

HOUSE BILL NO. 467

INTRODUCED BY J. JENSEN, SAUNDERS

IN THE HOUSE

January 24, 1983	Introduced and referred to Committee on Judiciary.
February 14, 1983	Committee recommend bill do pass as amended. Report adopted.
February 15, 1983	Bill printed and placed on members' desks.
February 16, 1983	Second reading, do pass as amended.
February 18, 1983	Correctly engrossed.
February 19, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 21, 1983	Introduced and referred to Committee on Judiciary.
March 19, 1983	Committee recommend bill be concurred in. Report adopted.
March 21, 1983	Second reading, concurred in.
March 23, 1983	Third reading, concurred in. Ayes, 49; Noes, 1.

IN THE HOUSE

March 23, 1983	Returned to House.
March 24, 1983	Sent to enrolling.
	Reported correctly enrolled.

FIRST READING

MISSING

Approved by Committee
on Judiciary

HOUSE BILL NO. 467

INTRODUCED BY J. JENSEN, SAUNDERS

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
INQUEST STATUTES; AMENDING SECTIONS 46-4-201, 46-4-202, AND
46-4-204, MCA."

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

Section 1. Section 46-4-201, MCA, is amended to read:

"46-4-201. Inquest -- definition, when held, how
conducted. (1) An inquest is a formal inquiry into the
causes of and circumstances surrounding the death of any
person.

(2) The coroner shall hold an inquest only if
requested to do so by the county attorney of the county in
which death occurred or by the county attorney of the county
in which the acts or events causing death occurred. However,
when the death of any person occurs in a jail or penal
institution or from the use of a firearm by a peace officer,
except where criminal charges have been or will be filed,
the county attorney shall direct the coroner to hold an
inquest.

~~that if death occurs in a jail or penal institution or
from the use of a firearm by a peace officer and an inquest
is held, the coroner shall give at least 30 days' notice of~~

~~the date of the inquest to the decedent's estate and known
heirs or devisees; if the interests of justice require an
inquest to be held at a time that does not allow 30 days'
notice to be given, the coroner shall give as many days
notice as possible; if the estate or any interested heir or
devisee of the decedent desires to obtain counsel to attend
the inquest but is unable to do so without substantial
financial hardship, the district court shall appoint an
attorney to represent the estate or interested heir or
devisee.~~

~~§3141(2)~~ If an inquest is held, the proceedings shall
be public. The coroner shall conduct the inquest with the
aid and assistance of the county attorney. Such inquest is
to be held in accordance with this part.

~~§3141~~ (a) A coroner who also serves as a law
enforcement PEACE officer may not conduct an inquest into
the death of a person who:

(i) died in a jail or penal institution;

(ii) died while in the custody of a law enforcement
PEACE officer; or

(iii) was killed by a law enforcement PEACE officer.

(b) If a coroner is disqualified under subsection (5),
the county attorney shall request the A QUALIFIED coroner of
a neighboring county to conduct the inquest. The expenses
of a coroner fulfilling the request, including salary, must

1 ~~be paid by the requesting county."~~

2 Section 2. Section 46-4-202, MCA, is amended to read:

3 "46-4-202. Summoning and swearing in of jurors ==
4 instructions. (1) For holding such inquest, the coroner must
5 summon a jury of not more than nine persons qualified by law
6 to serve as jurors.

7 (2) When six or more of the jurors attend, they must
8 be sworn by the coroner to inquire who the person was and
9 when, where, and by what means he came to his death and into
10 the circumstances attending his death and to render a true
11 verdict thereon, according to the evidence offered to them
12 or arising from the inspection of the body.

13 ~~(3) The coroner must instruct the jurors as to their~~
14 ~~duties."~~

15 Section 3. Section 46-4-204, MCA, is amended to read:

16 "46-4-204. Witness compelled to attend == examination.
17 (1) A witness served with a subpoena may be compelled to
18 attend and testify or be punished as upon a subpoena issued
19 by a justice of the peace.

20 ~~(2) The coroner shall and the county attorney and any~~
21 ~~attorney representing the estate or representing any~~
22 ~~interested heir or devisee of the decedent may examine each~~
23 ~~witness after which the witness may be examined by the~~
24 ~~jurors."~~

-End-

HOUSE BILL NO. 467

INTRODUCED BY J. JENSEN, SAUNDERS

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Section 1. Section 46-4-201, MCA, is amended to read:

"46-4-201. Inquest -- definition, when held, how conducted. (1) An inquest is a formal inquiry into the causes of and circumstances surrounding the death of any person.

(2) The coroner shall hold an inquest only if requested to do so by the county attorney of the county in which death occurred or by the county attorney of the county in which the acts or events causing death occurred. However, when the death of any person occurs in a jail or penal institution or from the use of a firearm by a peace officer, except where criminal charges have been or will be filed, the county attorney shall direct the coroner to hold an inquest.

~~(3) If death occurs in a jail or penal institution or from the use of a firearm by a peace officer and an inquest is held, the coroner shall give at least 30 days' notice of~~

~~the date of the inquest to the decedent's estate and known heirs or devisees if the interests of justice require an inquest to be held at a time that does not allow 30 days' notice to be given; the coroner shall give as many days' notice as possible if the estate or any interested heir or devisee of the decedent desires to obtain counsel to attend the inquest but is unable to do so without substantial financial hardship; the district court shall appoint an attorney to represent the estate or interested heir or devisee~~

~~(3)(3) If an inquest is held, the proceedings shall be public. The coroner shall conduct the inquest with the aid and assistance of the county attorney. Such inquest is to be held in accordance with this part.~~

~~(4) (a) A coroner who also serves as a law enforcement officer may not conduct an inquest into the death of a person who:~~

~~(i) died in a jail or penal institution;~~

~~(ii) died while in the custody of a law enforcement officer; or~~

~~(iii) was killed by a law enforcement officer.~~

~~(b) If a coroner is disqualified under subsection (4), the county attorney shall request the A QUALIFIED coroner of a neighboring county to conduct the inquest. The expenses of a coroner fulfilling the request, including~~

1 ~~salary must be paid by the requesting county."~~

2 Section 2. Section 46-4-202, MCA, is amended to read:

3 "46-4-202. Summoning and swearing in of jurors ==
4 ~~instructions.~~ (1) For holding such inquest, the coroner must
5 summon a jury of not more than nine persons qualified by law
6 to serve as jurors.

7 (2) When six or more of the jurors attend, they must
8 be sworn by the coroner to inquire who the person was and
9 when, where, and by what means he came to his death and into
10 the circumstances attending his death and to render a true
11 verdict thereon, according to the evidence offered to them
12 or arising from the inspection of the body.

13 ~~(3) The coroner must instruct the jurors as to their~~
14 ~~duties."~~

15 Section 3. Section 46-4-204, MCA, is amended to read:

16 "46-4-204. Witness compelled to attend == ~~examination.~~

17 ~~(1) A witness served with a subpoena may be compelled to~~
18 ~~attend and testify or be punished as upon a subpoena issued~~
19 ~~by a justice of the peace.~~

20 ~~(2) The coroner shall and the county attorney and any~~
21 ~~attorney representing the estate or representing any~~
22 ~~interested heir or devisee of the decedent may examine each~~
23 ~~witness after which the witness may be examined by the~~
24 ~~jurors."~~

-End-

HOUSE BILL NO. 467

INTRODUCED BY J. JENSEN, SAUNDERS

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE INQUEST STATUTES; AMENDING SECTIONS 46-4-201, 46-4-202, AND 46-4-204, MCA."

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Section 1. Section 46-4-201, MCA, is amended to read:

"46-4-201. Inquest -- definition, when held, how conducted. (1) An inquest is a formal inquiry into the causes of and circumstances surrounding the death of any person.

(2) The coroner shall hold an inquest only if requested to do so by the county attorney of the county in which death occurred or by the county attorney of the county in which the acts or events causing death occurred. However, when the death of any person occurs in a jail or penal institution or from the use of a firearm by a peace officer, except where criminal charges have been or will be filed, the county attorney shall direct the coroner to hold an inquest.

~~(3) If death occurs in a jail or penal institution or from the use of a firearm by a peace officer and an inquest is held, the coroner shall give not less than 30 days' notice of~~

~~the date of the inquest to the decedent's estate and known heirs or devisees; if the interests of justice require an inquest to be held at a time that does not allow 30 days' notice to be given, the coroner shall give as many days' notice as possible; if the estate or any interested heir or devisee of the decedent desires to obtain counsel to attend the inquest but is unable to do so without substantial financial hardship, the district court shall appoint an attorney to represent the estate or interested heir or devisee.~~

~~(3)(1)(2) If an inquest is held, the proceedings shall be public. The coroner shall conduct the inquest with the aid and assistance of the county attorney. Such inquest is to be held in accordance with this part.~~

~~(5)(1)(a) A coroner who also serves as a law enforcement peace officer may not conduct an inquest into the death of a person who:~~

~~(i) died in a jail or penal institution;~~

~~(ii) died while in the custody of a law enforcement peace officer; or~~

~~(iii) was killed by a law enforcement peace officer.~~

~~(b) If a coroner is disqualified under subsection (5)(1), the county attorney shall request the A QUALIFIED coroner of a neighboring county to conduct the inquest. The expenses of a coroner fulfilling the request, including~~

1 ~~salary, must be paid by the requesting county."~~

2 Section 2. Section 46-4-202, MCA, is amended to read:

3 "46-4-202. Summoning and swearing in of jurors --
4 instructions. (1) For holding such inquest, the coroner must
5 summon a jury of not more than nine persons qualified by law
6 to serve as jurors.

7 (2) When six or more of the jurors attend, they must
8 be sworn by the coroner to inquire who the person was and
9 when, where, and by what means he came to his death and into
10 the circumstances attending his death and to render a true
11 verdict thereon, according to the evidence offered to them
12 or arising from the inspection of the body.

13 ~~(3) The coroner must instruct the jurors as to their~~
14 ~~duties."~~

15 Section 3. Section 46-4-204, MCA, is amended to read:

16 "46-4-204. Witness compelled to attend -- examination.
17 (1) A witness served with a subpoena may be compelled to
18 attend and testify or be punished as upon a subpoena issued
19 by a justice of the peace.

20 ~~(2) The coroner shall and the county attorney and any~~
21 ~~attorney representing the estate or representing any~~
22 ~~interested heir or devisee of the decedent may examine each~~
23 ~~witness, after which the witness may be examined by the~~
24 ~~jurors."~~

-End-

HOUSE BILL NO. 465

INTRODUCED BY HENSTAD, GAGE

BY REQUEST OF THE MONTANA DEPARTMENT OF INSURANCE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO INSURANCE; CHANGING FORM FILING REQUIREMENTS; CLARIFYING PROVISIONS RELATING TO REINSURANCE AGREEMENTS AND BULK REINSURANCE; PROVIDING THAT INLAND MARINE INSURANCE IS TAXED AT ~~3/4-OF-1~~ 2.3/4 PERCENT OF NET PREMIUMS WRITTEN; ~~CLARIFYING--THAT--SELF-GOVERNING--LOCAL GOVERNMENTS--MAY--NOT--TAX--OR--LICENSE--INSURERS--OR--AGENTS--~~ ~~DELETING--THE-REQUIREMENT-FOR-FILING-SUPPORTING-DATA-ON-RATE CHANGES-BY--INSURERS--RATING--ORGANIZATIONS--AND--ADVISORY ORGANIZATIONS~~; DEFINING AND PROVIDING FOR THE REGULATION OF "PUBLIC ADJUSTERS"; DEFINING A "MANAGING GENERAL AGENT" AND PROVIDING FOR LICENSURE; CLARIFYING WHEN INSURANCE INFORMATION MAY BE OBTAINED ABOUT AN INDIVIDUAL; CLARIFYING THE POLICY AMOUNT THAT MUST BE OFFERED ON TERMINATION OF A GROUP LIFE POLICY; AND PROVIDING THAT A POLICY CLAUSE ON CONFORMITY WITH STATE STATUTES BE MANDATORY; AMENDING SECTIONS 33-1-501, 33-2-119, 33-2-705, 33-2-707, 33-2-1206, 33-16-203, 33-17-102, 33-17-103, 33-17-201, 33-19-304, 33-20-1210, AND 33-22-229, MCA."

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

Section 1. Section 33-1-501, MCA, is amended to read:
 "33-1-501. Filing and approval of forms. (1) No insurance policy or annuity contract form, application form, printed rider or endorsement form, or ~~form-of--renewal~~ FORM OF RENEWAL certificate ~~of-insurance~~ shall be delivered or issued for delivery in this state unless the form has been filed with and approved by the commissioner of this state and the state of domicile of the insurer, where so required. This provision shall not apply to surety bonds, ~~specifically~~ ~~rated---intend---marine---risks~~ or policies, riders, endorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under life or disability insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to forms for use in property, marine (other than ocean marine and foreign trade coverages), casualty, and surety insurance coverages, the filing required by this subsection may be made by rating organizations on behalf of its members and subscribers, but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

(2) Every such filing shall be made not less than 60 days in advance of any such delivery. Approval of any such

1 form by the commissioner shall constitute a waiver of any
 2 unexpired portion of such waiting period. The commissioner
 3 may extend by not more than an additional 60 days the period
 4 within which he may so affirmatively approve or disapprove
 5 any such form by giving notice of such extension before
 6 expiration of the initial 60-day period. The commissioner
 7 may at any time, after notice and for cause shown, withdraw
 8 any such approval.

9 (3) Any order of the commissioner disapproving any
 10 such form or withdrawing a previous approval shall state the
 11 grounds therefor and the particulars thereof in such details
 12 as reasonably to inform the insurer thereof.

13 (4) The commissioner may, by order, exempt from the
 14 requirements of this section for so long as he deems proper
 15 any insurance document or form or type thereof as specified
 16 in such order to which, in his opinion, this section may not
 17 practicably be applied or the filing and approval of which
 18 are, in his opinion, not desirable or necessary for the
 19 protection of the public.

20 (5) This section shall apply also to any such form
 21 used by domestic insurers for delivery in a jurisdiction
 22 outside this state, if the insurance supervisory official of
 23 such jurisdiction informs the commissioner that such form is
 24 not subject to approval or disapproval by such official, and
 25 upon the commissioner's order requiring the form to be

1 submitted to him for the purpose. The applicable same
 2 standards shall apply to such forms as apply to forms for
 3 domestic use.

4 (b) This section and 33-1-502 shall not apply as to:
 5 (a) reinsurance;
 6 (b) policies or contracts not issued for delivery in
 7 this state or delivered in this state, except as provided in
 8 subsection (5);

9 (c) ocean marine and foreign trade insurances.
 10 ~~(7) AS TO GROUP INSURANCE POLICIES EFFECTUATED AND~~
 11 ~~DELIVERED OUTSIDE THIS STATE BUT COVERING PERSONS RESIDENT~~
 12 ~~IN THIS STATE, GROUP CERTIFICATES WHICH ARE DELIVERED OR~~
 13 ~~ISSUED FOR DELIVERY IN THIS STATE SHALL BE FILED WITH THE~~
 14 ~~COMMISSIONER UPON HIS REQUEST.*~~

15 Section 2. Section 33-2-119, MCA, is amended to read:
 16 "33-2-119. Suspension or revocation for violations and
 17 special grounds. (1) The commissioner may, in his
 18 discretion, suspend or revoke an insurer's certificate of
 19 authority if, after a hearing thereon, he finds that the
 20 insurer has:

21 (a) violated any lawful order of the commissioner or
 22 any provision of this code other than those for which
 23 suspension or revocation is mandatory;

24 (b) ~~reinsured more than 90% of its risks, resident or~~
 25 ~~to be performed in Montana, in another insurer. In~~