

Aging Committee JOINT FAVORABLE REPORT

Bill No.: SB-564

AN ACT PERMITTING A COMMUNITY SPOUSE OF AN INSTITUTIONALIZED

Title: SPOUSE TO RETAIN THE MAXIMUM AMOUNT OF ALLOWABLE ASSETS.

Vote Date: 2/20/2019

Vote Action: Joint Favorable

PH Date: 2/14/2019

File No.:

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SPONSORS OF BILL:

Aging Committee

REASONS FOR BILL:

The legislation would allow a spouse of someone who is institutionalized to maintain the maximum assets allowable and this would be raised to the federally allowed maximum.

RESPONSE FROM ADMINISTRATION/AGENCY:

Connecticut Dept. of Social Services: They provided testimony in opposition to this bill. It would allow the spouse of an institutionalized person who is applying for Medicaid to retain assets up to the maximum allowed under federal law. Effective January 1, 2019 this amount would be \$126,420. Under our current statutes Medicaid recipients are allowed one-half the couples assets up to the federal maximum of \$126,420. If the total assets are under \$25,284 the federal minimum the community spouse can keep all the assets. The couple's home and one car are excluded from the assessment of spousal assets.

The Dept. wishes to continue to maintain the current policy, which has been in place since 1989 (excluding 2011). They think this is a fair and reasonable one and it supports the original intent of the 1988 Medicare Catastrophic Coverage Act. They believe that the change in this policy would have a negative fiscal impact on the Medicaid account.

NATURE AND SOURCES OF SUPPORT:

Ms. Kathleen Tetreault, Elder Law Section of the Connecticut Bar Assoc. and the Connecticut Chapter of the National Academy of Elder Law Attorneys: Submitted testimony in support of this bill. This bill would enable the spouse of a person requiring long-

term care to avoid financial impoverishment by retaining the maximum level of assets permitted by federal law. They believe this will treat Medicaid applicant fairly and equally, shifting the current schematic that favors upper class families. The testimony offers a case study of the current procedures and the results if this bill is passed. In the example provided the bill would allow a significant improvement in the current practice.

They don't believe that this bill has a negative fiscal impact on the State. The funds that a community spouse is forced to "spend down" are not mandated to be spent on care. Rather the spouse can spend the funds in any manner he/she chooses. This bill would enable families to save for the sake of preserving their home and their personal welfare. In 2010 the legislature passed an identical bill which was rescinded in 2011 through a Budget Implementer. DSS never provided any documentation substantiating claims that there was a cost of millions of dollars to the 2010 bill. Commissioner Starkowski stated at the time that the alleged \$30 million impact was "intuitive" and they continue to rely upon fictional fiscal impact in opposing the current proposal.

They believe that the bill will save money for the State by reducing Fair Hearings which are often requested to increase the resources that a spouse is permitted to keep up to \$126,420 and by enabling the spouse to keep the maximum allowable amount her/she is better able to financially meet their personal needs without relying on other forms of public resources.

Enacting this bill will help protect the community spouse avoid impoverishment and by living up to the promise of Congressional Intent of MCCA which was made 31 years ago.

Senate Bill 564 aims to provide equal treatment to middle class families by giving the same protections enjoyed by more financially stable couples.

Marie Allen, Executive Dir., Southwestern CT Agency on Aging: They submitted testimony in support of SB 564 saying that this would serve to decrease the anxiety and reduce the community spouse's need for requiring State assistance for their own personal care. To make a point, a couple with \$100,000 in savings would face a \$50,000 reduction of their assets for the community spouse and that would decrease the spouse's funds available to support in-home services to meet his/her own needs and thereby hasten their reliance on Medicaid.

Edward Lang, President of the Connecticut Chapter of the National Academy of Elder Law Attorneys: His testimony was in support of this bill. Mr. Lang's testimony included an example of a couple with a home and moderate savings and other assets. She was required to spend down one-half of the total assets leaving her with \$62,500. Her husband died in 2018 and his SS payments were stopped leaving her with a monthly income of \$1,456. She was forced to take funds from her saving each month to pay her living costs. He expects that she will spend all of her funds within 4 years after the date of her husband's death.

Most people are unaware and shocked when they realize that a loved one requires long-term care and the typical cost of this care. An additional example is when a couple lives in an assisted living facility and then one of the spouses becomes ill and requires convalescent care. A fear of the spouse in the assisted living facility is that they will not be able to stay with their spouse confined in convalescent setting.

The DSS requires that the applicant be eligible for Medicaid benefits when the application is submitted but Home Care benefits are paid from the date of approval, not the date of the application. Often the community spouse must pay for home care services while waiting for the decision.

This bill increases the amount that the community spouse may retain and this change will permit spouses living in the community to preserve resources that will help them to continue to live in their communities.

AARP Connecticut: Submitted testimony in favor of SB 564. This bill would allow couples the spouse in the community to keep 100% of their remaining assets up to the federal maximum which is \$126,420 for 2019. When they have to spend down their assets they lose their rainy day funds and aren't able to meet expenses that can come up unexpectedly. They point out that long term services are not only for older residents and that a majority of beneficiaries are under the age of 65.

NATURE AND SOURCES OF OPPOSITION:

None submitted on this bill.

**Reported by: Gaia McDemott, Clerk
Richard Ferrari, Assistant Clerk**

Date: 2/25/9