

1 SENATE BILL NO. 202  
2 INTRODUCED BY L. SMITH

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4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A BENEFITS CUSTODIAN TO RECEIVE  
5 PAYMENTS ON BEHALF OF A MINOR CHILD OR AN INCOMPETENT PERSON; AUTHORIZING THE  
6 WORKERS' COMPENSATION JUDGE TO APPOINT A BENEFITS CUSTODIAN; AMENDING SECTIONS 39-  
7 71-742 AND 39-71-2905, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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11 **Section 1.** Section 39-71-742, MCA, is amended to read:

12 **"39-71-742. Who may receive payment.** (1) A payment due to a child under 18 years of age or to a  
13 person adjudged incompetent must be made to the parent, ~~or the appointed guardian,~~ or the benefits custodian,  
14 and the written receipt for the payment must acquit the employer, the insurer, or the department of further  
15 liability.

16 (2) A payment due to a member of the highway patrol receiving the salary benefit provided in 44-1-  
17 511 must be made to the department of justice to offset the salary benefit until the member is no longer eligible  
18 to receive the salary benefit.

19 (3) In other cases, payment must be made to the person entitled to the payment or to the person's  
20 authorized representative.

21 (4) For the purposes of subsection (1), the term "benefits custodian" means a person appointed by  
22 the workers' compensation judge as provided in 39-71-2905 to pursue benefits or receive payments on behalf  
23 of a child under 18 years of age or to a person adjudged incompetent."

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25 **Section 2.** Section 39-71-2905, MCA, is amended to read:

26 **"39-71-2905. Petition to workers' compensation judge -- time limit on filing.** (1) If a claimant, an  
27 insurer, an employer alleged to be an uninsured employer, or the uninsured employers' fund has a dispute  
28 concerning any benefits under this chapter, it may petition the workers' compensation judge for a determination

1 of the dispute after satisfying dispute resolution requirements otherwise provided in this chapter. In addition, the  
2 district court that has jurisdiction over a pending action under 39-71-515 may request the workers'  
3 compensation judge to determine the amount of recoverable damages due to the employee. The judge, after a  
4 hearing, shall make a determination of the dispute in accordance with the law as set forth in this chapter. If the  
5 dispute relates to benefits due to a claimant under this chapter, the judge shall fix and determine any benefits to  
6 be paid and specify the manner of payment. After parties have satisfied dispute resolution requirements  
7 provided elsewhere in this chapter, the workers' compensation judge has exclusive jurisdiction to make  
8 determinations concerning disputes under this chapter, except as provided in 39-71-317 and 39-71-516. The  
9 penalties and assessments allowed against an insurer under this chapter are the exclusive penalties and  
10 assessments that can be assessed by the workers' compensation judge against an insurer for disputes arising  
11 under this chapter.

12 (2) A petition for a hearing before the workers' compensation judge must be filed within 2 years  
13 after benefits are denied.

14 (3) A claimant, an insurer, or the uninsured employers' fund may petition the workers'  
15 compensation judge for the appointment of a benefits custodian. A party is not required to satisfy the dispute  
16 resolution requirements provided in this chapter prior to petitioning for a benefits custodian. The workers'  
17 compensation judge has jurisdiction to appoint and terminate appointment of a benefits custodian."

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19 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

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