

Legislature - First Session - 2015

Introducer's Statement of Intent

LB72

Chairperson: Senator Les Seiler

Committee: Judiciary

Date of Hearing: January 21, 2015

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

The compassion of the State is reflected in its willingness to advance payment for Medicaid related services to people without available assets. As baby boomers retire many will have insufficient assets to carry them through. They, as well as the generation that preceded them, often seek to engage in various legal techniques to “make sure the nursing home does not get what I worked hard for”. These techniques use such things as real estate life estates and take advantage of some trust provisions to transfer assets to heirs in a manner that puts the assets outside of the reach of the State’s Medicaid reimbursement mechanisms once they pass away. For example, often a transfer of real estate to the heirs subject to the transferor’s life estate five years before seeking Medicaid is successful in preventing the state from receiving Medicaid reimbursement. The result is State pays for the nursing home and the heirs receive an inheritance worth hundreds of thousands, if not millions, virtually tax free. With limited resources and mushrooming obligations, the State can not afford to not close such loopholes.

LB72 restricts the ability of a trustee to make distributions from a trust until the Medicaid liability is resolved. It places a lien on gratuitous transfers that retain a life estate or that are otherwise intended to be effective upon death. To alert the Department of Health and Human Services of possible assets, it requires notice be given to the of certain court proceedings involving assets of decedent.

LB72 is intended to have the assets of the Medicaid recipient ultimately pay for care or to reimburse the State for care it advanced.

Principal Introducer: _____

Senator Paul Schumacher