

Aging Committee JOINT FAVORABLE REPORT

Bill No.: SB-81

AN ACT PERMITTING THE COMMUNITY SPOUSE OF AN
INSTITUTIONALIZED MEDICAID RECIPIENT TO RETAIN THE MAXIMUM

Title: AMOUNT OF ALLOWABLE ASSETS.

Vote Date: 3/4/2020

Vote Action: Joint Favorable Change of Reference to Appropriations

PH Date: 2/18/2020

File No.:

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SPONSORS OF BILL:

Aging Committee

REASONS FOR BILL:

The bill calls for the state to amend the Medicaid plan to permit a spouse of an institutionalized spouse to retain the maximum resource amount allowable for such community spouse according to 42 USC 1396r-5(f)(2). It calls for the commissioner to adopt regulations to implement the provisions.

RESPONSE FROM ADMINISTRATION/AGENCY:

Dept. of Social Services: They have opposed increases in the amount of assets protected for community spouses in the past because it will result in significant fiscal impact to the state. This bill would increase the amount of assets the community spouse can keep. The Dept. maintains that the current policy is fair and reasonable and supports the original intent of the 1988 Medicare Catastrophic Coverage Act which intended to prevent the impoverishment of spouses of those applying for Medicaid coverage for long-term care. With the current budget environment, they believe that they cannot support the minimum community spouse protected amount as it would have a negative fiscal impact on the Medicaid account.

NATURE AND SOURCES OF SUPPORT:

AARP Connecticut: They testified in support of this legislation. They state that when community spouses are required to "spend down" their assets to reach a maximum threshold, they lose their personal rainy-day fund and are not well equipped to address any future needs

that might arise. Allowing spouses to keep these assets provides them with the financial cushion needed to take care of themselves and plan for their own future care and well-being.

Edward Lang of Lang and Corona, P.C.; President of the CT Chapter of the National Academy of Elder Law Attorney and a member of the Elder Law Section of the CT Bar Association: They offered testimony in support of this proposal stating that the current law forces a community spouse into poverty and increasing the community spouse protected amount avoids impoverishing the community spouse. Mr. Lang's testimony provides examples, background and comments on the current state of affairs pertaining to this issue. Comments we also made concerning the requirement that the applicant be eligible for Medicaid benefits when the application is submitted but that Home Care benefits are paid from the date of approval, not the date of the application and that the community spouse must pay for home care services while waiting for the decision.

Kathleen Flaherty, Executive Director, CT Legal Rights Project, Inc.: They submitted testimony in support of this bill indicating that the state should do what it can to reduce the financial burden on spouses of nursing home residents whose care is being funded under the Medicaid program.

Kathleen Tetreault, on behalf of the CT Bar Association, Elder Law Section: She offers testimony in support of this bill and offers several arguments that support its passage. One, that the bill does not have any fiscal impact to the state. The funds that the community spouse is forced to "spend down" are not mandated to be spent on care, or otherwise paid to the State of Connecticut. Rather, the community spouse can spend the funds in any manner that they chose. She also points out that in 2010 the legislature passed a bill identical to SB81 (CGS 17b-261k (PA 10-73) which was rescinded through a budget implementer in 2011 and that DSS never provided any documentation substantiating claims that the statute would cost millions of dollars. Two, she also believes that the bill would save the state money since it would reduce Fair Hearings which are often requested to increase that a community spouse is permitted to keep up to \$128,640. Three, she also suggests that the bill would preserve Congressional intent of MCCA in that it would prevent the community spouse from impoverishment. Finally, the bill does not seek special treatment for middle class families rather that it seeks to provide equal treatment for those families.

Kathleen Tetreault, CT Bar Association, Elder Law Section: She offered additional information to support her favorable testimony on this bill.

NATURE AND SOURCES OF OPPOSITION:

No testimony submitted

Reported by: Richard Ferrari, Assistant Clerk 3/10/2020
Gaia McDermott, Clerk