



General Assembly

Amendment

February Session, 2012

LCO No. 5429

SB0028205429SD0

Offered by:

SEN. PRAGUE, 19th Dist.

SEN. KELLY, 21st Dist.

To: Subst. Senate Bill No. 282

File No. 124

Cal. No. 116

**"AN ACT CONCERNING THE RETURN OF A GIFT TO A PERSON
IN NEED OF LONG-TERM CARE SERVICES."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Subsection (d) of section 17b-261a of the 2012 supplement
4 to the general statutes is repealed and the following is substituted in
5 lieu thereof (*Effective July 1, 2012*):

6 (d) (1) For purposes of this subsection, an "institutionalized
7 individual" means an individual who has applied for or is receiving
8 (A) services from a long-term care facility, (B) services from a medical
9 institution that are equivalent to those services provided in a long-term
10 care facility, or (C) home and community-based services under a
11 Medicaid waiver.

12 [(d)] (2) An institutionalized individual shall not be penalized for
13 the transfer of an asset if the entire amount of the transferred asset is

14 returned to the institutionalized individual. [The partial return of a
15 transferred asset shall not result in a reduced penalty period.] A
16 transferee may return any portion of a transferred asset to the
17 transferor. If any transferred asset is returned to the transferor, the
18 Department of Social Services shall adjust the penalty period to the
19 extent permitted by federal law, provided the ending date of the
20 penalty period as originally determined by the department shall not
21 change. The department shall consider the entire amount of the
22 returned asset to be available to the transferor only from the date of
23 return of the transferred asset, and shall not determine the transferee
24 ineligible in the month the transferred asset is returned, provided the
25 institutionalized individual reduced the returned asset in accordance
26 with federal law.

27 [(1)] (3) If there are multiple transfers of assets to the same or
28 different transferees, a return of anything less than the total amount of
29 the transferred assets from all of the separate transferees shall not
30 constitute a return of the entire amount of the transferred assets and
31 shall represent a partial return.

32 [(2) If the circumstances surrounding the transfer of an asset and
33 return of the entire amount of the asset to the institutionalized
34 individual indicates to the Department of Social Services that such
35 individual, such individual's spouse or such individual's authorized
36 representative intended, from the time the asset was transferred, that
37 the transferee would subsequently return the asset to such individual,
38 such individual's spouse or such individual's authorized
39 representative for the purpose of altering the start of the penalty
40 period or shifting nursing facility costs, that may have been borne by
41 such individual, to the Medicaid program, the entire amount of the
42 returned asset shall be considered available to such individual from
43 the date of transfer. If such individual demonstrates to the department
44 that the purpose of the transfer and its subsequent return was not to
45 alter the penalty period or qualify such individual for Medicaid
46 eligibility, the entire amount of the returned asset is considered
47 available to the individual from the date of the return of the

48 transferred asset.]

49 [(3)] (4) The conveyance and subsequent return of an asset for the
50 purpose of shifting costs to the Medicaid program shall be regarded as
51 a trust-like device. Such asset shall be considered available for the
52 purpose of determining Medicaid eligibility. The conveyance and
53 subsequent return of an asset made exclusively for a purpose other
54 than to qualify for the payment of long-term care services under the
55 Medicaid program shall not be regarded as a trust-like device.

56 [(4) For purposes of this section, an "institutionalized individual"
57 means an individual who is receiving (A) services from a long-term
58 care facility, (B) services from a medical institution which are
59 equivalent to those services provided in a long-term care facility, or (C)
60 home and community-based services under a Medicaid waiver.]"

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2012	17b-261a(d)