

1 H BILL NO. 461  
 2 INTRODUCED BY Halsnes - Snyder  
 3 by request of the Board of Crime Control  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE DIVISION  
 5 OF FORENSIC SCIENCE IN THE DEPARTMENT OF JUSTICE; PROVIDING  
 6 FOR ITS ADMINISTRATION, DUTIES, AND FUNCTIONS; PROVIDING FOR  
 7 A LABORATORY OF CRIMINALISTICS; ALTERING THE DUTIES OF THE  
 8 CORONER; AND REPEALING SECTIONS 16-3403, 16-3405, 16-3409,  
 9 95-801, 95-802, 95-810, AND 95-814, R.C.M. 1947."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Short title. This act shall be known as the  
12 "Montana Forensic Science System Act".

13 Section 2. Purpose. The purpose of this act is to  
14 provide the personnel, facilities, and procedures to  
15 determine the cause of certain types of deaths by such  
16 investigation and examination as are in the public interest;  
17 to analyze specimens for law enforcement officers and to  
18 provide reports, including oral testimony, concerning such  
19 investigation, examination, and analysis when in the public  
20 interest.

21 Section 3. Creation of division of forensic science --  
22 head. (1) There is a division of forensic science in the  
23 department of justice.

24 (2) The division head is an administrator whose title

1 is state medical examiner and who shall be appointed by the  
2 board of forensic science. He shall be a forensic  
3 pathologist qualified or certified by the American board of  
4 pathologists of the American medical association.

5 Section 4. Functions of the division. The functions of  
6 the division include operation of:

- 7 (1) a laboratory of criminalistics; and
- 8 (2) an office of forensic pathology.

9 Section 5. Authority to accept grants. The division of  
10 forensic science is authorized to accept federal and other  
11 moneys which may be made available to accomplish the  
12 purposes of this act.

13 Section 6. Board of forensic science --  
14 establishment-composition. (1) The board of forensic science  
15 is established within the department of justice.

16 (2) There shall be 15 board members appointed by the  
17 governor.

18 (3) The board shall be representative of state and  
19 local governments and law enforcement agencies and the  
20 medical profession. It shall include:

- 21 (a) an incumbent mayor recommended by the Montana  
22 league of cities and towns;
- 23 (b) an incumbent county commissioner recommended by  
24 the Montana association of counties;
- 25 (c) a prosecutor recommended by the Montana

- 1 association of county attorneys;
- 2 (d) the chairman of the peace officers' standards and
- 3 training advisory council;
- 4 (e) an incumbent chief of police recommended by the
- 5 Montana chiefs of police association;
- 6 (f) an incumbent sheriff recommended by the Montana
- 7 sheriffs and police officers association;
- 8 (g) a deputy sheriff recommended by the Montana
- 9 sheriffs and police officers association;
- 10 (h) a police officer recommended by the Montana police
- 11 protective association;
- 12 (i) a member recommended by the chief of the Montana
- 13 highway patrol;
- 14 (j) a member recommended by the director of the
- 15 department of fish and game;
- 16 (k) a member recommended by the attorney general;
- 17 (l) a medical doctor;
- 18 (m) a medical pathologist;
- 19 (n) a member possessing a graduate degree in one of
- 20 the forensic sciences; and
- 21 (o) a county coroner.

22 Section 7. Duties of board. The board of forensic  
23 science shall:

- 24 (1) establish a laboratory of criminalistics;
- 25 (2) provide procedures consistent with this act for

- 1 the employing of all necessary personnel; and
- 2 (3) establish policy and set all necessary procedures
- 3 for the functioning of the division of forensic science.

4 Section 8. Rules authorized. The board of forensic  
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8 functions of the board shall be completed within a 2-year  
9 period from the effective date of this act.

10 (2) Upon the termination of the 2-year period the  
11 board shall no longer exist.

12 Section 10. Duties of state medical examiner. The  
13 duties of the state medical examiner include but are not  
14 limited to the following:

- 15 (1) providing assistance and consultation to associate
- 16 medical examiners, coroners, and law enforcement officers;
- 17 (2) providing court testimony when necessary to
- 18 accomplish the purposes of this act;
- 19 (3) stimulating and directing research in the field of
- 20 forensic pathology;
- 21 (4) maintaining an ongoing educational and training
- 22 program for associate medical examiners, coroners, and law
- 23 enforcement officers;
- 24 (5) appointing the director of the laboratory of
- 25 criminalistics;

1 (6) appointing one or more associate medical examiners  
2 who serve at his pleasure; and

3 (7) appointing, if he considers it necessary, an  
4 administrative assistant to handle administrative duties.

5 Section 11. Associate medical examiners --  
6 qualifications -- remuneration. (1) Associate medical  
7 examiners must be physicians licensed to practice in Montana  
8 and may continue their private practice during their  
9 appointment.

10 (2) Associate medical examiners may be paid for their  
11 services an amount which the state medical examiner  
12 considers to be reasonable compensation and may be  
13 reimbursed for expenses actually incurred in the performance  
14 of their duties.

15 (3) The costs of services performed by associate  
16 medical examiners are chargeable to the county for which the  
17 service is performed.

18 Section 12. Purpose and function of laboratory. (1)  
19 The laboratory's purpose is to perform analysis of specimens  
20 submitted by all Montana state, county, or city law  
21 enforcement officers, and all state agencies, and referral  
22 specimens from other states if accepted by the laboratory  
23 director.

24 (2) The laboratory's functions include analysis of  
25 toxicologic and criminalistic specimens which the laboratory

1 director considers within the performance capability of the  
2 laboratory.

3 (3) The laboratory may charge reasonable fees for its  
4 services, except that it may not charge county, city, or  
5 municipal law enforcement officers or coroners for services  
6 rendered.

7 Section 13. Responsibilities of laboratory director.  
8 The laboratory director shall:

9 (1) be responsible to the state medical examiner for  
10 supervision and direction of the laboratory;

11 (2) appoint laboratory personnel rendering decisions  
12 as to the disposition of specimens; and

13 (3) perform all other duties required by the rules of  
14 the division.

15 Section 14. Removal of state medical examiner and  
16 laboratory director. The state medical examiner and the  
17 laboratory director may be removed from office only for  
18 neglect of duty, incompetency, or other good cause and only  
19 after a full hearing on verified charges filed at least 20  
20 days before the hearing and served at least 20 days before  
21 the hearing.

22 Section 15. Procedures upon suspicious deaths. (1) The  
23 coroner shall make or have performed any investigation he  
24 considers necessary whenever a death occurs or a body is  
25 found in his county and the death occurred under any of the

1 following circumstances:

2 (a) criminal violence;

3 (b) by accident;

4 (c) suddenly, when in apparent good health;

5 (d) by suicide;

6 (e) when unattended by a practicing physician;

7 (f) in any prison or penal institution;

8 (g) when in police custody;

9 (h) in any suspicious or unusual circumstances;

10 (i) by criminal abortion;

11 (j) by poison;

12 (k) by disease constituting a threat to the public

13 health;

14 (l) by disease, injury, or toxic agent resulting from

15 employment;

16 (m) when a corpse is brought into the state without

17 proper medical certification;

18 (n) when a corpse is to be cremated or dissected.

19 (2) The county coroner shall perform or have performed

20 an investigation into any death upon request of the attorney

21 general or county attorney.

22 (3) After his initial examination and investigation

23 the coroner shall immediately prepare a written report of

24 his findings in duplicate. He shall retain one copy and

25 provide a copy to the state medical examiner.

1 (4) The state medical examiner has authority in any

2 death with circumstances enumerated above to perform or have

3 performed an autopsy or any other laboratory examination he

4 considers necessary or in the public interest.

5 Section 16. Exemption from liability. No criminal or

6 civil action may arise against a medical examiner for

7 performing an autopsy under this act.

8 Section 17. Property of deceased — disposition. (1)

9 Any property found with or upon the person of the deceased

10 which is not considered evidence shall be relinquished by

11 the state medical examiner or the coroner to the appropriate

12 public administrator to be held until disposed of according

13 to law.

14 (2) Property needed as evidence shall be relinquished

15 to the appropriate investigative authority.

16 Section 18. Burial of corpse. (1) When a medical

17 examiner or coroner takes custody of a body of a deceased

18 person for purposes of examination and no other person

19 claims the body, the coroner of the county in which the

20 death occurred or the body was found shall cause it to be

21 decently interred.

22 (2) If there is not sufficient property belonging to

23 the estate of the deceased to pay the necessary expenses of

24 the burial, the expenses are a charge against the county.

25 Section 19. Appointment of deputy coroners. (1) The

1 coroner, with approval of the county commissioners, may  
2 appoint one or more deputy coroners to assist him or act in  
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4 (2) A deputy coroner may be the coroner from another  
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6 Section 21. Suspicious death — duty to report —  
7 control of corpse. (1) It is the duty of any person aware of  
8 the death of a person under the circumstances described in  
9 [section 14 of this act] to report the death and  
10 circumstances immediately to the coroner.

11 (2) Upon notification of the death, the coroner shall  
12 immediately examine or otherwise take charge of the corpse.

13 Section 22. Penalty. A person is guilty of a  
14 misdemeanor and may be fined not more than \$500 or  
15 imprisoned in the county jail for not more than one year, or  
16 both, if he:

17 (1) willfully fails to report or conceals a death  
18 described in [section 14 of this act];

19 (2) refuses to make available prior medical or other  
20 information in a death investigation; or

21 (3) without an order from the coroner or state medical  
22 examiner, willfully touches, removes, or disturbs a corpse,  
23 its clothing, or anything near the corpse under  
24 investigation with the intent to alter the evidence or  
25 circumstances surrounding the death.

1 Section 22. Report to county attorney. When the cause  
2 of death has been established within reasonable medical  
3 certainty by the state medical examiner or his associate,  
4 whether by review of a coroner's report or by personal  
5 examination, he shall make available in writing to the  
6 county attorney his determination as to the cause of death.

7 Section 23. Records — custodian. Copies of records  
8 and detailed findings of autopsy and laboratory  
9 investigations shall be maintained by the state medical  
10 examiner's office.

11 Section 24. Evidence — disposition and custody. (1)  
12 Any evidence or specimen coming into the possession of the  
13 coroner or state medical examiner in connection with any  
14 investigation or autopsy may be retained by him or delivered  
15 to any law enforcement officer assigned to the investigation  
16 of the death.

17 (2) Any evidence material to the determination of the  
18 cause of death in possession of the law enforcement officers  
19 assigned to the investigation of the death shall be made  
20 available to the state medical examiner, his associate, and  
21 the county coroner.

22 Section 25. Duties of county attorney. Each county  
23 attorney shall establish and maintain liaison with the state  
24 medical examiner, coroner, and law enforcement investigating  
25 agency during an investigation into the cause of death

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2 Section 26. Severability. If a part of this act is  
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8 Section 27. Repealer. Sections 16-3403, 16-3405,  
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10 are repealed.

-End-

## STATE OF MONTANA

REQUEST NO. 235-77

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 26, 1977, there is hereby submitted a Fiscal Note for House Bill 461 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

## DESCRIPTION OF PROPOSED LEGISLATION:

An act creating the Division of Forensic Science in the Department of Justice; providing for its administration, duties and functions; providing for a laboratory of criminalistics; altering the duties of the coroner, and repealing various sections.

## ASSUMPTIONS:

1. Expenditures will provide funding for administrative costs only. Equipment for the laboratory is already purchased and in place at the drug analysis lab in Missoula.
2. The board will decide where the facilities for the laboratory of criminalistics will be located.

## FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>
Personal services (4 FTE in FY 78; 5 FTE in FY 79)	\$ 97,287	\$108,838
Operating expenses	66,128	78,810
Equipment	<u>7,130</u>	<u>1,330</u>
Additional cost of proposed legislation	<u>\$170,545</u>	<u>\$188,978</u>

*Richard L. Lusk for*

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: February 4, 1977

Approved by Committee  
on Public Health, Welfare  
& Safety

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9                   CORONER; AND REPEALING SECTIONS 16-3403, 16-3405, 16-3409,  
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13 (i) a member recommended by the chief of the Montana  
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20 after a full hearing on verified charges filed at least 20  
21 days before the hearing and served at least 20 days before  
22 the hearing.

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24 coroner shall make or have performed any investigation he  
25 considers necessary whenever a death occurs or a body is

1 found in his county and the death occurred under any of the  
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14 health;
  - 15 (l) by disease, injury, or toxic agent resulting from  
16 employment;
  - 17 (m) when a corpse is brought into the state without  
18 proper medical certification;
  - 19 (n) when a corpse is to be cremated or dissected.
- 20 (2) The county coroner shall perform or have performed  
21 an investigation into any death upon request of the attorney  
22 general or county attorney.
- 23 (3) After his initial examination and investigation  
24 the coroner shall immediately prepare a written report of  
25 his findings in duplicate. He shall retain one copy and

1 provide a copy to the state medical examiner.

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1 the Montana association of counties;

2 (c) a prosecutor recommended by the Montana

3 association of county attorneys;

4 (d) the chairman of the peace officers' standards and

5 training advisory council;

6 (e) an incumbent chief of police recommended by the

7 Montana chiefs of police association;

8 (f) an incumbent sheriff recommended by the Montana

9 sheriffs and police ~~PEACE~~ officers association;

10 (g) a deputy sheriff recommended by the Montana

11 sheriffs and police ~~PEACE~~ officers association;

12 (h) a police officer recommended by the Montana police

13 protective association;

14 (i) a member recommended by the chief of the Montana

15 highway patrol;

16 (j) a member recommended by the director of the

17 department of fish and game;

18 (k) a member recommended by the attorney general;

19 (l) a medical doctor;

20 (m) a medical pathologist;

21 (n) a member possessing a graduate degree in one of

22 the forensic sciences; and

23 (o) a county coroner RECOMMENDED BY THE MONTANA

24 CORONERS ASSOCIATION.

25 Section 7. Duties of board. The board of forensic

1 science shall:

2 (1) establish a laboratory of criminalistics;

3 (2) APPOINT A STATE MEDICAL EXAMINER AND provide

4 procedures consistent with this act for the employing of all

5 necessary personnel; and

6 (3) establish policy and set all necessary procedures

7 for the functioning of the division of forensic science.

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15 board shall no longer exist. FOLLOWING DISSOLUTION OF THE

16 BOARD, THE ATTORNEY GENERAL IS AUTHORIZED TO EMPLOY SUCH

17 PERSONNEL AS MAY BE NECESSARY TO CONDUCT THE AFFAIRS OF THE

18 DIVISION OF FORENSIC SCIENCE.

19 Section 10. Duties of state medical examiner. The

20 duties of the state medical examiner include but are not

21 limited to the following:

22 (1) providing assistance and consultation to associate

23 medical examiners, coroners, and law enforcement officers;

24 (2) providing court testimony when necessary to

25 accomplish the purposes of this act;

- 1 (3) stimulating and directing research in the field of
- 2 forensic pathology;
- 3 (4) maintaining an ongoing educational and training
- 4 program for associate medical examiners, coroners, and law
- 5 enforcement officers;
- 6 (5) appointing the director of the laboratory of
- 7 criminalistics;
- 8 (6) appointing one or more associate medical examiners
- 9 who serve at his pleasure; and
- 10 (7) appointing, if he considers it necessary, an
- 11 administrative assistant to handle administrative duties.

12 Section 11. Associate medical examiners —  
 13 qualifications — remuneration. (1) Associate medical  
 14 examiners must be physicians licensed to practice in Montana  
 15 and may continue their private practice during their  
 16 appointment.

17 (2) Associate medical examiners may be paid for their  
 18 services an amount which the state medical examiner  
 19 considers to be reasonable compensation and may be  
 20 reimbursed for expenses actually incurred in the performance  
 21 of their duties.

22 (3) The costs of services performed by associate  
 23 medical examiners are chargeable to the county for which the  
 24 service is performed.

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1 The laboratory's purpose is to perform analysis of specimens  
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 3 enforcement officers, and all state agencies, and referral  
 4 specimens from other states if accepted by the laboratory  
 5 director.

6 (2) The laboratory's functions include analysis of  
 7 toxicologic and criminalistic specimens which the laboratory  
 8 director considers within the performance capability of the  
 9 laboratory.

10 (3) The laboratory may charge reasonable fees for its  
 11 services, except that it may not charge STATE, county, city,  
 12 or municipal law enforcement officers or coroners OF THIS  
 13 STATE for services rendered. FEES COLLECTED UNDER THIS  
 14 SUBSECTION SHALL BE DEPOSITED IN AN ACCOUNT IN THE FARMARKED  
 15 REVENUE FUND IN THE STATE TREASURY AND USED TO PAY OPERATION  
 16 EXPENSES OF THE LABORATORY.

17 Section 13. Responsibilities of laboratory director.  
 18 The laboratory director shall:

19 (1) be responsible to the state medical examiner for  
 20 supervision and direction of the laboratory;

21 (2) appoint laboratory personnel ~~rendering decisions~~  
 22 ~~as to the disposition of specimens; and;~~

23 (3) RENDER DECISIONS AS TO THE DISPOSITION OF  
 24 SPECIMENS; AND

25 ~~(3)(4)~~ perform all other duties required by the rules



1 of the division.

2 Section 14. Removal of state medical examiner and  
3 laboratory director. The state medical examiner and the  
4 laboratory director may be removed from office only for  
5 neglect of duty, incompetency, or other good cause and only  
6 after a full hearing on ~~verified charges filed at least 20~~  
7 ~~days before the hearing and served at least 20 days before~~  
8 ~~the hearing~~ PURSUANT TO 82A-1014.

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10 ~~The coroner shall make or have performed any investigation~~  
11 ~~he considers necessary whenever a death occurs or a body is~~  
12 ~~found in his county and the death occurred under any of the~~  
13 ~~following circumstances:~~

- 14 ~~(a) criminal violence;~~
- 15 ~~(b) by accident;~~
- 16 ~~(c) suddenly when in apparent good health;~~
- 17 ~~(d) by suicide;~~
- 18 ~~(e) when unattended by a practicing physician;~~
- 19 ~~(f) in any prison or penal institution;~~
- 20 ~~(g) when in police custody;~~
- 21 ~~(h) in any suspicious or unusual circumstances;~~
- 22 ~~(i) by criminal abortion;~~
- 23 ~~(j) by poison;~~
- 24 ~~(k) by disease constituting a threat to the public~~  
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1 ~~(1) by disease, injury, or toxic agent resulting from~~  
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3 ~~(m) when a corpse is brought into the state without~~  
4 ~~proper medical certification;~~

5 ~~(n) when a corpse is to be cremated or dissected;~~

6 ~~(2) The county coroner shall perform or have performed~~  
7 ~~an investigation into any death upon request of the attorney~~  
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9 ~~(3) After his initial examination and investigation~~  
10 ~~the coroner shall immediately prepare a written report of~~  
11 ~~his findings in duplicate. He shall retain one copy and~~  
12 ~~provide a copy to the state medical examiner;~~

13 ~~(4) The state medical examiner has authority in any~~  
14 ~~death with circumstances enumerated above to perform or have~~  
15 ~~performed an autopsy or any other laboratory examination he~~  
16 ~~considers necessary or in the public interest;~~

17 Section 15. Exemption from liability. No criminal or  
18 civil action may arise against a medical examiner for  
19 performing an autopsy under this act.

20 Section 16. Property of deceased -- disposition. (1)  
21 Any property found with or upon the person of the deceased  
22 which is not considered evidence shall be relinquished by  
23 the state medical examiner or the coroner to the appropriate  
24 public administrator to be held until disposed of according  
25 to law.

1 ~~(2) Property needed as evidence shall be relinquished~~  
 2 ~~to the appropriate investigative authority.~~

3 Section 17. Burial of corpse. (1) When a medical  
 4 examiner or coroner takes custody of a body of a deceased  
 5 person for purposes of examination and no other person  
 6 claims the body, the coroner of the county in which the  
 7 death occurred or the body was found shall cause it to be  
 8 decently interred.

9 (2) If there is not sufficient property belonging to  
 10 the estate of the deceased to pay the necessary expenses of  
 11 the burial, the expenses are a charge against the county.

12 Section 18. Appointment of deputy coroners. (1) The  
 13 coroner, with approval of the county commissioners, may  
 14 appoint one or more deputy coroners to assist him or act in  
 15 his absence.

16 (2) A deputy coroner may be the coroner from another  
 17 county.

18 ~~Section 21.20. Suspicious death --- duty to report ---~~  
 19 ~~control of corpses (1) It is the duty of any person aware~~  
 20 ~~of the death of a person under the circumstances described~~  
 21 ~~in [section 14 15 of this act] to report the death and~~  
 22 ~~circumstances immediately to the coroner.~~

23 ~~(2) Upon notification of the death, the coroner shall~~  
 24 ~~immediately examine or otherwise take charge of the corpse.~~

25 Section 19. Penalty. A person is guilty of a

1 misdemeanor and may be fined not more than \$500 or  
 2 imprisoned in the county jail for not more than one year, or  
 3 both, if he:

4 (1) willfully fails to report or conceals a death  
 5 described in ~~[section 14 15 of this act];~~

6 (2) refuses to make available prior medical or other  
 7 information in a death investigation; or

8 (3) without an order from the coroner or state medical  
 9 examiner, willfully touches, removes, or disturbs a corpse,  
 10 its clothing, or anything near the corpse under  
 11 investigation with the intent to alter the evidence or  
 12 circumstances surrounding the death.

13 Section 20. Report to county attorney. When the cause  
 14 of death has been established within reasonable medical  
 15 certainty by the state medical examiner or his associate,  
 16 whether by review of a coroner's report or by personal  
 17 examination, he shall make available in writing to the  
 18 county attorney his determination as to the cause of death.

19 Section 21. Records --- custodian. Copies of records  
 20 and detailed findings of autopsy and laboratory  
 21 investigations shall be maintained by the state medical  
 22 examiner's office.

23 ~~Section 24. Evidence --- disposition and custody --- (1)~~  
 24 ~~Any evidence or specimen coming into the possession of the~~  
 25 ~~coroner or state medical examiner in connection with any~~

1 ~~investigation or autopsy may be retained by him or delivered~~  
2 ~~to any law enforcement officer assigned to the investigation~~  
3 ~~of the death~~

4 ~~(2) Any evidence material to the determination of the~~  
5 ~~cause of death in possession of the law enforcement officers~~  
6 ~~assigned to the investigation of the death shall be made~~  
7 ~~available to the state medical examiner, his associate, and~~  
8 ~~the county coroner.~~

9 ~~Section 25. Duties of county attorneys. Each county~~  
10 ~~attorney shall establish and maintain liaison with the state~~  
11 ~~medical examiner, coroner, and law enforcement investigating~~  
12 ~~agency during an investigation into the cause of death~~  
13 ~~within his county.~~

14 SECTION 22. SECTION 16-3401, R.C.M. 1947, IS AMENDED  
15 TO READ AS FOLLOWS:

16 "16-3401. Coroner to hold inquest. The coroner must  
17 hold inquests, as provided in sections 94-201-1 to 94-201-12  
18 Title 95, chapter 8."

19 SECTION 23. SECTION 16-3409, R.C.M. 1947, IS AMENDED  
20 TO READ AS FOLLOWS:

21 "16-3409. Inquest in case of prisoners in state  
22 prison. When a prisoner confined in the state prison shall  
23 die, the coroner of the county wherein the state prison is  
24 located may hold an inquest as provided in sections 94-201-1  
25 to 94-201-12 Title 95, chapter 8."

1 SECTION 24. SECTION 95-801, R.C.M. 1947, IS AMENDED TO  
2 READ AS FOLLOWS:

3 "95-801. The office of the coroner. When ~~Whenever~~ a  
4 coroner is informed that a death or ~~stillbirth~~ was caused by  
5 other than natural causes or that a death or ~~stillbirth~~ has  
6 occurred under circumstances such as to afford a reasonable  
7 ground to suspect that the death is the result of criminal  
8 conduct, or when no physician or surgeon, licensed in the  
9 state of Montana, will sign a death certificate, the coroner  
10 shall make an investigation thereof. It shall be the duty of  
11 every person acquiring knowledge of such a death to report  
12 the same forthwith to the coroner of the county in which  
13 death apparently occurred. In cases where criminal conduct  
14 is suspected, the coroner shall notify the state medical  
15 examiner and one or more law enforcement agencies having  
16 jurisdiction. The law enforcement agencies so notified shall  
17 have the responsibility to investigate the case."

18 SECTION 25. SECTION 95-802, R.C.M. 1947, IS AMENDED TO  
19 READ AS FOLLOWS:

20 "95-802. Coroner to have autopsy -- when. (1) If in  
21 the opinion of the coroner an autopsy is advisable, he shall  
22 order one and shall retain a ~~physician or pathologist~~  
23 medical examiner to perform it. A full record of the facts  
24 found shall be made on a form provided by the ~~Montana state~~  
25 ~~board of health in duplicate~~ division of forensic science in

1 ~~triplicate~~, the coroner ~~and medical examiner~~ retaining one  
2 copy and delivering the other to the county attorney. The  
3 right to conduct an autopsy shall include the right to  
4 retain such specimens as the ~~physician or pathologist~~  
5 ~~medical examiner~~ performing the autopsy deems necessary.  
6 Performance of autopsies is within the discretion of the  
7 coroner except that the county attorney or attorney general  
8 may require one. In ordering an autopsy the coroner shall  
9 order the body to be exhumed if it has been interred.

10 ~~(2) The state of Montana shall pay any expenses~~  
11 ~~incurred whenever an autopsy or investigation is initiated~~  
12 ~~at the request of the state medical examiner or attorney~~  
13 ~~general. The county shall pay any expenses incurred whenever~~  
14 ~~an autopsy or investigation is initiated at the request of~~  
15 ~~the county attorney or county coroner.\*~~

16 Section 26. Severability. If a part of this act is  
17 invalid, all valid parts that are severable from the invalid  
18 part remain in effect. If a part of this act is invalid in  
19 one or more of its applications, the part remains in effect  
20 in all valid applications that are severable from the  
21 invalid applications.

22 Section 27. Repealer. Sections ~~16-3402~~, 16-3403,  
23 ~~16-3405, 16-3409, 95-801, 95-802~~, 95-810, and 95-114, R.C.M.  
24 1947, are repealed.

-End-

HOUSE BILL NO. 461

INTRODUCED BY HOLMES, KEYSER

BY REQUEST OF THE BOARD OF CRIME CONTROL

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE DIVISION OF FORENSIC SCIENCE IN THE DEPARTMENT OF JUSTICE; PROVIDING FOR ITS ADMINISTRATION, DUTIES, AND FUNCTIONS; PROVIDING FOR A LABORATORY OF CRIMINALISTICS; ALTERING THE DUTIES OF THE CORONER; AMENDING SECTIONS 16-3401, 16-3409, 95-801, AND 95-802 AND REPEALING SECTIONS 16-3402, 16-3403, 16-3405, 16-3409, 95-801, 95-802, 95-810, AND 95-814, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. This act shall be known as the "Montana Forensic Science System Act".

Section 2. Purpose. The purpose of this act is to provide the personnel, facilities, and procedures to determine the cause of certain types of deaths by such investigation and examination as are in the public interest; to analyze specimens for law enforcement officers and to provide reports, including oral testimony, concerning such investigation, examination, and analysis when in the public interest.

Section 3. Creation of division of forensic science -- head. (1) There is a division of forensic science in the

department of justice.

(2) The division head is an administrator whose title is state medical examiner and who shall be appointed by the board of forensic science. He shall be a forensic pathologist qualified or certified by the American board of pathologists-of-the-American-medical-association PATHOLOGY.

Section 4. Functions of the division. The functions of the division include operation of:

- (1) a laboratory of criminalistics; and
(2) an office of forensic pathology.

Section 5. Authority to accept grants. The division of forensic science is authorized to accept federal and other moneys which may be made available to accomplish the purposes of this act.

Section 6. Board of forensic science -- establishment-composition. (1) The board of forensic science is established within the department of justice.

(2) There shall be 15 board members appointed by the governor ATTORNEY GENERAL.

(3) The board shall be representative of state and local governments and law enforcement agencies and the medical profession. It shall include:

- (a) an incumbent mayor recommended by the Montana league of cities and towns;
(b) an incumbent county commissioner recommended by

1 the Montana association of counties;

2 (c) a prosecutor recommended by the Montana

3 association of county attorneys;

4 (d) the chairman of the peace officers' standards and

5 training advisory council;

6 (e) an incumbent chief of police recommended by the

7 Montana chiefs of police association;

8 (f) an incumbent sheriff recommended by the Montana

9 sheriffs and police PEACE officers association;

10 (g) a deputy sheriff recommended by the Montana

11 sheriffs and police PEACE officers association;

12 (h) a police officer recommended by the Montana police

13 protective association;

14 (i) a member recommended by the chief of the Montana

15 highway patrol;

16 (j) a member recommended by the director of the

17 department of fish and game;

18 (k) a member recommended by the attorney general;

19 (l) a medical doctor;

20 (m) a medical pathologist;

21 (n) a member possessing a graduate degree in one of

22 the forensic sciences; and

23 (o) a county coroner RECOMMENDED BY THE MONTANA

24 CORONERS ASSOCIATION.

25 Section 7. Duties of board. The board of forensic

1 science shall:

2 (1) establish a laboratory of criminalistics;

3 (2) APPOINT A STATE MEDICAL EXAMINER AND provide

4 procedures consistent with this act for the employing of all

5 necessary personnel; and

6 (3) establish policy and set all necessary procedures

7 for the functioning of the division of forensic science.

8 Section 8. Rules authorized. The board of forensic

9 science is authorized to adopt rules necessary to accomplish

10 the purposes of this act.

11 Section 9. Termination of board. (1) All necessary

12 functions of the board shall be completed within a 2-year

13 period from the effective date of this act.

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15 board shall no longer exist. FOLLOWING DISSOLUTION OF THE

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18 DIVISION OF FORENSIC SCIENCE.

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20 duties of the state medical examiner include but are not

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23 medical examiners, coroners, and law enforcement officers;

24 (2) providing court testimony when necessary to

25 accomplish the purposes of this act;

1 (3) stimulating and directing research in the field of  
2 forensic pathology;

3 (4) maintaining an ongoing educational and training  
4 program for associate medical examiners, coroners, and law  
5 enforcement officers;

6 (5) appointing the director of the laboratory of  
7 criminalistics;

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15 and may continue their private practice during their  
16 appointment.

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20 reimbursed for expenses actually incurred in the performance  
21 of their duties.

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23 medical examiners are chargeable to the county for which the  
24 service is performed.

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4 specimens from other states if accepted by the laboratory  
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16 EXPENSES OF THE LABORATORY.

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22 ~~as to the dispositions of specimens and~~

23 (3) RENDER DECISIONS AS TO THE DISPOSITION OF  
24 SPECIMENS; AND

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 3 laboratory director. The state medical examiner and the  
 4 laboratory director may be removed from office only for  
 5 neglect of duty, incompetency, or other good cause and only  
 6 after a full hearing on verified charges filed at least 20  
 7 days before the hearing and served at least 20 days before  
 8 the hearing PURSUANT TO B2A-1014.

9 Section 15. ~~Procedures upon suspicious deaths. (1)~~  
 10 ~~The coroner shall make or have performed any investigation~~  
 11 ~~he considers necessary whenever a death occurs or a body is~~  
 12 ~~found in his county and the death occurred under any of the~~  
 13 ~~following circumstances:~~

- 14 ~~(a) criminal violence;~~
- 15 ~~(b) by accident;~~
- 16 ~~(c) suddenly when in apparent good health;~~
- 17 ~~(d) by suicide;~~
- 18 ~~(e) when unattended by a practicing physician;~~
- 19 ~~(f) in any prison or penal institution;~~
- 20 ~~(g) when in police custody;~~
- 21 ~~(h) in any suspicious or unusual circumstances;~~
- 22 ~~(i) by criminal abortion;~~
- 23 ~~(j) by poison;~~
- 24 ~~(k) by disease constituting a threat to the public~~  
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1 ~~(l) by disease, injury, or toxic agent resulting from~~  
 2 ~~employment;~~

3 ~~(m) when a corpse is brought into the state without~~  
 4 ~~proper medical certification;~~

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6 ~~(2) The county coroner shall perform or have performed~~  
 7 ~~an investigation into any death upon request of the attorney~~  
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 10 ~~the coroner shall immediately prepare a written report of~~  
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 20 (g) ~~when in police custody;~~  
 21 (h) ~~in any suspicious or unusual circumstances;~~  
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4 examiner or coroner takes custody of a body of a deceased  
5 person for purposes of examination and no other person  
6 claims the body, the coroner of the county in which the  
7 death occurred or the body was found shall cause it to be  
8 decently interred.

9 (2) If there is not sufficient property belonging to  
10 the estate of the deceased to pay the necessary expenses of  
11 the burial, the expenses are a charge against the county.

12 Section 18. Appointment of deputy coroners. (1) The  
13 coroner, with approval of the county commissioners, may  
14 appoint one or more deputy coroners to assist him or act in  
15 his absence.

16 (2) A deputy coroner may be the coroner from another  
17 county.

18 ~~Section 21+20. Suspicious death--duty-to-report--~~  
19 ~~control--of--corpse--(1)--it-is-the-duty-of-any-person-aware~~  
20 ~~of-the-death-of-a-person-under-the-circumstances-described~~  
21 ~~in--[section--14 15 of--this--act]--to-report-the-death-and~~  
22 ~~circumstances-immediately-to-the-coroner~~

23 ~~{2}--Upon-notification-of-the-death-the-coroner-shall~~  
24 ~~immediately-examine-or-otherwise-take-charge-of-the-corpse~~

25 Section 19. Penalty. A person is guilty of a

1 misdemeanor and may be fined not more than \$500 or  
2 imprisoned in the county jail for not more than one year, or  
3 both, if he:

4 (1) willfully fails to report or conceals a death  
5 described in ~~[section 14 15 of this act]~~;

6 (2) refuses to make available prior medical or other  
7 information in a death investigation; or

8 (3) without an order from the coroner or state medical  
9 examiner, willfully touches, removes, or disturbs a corpse,  
10 its clothing, or anything near the corpse under  
11 investigation with the intent to alter the evidence or  
12 circumstances surrounding the death.

13 Section 20. Report to county attorney. When the cause  
14 of death has been established within reasonable medical  
15 certainty by the state medical examiner or his associate,  
16 whether by review of a coroner's report or by personal  
17 examination, he shall make available in writing to the  
18 county attorney his determination as to the cause of death.

19 Section 21. Records -- custodian. Copies of records  
20 and detailed findings of autopsy and laboratory  
21 investigations shall be maintained by the state medical  
22 examiner's office.

23 ~~Section 24. Evidence--disposition-and-custody--(1)~~  
24 ~~Any-evidence-or-specimen-coming-into-the-possession-of-the~~  
25 ~~coroner-or-state-medical-examiner-in-connection-with-any~~

1 ~~investigation or autopsy may be retained by him or delivered~~  
 2 ~~to any law enforcement officer assigned to the investigation~~  
 3 ~~of the death.~~

4 ~~(2) Any evidence material to the determination of the~~  
 5 ~~cause of death in possession of the law enforcement officers~~  
 6 ~~assigned to the investigation of the death shall be made~~  
 7 ~~available to the state medical examiner, his associate, and~~  
 8 ~~the county coroner.~~

9 ~~Section 25, Duties of county attorneys. Each county~~  
 10 ~~attorney shall establish and maintain liaison with the state~~  
 11 ~~medical examiner, coroner, and law enforcement investigating~~  
 12 ~~agency during an investigation into the cause of death~~  
 13 ~~within his county.~~

14 SECTION 22. SECTION 16-3401, R.C.M. 1947, IS AMENDED  
 15 TO READ AS FOLLOWS:

16 "16-3401. Coroner to hold inquest. The coroner must  
 17 hold inquests, as provided in sections 94-201-1 to 94-201-12  
 18 Title 95, chapter 8."

19 SECTION 23. SECTION 16-3409, R.C.M. 1947, IS AMENDED  
 20 TO READ AS FOLLOWS:

21 "16-3409. Inquest in case of prisoners in state  
 22 prison. When a prisoner confined in the state prison shall  
 23 die, the coroner of the county wherein the state prison is  
 24 located may hold an inquest as provided in sections 94-201-1  
 25 to 94-201-12 Title 95, chapter 8."

1 SECTION 24. SECTION 95-801, R.C.M. 1947, IS AMENDED TO  
 2 READ AS FOLLOWS:

3 "95-801. The office of the coroner. When ~~Whenever~~ a  
 4 coroner is informed that a death ~~or stillbirth~~ was caused by  
 5 other than natural causes or that a death ~~or stillbirth~~ has  
 6 occurred under circumstances such as to afford a reasonable  
 7 ground to suspect that the death is the result of criminal  
 8 conduct, or when no physician or surgeon, licensed in the  
 9 state of Montana, will sign a death certificate, the coroner  
 10 shall make an investigation thereof. It shall be the duty of  
 11 every person acquiring knowledge of such a death to report  
 12 the same forthwith to the coroner of the county in which  
 13 death apparently occurred. In cases where criminal conduct  
 14 is suspected, the coroner shall notify the state medical  
 15 examiner and one or more law enforcement agencies having  
 16 jurisdiction. The law enforcement agencies so notified shall  
 17 have the responsibility to investigate the case."

18 SECTION 25. SECTION 95-802, R.C.M. 1947, IS AMENDED TO  
 19 READ AS FOLLOWS:

20 "95-802. Coroner to have autopsy -- when. (1) If in  
 21 the opinion of the coroner an autopsy is advisable, he shall  
 22 order one and shall retain a ~~physician or pathologist~~  
 23 medical examiner to perform it. A full record of the facts  
 24 found shall be made on a form provided by the Montana state  
 25 ~~board of health in duplicate~~ division of forensic science in

1 ~~triplicate, the coroner and medical examiner~~ retaining one  
2 copy and delivering the other to the county attorney. The  
3 right to conduct an autopsy shall include the right to  
4 retain such specimens as the ~~physician--or--pathologist~~  
5 ~~medical examiner~~ performing the autopsy deems necessary.  
6 Performance of autopsies is within the discretion of the  
7 coroner except that the county attorney or attorney general  
8 may require one. In ordering an autopsy the coroner shall  
9 order the body to be exhumed if it has been interred.

10 ~~(2) The state of Montana shall pay any expenses~~  
11 ~~incurred whenever an autopsy or investigation is initiated~~  
12 ~~at the request of the state medical examiner or attorney~~  
13 ~~general. The county shall pay any expenses incurred whenever~~  
14 ~~an autopsy or investigation is initiated at the request of~~  
15 ~~the county attorney or county coroner."~~

16 Section 26. Severability. If a part of this act is  
17 invalid, all valid parts that are severable from the invalid  
18 part remain in effect. If a part of this act is invalid in  
19 one or more of its applications, the part remains in effect  
20 in all valid applications that are severable from the  
21 invalid applications.

22 Section 27. Repealer. Sections ~~16-3402,~~ 16-3403,  
23 ~~16-3405, 16-3409, 95-801, 95-802,~~ 95-810, and 95-814, R.C.M.  
24 1947, are repealed.

-End-