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SENATE BILL NO. 68

INTRODUCED BY B. USHER

BY REQUEST OF THE DEPARTMENT OF CORRECTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO CORONER INQUESTS REGARDING DEATHS IN A PRISON OR CORRECTIONAL FACILITY; PROVIDING THAT CORONERS WHO ARE PEACE OFFICERS MAY CONDUCT INQUESTS REGARDING DEATHS IN A PRISON OR CORRECTIONAL FACILITY; AMENDING SECTION 46-4-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 46-4-201, MCA, is amended to read:

**"46-4-201. Inquest -- definition -- when held -- how conducted.** (1) An inquest is a formal inquiry into the causes of and circumstances surrounding the death of a person and is conducted by the coroner before a coroner's jury.

(2) The coroner may hold an inquest only if requested to do so by the county attorney of the county in which death occurred or by the county attorney of the county in which the acts or events causing death occurred. However, the county attorney shall order the coroner to hold an inquest if the death of a person occurs:

(a) in a prison, jail, or other correctional facility and is not caused by the terminal condition, as defined in 50-9-102, of, or the execution of a death penalty upon, the person while the person is incarcerated in the prison, jail, or other correctional facility because of conviction of a criminal offense. This subsection (2)(a) applies to a death caused by a terminal condition only if the person was under medical care at the time of death.

(b) while a person is being taken into custody or is in the custody of a peace officer or if the death is caused by a peace officer, except when criminal charges have been or will be filed.

(3) If an inquest is held, the proceedings are public. The coroner shall conduct the inquest with the

**Amendment - 1st Reading-white - Requested by: Barry Usher - (S) Judiciary**

- 2023

68th Legislature 2023

Drafter: Julianne Burkhardt, 406-444-4025

SB0068.001.002

1 aid and assistance of the county attorney. The coroner shall, and the county attorney may, examine each  
2 witness, after which the witness may be examined by the jurors. The inquest must be held in accordance with  
3 this part.

4 (4) (a) A coroner who also serves as a peace officer may not conduct an inquest into the death of  
5 a person who:

6 (i) died in a ~~prison, jail, or other correctional facility~~ operated by or under the jurisdiction of the  
7 peace officer;

8 (ii) died while in the custody of a peace officer serving in the same jurisdiction; or

9 (iii) was killed by a peace officer serving in the same jurisdiction.

10 (b) If a coroner is disqualified under subsection (4)(a), the county attorney shall request a qualified  
11 coroner or peace officer coroner of ~~a neighboring county~~ another jurisdiction to conduct the inquest. The  
12 expenses of a coroner fulfilling the request, including salary, must be paid by the requesting county."

13

14 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

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- END -