipt of the warrant and defendant, and the sheriff shall
5 return same to the office of the clerk of court from which
6 the warrant was issued.

7 2. Immediately after issuance of a warrant ordering a
8 sentence of death, the clerk of the court issuing the warrant
9 shall transmit by mail to the governor a copy of the
10 indictment, the plea, the verdict and special findings, the
11 judgment of the supreme court, and the complete transcript.

12 NEW SECTION. Rule 30.4 EVIDENCE AT SENTENCING HEARING
13 IN CAPITAL MURDER CASES.

14 1. In a proceeding to determine whether the sentence shall
15 be death or life imprisonment, evidence may be presented as
16 to any matter which the court deems relevant to sentence,
17 including but not limited to the nature, circumstances and
18 manner of completion of the murder, and the defendant's
19 character, background, history, mental and physical condition.

20 2. When offered by the defendant, the court shall admit
21 any relevant evidence respecting any of the following
22 mitigating circumstances:

23 a. The defendant has no significant history of prior
24 criminal activity.

25 b. The victim was a participant in the defendant's
26 homicidal conduct or consented to the homicidal act.

27 c. The murder was committed under circumstances which
28 the defendant believed to provide a moral justification or
29 extenuation for his or her conduct.

30 d. The defendant was an accomplice in a murder committed
31 by another person and his or her participation in the homicidal
32 act was relatively minor.

33 e. The youth of the defendant at the time of the crime.

34 Sec. 10. Chapter one thousand two hundred forty-five
35 (1245), Acts of the Sixty-sixth General Assembly, 1976 Session,

1 chapter two (2), division fourteen (XIV), is amended by adding
2 the following new section:

3 NEW SECTION. Sec. 1428. REVIEW OF DEATH SENTENCE.

4 1. In any case in which a sentence of death is imposed,
5 the supreme court must review the judgment and sentence.

6 2. A review by the supreme court of a judgment and sentence
7 imposing the punishment of death shall have priority over
8 all other criminal and other actions pending before the supreme
9 court.

10 3. The supreme court shall review the trial and judgment,
11 and separately shall review the sentencing proceeding. Upon
12 determining that errors did not occur at the trial requiring
13 reversal or modification of the judgment, the supreme court
14 shall proceed to determine if the sentence of death is lawfully
15 imposed. In its review of the sentencing proceeding the
16 supreme court shall determine the following:

17 a. That the trial court did not commit prejudicial error
18 in admitting or refusing to admit evidence relevant to the
19 issue of whether or not punishment of death should be imposed;

20 b. That the special findings returned under subsection
21 five (5) of section nine (9) of this Act are supported by
22 the evidence.

23 c. That the sentence of death was not imposed capriciously
24 or under the influence of prejudice or other arbitrary factor,
25 considering both the circumstances of the crime and the
26 defendant.

27 4. If the supreme court determines that the sentence of
28 death was not lawfully imposed the court shall set aside the
29 sentence and shall remand the case to the trial court for
30 imposition of a sentence of life imprisonment.

31 5. If the supreme court affirms the judgment and sentence
32 of death, the supreme court clerk shall certify the judgment
33 of the supreme court under the seal of the court to the clerk
34 of the trial court.

35 Sec. 11. Chapter one thousand two hundred forty-five

1 (1245), Acts of the Sixty-sixth General Assembly, 1976
2 Session, chapter three (3), is amended by adding the following
3 new sections as division ten (X) of that chapter:

4 DIVISION X

5 EXECUTION OF DEATH SENTENCE

6 NEW SECTION. Section 1001. TIME AND MANNER OF EXECUTION.

7 1. A sentence of death shall be executed pursuant to
8 warrant therefor at any time before the time of sunrise on
9 the day set for the execution by causing to pass through the
10 body of the person a current of electricity of sufficient
11 intensity to cause death, and by the application and
12 continuance of such current through the body of the person
13 until dead.

14 2. The director of the division of adult corrections shall
15 cause the execution. The executioner shall be the person
16 appointed by the division of adult corrections for that
17 purpose.

18 3. The execution shall take place within the confines
19 of the state penitentiary in a room arranged for that purpose.

20 4. The following persons may be present at the execution:
21 The director of the division or a deputy; the warden of the
22 state penitentiary or a deputy; the executioner, and such
23 persons as may be necessary to assist him or her in conducting
24 the execution; two physicians, including the prison physician;
25 the spiritual advisor if any of the condemned; the chaplains
26 of the division of adult corrections; a district judge; the
27 sheriff or a deputy sheriff of the county in which the state
28 penitentiary is situated; and any of the relatives or friends
29 of the condemned person that he or she may request, not
30 exceeding five in number.

31 5. Persons other than those specifically designated in
32 subsection four (4) of this section, or those specifically
33 requested by the defendant under the authority of subsection
34 four (4) of this section, shall not be present at the
35 execution. Notwithstanding subsection four (4) of this

1 section, a person shall not be present at an execution if
2 the person is less than eighteen years of age, or if the
3 person is in possession of any device for receiving,
4 transmitting or recording sounds or pictures.

5 NEW SECTION. Sec. 1002. DELAY OF EXECUTION--NEW WARRANT.

6 1. If the condemned person escapes after sentence and
7 before his or her delivery to the division of adult
8 corrections, and is not rearrested until after the time fixed
9 for execution, any person may arrest and commit the person
10 to the jail of the county in which he or she was sentenced;
11 and thereupon the court by whom the condemned was sentenced,
12 on notice of such arrest being given by the sheriff, shall
13 again appoint a time for the execution, not less than thirty
14 days thereafter, and shall issue its warrant and the applicable
15 procedures specified in sections four (4) and five (5) of
16 this Act shall apply.

17 2. If the condemned person escapes after his or her
18 delivery to the division of adult corrections, and is not
19 retaken before the time appointed for execution, any person
20 may arrest and commit the person to the division whereupon
21 the director shall certify the fact escape and recapture to
22 the court in which sentence was passed, and the court shall
23 appoint a time for the execution which shall not be less than
24 thirty days thereafter, and shall issue its warrant, and the
25 applicable procedures specified in sections four (4) and five
26 (5) of this Act shall apply.

27 3. If for any other reason execution of the death penalty
28 is delayed beyond the date specified in the warrant of
29 execution, the court which originally sentenced the defendant
30 shall establish a later date for execution, which shall not
31 be more than thirty days after issuance of the warrant.

32 NEW SECTION. Sec. 1003. RETURN OF WARRANT. On the arrival
33 of the date set for execution the division shall cause the
34 execution. In case of the death of any condemned person
35 before the time for execution arrives, or if the person is

1 pardoned or his or her sentence is commuted by the governor,
2 no execution shall be had. In all cases, the director of
3 the division of adult corrections shall return the warrant
4 and certificate with a statement of any such act and his or
5 her proceedings endorsed thereon. In the event of execution
6 the return shall be accompanied by a statement showing what
7 disposition was made of the body. Return shall be made to
8 the clerk of the court in which the sentence was passed, who
9 shall record the warrant and return in the docket of the
10 court.

11 NEW SECTION. Sec. 1004. DISPOSITION OF BODY. The body
12 of a person who has been executed shall be embalmed immediately
13 and it shall be so directed by the director of the division
14 of adult corrections. If the body is demanded or requested
15 by a relative or bona fide friend within forty-eight hours
16 after execution then it shall be delivered to the relative
17 or bona fide friend who shall pay a fee of not to exceed
18 twenty-five dollars to the mortician for his or her services
19 in embalming the body for which the mortician shall issue
20 to the recipient a written receipt. If the body is not
21 delivered to a relative or bona fide friend, the director
22 shall cause the body to be buried, and the fee for embalming
23 and burial shall be paid by the county in which the indictment
24 which resulted in conviction was found.

25 EXPLANATION

26 This bill amends the Iowa criminal code to provide for
27 punishment by death for willful, deliberate and premeditated
28 murder committed under specified aggravating circumstances
29 if the trial jury, or the judge if there is no jury, makes
30 specific affirmative findings respecting the nature of the
31 act of murder and the characteristics of the defendant in
32 a separate sentencing proceeding held at the close of the
33 trial. The death penalty sentence would be reviewed
34 automatically by the supreme court. If affirmed by the supreme
35 court, the penalty would be accomplished at the state

1 penitentiary by electrocution. If the jury fails to agree
2 unanimously on the required affirmative findings or if the
3 supreme court determines that error was committed in the
4 sentencing proceeding then the penalty would be life
5 imprisonment.

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March 25, 1977

ANALYSIS OF SENATE FILE 283

Prepared by Legislative Service Bureau
at the request of Senator Richard Ramsey

TITLE OF BILL

An Act establishing the penalties of death or life imprisonment for certain offenses, and prescribing the procedures applicable thereto.

SUMMARY

The bill amends the Iowa criminal code which takes effect on January 1, 1978, to provide for punishment by death for willful, deliberate and premeditated murder committed under specified aggravating circumstances, if the trial jury, or the judge if not tried to a jury, makes specific affirmative findings respecting the nature of the act of murder and the characteristics of the defendant, in a separate sentencing proceeding held at the close of the trial. The death penalty sentence would be reviewed automatically by the Iowa Supreme Court. If affirmed by the Supreme Court, the penalty would be carried out at the state penitentiary by electrocution.

The sentence of death could be imposed only if the jury unanimously agrees that the actual conduct of the defendant was committed with the reasonable expectation that the death of the victim or of another would result and that there is a probability that in the future the defendant would commit criminal acts of violence that would constitute a continuing threat to society. If the jury does not unanimously agree on those two points, or if the Supreme Court determines that reversible error is committed during the sentencing proceeding, the only penalty which could be imposed would be life imprisonment.

LEGAL BACKGROUND

In a series of decisions handed down by the United States Supreme Court in July of 1976, the court resolved some conflicts created by two earlier decisions, McGautha v. California (1971) and Furman v. Georgia (1972). The 1976 decisions in the cases of Gregg v. Georgia, Proffitt v. Florida, Jurek v. Texas, Woodson v. North Carolina, Roberts v. Louisiana, and Green v. Oklahoma, establish that the death penalty for the offense of murder is not unconstitutional per se; and the opinions rendered in those cases create some relatively specific legal tests against which a state's death penalty provisions must be measured. Statutes were upheld in the Georgia, Florida and Texas cases, and were held to be unconstitutional in the North Carolina, Louisiana and Oklahoma cases. The

statutes which were upheld, although considerably different from one another in some respects, contained several elements which the United States Supreme Court found to be essential. It is clear that there isn't any one type of death penalty statute which is constitutional to the exclusion of all others. It is equally clear that every death penalty statute is suspect unless it meets certain standards. These standards may be summarized as follows:

1. The penalty must be appropriate for the offense.

The cases which have been decided by the Supreme Court all involved the offense of deliberate murder. Much of the rationale upon which death penalty statutes have been upheld or struck down suggests that imposing the death penalty for any offense other than deliberate murder may be unconstitutional.

2. The issues of guilt and the sentence to be imposed should be separately considered.

Much of the language in the various Supreme Court decisions deals with the process by which the penalty, as distinguished from the question of guilt or innocence, is determined. Such a process often involves the consideration of matters, such as prior criminal conduct of the defendant, which could not lawfully be introduced during the trial on the question of guilt or innocence. Although the Supreme Court has not established a separate sentencing hearing as a constitutional requirement, it would appear that unless a separate sentencing hearing is held after the return of a guilty verdict, it is unlikely that a constitutional statute could be drafted.

3. The sentencing body must consider the circumstances of the offense and the individual defendant, and must have the statutory authority to exercise discretion and to consider mitigating circumstances.

The decision in Furman v. Georgia that held existing capital punishment statutes unconstitutional expressed deep concern that the penalty of death has been applied in an arbitrary fashion. Statistics cited by the Court established to the satisfaction of the Court that juries and judges have exercised a great amount of discretion in deciding whether to convict, primarily because a conviction would result in the penalty of death. This was found to be constitutionally unacceptable because juries were exercising that discretion (mercy) outside of the law; i.e., arbitrarily.

In response to the Furman decision, several states enacted mandatory death penalty statutes in an attempt to eliminate the exercise of discretion. In the 1976 decisions the Court observed that juries will refuse to convict when they feel in a given case that the death penalty is not appropriate for the particular offense, even though the defendant is guilty.

Thus, the Court has established that a statute providing

for capital punishment must contain specific authority for the jury to exercise mercy, and must contain specific guidelines within which the penalty (either death or a lesser penalty) for the offense is to be determined. It is generally stated that the sentencing body must be required to consider both "aggravating" and "mitigating" circumstances when determining what penalty is appropriate for the specific offense committed, and for the specific defendant.

4. There must be a meaningful review by an appellate court.

In order to eliminate the arbitrary manner in which the death penalty has been imposed in the past, the United States Supreme Court has indicated that the judgment of the trial court in imposing the death penalty must be reviewed by an appellate court which has the duty to assure that death sentences are not arbitrarily imposed. Although more stringent guidelines are required to assist the trial jury, the appellate court still must operate as a check upon the jury's exercise of discretion.

SENATE FILE

The provisions of Senate File 283 are based upon the Texas statute which was upheld by the United States Supreme Court in Jurek v. Texas. Its provisions attempt to meet the guidelines specified by the United States Supreme Court in the following ways:

1. The death penalty may be imposed only in cases of willful, deliberate and premeditated murder, and only when the murder occurs under specified "aggravating" circumstances. (See section 2).

2. A separate sentencing hearing is held at the close of the trial to ascertain the appropriate punishment (death or life imprisonment) in the case. (See section 9, new rule 30.1).

3. The sentencing body (the jury when tried to the jury, or the judge otherwise) is required to make specific findings of fact before it can impose the death penalty: First it must unanimously agree that the actual conduct of the defendant was committed with the reasonable expectation that death would result; and second that the defendant, based upon the defendant's character, background, history and mental and physical condition, probably would commit criminal acts of violence in the future which would constitute a continued threat to society. Unless the jury unanimously agrees that both facts are true, then a sentence of life imprisonment is mandatory. (See section 9, new rule 30.1)

4. Specific guidelines are established with respect to evidence, which must be considered if offered, relative to the appropriateness of the death penalty to the specific circumstances of the case. (See section 9, new rule 30.4)

5. A death sentence must be reviewed by the Iowa Supreme Court (see section 9, new rule 30.3), under specific procedures to assure that the imposition of the death penalty is not arbitrary. If an error is made in the sentencing process, then the defendant is sentenced to life imprisonment, thus precluding numerous sentencing proceedings and appeals. (See section 10, new criminal code section 1428.)

6. Although not specifically required by Supreme Court decisions, the bill provides for time limitations within which the penalty must be carried out. (See section 9, new rule 30.3, section 10, new criminal code section 1428, and section 11, new criminal code section 1002, subsection 3) In the past, objections have been raised about the numerous delays which have attended capital punishment cases.

7. The bill also strictly limits the persons who may observe the execution and prohibits the use of any sound or picture recording devices at the execution.

In general, it would appear that Senate File is well within the parameters established by the United States Supreme Court for a death penalty statute.