## SENATE BILL NO. 114

## INTRODUCED BY THOMAS, MILLER

## IN THE SENATE

January 12, 1983	Introduced and referred to Committee on Judiciary.
January 26, 1983	Committee recommend bill do pass as amended. Report adopted.
January 27, 1983	Bill printed and placed on members' desks.
January 31, 1983	Second reading, do pass.
February 1, 1983	Correctly engrossed.
February 2, 1983	Third reading, passed. Ayes, 49; Noes, 0. Transmitted to House.
IN THE H	OUSE
February 3, 1983	Introduced and referred to Committee on Judiciary.
March 16, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 21, 1983	Second reading, concurred in.
March 22, 1983	Third reading, concurred in.

## IN THE SENATE

Returned to Senate with amendments.

March 29, 1983

Second reading, amendments concurred in.

March 30, 1983

Third reading, amendments concurred in. Ayes, 48; Noes, 0.

Sent to enrolling.

Reported correctly enrolled.

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2	INTRODUCED BY	Thomas.	1 1 1 1 1 1 1 1	·	<u></u>	
3		Mille				

A BILL FOR AN ACT ENTITLED: "AN ACT TO ENSURE THAT PROPERTY FOUND WITH OR UPON A DECEDENT AND ANY SUICIDE NOTE WILL BE GIVEN TO DECEDENT'S FAMILY OR OTHER PERSON ENTITLED THERETO: PROVIDING A RETROACTIVE PROVISION; AMENDING SECTION 44-3-402. MCA."

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

Section 1. Section 44-3-402, MCA, is amended to read: "44-3-402. Disposition of property of deceased == sulcide note. (1) Any Except as provided in subsection 121. any property found with or upon the person of the-deceased which-is-not-considered-evidence-shall--be--relinguished--by the-state-medical-examiner-or-the-coroner-to-the-appropriate public-administrator-to-be-held-until-disposed-of-according to-low a decedent and any suicide note composed or purportedly composed by the decedent held by the state medical examiner. a coroner. or any other person must: within 30 days of receipt of the property, be given to the personal representative of the decedent appointed under Title 72 or, if no personal representative is appointed, to the public administrator for disposition under Title 72. chapter\_15.

1	[2] If an investigation into the cause of death is
2	made, the property and any sufcide note may be held by the
3	state medical examiner or B coroner until the investigation
4	is completed or a 20-day period after receipt of the
5	property has expired, whichever occurs first. The decedent's
6	spouse. "Chfldren: grandchlldren: parents: grandparents. and
7	brothers and sisters way inspect the property and any note
8	during such 90-day period whless a court order is obtained
9	barring inspection as likely to prejudice an investigation
10	or any person's interests.
11	(3) At 4 all times and in all persons hands the
12	property and any sulcide note remain subject to
13	investigative_subpoena.*
14	NEW SECTION. Section 2. Deaths prior to October 1.
15	1983 retroactive provision. Any property found with or
16	upon a person who died prior to October 1, 1983, and any
17	suicide note composed or purportedly composed by such a

person that is held by the state medical examiner, a

coroner, or any other person on October 1, 1983, must,

within 30 days after October 1, 1983, be given to the

personal representative of the decedent appointed under

Title 72 or, if there is no personal representative, to the

public administrator for disposition under Title 72, chapter

15. If an investigation into the cause of death is to be

made, or is in progress on October 1, 1983, the property and

any suicide note may be held by the state medical examiner 1 or a coroner until the investigation is completed or until 2 January 1, 1984, whichever occurs first. The decedent's spouse, children, grandchildren, parents, grandparents, and brothers and sisters may inspect the property and any 5 suicide note during such 90-day period unless a court order 7 is obtained barring inspection as likely to prejudice an investigation or any person's interests. At all times and in 9 all persons\* hands, the property and any suicide note remain subject to investigative subpoena. This section is expressly 10 declared to be retroactive within the meaning of 1-2-109. 11

SB 0114/02

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48th Legislature

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Approved by Committee on Judiciary

1	SENATE BILL NO. 114
2	INTRODUCED BY THOMAS, MILLER
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO ENSURE THAT PROPERT
5	FOUND WITH OR UPON A DECEDENT AND ANY SUICIDE NOTE WILL B
6	GIVEN TO DECEDENT'S FAMILY-OR-OTHER-PERSON-ENTITLED-THERET
7	PERSONAL REPRESENTATIVE OR TO THE PUBLIC ADMINISTRATOR
8	EXCEPT WHEN THE PROPERTY OR NOTE IS CONSIDERED BY THE COUNT
9	ATTORNEY TO BE EVIDENCE OF A CRIME; PROVIDING A RETROACTIVE
0	PROVISION; AMENDING SECTION 44-3-402, MCA.*
1	
2	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
.3	Section 1. Section 44-3-402, MCA, is amended to read
4	"44-3-402. Disposition of property of deceased
5	suicide note. (1) Amy Except as provided in subsection (2)
6	any property found with or upon the person of the-decease
7	which-is-not-considered-evidence-shall-berelinquishedb
8	the-state-medical-examiner-or-the-coroner-to-the-appropriat
9	publicadministrator-to-be-held-until-disposed-of-accordin
0	totaw- a decedent and any suicide note composed o
1	purportedly composed by the decedent held by the state
2	medicalexaminergcoronerpronyotherperso
3	INVESTIGATING AGENCY must, within 30 days of receipt of the
4	property, be given to the personal representative of th

decedent appointed under Title 72 or if no personal

2	disposition under litle 72, chapter 15.
3	[2] If an investigation into the cause of death is 10
4	BE_made_OR_IS_IN_PROGRESS: the property and any suicide note
5	CONSIDERED TO BE EVIDENCE BY THE COUNTY ATTORNEY may be held
6	by the statemedicalexaminer-or-a-coroner INVESTIGATING
7	AGENCY until the investigation is completed or 90-day
8	period-ofter-receipt-of-the-property-hos-expiredy-whichever
9	eccurs first. The decedent's spouse children.
0	grandchildren. parents, grandparents, and brothers and
1	sisters may inspect the property and any note during such
2	98-day-period INVESTIGATION unless a court order is obtained
3	barring inspection as likely to prejudice an investigation
4	or any person's interests.
5	(3) at-oll-timesondin-oll-personsbondsthe
6	property::::od:::sny:::suicide:::note:::rewain-:::subject::to
7	investigative-subpoend* FOR THE PURPOSES OF THIS SECTION AND
8	[SECTION 2]. "INVESTIGATING AGENCY" MEANS ANY COUNTY CORONER
9	OR_COUNTY_ATTORNEY:_THE_STATE_MEDICAL_EXAMINER:_AND_ANY_LAW
0	ENFORCEMENT AGENCY OF THIS STATE AND ANY POLITICAL
ı	SUBDIVISION OF THIS STATE MAYING JURISDICTION OF THE DEATH.
2	NEW_SECTION. Section 2. Deaths prior to October 1.
3	1983 retroactive provision. Any (1) EXCEPT AS PROVIDED
4	IN_SUBSECTION_121+ ANY property found with or upon a person
-	to died out a to october 1 1002 and any spinish actor

representative is appointed, to the public administrator for

- composed or purportedly composed by such a person that is
  held by the state-medical-examinery-a-coronery-or-any-other
  necessary INVESTIGATING AGENCY on October 1, 1983, musty-within
  Held by the state-medical-examinery-a-coronery-or-any-other
  necessary INVESTIGATING AGENCY on October 1, 1983, musty-within
  Held by the state-medical-examinery-a-coronery-or-any-other
  person INVESTIGATING AGENCY on October 1, 1983, musty-within
  Held by the state-medical-examinery-a-coronery-or-any-other
  necessary-or-any-other
  held by the state-medical-examinery-a-coronery-or-any-other
  necessary-or-any-other
  necessary-or-any-or-any-other
  necessary-or-any-other
  necessary-or-any-or-any-or-any-other
  necessary-or-any-or-any-or-any-other
  necessary-or-any-or-any-or-any-or-any-other
  necessary-or-any-or-
- 9 12) If an investigation into the cause of death is to 10 be made, or is in progress on October 1, 1983, the property and any suicide note <u>CONSIDERED TO BE EVIDENCE BY THE COUNTY</u> 11 12 ATTORNEY may be held by the state--medical--examiner--or--a 13 coroner INVESTIGATING AGENCY until the investigation is 14 completed or-until-danuary-ty-1984y-whichever-occurs-first. 15 The decedent's spouse, children, grandchildren, parents, 16 grandparents, and brothers and sisters may inspect the 17 property and any suicide note during such 90-day-period 18 INVESTIGATION unless a court order is obtained barring 19 inspection as likely to prejudice an investigation or any 20 21 the---property--and--any--suicide--note--remain--subject--to 22 investigative-subpoens. This section is expressly declared 23 to be retroactive within the meaning of 1-2-109.

ļ	SENATE BILL NO. 114
2	INTRODUCED BY THOMAS, MILLER
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO ENSURE THAT PROPERTY
5	FOUND WITH OR UPON A DECEDENT AND ANY SUICIDE NOTE WILL BE
6	GIVEN TO DECEDENT'S FAMILY-BR-OTHER-PERSON-ENTITLED-THERETO
7	PERSONAL REPRESENTATIVE OR TO THE PUBLIC ADMINISTRATOR.
B	EXCEPT WHEN THE PROPERTY OR NOTE IS CONSIDERED BY THE COUNTY
9	ATTORNEY TO BE EVIDENCE OF A CRIME; PROVIDING A RETROACTIVE
10	PROVISION; AMENDING SECTION 44-3-402, MCA."
1	
12	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13	Section 1. Section 44-3-402, MCA, is amended to read:
14	#44-3-402. Disposition of property of deceased
15	suicide note. (1) Any Except as provided in subsection 12):
16	any property found with or upon the person of the-deceased
17	which-is-not-considered-evidence-shallberelinquishedby
18	the-state-med <del>ical-examiner-or-the-coroner-to-the-</del> appropr <del>ia</del> te
19	publicadministrator-to-be-held-until-disposed-of-according
20	tolow- a decedent and any suicide note composed or
21	purportedly composed by the decedent held by the state
22	medical-examinerscoroneroranyotherperson
23	INVESTIGATING AGENCY must, within 30 days of receipt of the
24	property: be given to the personal representative of the
25	decedent appointed under litle 12 or if no personal

1	representative is appointed, to the public administrator for
.2	disposition_under_litle_72chapter_15.
3	(2) If an investigation into the cause of death is I
4	BE made OR IS IN PROGRESS, the property and any suicide note
5	CONSIDERED TO BE EVIDENCE BY THE COUNTY ATTORNEY MAY be held
6	by the state medical examiner or a coroner INVESTIGATING
7	AGENCY until the investigation is completed or 98-day
8	period-rafter-receipt-of-the-property-hos-expiredy-whichever
9	occursfirst. The decedent's spouse children
10	grandchildren. parents, grandparents, and brothers and
11	sisters may inspect the property and any note during such
12	90-day:period INVESTIGATION unless a court order is obtained
13	barring inspection as likely to prejudice an investigation
14	or any person's interests.
15	[3] at:gl==timesandinallpersonsthandsxthe
16	property====and===any===auicide===note===remain===aubject==tq
17	investigative-subsector FOR THE PURPOSES OF THIS SECTION AND
18	[SECTION 2]. "INVESTIGATING AGENCY" MEANS ANY COUNTY CORONER
19	OR COUNTY ATTORNEY. THE STATE MEDICAL EXAMINER. AND ANY LAW
29	ENFORCEMENT AGENCY OF THIS STATE AND ANY POLITICAL
21	SUBDIVISION OF THIS STATE HAVING JURISDICTION OF THE DEATH.
22	NEW SECTION. Section 2. Deaths prior to October 1.
23	1983 retroactive provision. Any (1) EXCEPT AS PROVIDED
24	IN_SUBSECTION_121: ANY property found with or upon a person
25	who died prior to October 1, 1983, and any suicide note

composed or purportedly composed by such a person that is

held by the state medical examinery accordery or any other

medical examinery accordery or any other

necessary in the state medical examinery accordery or any other

medical examinery accordery or any other

medical examinery accordery or other is a substitute of the decedent appointed

to the personal representative of the decedent appointed

under Title 72 or, if there is no personal representative,

to the public administrator for disposition under Title 72,

chapter 15.

121 If an investigation into the cause of death is to be made, or is in progress on October 1, 1983, the property and any suicide note CONSIDERED TO BE EVIDENCE BY THE COUNTY ATTORNEY may be held by the state—medical—examiner—or—a coroner INVESTIGATING AGENCY until the investigation is completed or—until—donuary—1,—1984,—whichever—occurs—first. The decedent's spouse, children, grandchildren, parents, grandparents, and brothers and sisters may inspect the property and any suicide note during such 90-day—period INVESTIGATION unless a court order is obtained barring inspection as likely to prejudice an investigation or any person's interests. At-all-times-and-in-all-persons—handsy the—property—and—any—suicide—note—remain—subject—to investigative-subpoena. This section is expressly declared to be retroactive within the meaning of 1-2-109.

48th Legislature SB 0114/03

ì	SENATE BILL NO. 114
2	INTRODUCED BY THOMAS, MILLER
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO ENSURE THAT PROPERTY
5	FOUND WITH OR UPON A DECEDENT AND ANY SUICIDE NOTE HILL BE
6	GIVEN TO DECEDENT'S FAMILY-OR-BEHER-PERSON-ENTIFLEO-THEREFO
7	ROTORIESTATION AND AREA TO THE SERVICE OF THE SERVI
я	EAMILY. OR OTHER PERSON ENTITIED THERETO. EXCEPT WHEN THE
9	PROPERTY_OR_MOTE_IS_CONSIDERED_BY_THE_COUNTY_ATTORNEY_TOBE
10	EXIDENCE DE A CRIME; PROVIDINGA-RETROACTIVE-PROVISION;
11	AMENDING REPEALING SECTION 44-3-402, MCA."
12	
13	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
14	Rection-law-Section-44-3-482y-468y-is-amended-to-reads
15	#44-3-402Dispositionofpropertyofdeceased ==
16	auicide=ootev fil Any Except:da:proxided:in:aubacction==fflx
17	ggy propertyfound-with-or-upon-the-person-af-the-deceased
18	which-is-not-considered-evidence-shallberelinquishedby
19	the-state-medical-examiner-or-the-coroner-to-the-appropriate
20	pablicadministrator-to-be-held-antil-disposed-of-according
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22	purportedlycomposedbythe-idecadentbeldby-the-state

medical-resominers-corrected-continues-resider-reperson

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22	SUBDIVISION-OF-THIS-STATE-HAVING-JURISDIGIION-OF-IHE-DEAIH.
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24	1983retrosetive-provisionAny <u>111-EXCEPI-AS-PROVIDED</u>
25	IN-SYNSECTION-121x-ANY property-found-with-or-upon-aperson

who—died—prior—to—October—1y-1903y—and-any-suicide—note composed—or—purportedly—composed—by—such-a—person—that—is held—by—the stats=medical=syminerx=s=corposex=or=any=other person investigative=accorposex=or=any=other person investigative=accorposex=or=any=other person investigative=accorposex=or=any=other person investigative=accorposex=or=any=other to—the—personal—reoresentative—of—the-decedent-appointed under-fitte-72—ory—if—thero—is—no—personal—representativey to—the-public-administrator—for-disposition-under-fitte-72+ chapter—15\*

t21--If-an-investigation-into-the-cause-of-death-is--to
be--madev-or-is-in-progress-on-October-ly-1903y-the-property
and-any-swicide-note CONSIDEREQ-IO-AE-EXIDENEE-BY-IME-COUNTY
AITURNEY may-be-held-by-the--state--medical--examiner--or--a
coroner INVESTIGATING:-AEENEY until--the--investigation-is
completed-or-until-danuary-ly-1904y-whichever-occurs--firsts
The--decedent\*s--spousay--childreny--grandchildreny-perentsy
grandparentsy-and--brothers--and--sisters--may--inspect--the
property--and--any--swicide--note--during-such-90-day-period
INVESTIGATION unless--o--court--order--is--obtained--borring
inspection--as--likely--to-prejudice-an-investigation-or-any
person\*s-interestsw-At-all-times-and-in-all-persons\*--handsy
the---property--and--any--swicide--note--remain--subject--to
investigative-subpoenav-This-section-is--expressly--declared
to-be-retroactive-within-the-meaning-of-1-2-109x

THERE IS A NEW MCA SECTION THAT READS:

Section 1. Disposition of property of deceased —

suicide note. (1) Any property of a decedent, or any suicide

note composed or purportedly composed by a decedent in the

custody of the county coroner shall be neld until such time

as the county attorney establishes that it is not necessary

to hold such property or note to determine the true cause of

death, to assist any investigating agency, or to be used as

evidence in any related criminal court action.

(2) For the purposes of this section, "investigating agency" means any county attorney, the state medical examiner, and any law enforcement agency of this state and any political subdivision of this state having jurisdiction of the death.

14 (3) When such property or note is no longer needed for
15 evidentiary purposes, it shall be given, upon written
16 request, to the personal representative of the decedent
17 appointed under Title 72, or if no personal representative
18 is appointed, to the decedent's family or whoever in the
19 discretion of the county attorney should receive the
20 property or the note.

21 SECTION\_2=\_REPEALER=\_\_\_SECTION\_\_44=3=402\*\_\_MCA=\_IS
22 REPEALED=