

MINUTES OF THE MEETING
HUMAN SERVICES AND AGING COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

January 25, 1985

The meeting of the Human Services and Aging Committee was called to order by Chairperson Nancy Keenan on January 25, 1985 at 3:00 p.m. in Room 312-2 of the State Capitol.

ROLL CALL: All members were present with the exception of Representative Gould who was excused by Chairperson Keenan.

HOUSE BILL NO. 169: Hearing commenced on House Bill No. 169. Representative Gene Donaldson, District #43, sponsor of the bill indicated that an act extending handicapped persons' special parking privileges to 100 percent disabled veterans was needed. This bill would allow recipients of this license plate to park in those designated areas which are allowed for the handicapped. Currently, persons displaying this license plate cannot park in handicapped areas. Basically, what this bill does, in summary, is to allow these people to purchase a \$5.00 license plate with the disabled veteran insigna and parking in handicapped spaces in public and private lots would be permissible.

Proponents included George Poston, Vice-Commander of the Disabled American Veterans for the Montana State Disabled American Veterans Association. Only veterans who are 100% disabled will be authorized to acquire disabled plates. Mr. Poston indicated that these people had made a great sacrifice. Only persons using the handicapped plates will be eligible to park in handicapped zones and with the proposed bill, disabled veterans would also be able to park in these designated areas.

There were no further proponents or opponents to House Bill No. 169 the hearing was closed.

Sponsor of the bill closed and questions were then raised by Representative Connolly. She indicated that disabled veterans are eligible to receive parking permits. Representative Wallin asked the stipulations necessary to receive a disabled veterans license plate. Representative Gilbert questioned the amount of disability required and Representative Bergene asked if there were a recognition also of a Disabled American Veteran.

There being no further discussion, hearing was closed on House Bill No. 169.

EXECUTIVE SESSION

ACTION ON HOUSE BILL NO. 228: Representative Hayne made a motion that House Bill No. 228, AS AMENDED DO PASS. Representative Darko seconded the motion. Amendments to this bill are as follows:

1) Page 1

Following: Line 15

Insert: "NEW SECTION. Section 1. Short Title.
[Sections 1 through 11] may be cited as the
'Montana Living Will Act'."

Renumber: Subsequent sections.

A motion was made by Representative Bradley, seconded by Representative Phillips and was unanimously decided DO PASS. Questions were raised by Committee members and researcher Gomez made explanation.

2) Page 2

Following: Line 25

Insert: "Only one of the two witnesses may be related
to the declarant."

A motion was made by Representative Cohen and seconded by Representative Bergene and was voted DO PASS. Representatives Bradley, Gilbert and Simon voted No. After further discussion, Representative Simon reconsidered his motion to DO PASS.

3) Page 3, line 20

Following: "pain."

Insert: "It is my intention that this declaration
shall be valid until revoked by me."

A motion was made by Representative Cohen and seconded by Representative Waldron and was voted DO PASS by roll call vote and is attached hereto.

4) Page 8, line 21

Following: "killing"

Strike: "or euthanasia"

A motion was made by Representative Cohen and seconded by Representative Bergene to DO PASS.

Additional amendments which did not pass were:

1) Page 7

Following: Line 13

Insert: "This penalty is in addition to any other
penalties that may be imposed pursuant to
Title 45."

Discussion followed. It was indicated by the staff researcher that this amendment seemed to duplicate existing law found in sections 46-11-501 through 46-11-505, MCA, that permits prosecution and punishment when the same transaction constitutes more than one offense under Title 45. Motion was made by Representative Phillips and seconded and was voted DO NOT PASS. A roll call vote is attached. Questions were raised by the Committee and Doug Olson of the Governor's Office explained.

2) Page 9

Following: Line 7

Insert: "NEW SECTION. Section 13. This act is effective on [choices:
(a) passage and approval. or
(b) July 1, 1985.]".

Following an explanation that an effective date should not be included in the bill because it might deprive the public sufficient notice and an opportunity to be apprised of the contents of the bill, motion was made by Representative Waldron and seconded and was voted DO NOT PASS.

3) Page 4, line 9, 10, 11

Following: "effective"

Strike: remainder of sentence up to "physician."

Discussion following among Committee members and researcher, Gomez explained the effects of this amendment. Gomez explained the purpose of the existing language in the bill. He indicated that the bill, as written, would permit a person working under the supervision of the attending physician to act independently to halt the process that would terminate sustain life-procedures if the declarant somehow communicated an intent to revoke the declaration. It was said that there have been cases in other states where life-sustaining procedures were in the process of being withdrawn or terminated when the declarant would suddenly gasp for air and make motions indicating that perhaps he did not want the declaration implemented. The researcher said that a health care provider or nurse cannot act on their own under the current policy established in most hospitals. A health care provider or nurse works under the supervision of the physician and can not act independently to administer or withhold medication or care to a patient. Hence, it was said that the present language was needed to provide persons working in the hospital the authority to discontinue efforts to terminate the life-sustaining procedure if there was a possibility the declarant wished to revoke the living will.

Representative Bergene indicated that it is correct that hospital policy does not afford a nurse or other medical personnel authority to act on their own in the care of a patient.

4) Page 2, line 25

Following: "two"

Insert: "ADULT"

It was explained to the committee by the staff researcher that this amendment is based on similar qualifications established for witnesses to wills under Section 72-2-305, MCA, that prohibits a witness from being a beneficiary of the will. In addition, it was pointed out that no witness qualification was provided in the draft of this bill because the bill was modeled after a draft bill written by the National Conference of Commissioners on Uniform State Laws, which contained no such witness qualifications. It was explained that the Commissioners on Uniform State Laws did not include witness qualifications in the draft of the uniform law on living wills, because they believed a legal determination by the physician would be necessary to determine whether the witnesses to a living will declaration satisfied statutory requirements for witnesses. In addition, the Commissioners believed that a living wills' law should not be so complicated so as to make it for a person desiring to make a living will. It was reported that the attorney on the Legislative Council who drafted the bill concurred with the Commissioners, as did Representative Cal Winslow, the sponsor of the bill. As a result it was recommended that no amendments be passed that would establish witness qualifications.

5) Page 2, line 25

Following: "witnesses."

Insert: "(a) The witnesses may not be:

- (i) the person who signed the declaration on behalf of and at the direction of the person making the declaration;
- (ii) related to the declarant by blood or marriage;
- (iii) entitled to any portion of the estate of the declarant according to the laws of intestate succession of this state or under any will of the declarant or codicil thereto; or
- (iv) directly financially responsible for declarant's medical care."

See explanation of 4) above.


- 6) Page 3, line 1
Prior to: "A physician"
Insert: "(b)"
See explanation of 4) above.
- 7) Page 3, line 24 through line 25
Strike: Lines 24 through line 25 in their entirety
Insert: "The declarant is personally known to me
and I believe him or her to be of sound mind.
I did not sign the declarant's signature
above for or at the direction of the
declarant. I am not related to the declarant
by blood or marriage, entitled to any por-
tion of the estate of the declarant accord-
ing to the laws of intestate succession or
under any will of the declarant or codicil
thereto, or directly financially responsible
for declarant's medical care."

A motion was moved, seconded to DO NOT PASS. No action was considered after passing the witness qualification. It was pointed out that this amendment was inconsistent with the requirements for witnesses previously approved by the Committee.

ACTION ON HOUSE BILL NO. 169: Representative Cohen made a motion that House Bill No. 169 DO PASS. Representative Hayne seconded the motion and the bill was unanimously voted to DO PASS.

ACTION ON HOUSE BILL NO. 165: Representative Darko made a motion that House Bill No. 165 DO PASS. Representative Brown seconded the motion and it was unanimously voted to DO PASS AS AMENDED WITH A STATEMENT OF INTENT. After further discussion, Chairperson Keenan stated that because of the question still arising out of this passage, a subcommittee would be formed or further action would be announced at our next meeting.

ADJOURN: There being no further business before the Committee, the meeting was adjourned at 5:21 p.m.



NANCY KEENAN

DAILY ROLL CALL

HUMAN SERVICES AND AGING COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date January 25, 1985

NAME	PRESENT	ABSENT	EXCUSED
NANCY KEENAN	X		
BUDD GOULD		X	X
TONI BERGENE	X		
DOROTHY BRADLEY	X		
JAN BROWN	X		
BUD CAMPBELL	X		
BEN COHEN	X		
MARY ELLEN CONNELLY	X		
PAULA DARKO	X		
BOB GILBERT	X		
STELLA JEAN HANSEN	X		
MARIAN HANSON	X		
MARJORIE HART	X		
HARRIET HAYNE	X		
JOHN PHILLIPS	X		
BRUCE SIMON	X		
STEVE WALDRON	X		
NORM WALLIN	X		

new bill

STANDING COMMITTEE REPORT

January 25, 19 85

MR. **Speaker**

We, your committee on **Human Services and Aging**

having had under consideration **House** Bill No. **169**

first reading copy (**white**)
color

**An act extending handicapped persons' special parking privileges to
100 percent disabled veterans**

Respectfully report as follows: That **House** Bill No. **169**

DO PASS

STANDING COMMITTEE REPORT

January 30

19 85

Page 1 of 2

MR. Speaker

We, your committee on Human Services and Aging

having had under consideration House Bill No. 228

first reading copy (white)
color

Living wills

Respectfully report as follows: That House Bill No. 228

Amendments attached

**AND AS AMENDED
DO PASS**

Human Services and Aging Committee
House Bill No. 223

- 1) Page 1
Following: Line 15
Insert: "NEW SECTION. Section 1. Short Title.
[Sections 1 through 11] may be cited as the
'Montana Living Will Act'."
Renumber: Subsequent sections.
- 2) Page 2
Following: Line 25
Insert: "Only one of the two witnesses may be related
to the declarant."
- 3) Page 3, line 20
Following: "pain."
Insert: "It is my intention that this declaration shall
be valid until revoked by me."
- 4) Page 8, line 21
Following: "killing"
Strike: "or euthanasia"
- 5) Renumber internal references:
"2" to "3" (page 1, line 22)
"4" to "5" (page 5, line 16)
"5" to "6" (page 5, line 13)
"6" to "7" (page 6, line 17)
"4" to "5" (page 6, line 23)
"1" to "4" (page 7, line 9)
"2" to "3" (page 7, line 20)
"2" to "3" (page 8, line 24)

AND AS AMENDED
DO PASS

(Type in committee name, committee members' names, and names of secretary and chairman. Have at least 50 printed to start.)

ROLL CALL VOTE

HOUSE COMMITTEE HUMAN SERVICES AND AGING

DATE January 25, 1985 House Bill No. 228 Time 3:34 p.m.

NAME	YES	NO
Nancy Keenan		X
Bud Gould		
Toni Bergene	X	
Dorothy Bradley		X
Jan Brown	X	
Bud Campbell		X
Ben Cohen	X	
Mary Ellen Connelly	X	
Paula Darko	X	
Bob Gilbert		X
Stella Jean Hansen	X	
Marian Hanson		X
Marjorie Hart	X	
Harriet Hayne		X
John Phillips		X
Bruce Simon		X
Steve Waldron	X	
Norm Wallin		X

Alberta Strachan
Secretary

Nancy Keenan
Chairman

Motion: Page 7

Following: Line 13

Insert: "This penalty is in addition to any other
penalties that may be imposed pursuant to
Title 45."

(Include enough information on motion -- put with yellow copy of committee report.)