

SENATE BILL NO. 414

INTRODUCED BY TOWE

IN THE SENATE

February 14, 1985	Introduced and referred to Committee on Judiciary.
February 22, 1985	Committee recommend bill do pass. Report adopted.
February 23, 1985	Bill printed and placed on members' desks.
February 26, 1985	Second reading, do pass.  Considered correctly engrossed.
February 27, 1985	Third reading, passed. Ayes, 50; Noes, 0.  Transmitted to House.

IN THE HOUSE

March 7, 1985	Introduced and referred to Committee on Judiciary.
March 21, 1985	Committee recommend bill be concurrent in. Report adopted.
March 23, 1985	Second reading, concurrent in.
March 26, 1985	Third reading, concurrent in.  Returned to Senate.

IN THE SENATE

March 26, 1985

Received from House.

March 27, 1985

Sent to enrolling.

Reported correctly enrolled.

1 Senate BILL NO. 414  
 2 INTRODUCED BY Sen. [Signature]

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 5 APPOINTMENT OF THE PUBLIC ADMINISTRATOR OR A CONSERVATOR  
 6 CORPORATION AS CONSERVATOR OF CERTAIN PERSONS; AMENDING  
 7 SECTIONS 7-4-3004, 72-5-408, 72-5-410, AND 72-15-301, MCA."

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

10 NEW SECTION. Section 1. Professional person to notify  
 11 public administrator of need for conservator. Whenever a  
 12 professional person, as defined in 53-21-102, has reason to  
 13 believe that any person is in need of the appointment of a  
 14 conservator for the effective management of his property or  
 15 affairs under this part and that the person has no relative,  
 16 friend, or other appropriate person who is able and willing  
 17 to serve as a conservator for the person, the professional  
 18 person must notify the public administrator.

19 NEW SECTION. Section 2. Public administrator to file  
 20 for conservator. Whenever the public administrator is  
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 22 of a conservator and reasonable cause exists, he must file a  
 23 petition for appointment of the public administrator as  
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25 Section 3. Section 7-4-3004, MCA, is amended to read:

1 "7-4-3004. Office of public administrator. The powers  
 2 and duties of the public administrator are defined by Title  
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4 Section 4. Section 72-5-408, MCA, is amended to read:

5 "72-5-408. Procedure concerning hearing and order on  
 6 original petition. (1) Upon receipt of a petition for  
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 8 because of minority, the court shall set a date for hearing  
 9 on the matters alleged in the petition. If, at any time in  
 10 the proceeding, the court determines that the interests of  
 11 the minor are or may be inadequately represented, it may  
 12 appoint an attorney to represent the minor, giving  
 13 consideration to the choice of the minor if 14 years of age  
 14 or older. A lawyer appointed by the court to represent a  
 15 minor has the powers and duties of a guardian ad litem.

16 (2) Upon receipt of a petition for appointment of a  
 17 conservator or other protective order for reasons other than  
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 19 the person to be protected has counsel of his own choice,  
 20 the court must appoint a lawyer to represent him who then  
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 22 alleged disability is mental illness, mental deficiency,  
 23 physical illness or disability, advanced age, chronic use of  
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 25 case of an appointment pursuant to 72-5-410(1)(h), shall

1 direct that the person to be protected be examined by a  
 2 physician designated by the court, preferably a physician  
 3 who is not connected with any institution in which the  
 4 person is a patient or is detained. The court may send a  
 5 visitor to interview the person to be protected. The visitor  
 6 may be a guardian ad litem or an officer or employee of the  
 7 court.

8 (3) After hearing, upon finding that a basis for the  
 9 appointment of a conservator or other protective order has  
 10 been established, the court shall make an appointment or  
 11 other appropriate protective order."

12 Section 5. Section 72-5-410, MCA, is amended to read:

13 "72-5-410. Who may be appointed conservator --  
 14 priorities. (1) The court may appoint an individual or a  
 15 corporation with general power to serve as trustee as  
 16 conservator of the estate of a protected person. The  
 17 following are entitled to consideration for appointment in  
 18 the order listed:

19 (a) a conservator, guardian of property, or other like  
 20 fiduciary appointed or recognized by the appropriate court  
 21 of any other jurisdiction in which the protected person  
 22 resides;

23 (b) an individual or corporation nominated by the  
 24 protected person if he is 14 or more years of age and has,  
 25 in the opinion of the court, sufficient mental capacity to

1 make an intelligent choice;

2 (c) the spouse of the protected person;

3 (d) an adult child of the protected person;

4 (e) a parent of the protected person or a person  
 5 nominated by the will of a deceased parent;

6 (f) any relative of the protected person with whom he  
 7 has resided for more than 6 months prior to the filing of  
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9 (g) a person nominated by the person who is caring for  
 10 him or paying benefits to him;

11 (h) a conservator corporation organized under Title  
 12 35, chapter 2;

13 (i) the public administrator.

14 (2) A person in priorities (a), (c), (d), (e), or (f)  
 15 may nominate in writing a person to serve in his stead.

16 (3) With respect to persons having equal priority, the  
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21 Section 6. Section 72-15-301, MCA, is amended to read:

22 "72-15-301. Compensation of public administrator. (1)  
 23 The public administrator shall receive and collect for his  
 24 own use as full compensation for his services under this  
 25 chapter, including attorney's fees, the amounts provided for

1 in 72-3-631 and 72-3-633.

2 (2) When the public administrator is appointed  
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4 chapter 5, part 4, of this title, the court may order that a  
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8 excluding court costs and attorney's fees. The total sum  
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10 not exceed 2 1/2% of the annual periodic payments or \$100,  
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12 NEW SECTION. Section 7. Codification instruction.  
13 Sections 1 and 2 are intended to be codified as an integral  
14 part of Title 72, chapter 5, part 4, and the provisions of  
15 Title 72, chapter 5, part 4, apply to sections 1 and 2.

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ON JUDICIARY

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 23 The public administrator shall receive and collect for his  
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