

# SUPPORT LEGISLATION TO PROTECT ELDERS FACING UNDUE HARDSHIP

H2988/S606 Representative Hogan; Senator Chandler

## WHAT THE BILL DOES:

This bill would establish criteria to be used by MassHealth to determine whether a penalty for a transfer of assets would create an undue hardship for an applicant.

## BACKGROUND:

Currently when MassHealth determines income eligibility for nursing home care, the agency looks back 5 years to ensure that the applicant did not transfer their assets for less than fair market value.

If the applicant did transfer assets and cannot prove the transfer was for a purpose other than qualifying for MassHealth, she is determined ineligible for nursing home care for a period of time.

Many times the transfers are made innocently, without any expectation that an illness or injury will require the senior to apply for nursing home care. The transfers many times are to grandchildren or children as wedding gifts or for educational costs, or could be yearly donations to a charity.

## WHO IT HELPS:

Low-income seniors who are eligible for nursing home care.

## HOW THE BILL HELPS:

This legislation creates a rebuttable presumption establishing that the applicant would be granted a waiver of the ineligibility period if certain criteria are met.

The criteria establish that the penalty would:

- create a risk of serious harm to the individual
- the transferred assets are irretrievable from the recipient and
- there is no affordable alternative care available for the individual.

If the individual meets all of the criteria, a waiver will be granted unless MassHealth presents convincing evidence to the contrary.



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