

There were no further questions.

The hearing on House Bill 143 closed.

HOUSE BILL 148

REP. KEYSER, sponsor, stated this bill would exclude insurance proceeds from an estate for purposes of computing the compensation of a personal representative and attorneys engaged by the personal representative. REP. KEYSER stated the bill would not affect inheritance statutes. In some cases there is a small estate in which the widow or widower has only a small amount of money that will carry that person over for a certain period of time. If this bill passes, when the attorney or representative figures the total estate for the purpose of computing their fee, they will not be able to use the insurance money in that total.

REP. KEYSER stated most of the time the attorney or representative takes care of real property, tangible property in the handling of a probate. Within three months an appraisal copy of the deceased's property value must go to the Department of Revenue. Section 72-3-607 details the inventory-appraisal-copy that goes to the Department of Revenue. The sections of law deals with fair market value, and property value.

REP. KEYSER felt most attorneys will not include funds that come to the estate from an insurance company when they are totaling the estate for the purpose of computing their fee. However, they could. REP. KEYSER was not against an attorney or representative obtaining his reasonable fee because he works for that. Taking the 3% of the insurance amount, however, would be a gross injustice to the beneficiary of the estate.

WAYNE GILMAN was in favor of the bill. He felt attorneys do little in regard to estate insurance policies. EXHIBIT C details statistics on Montana Probates 2994 and 2995. He stated as a personal representative involved in one of the estates, he decided to return the money he received for administering the estate back to the heirs. He did not feel the money he was to receive was justifiable.

J.C. WEINGARTNER, Executive Commissioner of the State Bar, stated the Bar Association neither was a proponent nor opponent of the bill. Most attorneys do not calculate insurance proceeds into their fee. He felt the committee should consider amending the bill to be life insurance. Sometimes life insurance is the only asset in the estate. If the beneficiary died

before the policyholder, the insurance proceed would have to be probated. If both parties died and neither had heirs, there would be a problem.

There were no further proponents.

There were no opponents.

REP. KEYSER, in closing stated nothing in the bill will change anything that would have to be declared to the Department of Revenue.

REP. ADDY stated the testimony related to attorneys fees and the bill's title related to personal representatives. REP. KEYSER stated usually the attorney is the personal representative. REP. ADDY asked if there would be a double fee assessed. The sponsor did not think so. If the personal representative wishes to hire an attorney to do the work, the inheritance laws are followed.

There were no further questions.

House Bill 148 closed.

The committee went into Executive Session.

EXECUTIVE SESSION

HOUSE BILL 148

REP. CURTISS moved DO PASS, seconded by REP. IVERSON.

REP. J. BROWN moved the word "life" be inserted prior to the word "insurance" throughout the bill. It was seconded by REP. KEYSER.

REP. EUDAILY asked if life is added to the bill, what about the proceeds from an accidental death benefit. REP. KEYSER replied the definition of life insurance includes an accidental death benefit.

REP. HANNAH asked what other types of insurance there are that are on a cash payment. It was replied proceeds of wrongful death, by REP. ADDY. He further stated if the estate sued the driver of a car that caused the death of the deceased, the proceeds would go to the estate. REP. RAMIREZ felt the proceeds in a wrongful death action would go directly to the heirs and not the estate.

REP. RAMIREZ further stated 99% of the attorneys pay all the proceeds directly to the heir to avoid being subject to inheritance tax. Homeowners policies are a type of liability policy. Life insurance proceeds are paid on the life of the person without being subject to liability. Liability policies pay on claims that involve wrongful negligence.

REP. KEYSER did not feel the amendment was necessary, as most insurance proceeds come under life insurance.

REP. BERGENE asked what would happen if there were no heirs and no will.

REP. SPAETH replied if there were no heirs at all, then the Public Administrator processes it for the state.

REP. KEYSER stated when he requested the bill be drafted he wanted it to cover life insurance. The drafter did not feel it was necessary to specify "life" in the sections in question.

REP. ADDY was in favor of the amendment. REP. ADDY felt the word "life" would clarify the intent of the bill in the eyes of the court.

Section 33-1-208 was read to the committee, which defines life insurance.

A roll call vote was taken on the amendment. Representatives that were in favor of the amendment were: ADDY, BERGENE, J. BROWN, CURTISS, DAILY, DARKO, FARRIS, IVERSON, SCHYE, SPAETH and VELEBER. Representatives that were against the amendment were: D. BROWN, HANNAH, KENNERLY, KEYSER and SEIFERT. The motion passed 11 to 5. REP. RAMIREZ abstained from voting due to conflict of interest.

HOUSE BILL 143

REP. DAILY moved DO PASS, with REP. EUDAILY seconding the motion.

REP. EUDAILY moved the committee amend the bill in accordance with EXHIBITS A and B. REP. SEIFERT seconded the motion.

The amendment passed unanimously.

REP. SEIFERT moved House Bill 143 DO PASS AS AMENDED, seconded by REP. EUDAILY.

All were in favor of the motion.

In other business, REP. FARRIS requested the committee allow her to change her vote on House Bill 150 from a yes to a no. Her changing of her vote would not affect the outcome of the bill. The committee was in favor of the motion.

The committee then went back into regular session.

SENATE BILL 15

SENATOR MAZUREK, sponsor, stated Senate Bill 15 is at the request of the Code Commissioner. The bill would change references from "infant" to "minor" throughout the code. The definition of "infant" is no longer in the codes.

There were no proponents.

There were no opponents.

The committee did not ask the sponsor any questions.

The committee then went into Executive Session.

EXECUTIVE SESSION


SENATE BILL 15

REP. ADDY moved DO PASS, seconded by REP. BERGENE. All were in favor of the motion DO PASS.

REP. IVERSON moved Senate Bill 15 be placed on the consent calendar.

All were in favor of the motion.

The meeting adjourned at 9:10 a.m.


DAVE BROWN, Chairman


Maureen Richardson, Secretary

STANDING COMMITTEE REPORT

January 17,

83

19

MR. **SPEAKER:**

JUDICIARY

We, your committee on

having had under consideration **HOUSE** Bill No. **148**

First reading copy (**white**)
color

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXCLUDE INSURANCE PROCEEDS FROM AN ESTATE FOR PURPOSES OF COMPUTING THE COMPENSATION OF A PERSONAL REPRESENTATIVE AND ATTORNEYS ENGAGED BY THE PERSONAL REPRESENTATIVE; AMENDING SECTION 72-3-631, MCA; AND PROVIDING AN APPLICABILITY DATE."

Respectfully report as follows: That **HOUSE** Bill No. **148**

BE AMENDED AS FOLLOWS:

1. Title, line 4.
Following: "EXCLUDE"
Insert: "LIFE"
2. Page 1, line 18.
Following: "from"
Insert: "life"
3. Page 1, line 21.
Following: "from"
Insert: "life"
4. Page 1, line 24.
Following: "from"
Insert: "life"

AND AS AMENDED

DO PASS

STANDING COMMITTEE REPORT (1 of 2)

January 17, 1983

MR. **SPEAKER:**

We, your committee on **JUDICIARY**

having had under consideration **HOUSE** Bill No. **143**

First reading copy **White**
Color

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW EMPLOYEES OF THE
STATE AND ITS POLITICAL SUBDIVISIONS TO ATTEND THE MONTANA
LAW ENFORCEMENT ACADEMY IF THEIR EMPLOYMENT RELATES TO THE
CRIMINAL JUSTICE SYSTEM; AMENDING SECTIONS 44-10-102, 44-10-202,
AND 44-10-301 THROUGH 44-10-303, MCA."

Respectfully report as follows: That **HOUSE** Bill No. **143**
BE AMENDED AS FOLLOWS:

1. Title, lines 7 through 8.

Following: "ACADEMY IF"

Strike: "THEIR EMPLOYMENT RELATES TO"

Insert: "THEY ARE EMPLOYED WITHIN"

2. Title, line 8.

Following: "SYSTEM"

Insert: "AND GIVING PRIORITY IN THE ACADEMY SELECTION PROCESS TO
LAW ENFORCEMENT OFFICERS"

3. Page 2, line 4.

Following: "persons"

Strike: "who are to attend the academy each year"

Insert: ", giving priority to law enforcement officers, who are
to attend any academy program"

XXXXX
DO PASS

4. Page 2, lines 14 through 16.

Following: "training"

Strike: ", which certificates shall be signed by the president of
the selected university unit"

5. Page 3, lines 8 through 9.

Following: "subdivisions"

Strike: "whose employment is related to"

Insert: "who are employed within"

AND AS AMENDED
DO PASS

STANDING COMMITTEE REPORT

January 17, 19 81

MR. **SPEAKER:**

We, your committee on **JUDICIARY**

having had under consideration **SENATE** Bill No. **15**

Third reading copy (Blue)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE 'INFANT' TO 'MINOR' WHERE APPROPRIATE THROUGHOUT THE CODE IN ORDER TO ACHIEVE CONSISTENCY WITH TITLE 41, MCA; AMENDING SECTIONS 15-30-135, 25-5-301, 27-1-319, 70-29-102, 70-29-209, 70-29-210, 70-29-303, 70-29-305, 70-29-306, 70-29-327, 72-14-302, AND 72-20-407, MCA."

Respectfully report as follows: That **SENATE** Bill No. **15**

BE CONCURRED IN (CONSENT CALENDAR)

~~DOCRASS~~

	Date: 1/17 No: HB 148 Amendment	Date: No:	Date: No:	Date: No:	Date: No:
BROWN, Dave	No				
ADDY, Kelly	Yes				
BERGENE, Toni	Yes				
BROWN, Jan	Yes				
CURTISS, Aubyn	Yes				
DAILY, Fritz	Yes				
DARKO, Paula	Yes				
EUDAILY, Ralph	No				
FARRIS, Carol	Yes				
HANNAH, Tom	No				
IVERSON, Dennis	Yes				
JENSEN, James	-				
KENNERLY, Roland	No				
KEYSER, Kerry	No				
RAMIREZ, Jack	Potential confl. interest				
SCHYE, Ted	Yes				
SEIFERT, Carl	No				
SPAETH, Gary	Yes				
VELEBER, Dennis	Yes				

Exhibit A
HB 143

To: House Judiciary Committee 1/17/83

From: Rep Gene Ernst

Subject: Amendments to
HB 143

Pg 3 line 9: after employment
is: delete "related" and substitute
"within".

Add to Sec 3: No 2. all bona fide
Montana law-enforcement officers
shall have priority in admission
to the academy.

(Please have legal counsel to
committee check for correct
wording and placement into
this bill. I am guessing
this (Add --) is in the
correct section.)
Rep Ernst

Exhibit B

HB 143

1/17/83

WITNESS STATEMENT

NAME Chuck O'Reilly BILL No. HB 143
ADDRESS Helena DATE _____
WHOM DO YOU REPRESENT Mont. Sheriffs & Peace Officers Assn.
SUPPORT ✓ OPPOSE _____ AMEND ✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Amend:

Page 2, Line 4... after "persons" insert

"giving priority to law enforcement officers
who are to attend any Academy program."
and strike "who are to attend the academy
each year."

Page 3, Line 9... strike "related to" and insert "within".

Honorable House Judiciary Committee

Info. HP 148

Attorneys should be paid for work they perform.

They do very little in regard to Estate Insurance policeys.

Example :

Montana Probate 2994 and 2995

2994

property in estate 20,127.08

insurance 211,038.77

attorney fee 7,534.97

almost \$6000.00 based on insurance alone

2995

property in estate 18,166.63

insurance 12,957.65

attorneys fee 1,044.75

almost 50% based on insurance

Respectfully submitted,

~~Herb~~ Helman Alder, Mt.

Exhibit C

HB 148

1/17/83

VISITOR'S REGISTER

HOUSE

JUDICIARY

COMMITTEE

BILL House Bill 143

DATE 1/17/83

SPONSOR Rep. Ernst

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE JUDICIARY COMMITTEE

BILL House Bill 148

DATE 1/17/83

SPONSOR Rep. Keyser

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE JUDICIARY COMMITTEE

BILL Senate Bill 15

DATE 1/17/83

SPONSOR Senator Mazurek

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.