

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 HOUSE

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

March 23, 1983

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.

1 *Senate* BILL NO. *114*  
 2 INTRODUCED BY *Thomas*  
 3 *Miller*  
 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 OR OTHER PERSON ENTITLED THERETO;  
 7 PROVIDING A RETROACTIVE PROVISION; AMENDING SECTION  
 8 44-3-402, MCA."

9  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 11 Section 1. Section 44-3-402, MCA, is amended to read:  
 12 "44-3-402. Disposition of property of deceased --  
 13 suicide note. (1) Any Except as provided in subsection (2),  
 14 any property found with or upon the person of the deceased  
 15 ~~which is not considered evidence shall be relinquished by~~  
 16 ~~the state medical examiner or the coroner to the appropriate~~  
 17 ~~public administrator to be held until disposed of according~~  
 18 ~~to law~~ a decedent and any suicide note composed or  
 19 purportedly composed by the decedent held by the state  
 20 medical examiner, a coroner, or any other person must,  
 21 within 30 days of receipt of the property, be given to the  
 22 personal representative of the decedent appointed under  
 23 Title 72 or, if no personal representative is appointed, to  
 24 the public administrator for disposition under Title 72,  
 25 chapter 15.

1 (2) If an investigation into the cause of death is  
 2 made, the property and any suicide note may be held by the  
 3 state medical examiner or a coroner until the investigation  
 4 is completed or a 90-day period after receipt of the  
 5 property has expired, whichever occurs first. The decedent's  
 6 spouse, children, grandchildren, parents, grandparents, and  
 7 brothers and sisters may inspect the property and any note  
 8 during such 90-day period unless a court order is obtained  
 9 barring inspection as likely to prejudice an investigation  
 10 or any person's interests.

11 (3) At all times and in all persons' hands, the  
 12 property and any suicide 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  
 18 person that is held by the state medical examiner, a  
 19 coroner, or any other person on October 1, 1983, must,  
 20 within 30 days after October 1, 1983, be given to the  
 21 personal representative of the decedent appointed under  
 22 Title 72 or, if there is no personal representative, to the  
 23 public administrator for disposition under Title 72, chapter  
 24 15. If an investigation into the cause of death is to be  
 25 made, or is in progress on October 1, 1983, the property and

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

-End-

Approved by Committee  
on Judiciary

## SENATE BILL NO. 114

INTRODUCED BY THOMAS, MILLER

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 PERSONAL REPRESENTATIVE OR TO THE PUBLIC ADMINISTRATOR, EXCEPT WHEN THE PROPERTY OR NOTE IS CONSIDERED BY THE COUNTY ATTORNEY TO BE EVIDENCE OF A CRIME; PROVIDING A RETROACTIVE PROVISION; AMENDING SECTION 44-3-402, MCA."

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 == suicide note. (1) Any Except as provided in subsection (2), any property found with or upon the person of the deceased which is not considered evidence shall be retained by the state medical examiner or the coroner to the appropriate public administrator to be held until disposed of according to law 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 INVESTIGATING AGENCY 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.

(2) If an investigation into the cause of death is TO BE made OR IS IN PROGRESS, 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 a 90-day period after receipt of the property has expired, whichever occurs first. The decedent's spouse, children, grandchildren, parents, grandparents, and brothers and sisters may inspect the property and any 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.

(3) At all times and in all persons' hands, the property and any suicide note remain subject to investigative subpoena FOR THE PURPOSES OF THIS SECTION AND [SECTION 2]. "INVESTIGATING AGENCY" MEANS ANY COUNTY CORONER OR 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."

NEW SECTION. Section 2. Deaths prior to October 1, 1983 -- retroactive provision. Any (1) EXCEPT AS PROVIDED IN SUBSECTION (2), ANY property found with or upon a person who died prior to October 1, 1983, and any suicide note

1 composed or purportedly composed by such a person that is  
 2 held by the ~~state medical examiner or coroner or any other~~  
 3 ~~person~~ INVESTIGATING AGENCY on October 1, 1983, must, within  
 4 ~~90 days after October 1, 1983,~~ be given BY JANUARY 1, 1984,  
 5 to the personal representative of the decedent appointed  
 6 under Title 72 or, if there is no personal representative,  
 7 to the public administrator for disposition under Title 72,  
 8 chapter 15.

9     (2) If an investigation into the cause of death is to  
 10 be made, or is in progress on October 1, 1983, the property  
 11 and any suicide note CONSIDERED TO BE EVIDENCE BY THE COUNTY  
 12 ATTORNEY may be held by the ~~state medical examiner or~~  
 13 ~~coroner~~ INVESTIGATING AGENCY until the investigation is  
 14 completed ~~or until January 1, 1984, 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 person's interests. ~~At all times and in all persons' hands~~  
 21 ~~the property and any suicide note remain subject to~~  
 22 ~~investigative subpoena.~~ This section is expressly declared  
 23 to be retroactive within the meaning of 1-2-109.

-End-

## SENATE BILL NO. 114

INTRODUCED BY THOMAS, MILLER

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 PERSONAL REPRESENTATIVE OR TO THE PUBLIC ADMINISTRATOR, EXCEPT WHEN THE PROPERTY OR NOTE IS CONSIDERED BY THE COUNTY ATTORNEY TO BE EVIDENCE OF A CRIME; PROVIDING A RETROACTIVE PROVISION; AMENDING SECTION 44-3-402, MCA."

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 -- suicide note. (1) Any Except as provided in subsection (2), any property found with or upon the person of the deceased which is not considered evidence shall be relinquished by the state medical examiner or the coroner to the appropriate public administrator to be held until disposed of according to law 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 INVESTIGATING AGENCY 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.

(2) If an investigation into the cause of death is TO BE MADE OR IS IN PROGRESS, 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 a 90-day period after receipt of the property has expired, whichever occurs first. The decedent's spouse, children, grandchildren, parents, grandparents, and brothers and sisters may inspect the property and any 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.

(3) At all times and in all persons' hands, the property and any suicide note remain subject to investigative subpoena FOR THE PURPOSES OF THIS SECTION AND [SECTION 2]. "INVESTIGATING AGENCY" MEANS ANY COUNTY CORONER OR 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."

NEW SECTION. Section 2. Deaths prior to October 1, 1983 -- retroactive provision. Any (1) EXCEPT AS PROVIDED IN SUBSECTION (2), ANY property found with or upon a person who died prior to October 1, 1983, and any suicide note

1 composed or purportedly composed by such a person that is  
 2 held by the ~~state medical examiner, a coroner, or any other~~  
 3 ~~person~~ INVESTIGATING AGENCY on October 1, 1983, must, within  
 4 ~~30 days after October 1, 1983,~~ be given BY JANUARY 1, 1984,  
 5 to the personal representative of the decedent appointed  
 6 under Title 72 or, if there is no personal representative,  
 7 to the public administrator for disposition under Title 72,  
 8 chapter 15.

9 (2) If an investigation into the cause of death is to  
 10 be made, or is in progress on October 1, 1983, the property  
 11 and any suicide note CONSIDERED TO BE EVIDENCE BY THE COUNTY  
 12 ATTORNEY may be held by the ~~state medical examiner or a~~  
 13 ~~coroner~~ INVESTIGATING AGENCY until the investigation is  
 14 completed ~~or until January 1, 1984, 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 person's interests. ~~At all times and in all persons' hands,~~  
 21 ~~the property and any suicide note remain subject to~~  
 22 ~~investigative subpoena.~~ This section is expressly declared  
 23 to be retroactive within the meaning of 1-2-109.

-End-



## SENATE BILL NO. 114

INTRODUCED BY THOMAS, MILLER

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 PERSONAL REPRESENTATIVE, OR IF THE PUBLIC ADMINISTRATOR FAMILY, OR OTHER PERSON ENTITLED THERETO, EXCEPT WHEN THE PROPERTY OR NOTE IS CONSIDERED BY THE COUNTY ATTORNEY TO BE EVIDENCE OF A CRIME; PROVIDING A RETROACTIVE PROVISION; AMENDING REPEALING SECTION 44-3-402, MCA."

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

Section 44-3-402 of the Montana Code Annotated is amended to read:

"44-3-402. Disposition of property of deceased -- suicide notes. (1) Any Except as provided in subsection (2), any property found with or upon the person of the deceased which is not considered evidence shall be relinquished by the state medical examiner or the coroner to the appropriate public administrator to be held until disposed of according to laws of the decedent and any suicide notes composed or purportedly composed by the decedent held by the state medical examiner or coroner or any other person investigating agency 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.

(2) If an investigation into the cause of death is to be made or is in progress, 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 a 90-day period after receipt of the property has expired, whichever occurs first, by the decedent's spouse, children, grandchildren, parents, grandparents, and brothers and sisters may inspect the property and any note during such 90-day period of investigation unless a court order is obtained barring inspection as likely to prejudice an investigation or any person's interest.

(3) At all times and in all persons' hands the property and any suicide note remain subject to investigative subpoena for the purposes of this section and section 23-1-101, "Investigating Agency Means Any County Coroner or 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."

NEW SECTION. Section 24-0801, added, reads: "24-0801. Retroactive provisions. Any law enacted after October 1, 1993, which is retroactive to a date prior to October 1, 1993, shall not apply to any property found with or upon a person

1 who--died--prior--to--October--17--1983--and--any--suicide--note  
 2 composed--or--purportedly--composed--by--such--a--person--that--is  
 3 held--by--the--state--medical--examiner--or--coroner--or--any--other  
 4 person--INVESTIGATING--AGENCY on--October--17--1983--must--within  
 5 30--days--after--October--17--1983--be--given--BY--JANUARY--17--1984--  
 6 to--the--personal--representative--of--the--decendent--appointed  
 7 under--Title--72--or--if--there--is--no--personal--representative  
 8 to--the--public--administrator--for--disposition--under--Title--72--  
 9 chapter--15.

10 121--If--an--investigation--into--the--cause--of--death--is--to  
 11 be--made--or--is--in--progress--on--October--17--1983--the--property  
 12 and--any--suicide--note--CONSIDERED--TO--BE--EVIDENCE--BY--THE--COUNTY  
 13 ATTORNEY may--be--held--by--the--state--medical--examiner--or--a  
 14 coroner--INVESTIGATING--AGENCY until--the--investigation--is  
 15 completed--or--until--January--17--1984--whichever--occurs--first.  
 16 The--decendent's--spouse--children--grandchildren--parents--  
 17 grandparents--and--brothers--and--sisters--may--inspect--the  
 18 property--and--any--suicide--note--during--such--90--day--period  
 19 INVESTIGATION unless--a--court--order--is--obtained--barring  
 20 inspection--as--likely--to--prejudice--an--investigation--or--any  
 21 person's--interests--At--all--times--and--in--all--persons'--hands--  
 22 the--property--and--any--suicide--note--remain--subject--to  
 23 investigative--subpoenas--This--section--is--expressly--declared  
 24 to--be--retroactive--within--the--meaning--of--1-2-189.

25 THERE IS A NEW MCA SECTION THAT READS:

1 Section 1. Disposition of property of deceased --  
 2 suicide note. (1) Any property of a decedent, or any suicide  
 3 note composed or purportedly composed by a decedent in the  
 4 custody of the county coroner shall be held until such time  
 5 as the county attorney establishes that it is not necessary  
 6 to hold such property or note to determine the true cause of  
 7 death, to assist any investigating agency, or to be used as  
 8 evidence in any related criminal court action.

9 (2) For the purposes of this section, "investigating  
 10 agency" means any county attorney, the state medical  
 11 examiner, and any law enforcement agency of this state and  
 12 any political subdivision of this state having jurisdiction  
 13 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. REPEALED. SECTION 44-3-402. MCA. IS  
 22 REPEALED.

-End-