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Raised Bill No. 883

Testimony of Sandra Sherlock White, Esq.
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IN SUPPORT OF
An Act Concerning A Community Spouse's Allowable Assets
Aging Committee Public Hearing

February 26, 2013

Representative Serra, Senator Ayala, and members of the Aging Committee, my name is Sandra Sherlock White. I am former Chair of the Connecticut Bar Association's Elder Law Section, an adjunct Professor of Law at the University of Connecticut Law School where I teach Elder Law, and an attorney practicing elder law in Connecticut. I am here today to testify in support of Raised Bill No. 883, An Act Concerning A Community Spouse's Allowable Assets.

Background: Federal Medicaid law prescribes the rules that states use when determining Medicaid eligibility. In the spousal impoverishment provisions of the law, Congress sought to prevent the impoverishment of the spouse of an individual who required long term care by prescribing the amount of assets that the "Community Spouse" is entitled to retain when his or her spouse enters a nursing home and applies for Medicaid. Currently, Connecticut has adopted the most restrictive option for states, and only permits the Community Spouse to keep **the lesser of** one half of the couple's assets or $115,920.00, but no less than $23,184.00.

Example: A 74 year old husband enters a nursing home. His 68 year old wife has an IRA of $50,000.00. Pursuant to Connecticut's restrictive rules, the wife is only entitled to keep $25,000.00 and the husband may keep $1,600.00. The remaining $23,400.00 must be spent before the husband would be Medicaid eligible. The wife's share must last her for her life expectancy in excess of 15 years. Pursuant to the proposed Act, the wife could retain the $50,000.00 IRA thereby preventing her impoverishment and enabling her to remain in the community longer, thereby saving the state the cost of her institutionalization in a nursing home.

COST SAVINGS:

1. Raised Bill 883 provides the Community Spouse with the assets and the income from those assets that will permit her/him to remain in the community, and

therefore will be less likely to look for public assistance. These cost savings are "invisible" but significant.

2. The "Spend-down" of the excess assets will most likely not be on nursing home costs, but instead will be spent for other items as permitted by Medicaid law and therefore will not delay Medicaid eligibility nor produce cost savings for the state.
3. There is an Administrative Cost Savings to DSS in making determinations of Spousal Assessments, monitoring the spend-down, and reducing Administrative Fair Hearings where individuals would request an increase to the Community Spouse Protected Amount.

PUBLIC POLICY CONSIDERATIONS:

- **Raised Bill 883 promotes the good public policy of enabling individuals to "age in place" and remain in the community, which is better for individuals AND for the State in the reduction of spending on institutional care for those individuals who were able to remain in the community rather than in nursing homes.**
- The Cost of Living in Connecticut is one of the highest in the country.
- The 2009 report "Elders Living on the Edge: Toward Economic Security for Connecticut's Older Adults" by the Permanent Commission on the Status of Women and the Commission on Aging found that single older women and men in Connecticut who predominantly rely on Social Security ***fall short of economic security regardless of housing status.***
- This Report found that "In high-cost Connecticut, where Social Security payments approximate the national average, Social Security payments **fail** to provide older adults economic security" and that "This problem is most severe for single elderly women."
- Other states including Massachusetts, Vermont, Maine, California, Colorado, Arkansas, Hawaii, Illinois, Louisiana, and Mississippi all provide the maximum community spouse protected amount permitted by federal law.
- The current and most restrictive rule disproportionately affects women who statistically outlive their spouses and often live in poverty.
- The ratio of women to men increases with age, and this is expected to continue indefinitely.
- Poverty increases with age and is much more common among older women than men.
- There is a preponderance of women in nursing homes, as they outlive their spouses, have no one to care for them, and lack the income and resources to remain in the community.
- AARP has expressed strong concerns that the current restrictive rules will have an adverse impact on those with moderate and low assets, especially women, and that the current restrictive rules will increase the likelihood that a community spouse will end up in a nursing facility.

The Connecticut Bar Association urges this Committee to act favorably on Raised Bill 883.