

HOUSE BILL NO. 491

INTRODUCED BY SIMON

IN THE HOUSE

FEBRUARY 5, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING.
	FIRST READING.
FEBRUARY 15, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 16, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
FEBRUARY 17, 1993	ENGROSSING REPORT.
FEBRUARY 18, 1993	THIRD READING, PASSED. AYES, 93; NOES, 4.
FEBRUARY 19, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 20, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE, & SAFETY.
	FIRST READING.
MARCH 23, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 25, 1993	SECOND READING, CONCURRED IN.
MARCH 26, 1993	THIRD READING, CONCURRED IN. AYES, 46; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 27, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 491
2 INTRODUCED BY Simon
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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROCEDURES FOR
5 PREPARING AND FILING DEATH CERTIFICATES; CHANGING THE BURIAL
6 TRANSIT PERMIT TO A DEAD BODY REMOVAL AUTHORIZATION;
7 REVISING THE CATEGORIES OF DEATH AND DISPOSITION REQUIRING
8 INQUIRY BY THE CORONER; REQUIRING IMMEDIATE NOTIFICATION TO
9 THE COUNTY CORONER BY A PERSON FINDING HUMAN REMAINS; AND
10 AMENDING SECTIONS 46-4-122, 50-15-403, AND 50-15-405, MCA."

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12 STATEMENT OF INTENT

13 Passage and approval of this bill would require the
14 department of health and environmental sciences to amend
15 existing rules and possibly to adopt new rules under the
16 authority already delegated under 50-1-202(20) and
17 50-15-102. The amendments to 50-15-403 replace the current
18 3-day filing requirement for a death certificate with
19 timeframes established by rule. The legislature intends that
20 these timeframes remain relatively brief but that good cause
21 be recognized when the person in charge of disposition of a
22 dead body is unable to obtain a physician's certification
23 within the set time.

24 The department shall amend or replace its burial transit
25 permit rule, Rule 16.6.906, Administrative Rules of Montana,

1 to conform with the changes made by 50-15-405. The
2 department may, in replacing this permit with a dead body
3 removal authorization, require any information as to
4 contemplated time, site, and method of disposition as the
5 performance of its vital statistics mission requires.

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

8 NEW SECTION. Section 1. Notification of finding human
9 remains. A person who finds a dead human body or fetus or
10 remains that appear to be human shall immediately report
11 this fact to the county coroner by telephone or by the
12 fastest available means of communication.

13 Section 2. Section 46-4-122, MCA, is amended to read:

14 "46-4-122. Human deaths requiring inquiry by coroner.
15 The coroner shall inquire into and determine the cause and
16 manner of death and all circumstances surrounding a human
17 death:

18 (1) that was caused or is suspected to have been
19 caused:

20 (a) in any degree by an injury, either recent or remote
21 in origin; or

22 (b) by the deceased or any other person that was the
23 result of an act or omission, including but not limited to:

24 (i) a criminal or suspected criminal act;

25 (ii) a medically suspicious death, unusual death, or

1 death of unknown circumstances, including any fetal death;
2 or

3 (iii) an accidental death; or

4 (c) by an agent, disease, or medical condition that
5 poses a threat to public health;

6 (2) whenever the death occurred:

7 (a) while the deceased was incarcerated in a prison or
8 jail or confined to a correctional or detention facility
9 owned and operated by the state or a political subdivision
10 of the state;

11 (b) while the deceased was in the custody of, or was
12 being taken into the custody of, a law enforcement agency or
13 a peace officer;

14 (c) during or as a result of the deceased's employment;

15 (d) less than 24 hours after the deceased was admitted
16 to a medical facility or if the deceased was dead upon
17 arrival at a medical facility; or

18 (e) in a manner that was unattended or unwitnessed and
19 the deceased was not attended by a physician at any time in
20 the 30-day period prior to death;

21 (3) if the dead human body is to be cremated or shipped
22 into the state and lacks proper medical certification or
23 burial or transmit permits; or

24 (4) that occurred under suspicious circumstances."

25 **Section 3.** Section 50-15-403, MCA, is amended to read:

1 "50-15-403. Preparation and filing of death or fetal
2 death certificate when--death--medically--attended. (1) A
3 person in charge of interment disposition of a dead body or
4 fetus shall:

5 (1) obtain personal data on the deceased or, in the
6 case of a fetal death, on the parents required by the
7 department from persons best qualified to supply the data
8 and enter it on the death or fetal death certificate;

9 (2) (a) The person in charge of disposition of the dead
10 body or fetus shall present the death certificate to the
11 certifying physician last-in-attendance-upon--the--deceased,
12 or the coroner having jurisdiction--or--the--state--medical
13 examiner--who--shall--certify for medical certification of the
14 cause of death, according-to-his-best-knowledge-and--belief,
15 or

16 (b) present--the--fetal--death--certificate--to--the
17 physician, midwife, or other person in attendance, who shall
18 certify the fetal death and supply any pertinent--additional
19 medical data;

20 (3) notify--the--local--registrar--if--the--death--or--fetal
21 death--occurred--without--attendance--or--if--the--physician--last
22 in--attendance--failed--to--sign--the--death--certificate; The
23 person in charge of disposition shall obtain the completed
24 certification of the cause of death from the physician or
25 coroner and shall, within the time that the department may

by rule prescribe,

(4) file the death or fetal death certificate with the local registrar within 3 days after the occurrence in the registration area where the death occurred."

Section 4. Section 50-15-405, MCA, is amended to read:

"50-15-405. Permit Authorization for disposition removal of body from place of death. (1) No Except as provided in subsection (2), a dead body may be disposed of or removed from a registration district until a permit for disposition or removal has been issued by the local registrar; the place of death only upon the written authorization or oral authorization, which must be reduced to writing within 24 hours, of the physician in attendance at death or the physician's designee, the coroner having jurisdiction, or a mortician licensed under 37-19-302.

(2) No permit may be issued until a death certificate, fetal death certificate, or notice of delay as required in subsection (3) of this section has been filed with the local registrar; If the death requires inquiry under 46-4-122, the written authorization may only be granted by the coroner having jurisdiction or the coroner's designee or by the state medical examiner if the coroner fails to act. However, when the only reason for inquiry under 46-4-122 is that the body is to be cremated, the coroner may grant oral authorization for removal of the body, which must be reduced

to writing as specified under subsection (1) by the coroner or a licensed mortician.

(3) if the cause of death or fetal death cannot be determined within 3 days after the occurrence, the attending physician, coroner, or medical examiner shall give the local registrar written notice of the reason for delay so that a permit may be issued for disposition of the body. The written authorization to move a dead body must be made in triplicate on a form provided by the department. The person in charge of disposition of the dead body, the coroner having jurisdiction, and the local registrar must each be provided with and retain a copy of the authorization.

(4) A written authorization issued under this section permits removal, transportation, and final disposition of a dead body."

NEW SECTION. Section 5. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 46, chapter 4, part 1, and the provisions of Title 46, chapter 4, part 1, apply to [section 1].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0491, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act revising procedures for preparing and filing death certificates; changing the burial transit permit to a dead body removal authorization; revising the categories of death and disposition requiring inquiry by the coroner; requiring immediate notification to the county coroner by a person finding human remains; and amending sections 46-4-122, 50-15-403, and 50-15-405 MCA.

ASSUMPTIONS:

1. New authorization forms must be designed and legal costs for rule amendment and filing will be incurred for FY94. Legal costs are estimated at 15 hours and 2 pages for filing.
2. Approximately 9,000 forms will need to be printed, stored, distributed and returned each year. A three-part form on NCR paper will cost about \$120 per thousand for printing. Mailing costs are estimated at \$0.23 per year per form.
3. If this bill passes the Department of Health and Environmental Sciences will need a general fund appropriation of \$3,850 in FY94 and \$3,055 in FY95.

FISCAL IMPACT:

	FY '94			FY '95		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Personal Services	0	0	0	0	0	0
Operating	0	\$3,850	\$3,850	0	\$3,055	\$3,055
Total	0	\$3,850	\$3,850	0	\$3,055	\$3,055

Expenditures:

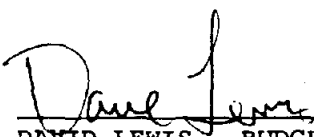
General Fund	0	\$3,850	\$3,850	0	\$3,055	\$3,055
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Revenues:Net Impact:

General Fund	0	(\$3,850)	(\$3,850)	0	(\$3,055)	(\$3,055)
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LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The legislation will modify existing statutes so that transportation and disposition of dead bodies will be handled more efficiently.

 2-10-93
 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

 2-10-93
 BRUCE T. SIMON, PRIMARY SPONSOR DATE
 Fiscal Note for HB0491, as introduced

HB 491

APPROVED BY COMM. ON
HUMAN SERVICES AND AGINGHOUSE BILL NO. 491
INTRODUCED BY SIMON

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROCEDURES FOR PREPARING AND FILING DEATH CERTIFICATES; CHANGING THE BURIAL TRANSIT PERMIT TO A DEAD BODY REMOVAL AUTHORIZATION; REVISING THE CATEGORIES OF DEATH AND DISPOSITION REQUIRING INQUIRY BY THE CORONER; REQUIRING IMMEDIATE NOTIFICATION TO THE COUNTY CORONER BY A PERSON FINDING HUMAN REMAINS; AND AMENDING SECTIONS 46-4-122, 50-15-403, AND 50-15-405, MCA."

STATEMENT OF INTENT

Passage and approval of this bill would require the department of health and environmental sciences to amend existing rules and possibly to adopt new rules under the authority already delegated under 50-1-202(20) and 50-15-102. The amendments to 50-15-403 replace the current 3-day filing requirement for a death certificate with timeframes established by rule. The legislature intends that these timeframes remain relatively brief but that good cause be recognized when the person in charge of disposition of a dead body is unable to obtain a physician's certification within the set time.

The department shall amend or replace its burial transit permit rule, Rule 16.6.906, Administrative Rules of Montana,

to conform with the changes made by 50-15-405. The department may, in replacing this permit with a dead body removal authorization, require any information as to contemplated time, site, and method of disposition as the performance of its vital statistics mission requires.

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

NEW SECTION. **Section 1.** Notification of finding human remains. A person who finds a dead human body or fetus or remains that appear to be human shall immediately report this fact to the county coroner by telephone or by the fastest available means of communication.

Section 2. Section 46-4-122, MCA, is amended to read:

"46-4-122. Human deaths requiring inquiry by coroner. The coroner shall inquire into and determine the cause and manner of death and all circumstances surrounding a human death:

(1) that was caused or is suspected to have been caused:

(a) in any degree by an injury, either recent or remote in origin; or

(b) by the deceased or any other person that was the result of an act or omission, including but not limited to:

(i) a criminal or suspected criminal act;

(ii) a medically suspicious death, unusual death, or

1 death of unknown circumstances, including any fetal death;
 2 or
 3 (iii) an accidental death; or
 4 (c) by an agent, disease, or medical condition that
 5 poses a threat to public health;
 6 (2) whenever the death occurred:
 7 (a) while the deceased was incarcerated in a prison or
 8 jail or confined to a correctional or detention facility
 9 owned and operated by the state or a political subdivision
 10 of the state;
 11 (b) while the deceased was in the custody of, or was
 12 being taken into the custody of, a law enforcement agency or
 13 a peace officer;
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 15 (d) less than 24 hours after the deceased was admitted
 16 to a medical facility or if the deceased was dead upon
 17 arrival at a medical facility; or
 18 (e) in a manner that was unattended or unwitnessed and
 19 the deceased was not attended by a physician at any time in
 20 the 30-day period prior to death;
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25 **Section 3.** Section 50-15-403, MCA, is amended to read:

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 2 death certificate when--death--medically--attended. (1) A
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 6 case of a fetal death, on the parents required by the
 7 department from persons best qualified to supply the data
 8 and enter it on the death or fetal death certificate;
 9 (2) (a) The person in charge of disposition of the dead
 10 body or fetus shall present the death certificate to the
 11 certifying physician last-in-attendance-upon--the--deceased,
 12 or the coroner having jurisdiction, or the state medical
 13 examiner, who shall certify for medical certification of the
 14 cause of death, according to his best knowledge and--belief,
 15 or
 16 (b) present--the--fetal--death--certificate--to--the
 17 physician, midwife, or other person in attendance, who shall
 18 certify the fetal death and supply any pertinent--additional
 19 medical data;
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 21 death occurred without attendance or if the--physician--last
 22 in--attendance--failed--to--sign--the--death--certificate; The
 23 person in charge of disposition shall obtain the completed
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 25 coroner and shall, within the time that the department may

by rule prescribe,

~~{4}~~ file the death or fetal death certificate with the local registrar ~~within 3 days after the occurrence~~ in the registration area where the death occurred."

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(2) ~~No permit may be issued until a death--certificate, fetal--death--certificate, or notice of delay as required in subsection {3} of this section has been filed with the local registrar.~~ If the death requires inquiry under 46-4-122, the written authorization may only be granted by the coroner having jurisdiction or the coroner's designee or by the state medical examiner if the coroner fails to act. However, when the only reason for inquiry under 46-4-122 is that the body is to be cremated, the coroner may grant oral authorization for removal of the body, which must be reduced

to writing as specified under subsection (1) by the coroner or a licensed mortician.

(3) ~~if--the--cause--of--death--or--fetal--death--cannot--be determined within 3 days after the occurrence, the attending physician, coroner, or medical examiner shall give the local registrar written notice of the reason for delay so--that--a permit--may--be--issued--for--disposition--of--the--body. The written authorization to move a dead body must be made in triplicate on a form provided by the department. The person in charge of disposition of the dead body, the coroner having jurisdiction, and the local registrar must each be provided with and retain a copy of the authorization.~~

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15 existing rules and possibly to adopt new rules under the
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 12 being taken into the custody of, a law enforcement agency or
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 12 or the coroner having jurisdiction,--or--the--state--medical
 13 examiner, who shall certify for medical certification of the
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 7 department from persons best qualified to supply the data
 8 and enter it on the death or fetal death certificate;
 9 (2) (a) The person in charge of disposition of the dead
 10 body or fetus shall present the death certificate to the
 11 certifying physician last-in-attendance-upon--the--deceased,
 12 or the coroner having jurisdiction--or--the--state--medical
 13 examiner--who--shall--certify for medical certification of the
 14 cause of death, according-to-his-best-knowledge-and--belief;
 15 or
 16 (b)--present---the---fetal---death--certificate--to--the
 17 physician--midwife--or--other--person--in--attendance--who--shall
 18 certify--the--fetal--death--and--supply--any--pertinent--additional
 19 medical--data;
 20 (3)--notify--the--local--registrar--if--the--death--or--fetal
 21 death--occurred--without--attendance--or--if--the--physician--last
 22 in--attendance--failed--to--sign--the--death--certificate; The
 23 person in charge of disposition shall obtain the completed
 24 certification of the cause of death from the physician or
 25 coroner and shall, within the time that the department may

by rule prescribe,

{4} file the death or fetal death certificate with the local registrar within 3 days after the occurrence in the registration area where the death occurred."

Section 4. Section 50-15-405, MCA, is amended to read:

"50-15-405. Permit Authorization for disposition removal of body from place of death. (1) No Except as provided in subsection (2), a dead body may be disposed of or removed from a registration district until a permit for disposition or removal has been issued by the local registrar the place of death only upon the written authorization or oral authorization, which must be reduced to writing within 24 hours, of the physician in attendance at death or the physician's designee, the coroner having jurisdiction, or a mortician licensed under 37-19-302.

(2) No permit may be issued until a death certificate, fetal death certificate, or notice of delay as required in subsection (3) of this section has been filed with the local registrar. If the death requires inquiry under 46-4-122, the written authorization may only be granted by the coroner having jurisdiction or the coroner's designee or by the state medical examiner if the coroner fails to act. However, when the only reason for inquiry under 46-4-122 is that the body is to be cremated, the coroner may grant oral authorization for removal of the body, which must be reduced

to writing as specified under subsection (1) by the coroner or a licensed mortician.

(3) If the cause of death or fetal death cannot be determined within 3 days after the occurrence, the attending physician, coroner, or medical examiner shall give the local registrar written notice of the reason for delay so that a permit may be issued for disposition of the body. The written authorization to move a dead body must be made in triplicate on a form provided by the department. The person in charge of disposition of the dead body, the coroner having jurisdiction, and the local registrar must each be provided with and retain a copy of the authorization.

(4) A written authorization issued under this section permits removal, transportation, and final disposition of a dead body."

NEW SECTION. Section 5. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 46, chapter 4, part 1, and the provisions of Title 46, chapter 4, part 1, apply to [section 1].

-End-