

HOUSE BILL NO. ##  
INTRODUCED BY \_\_\_\_\_

AN ACT ESTABLISHING “COLE’S ACT”; AMENDING STATE OF MONTANA CODE 46-4-201 TO ESTABLISH USE OF BEST PRACTICES WITHIN INQUESTS.

WHEREAS, this act is to be known as “Cole’s Act” in remembrance of Cole Forrest Stump, a Chippewa Cree father of five who was shot and killed by peace officers in 2020 in Billings, Montana.

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

**Section 1. Amendments to State of Montana Code 46-4-201: Inquest – definition – when held – how conducted.** (1) Title 46, chapter 4, part 2 sets forth an established process and protocols for inquests, requiring that county attorneys order a formal inquiry into the causes of and circumstances surrounding the death of a person in incidents of deaths within their respective counties involving a death in prison, jail or other correctional facility, and deaths that occur while a person is being taken into custody or is in the custody of a peace officer, each under certain conditions outlined in 46-4-2.

(2) (a) Section (3) of 46-4-2 shall be amended in the following manner–“The coroner shall conduct the inquest with the aid and assistance of the county attorney” shall be amended to read, “The coroner shall conduct the inquest with the aid and assistance of the county attorney and an additional coroner and county attorney located within the State of Montana, to be selected at random in order to ensure qualified third party oversight.”

(2) (b) Section (4) (b) of 46-4-2 shall be amended to additionally state after “The expenses of...the requesting county.”: “Further, the expenses of the required outside coroner and county attorney selected to assist the local coroner conducting the inquest, including salary, must be paid by the local county in which the inquest is taking place.”

(3) (a) An additional section titled Section (5) shall be added and read as follows:

“Protocols regarding persons other than coroners, county attorneys, and the coroner’s jury involved in an inquest are as follows–

- (i) Family of the deceased, who may be represented by a county public defender or private counsel if they so choose, have a right to testify if they so choose.

(ii) The correctional or peace officer(s) involved, who may be represented by counsel, are required to testify.

(iii) The correctional or law enforcement agency that employs the officer(s) involved, who may be represented by counsel, are required to testify.

(iv) The agency chief/director or their designee is required to testify regarding training and policies relevant to the incident.

(v) The county attorneys, in coordination with the county coroner, must ascertain the identity of all witnesses or others with firsthand knowledge of the specific incident and require written or verbal testimony from such individuals to assist the inquest.

(vi) Relevant subject matter experts may testify upon the request of the coroners and county attorneys conducting and assisting with the inquest, or the counsel of any other participating individual. Relevant subject matter experts are required to be requested to testify if the circumstances of the death suggest possible prejudice or discrimination on the basis of race, sex, gender expression, sexuality, disability, income, religion, or national origin.

(vii) In incidents of deaths involving tribal citizens, a representative of the deceased's tribal nation, who may be represented by counsel if they so choose, has a right to testify if they so choose. This right to testify honors the right of sovereign tribal nations to speak on behalf of their citizens, with particular emphasis on the unique cultural, political, and socioeconomic conditions impacting their citizens on and off tribal lands."

(3) (b) An additional section titled Section (6) shall be added and read as follows:

"(i) All evidence pertaining to the death must be presented during the inquest. This may include but is not limited to witness testimony, camera footage, and forensic evidence.

(ii) Given the emotionally sensitive nature of the inquest process and evidence presented therein, the family of the deceased shall have access to county victim's services beginning at least two months prior to the inquest and extending at least two months after the inquest concludes, regardless of the outcome of the inquest. Further, the family of the deceased may appoint a designated family advocate to assist them throughout the inquest process, to be provided by county victim's services or a relevant non-profit of their choosing.

(iii) At the conclusion of the inquest, the family of the deceased shall receive a full copy of all evidence presented in the inquest, as well as the full transcript of the inquest, by the local county coroner conducting the inquest."

**Section 2. Codification instruction.** [Section 1] is intended to be codified as an amendment of Title 46, chapter 4, part 2.

**Section 3. Coordination instruction.** If Senate Bill No. ### is not passed and approved, [this act] is void.

**Section 4. Effective date.** [This act] is effective \_\_\_\_\_.