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## The Montana Coroner System: An Archaic Inadequacy in Need of Reform

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## ARTICLES

### THE MONTANA CORONER SYSTEM: AN ARCHAIC INADEQUACY IN NEED OF REFORM

Dr. John Pfaff\* and Bruce A. MacKenzie

#### INTRODUCTION

It has long been recognized that science and technology are an integral part of an effective criminal investigative system. Unfortunately, Montana is one of nine states which continues in the archaic, albeit once almost universal, practice of electing lay coroners.<sup>1</sup> In 1966 a nationwide survey of crime investigative facilities was conducted by the United States Department of Justice. On the basis of this survey, Montana was found to be one of the "crisis areas with a dearth of medical and laboratory facilities."<sup>2</sup>

Determination of cause and circumstances of death is of vital importance to law enforcement agencies, heirs of an estate, insurance companies, various state agencies such as the Workmen's Compensation Board, and, most important, to persons suspected or accused of being the promoting cause of an individual's death. It is a strange irony that Montana's criminal justice system, with its recently revised penal code and modern rules of procedure—both of which incorporate necessary safeguards against the convictions of innocent men—still remains a system which allows a layman to make the crucial and difficult determination of cause and manner of death which may be associated with violent or suspicious circumstances.

That such a situation be permitted to exist means there is little realization of the need for skilled investigators and small concern for the injustice and tragedy that may and does result from the misinterpretation of medical evidence. To create a realization of this need and concern for the inadequacies of Montana's present system for investigating death is the purpose of this article.

#### THE CORONER: MONTANA'S PRESENT SYSTEM

The Montana coroner system is comprised of fifty-six coroners—one for each county—who are elected to four-year terms and need no qualifi-

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<sup>1</sup>REVISED CODES OF MONTANA, § 16-2406 (1947) [hereinafter cited R.C.M. 1947]. The other states are Alabama, Idaho, Indiana, Mississippi, Missouri, Nebraska, South Dakota, and Wyoming.

<sup>2</sup>Office of Law Enforcement Assistance, U.S. Department of Justice, *Project No. 013 Report*, June, 1966.

cations other than being citizens of the state for one year.<sup>3</sup> These duly elected officials, who range in occupations from welders to morticians, are charged by law with determining the cause and manner of unnatural death.<sup>4</sup> In many of the state's smaller communities, the office of the coroner is combined with other offices—a combination made under the misguided apprehension that they are obtaining adequate service while conserving expense.<sup>5</sup>

The coroner, as he exists in Montana, has two main functions. First, he is required to investigate the scene of death whenever a person dies under unnatural circumstances or whenever a physician or surgeon refuses to sign the death certificate.<sup>6</sup> In his investigation, the coroner should be capable of observing, collecting, and evaluating trace evidence such as blood stains, clothing with gunpowder residue, and other such evidence which may be on or near the body.

Unfortunately, coroners in Montana have received little or no training in investigative techniques. A recent survey, conducted by the Governor's Crime Control Commission, indicated that almost one-half of the coroners responding reported they had received no technical training whatsoever to aid them as coroners.<sup>7</sup> Further, the survey noted that the majority of coroners feel there is inadequate opportunity for them to obtain continuing education or training in the specialty of death investigation.

The second main function of the coroner is to determine the cause of death.<sup>8</sup> Again, a coroner in Montana often lacks the necessary training and expertise to perform this duty, especially since such an inquiry is essentially a medical function.

Within Montana's statutes, however, there are provisions which were intended to aid the coroner in performing his duty of determining the cause of death. R.C.M. 1947, § 95-802, enables the coroner to order an autopsy where it seems advisable and to retain a qualified physician or pathologist to perform it.<sup>9</sup> The coroner, however, is given wide discretion in deciding whether or not an autopsy is advisable. There are no guidelines specified by law to aid him in this decision; and without adequate training, the coroner has been left with only his own instincts as to whether an autopsy is needed. Even if an autopsy is performed, important evidence of causal factors of death may go unnoticed since

<sup>3</sup>R.C.M. 1947, § 16-2406; MONTANA CONSTITUTION, Art. IV, § 2. In cases of vacancy, R.C.M. 1947, § 16-2412, provides that the county commissioners fill any permanent vacancy and the justice of the peace fill any vacancy of a temporary nature.

<sup>4</sup>R.C.M. 1947, § 95-801.

<sup>5</sup>See e.g., Petroleum County where the coroner serves as sheriff, stock inspector, courthouse custodian, and helps with land classifications.

<sup>6</sup>R.C.M. 1947, § 95-801.

<sup>7</sup>CRIME COMMISSION SURVEY, 1971.

<sup>8</sup>R.C.M. 1947, § 95-801.

<sup>9</sup>R.C.M. 1947, § 95-802.

physicians and pathologists who have not had specialized forensic science training may lack the expertise to appreciate the extent of evidence which can be obtained from the human body.

Section 95-803 allows the coroner, at the request of the county attorney, to impanel a lay jury and hold an inquest.<sup>10</sup> An inquest is a formal inquiry into the causes and circumstances surrounding the death of an individual. The evidence gained through the coroner's investigation and any autopsy reports is placed before the jury—the jury then deciding the cause of death. The reasoning behind an inquest is unclear, for it appears to be a prime example of the blind leading the blind.

It makes as much sense to impanel a jury to determine why a person died as to ask a person why an automobile won't start. The latter is obviously a question for a garage mechanic and the former equally obviously is for a medical expert.<sup>11</sup>

Why six lay jurors would be better qualified and more capable of determining cause of death rather than one lay coroner seems to be extremely strained logic. As a Revised Commission Comment to § 95-803 states:

It is generally recognized that a coroner seldom has the training to investigate properly and that in most instances an inquisition is a clumsy means of investigation.<sup>12</sup>

Therefore, it is clear that the inquest is of little comfort or aid to a lay coroner struggling with the difficult medical task of determining cause of death.

Problems other than the lack of adequate training and procedures are prevalent in Montana's coroner system. Insufficient funding is one such problem which continues to plague the system. The Crime Commission survey indicated that there had been no funds appropriated for the improvement of the system, and in fact there were insufficient funds available to the individual coroners for carrying on the duties of their offices. Almost all of the responding coroners complained of budgetary problems; and some noted that they could rarely, if ever, hire a trained forensic pathologist<sup>13</sup> when needed.

In addition to insufficient funds, Montana's present coroner system lacks adequate laboratory facilities for the analysis of any trace evidence that is discovered during the investigative process. At the present time, the only laboratory facilities available within the state are a narcotics laboratory located in Missoula and a basic toxicology<sup>14</sup> laboratory in Great Falls. Montana, however, has no facilities for treating physical evidence. Most state authorities, therefore, must depend on the highly

<sup>10</sup>R.C.M. 1947, § 95-803.

<sup>11</sup>EDITORIAL, JUDICATURE Vol. 55, No. 2 at 56 (1971).

<sup>12</sup>REVISED COMMISSION COMMENT, R.C.M. 1947, § 95-803.

<sup>13</sup>Forensic pathology adopts investigative techniques of pathology in the examination of body fluids and tissues to the law of crimes against the person, principally homicide.

<sup>14</sup>Toxicology is the science that deals with poisons and their effect on living organisms, with substances otherwise harmless that prove toxic under particular conditions, and with clinical, industrial, legal, or other problems involved.

efficient but overloaded Federal Bureau of Investigation laboratory in Washington, D.C. Because of the work load placed upon this facility by other agencies, Montana authorities often wait one to three months for test results. In this interim period, an innocent man could be unnecessarily incarcerated awaiting prosecution, or a suspect could be lost forever.

With all of these problems and more,<sup>15</sup> the Montana coroner system with its poor organization, poverty-stricken status, and personnel who lack adequate training and facilities cannot be expected to perform the important functions assigned to it by law. Even the most dedicated individuals could not perform effectively under a system with such deep-rooted problems and so desperately in need of reform.

### ATTEMPTED REMEDIES

#### A. LIMITATION OF FUNCTION

As with any inadequate system, the deficiencies of the coroner system can be partially remedied by reducing its functions. Through this course of action, the faults of the system are at least minimized in their overall effect. This appears to be the trend in Montana.

Through statutory enactments, the coroner's functions have been limited by R.C.M. 1947, §§ 95-801 and 95-803. These sections have the tendency to shift powers once possessed by the coroner into the hands of law enforcement authorities and the state's county attorneys. Section 95-803 completely eliminates the coroner's authority to call an inquest without a formal request from the county attorney; and § 95-801 shifts the emphasis from a formal inquest to a regular investigation by law enforcement agencies.<sup>16</sup>

On the county level, even more limitations have been imposed as a practical matter. For example, although § 95-803 provides that the coroner "shall conduct the inquest with the aid and assistance of the county attorney," in many counties the opposite appears to be the practice. That is, the county attorney conducts the entire hearing with the coroner performing only minor functions such as the swearing in of the witnesses. The investigative function of the coroner has also been limited since he rarely works independently but only in conjunction with regular law enforcement personnel.

Through limitation of functions, the faults of the system may be minimized; but they are not corrected. The remedy of limitation is in fact an illusory one, since the functions being limited are eventually placed with agencies and personnel who lack the same training and facilities as the coroner. The system itself needs to be changed.

<sup>15</sup>Another area of concern within the present system is the problem of the coroner's possible conflict of interests. See ATTORNEY GENERAL OPINION No. 92 (1974).

<sup>16</sup>See REVISED COMMISSION COMMENTS TO R.C.M. 1947, §§ 95-801, 803.

## B. PROPOSED LEGISLATION.

In 1970 the newly reformed Governor's Crime Control Board recognized the need for change and appointed a task force to study the problems of the coroner system and make recommendations. After a year of meetings and study, this task force recommended that a statewide medical examiner system and forensic laboratory be established and placed under executive reorganization within the attorney general's office.

The Crime Control Board, acting on the recommendation of the task force, sponsored a bill which was introduced in the 1971 legislative session as Senate Bill 73. This Bill was killed in the Senate Finance and Claims Committee, where it received a "Do Not Pass" vote. In the last legislative session, almost identical legislation was introduced by the attorney general. This Bill, Senate Bill 440, was defeated on the floor of the House during the 1974 legislative session.<sup>17</sup>

The main purpose of this proposed legislation was to alleviate the existing problems encountered with Montana's present coroner system. This purpose was to be achieved by establishing a system of regional associate medical examiners having direct responsibility for the investigation and determination of any unnatural or possible criminally caused deaths and who would be under the supervision and control of a central state chief medical examiner. This system would have been staffed with trained professionals, including physicians having training in forensic medicine<sup>19</sup> and also laboratory facilities and personnel in the field of criminal science.<sup>20</sup>

The authority of the medical examiner's office was to be derived from its position as a branch of the attorney general's office. The chief medical examiner would have been appointed by the attorney general with associates being appointed by the chief, subject to the attorney general's approval.<sup>21</sup>

The duties of the chief examiner, as prescribed by this proposed legislation, were the supervision of the system, assistance and consultation with the system's officers, direction of research in the forensic field, and maintenance of an educational program for the training of personnel and law enforcement officials.<sup>22</sup> These duties could also have been expanded

<sup>17</sup>For full text of SENATE BILL 440, see Appendix A.

<sup>18</sup>Forensic medicine is that science which teaches the application of every branch of medical knowledge to the purposes of law; hence, its limits are, on the one hand, the requirements of the law, and, on the other, the whole range of medicine. The purpose of forensic medicine is to enable a court of law to arrive at a proper conclusion on a contested question affecting life or property.

<sup>19</sup>See SENATE BILL 440, §§ 3-6, 13.

<sup>20</sup>*Id.* §§ 8, 23, 25.

<sup>21</sup>*Id.* §§ 3, 8.

<sup>22</sup>*Id.* § 6.

was to be centrally located in the attorney general's department, which would have had direct responsibility for each of the medical examiner regions set up along election apportionment lines.

Although this legislation would have totally repealed the existing law providing for the coroner's duties, the coroner would have been retained as a preliminary investigative officer directly responsible to the medical examiner.<sup>24</sup> Under this system, the coroner would conduct an by the attorney general as he saw fit.<sup>23</sup> The administration of the office investigation into any death occurring under circumstances specifically described in the Bill or whenever such investigation was requested by a county attorney.<sup>25</sup> Once the investigation was completed, the coroner would be required to submit a report of his examination to the appropriate associate medical examiner and to the chief medical examiner, either of whom would certify the cause of death. If further investigation was indicated, the associate examiner would then assume responsibility for the investigation and would have been authorized to use any means necessary to establish the cause of death.<sup>26</sup> Once cause of death was established, a report would have been given to the appropriate county attorney and to the attorney general.

In addition to the medical examiner's office, there were provisions within the Bill for the creation and maintenance of a state forensic laboratory which would also have been in the office of the attorney general.<sup>27</sup> The laboratory was to provide analysis of toxicologic and criminalistic specimens plus other analysis services which presently must be sought out of state.

### C. PROBLEMS WITH SENATE BILL 440.

Although enactment of Senate Bill 440 would have relieved many of the problems which currently exist with Montana's coroner system, there were a number of deficiencies within this proposed legislation which would have severely hampered the new system's development. These deficiencies fall within two main categories: (1) the lack of autonomy for the medical examiner's office and (2) the lack of sufficient funding provisions.

A medical examiner system, in order to function properly, must not be restricted in its operation by a political entity, for such is the nature of scientific investigation.<sup>28</sup> Senate Bill 440, however, unduly restricted

<sup>23</sup>*Id.* § 5.

<sup>24</sup>*Id.* § 13.

<sup>25</sup>*Id.*

<sup>26</sup>*Id.*

<sup>27</sup>*Id.* §§ 22-26.

<sup>28</sup>*See e.g.*, UTAH REVISED STATUTES, §§ 26-20-1 *et seq.* The Governor's Task Force had recommended that the proposed system be placed within the Department of Health which is a nonpolitical entity. *See* Governor's Board of Crime Control REPORT OF SCIENCE AND TECHNOLOGY TASK FORCE REFERRAL TO LEGISLATIVE TASK FORCE (1971).

the proposed system within the office of the attorney general. Under the system proposed, control of the medical examiner's office would have been completely under the attorney general. The extent of this control was absolute. The attorney general would have appointed or approved all medical examiners, had control over all reports, had no independent advisory council as a check on the system, and there were no provisions for tenure for the chief medical examiner.

The Bill lacked three basic provisions which would have insured the system's autonomy. First, no provision was made within the Bill for an independent advisory council to assist the attorney general with decisions concerning the medical examiner system or laboratory.<sup>29</sup> Although the attorney general had an advisory council,<sup>30</sup> it was not composed of sufficient people knowledgeable in forensic science or laboratory medicine. Further, the existing council had a broad spectrum of the attorney general's department to advise under the state reorganization plan. Therefore, an additional council was necessary to provide appropriate expertise with respect to decisions concerning the new system, particularly during the formative years of the new department.

Secondly, there were no provisions for tenure of the chief medical examiner or for allowing the chief any recourse in the event he should be discharged by the attorney general without due cause. With statutory assurances of tenure and protections of some type of hearing process for removal, the chief examiner's position would not be in jeopardy at each election time and at times when he might cause displeasure to the attorney general.<sup>31</sup> Tenure and opportunities for a fair hearing are necessary in establishing an effective system, for without these provisions, the system would lack the stability needed for maintenance of superior function.

Finally, the reports of the medical examiner would have been available only to the attorney general and the appropriate county attorney.<sup>32</sup> There were no provisions for making such reports available to other state agencies or to private individuals having a legitimate interest in a particular death.<sup>33</sup>

The lack of these three provisions, added to the attorney general's control of power of appointment and removal, would have had the tendency to make the medical examiner's office responsive only to law enforcement and prosecutorial officials. In order to function in a truly

<sup>29</sup>Such a provision was recommended by the Task Force and incorporated into SENATE BILL 73, § 4.

<sup>30</sup>Pursuant to R.C.M. 1947, § 82A-110(11), which limits the period of advisory councils to two years, the attorney general's council was terminated on October 15, 1974.

<sup>31</sup>An example of what could happen without an equitable method of recourse in the case of an attempted removal without cause is the experience of Los Angeles County Examiner Tom Moguchi, who would have been removed if it had not been for the assistance of prominent forensic pathologists.

<sup>32</sup>SENATE BILL 440, § 19.

<sup>33</sup>UTAH R.S., § 26-20-7.



scientific manner, however, the examiners must be unbiased in their approach and therefore must not be responsive to any one political department or individual.

The second major deficiency in Senate Bill 440 was the lack of any appropriation for funding the system. The language of the Bill merely authorized the attorney general to accept any federal or other funding which would have been provided for the system.<sup>34</sup> No state funds were allocated for the establishment or functioning of the new department.<sup>35</sup> Without adequate funding, it would have been impossible for any new system, regardless of how well planned, to function efficiently.

### GUIDELINES FOR FUTURE LEGISLATION

Although Senate Bill 440 was defeated, Montana has begun to recognize that the coroner system is inadequate, and, in an effort to alleviate this inadequacy, has expended substantial study toward rectifying this archaic system. These lessons of the past, added to an understanding of the deficiencies of past legislative proposals, provide a groundwork for the passage of legislation which will provide Montana with a workable medical examiner system. The following framework of law and personnel is presented as a guide to necessary elements for any future legislation proposed for the improvement of Montana's existing coroner system.<sup>36</sup>

First, there must be an adequate provision establishing the classes of death to be investigated in the public interest.<sup>37</sup> The deaths included in such a list require investigation because (1) there may be criminal prosecution, civil litigation, or industrial compensation proceedings, (2) cause and manner of death are unrecognizable, or (3) the manner of disposal of the body may be an effort to conceal the true manner of death. A liberal interpretation of such a provision should be made by the attorney general so that when the medical examiners determine that an autopsy is necessary in the public interest, they shall not be subjected to vindictive civil lawsuits.

Secondly, there should be a supervisory or advisory commission composed of members neither directly elected nor appointed.<sup>38</sup> Such a

<sup>34</sup>SENATE BILL 440, § 27.

<sup>35</sup>At the time Senate Bill 440 was proposed, if the state had allocated \$70,000, the federal government would have provided \$250,000 in matching funds. CRIME CONTROL BOARD RECORDS.

<sup>36</sup>See NATIONAL MUNICIPAL LEAGUE, A MODEL STATE MEDICO-LEGAL INVESTIGATIVE SYSTEM, pp. 11-16 (1968).

<sup>37</sup>See SENATE BILL 440, § 13. Other deaths which should be included in this list are: (1) deaths related to disease resulting from employment or to accident while employed including disease related to injury, (2) deaths of persons confined in all public institutions, not merely penal institutions, and (3) thermal, chemical, electrical, and radiation deaths. See *supra* note 35 at 11.

<sup>38</sup>Membership would be through selection by the individual groups represented on the commission. The commission should be renewed every two years so as to avoid termination under R.C.M. 1947, § 82A-1-110.

commission should include representatives of the police, public prosecutors, medical profession, state bar, health officials, and morticians. The commission would establish the minimum qualifications for appointment to the system, serve as an advisory council to the chief medical examiner, act as a review board for any misconduct by system personnel or any attempted removal of personnel, and formulate rules and regulations to insure efficient operation. Such a supervisory commission would aid in providing the autonomy so necessary in establishing an effective system.<sup>39</sup>

Third, the method of selection and qualifications for the chief medical examiner should be well-defined in order to guarantee that the individual chosen will be a person with the best obtainable professional training.<sup>40</sup> The chief examiner should be appointed without term and with provisions for tenure, contingent only on efficiency, so as to insure stability in the direction of the system. Removal of the chief examiner should be only upon the filing of written charges of misfeasance or malfeasance after a public hearing, before the supervisory commission, with full opportunity to present evidence in his own behalf. He should have complete freedom of choice of selecting his assistants and a voice in the appointment of regional medical examiners. The chief examiner's duty should include not only instruction of the regional medical examiners and the preservation of evidence at the scene of death, but also education of law enforcement personnel and coroners throughout the state. Further, there should be some provision to allow the chief examiner to remain abreast of medical advances in the area of forensic science in order to aid in continuing to upgrade the efficiency of the system.

Finally, adequate funding must be made available to establish and maintain an efficient medical examiner system and central forensic laboratory. At the present time, however, matching federal funds for the entire project are becoming increasingly difficult to obtain. The following proposal is advanced as one possible means of alleviating this difficulty.

It is possible to split the medical examiner and forensic laboratory functions. Since the medical examiner portion of the system adds very little to the total cost,<sup>41</sup> it would be possible for the state to fund and establish such an investigative system and seek federal funds to aid in the establishment of a forensic laboratory. Since federal aid appears

<sup>39</sup>To provide additional autonomy, consideration should be given to placing the system under the supervision of a nonpolitical agency, such as the Department of Public Health, where political changes will not affect the functioning and stability of the system.

<sup>40</sup>The National Municipal League suggests that an entity such as a state civil service commission should hold a competitive test adequate to determine which applicants of those who possess the minimum qualifications fixed by the supervisory commission are best fitted for the position. *Supra* note 35 at 13.

<sup>41</sup>According to a 1973 fiscal note prepared by the chief of the Montana Budget Bureau, Benjamin F. Johns, the cost of the medical examiner office would have been \$45,000 out of a total projected cost of \$357,000. BUDGET BUREAU FISCAL NOTE, REQUEST 39 (February 7, 1973).

more available for material rather than personnel, Montana, by seeking aid only for the laboratory facilities, could at least increase its opportunity to obtain federal funding. Further, it seems likely that by first establishing the medical examiner system, the efficiency of the total system would be enhanced, since law enforcement personnel, unless first educated in the methods of finding and preserving proper trace evidence requiring laboratory analysis, would be utilizing the laboratory facility needlessly. Therefore, by splitting the establishment of the two functions, Montana would remedy its current problems with the coroner system, enhance the possibility of obtaining federal aid, and add to the efficiency of an eventually complete medical investigative system.

There is, however, one important caveat to this suggestion. The proposal is made only with an eye toward increasing the probability of obtaining federal funding and is not intended to advocate separate medical examiner and criminalistic laboratory operations. For an efficient death investigative system to function effectively, both of these integral functions must be combined in a coordinated and cooperative operation.<sup>42</sup> Establishing only part of a system could very easily lead to malfunction and public indignation concerning the results. Therefore, if the proposal for separate establishment is followed, it is essential that future legislation be enacted to insure that once both systems become established, they will be unified into a well-coordinated scientific system of evidence examination.

### CONCLUSION

Montana has recognized the problems of its existing coroner system and has taken the initial steps toward establishing a medical investigative system which will make dead men tell tales. The coroner system, however, still remains as an archaic inadequacy in a state whose criminal justice system has continued to become more progressive and modern in the past few years.

The foundation has been laid for the establishment of an effective medical examiner system which would alleviate the problems of the coroner and eventually provide Montana with a competent system of law enforcement death investigation. The late Walter Winchell is credited with having noted:

If you want to commit murder and not be apprehended, go to Montana—but while you are there don't steal a cow or you will be hanged.

It is time for the state to take affirmative action and to provide for a modern death investigative system which will insure that evidence obtained from violent deaths will be properly interpreted, thus removing a major inadequacy in Montana's criminal justice system.

<sup>42</sup>See STONE, *THE CRIME LABORATORY AND MEDICAL EXAMINER: PARTNERS IN CRIME*, 5 *FORENSIC SCIENCE GAZETTE* No. 3 (July, 1974).

## APPENDIX A

43rd Legislative Assembly

LC 1235

### SENATE BILL NO. 440

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING IN THE DEPARTMENT OF LAW ENFORCEMENT AND PUBLIC SAFETY A MEDICAL EXAMINER'S OFFICE AND CRIME LABORATORY; PROVIDING FOR ITS ADMINISTRATION, DUTIES AND FUNCTION; ALTERING THE DUTIES OF THE CORONER; AND REPEALING SECTION 16-3401 THROUGH 16-3410, 25-236, 95-801, 95-802, 95-810 AND 95-814, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. This act shall be known as "The Medical Examiner and Forensic Science Laboratory Act."

Section 2. The purpose of this act is to provide the personnel, facilities and procedures to determine the cause of certain types of deaths by investigation and examination as are in the public interest; and to analyze specimens for law enforcement offices, hospitals and others, and to provide reports, including court testimony, concerning such investigation, examination and analysis when in the public interest.

Section 3. The chief medical examiner shall be appointed by the attorney general, and shall be a forensic pathologist qualified or certified by the American Board of Pathology of the American Medical Association.

Section 4. The attorney general shall create medical examiner districts within the state. The number and the boundaries of such districts shall be established in accordance with any existing executive order providing for the division of the state into sub-districts.

Section 5. The attorney general is authorized to adopt and promulgate any or all of the regulations he deems necessary to accomplish the purposes of this act.

Section 6. The duties of the chief medical examiner shall be prescribed by the attorney general and shall include the following:

(1) He shall supervise and direct all activities of associate medical examiners and coroners.

(2) He shall provide assistance and consultation to associate medical examiners, coroners and law enforcement officers, and provide court testimony when necessary to accomplish the purposes of this act.

(3) He shall stimulate and direct research in the field of forensic pathology.

(4) He shall maintain an ongoing educational program for associate medical examiners, coroners and law enforcement officers.

Section 7. The chief medical examiner shall receive compensation as determined by the attorney general, and he shall be directly responsible to the attorney general for all activities of this office.

Section 8. The chief medical examiner may appoint with the approval of the attorney general an associate for each medical examiner district. Such associate medical examiners shall serve at the pleasure of the chief medical examiner.

Associate medical examiners must be physicians licensed to practice in Montana.

Section 9. The associate medical examiner may appoint physicians as alternates with approval of the chief medical examiner to serve not only in his absence but as necessary to provide service at all times and places within his district.

Section 10. Medical examiners may engage in the private practice of medicine.

Section 11. Associate medical examiners and coroners shall be paid for their services an amount which the chief medical examiner certifies to be a reasonable compensation therefor and shall be reimbursed for expenses actually incurred in the performance of their duties. Such costs shall be chargeable to the county for which the service is performed.

Section 12. Autopsy and laboratory facilities utilized by the associate medical examiner or his alternate shall be provided by the county requiring the service.

Section 13. When in the state of Montana any person shall die of:

(1) criminal violence,

- (2) by accident,
- (3) suddenly when in apparent good health,
- (4) by suicide,
- (5) when unattended by a practicing physician,
- (6) in any prison or penal institution,
- (7) when in police custody,
- (8) in any suspicious or unusual circumstances,
- (9) by criminal abortion,
- (10) by poison,
- (11) by disease constituting a threat to public health,
- (12) by disease or injury or toxic agent resulting from employment,
- (13) when a dead body is brought into Montana without proper medical certification, or

(14) when a body is to be cremated or dissected, the coroner of the county in which death occurred or the body was found shall make or have performed such investigation or examinations as he shall deem necessary or as shall be requested by the attorney general or the county attorney to ascertain the cause and manner of death. After his initial examination and investigation the coroner shall immediately prepare a written report of his findings in triplicate, retain one (1) copy for his files and provide copies to the associate medical examiner in his jurisdiction and the chief medical examiner, either one of whom shall certify the cause and manner of death. If the circumstances suggest the necessity of immediate medical examiner consultation or autopsy examination, the coroner shall consult the associate or chief medical examiner immediately, and the medical examiner shall then assume responsibility for disposition of the case. The associate or chief medical examiner shall have authority in any case coming under any of the above categories, to perform or have performed an autopsy or whatever laboratory examinations he deems necessary in the public interest.

Section 14. No criminal or civil action shall arise against a medical examiner or his alternate for performing an autopsy authorized by this act.

Section 15. Any property found with or upon the person of the deceased which is not needed as evidence shall be turned over by the medical examiner or the coroner to the appropriate public administrator, to be held until disposed of according to law. Any property needed as evidence shall be turned over to the appropriate public administrator, to be held until disposed of according to law. Any property needed as evidence shall be turned over to the appropriate investigative authority.

Section 16. When a medical examiner or coroner takes possession of a body of a deceased person for purposes of examination, and no other person claims the body, the coroner of the county in which the death occurred or the body was found shall cause it to be decently interred; and if there is not sufficient property belonging to the estate of the deceased to pay the necessary expenses of burial, the expenses are a legal charge against the county.

Section 17. The coroner, with approval of the county commissioners, may appoint one (1) or more deputy coroners to assist him or act in his absence. Such deputy may be the coroner from another county.

Section 18. It is the duty of any person who becomes aware of the death of any other person occurring under the circumstances described in section 13 of this act to report such death and circumstances immediately to the coroner. Upon receipt of such notification, the coroner shall immediately examine or otherwise take charge of the dead body.

Any person who willfully fails to report or conceals such death and circumstances, or who refuses to make available prior medical or other information pertinent to the death investigation, or who without an order from the coroner or associate or chief medical examiner, willfully touches, removes or disturbs the body, the clothing or any article upon or near the body with the intent to alter the evidence or circumstances surrounding the death shall be guilty of a misdemeanor, and upon conviction be subject to imprisonment in the county jail for not more than one (1) year or a fine of not more than one thousand dollars (\$1,000) or both fine and imprisonment.

Section 19. When the cause of death has been established within reasonable medical certainty by the associate or chief medical examiner whether by review of

the coroner's report or by his own examination, he shall report or make available to the attorney general and county attorney in writing his determination as to the cause of death.

Section 20. Duplicate copies of records and detailed findings of autopsy and laboratory investigations shall be maintained by the associate medical examiner and chief medical examiner.

Section 21. Any evidence or specimen coming in the possession of the coroner or medical examiner in connection with any investigation or autopsy may be retained by him or delivered to any law enforcement officer assigned to the investigation of the death.

Any evidence material to the determination of the cause of death in possession of the law enforcement officers assigned to the investigation of the death shall be made available to the medical examiner and the county coroner.

It is the duty of the law enforcement officer assigned to and investigating the death to immediately establish and maintain liaison with the medical examiner and coroner during the investigation into the cause of death.

Section 22. The attorney general shall establish a state forensic laboratory and appoint a forensic laboratory director who may be the same person as the chief medical examiner. The laboratory director shall receive compensation as determined by the attorney general, and he shall be directly responsible to the attorney general for all activities of such laboratory.

Section 23. The laboratory's purpose shall be to perform analysis of specimens submitted by all Montana state, county or city law enforcement officers, all state agencies, hospitals located in this state, specimens for civil cases and referral specimens from other states or agencies if accepted by the laboratory director. The laboratory shall charge reasonable fees for its performance of such services; except that it shall not charge county, city or municipal law enforcement officers or coroners for such services.

Section 24. The laboratory's function shall include analysis of toxicologic and criminalistic specimens which are deemed to be within its performance capability as determined by the director.

Section 25. The forensic laboratory director shall be responsible to the attorney general for supervision and direction of the laboratory, and shall assume the duties of appointing laboratory personnel, rendering decisions as to the disposition of specimens and perform all other duties required by the regulations of the attorney general.

Section 26. Any report of the findings of the laboratory shall be received in evidence in any court, preliminary hearing and grand jury proceeding in the same manner and with the same force and effect as if the employee or technician of the laboratory who accomplished the requested analysis, comparison or identification has testified in person. However, an accused person or his attorney may require that such employee or technician testify in person at a criminal proceeding on behalf of the state before a jury or to the court, by notifying the proper county attorney at least ten (10) days before the date of such criminal proceeding.

If regulations are adopted governing the handling of items to be processed by the laboratory from the time they are forwarded to the laboratory by a medical examiner or law enforcement agency of this state until their return to the forwarder, and the regulations shall prescribe a method of identifying, forwarding, handling and returning items that will maintain the identity and integrity of the item, then an item handled in conformity with the adopted regulations shall be presumed to be admissible in evidence as to the period in transit to and from and while in the custody of the laboratory without further foundation.

Section 27. The attorney general is authorized to accept federal and other moneys which may be made available to the attorney general by the federal government or others to be used to accomplish the purposes of this act.

Section 28. Sections 16-3401 through 16-3410, 25-236, 95-801, 95-802, 95-810 and 95-814, R.C.M. 1947, are repealed.