

SENATE BILL NO. 171

INTRODUCED BY K. REGIER

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF CORRECTIONS TO DISTRIBUTE AN INMATE'S TRUST ACCOUNT FUNDS AND TANGIBLE PERSONAL PROPERTY AFTER AN INMATE DIES WHILE INCARCERATED; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Disposition of inmate trust account funds and tangible personal property. (1) A state inmate who is incarcerated in a state prison, as defined in 53-30-101, ~~may at any time~~ SHALL complete a department form designating a beneficiary by name. The beneficiary is entitled to the inmate's trust account funds and to the tangible personal property located on the state prison premises if the inmate dies while incarcerated at the state prison.

(2) The department shall develop a form ~~conforming to the requirements of 72-2-522(2)~~ to provide for the disposition of the inmate's trust account funds and tangible personal property. The form must conspicuously state that the inmate may modify or revoke the instrument at any time if the inmate makes a request to the warden or the warden's designee.

(3) (a) The department shall distribute a deceased inmate's trust account funds and tangible personal property to the beneficiary in accordance with the terms of the form and may not require other processes to distribute the funds.

~~(b) If the inmate's beneficiary or other person with priority under 37-19-904 refuses to take custody of the inmate's remains and the department pays for the cremation or burial, the costs of the disposition of the remains must be deducted from the inmate's trust account.~~

~~(c)~~(b) The department may not deduct funds from the deceased inmate's trust account on or after the inmate's date of death to be applied to inmate obligations provided for in 53-1-107.

~~(d)~~(c) The department may not distribute trust account funds until at least 45 days after the inmate's death to ensure that any accrued earnings or refunds that are due to the inmate are properly credited to the

1 inmate's trust account before distribution.

2 (4) A department employee may not be named as beneficiary unless the employee is the inmate's
3 next of kin.

4 (5) If the department cannot locate the inmate's designated beneficiary within ~~a reasonable period~~
5 ~~of time~~ 1 year after the inmate's death, the department shall transfer the inmate's trust account funds to the
6 department of revenue in accordance with Title 70, chapter 9, part 8, and the tangible personal property items
7 may be destroyed.

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9 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an
10 integral part of Title 53, chapter 1, part 1, and the provisions of Title 53, chapter 1, part 1, apply to [section 1].
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12 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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