

England, this was the original way of taking care of estates in England. This is nothing new, this is something that we are just getting back to, something that this is a peoples bill and for anyone who suggests that it is a special interest bill if ridiculous.

PRESIDENT: Senator Murphy?

SENATOR MURPHY: Question of Senator Luedtke please?

PRESIDENT: Senator Luedtke, will you yield again?

SENATOR MURPHY: Senator Luedtke, before something dastardly or not so dastardly happens to this bill, I think this body should be made aware of what an augmented estate is. This is a new terminology as I understand it it is something that has not existed in probate law before and it applies, if I understand what I am reading, to the estate of a person who dies in testate. And I think that this body should be told what an augmented estate is so should someone ask them.

SENATOR LUEDTKE: No you are wrong, it is the election, it is the augmented estate takes place when you are talking about a widows or a widowers election of the surviving spouses election to take outside the will. To take under the intestacy which now, we have such a rule and such a law now for the individual takes under intestacy, but the augmented estate sets forth a rather technical procedure whereby certain amounts of money, \$35,000 in this case and all the other properties that come to the surviving spouse.

SENATOR MURPHY: If I am reading this correctly Senator Luedtke, it says that the spouse may take, under this intestate condition, one third of the augmented estate.

SENATOR LUEDTKE: That is right, and she can not take or he can not take more than one third no matter what, that is correct.

SENATOR MURPHY: Now then specifically under an augmented estate and I am trying to understand it, the estate is subject to certain deductions, expenses, various allowances, exceptions and claims and then we arrive at a net estate. Now then your augmented estate is in addition to that.

SENATOR LUEDTKE: The advantage of the augmented estate and the reason for this augmented is it stems from the federal state tax \$60,000 deduction and the spouses, the spouses or marital deduction it stems from that concept and the idea is that someone can not just give away before he dies everything that he owns, let's say that he puts in joint ownership all of his property with, he is married but he has a girl friend, so he puts it all in her name. He puts it in his secretary's name or something like that. This will see to it that that kind of a situation that he can't get away with that and he can cheat his wife out of the estate by doing that. In other words, she can get the credit under the augmented estate and then they come in and do that. Now it goes the other way around too. There are two examples. You go the other way around where you try to give it all away or where you try to keep it in either event.

SENATOR MURPHY: I am concerned principally with this in the fact that it undoes any transfer that I may have made without a girl friend, and honestly where did my wife go, I dont have a girlfriend but this sets aside anything that I may have made?

SENATOR LUEDTKE: No it has nothing, absolutely nothing to do with setting it aside, it has to do with what she can take credit for after his death. It is the , it is her right to have it distributed to her under intestacy or rather than by the will. In other words, when she tries to cheat her out of the will. That is the situation.

SENATOR MURPHY: If I am dieing intestate, I am not trying to write anyone out of the will.