

HOUSE No. 3908

By Mr. Suhoski of Gardner, petition of Chester A. Suhoski and other members of the General Court for legislation to prevent spousal impoverishment due to medical expenses. Health Care.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety.

AN ACT TO PREVENT SPOUSAL IMPOVERISHMENT DUE TO MEDICAL EXPENSES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. All net sums received under section one of this
2 act, including the interest thereon, or penalties, shall be dedicated
3 through the state treasurer as trustee, to the Commonwealth Fund
4 for Long Term Care. All monies dedicated to said fund shall be
5 expended on the programs established under sub-paragraphs (10)
6 and (11) of section ten of chapter one hundred and eighteen E
7 of the General Laws.

1 SECTION 2. Section 10 of Chapter 118E of the General Laws
2 is hereby amended by adding sub-paragraphs (10) and (11):

3 (10) Effective September thirtieth, nineteen hundred and
4 eighty-nine, the community spouse resource allowance as defined
5 in Section 1924(f)(2) of the Social Security Act. The State plan
6 shall specify the amount referred to in Section 1924(4)(2)(A)(i)
7 as the same amount specified in Section 1924(f)(2)(A)(ii)(II).
8 except as provided in Section 1924(e)(2)(C).

9 (11) Effective September thirtieth, nineteen hundred and
10 eighty-nine, deductions from an institutionalized spouse's income
11 as allowed in Section 1924(d)(1) of the Social Security Act.
12 Effective September 30, 1989 the "Minimum Monthly Maintenance Needs Allowance" shall be established at \$1,500 and shall
13 be increased by the same percentage as the percentage increase
14

15 in the consumer price index for all urban consumers (all items;
16 U.S. city average) between September 1988 and the September
17 before the calendar year involved. The Minimum Monthly
18 Maintenance Needs Allowance may increase because of need due
19 to circumstances resulting in significant duress to an amount
20 adequate to provide such additional income as necessary.

1 SECTION 3. Chapter 209 of the General Laws is hereby
2 amended by inserting after section 1, the following section: —

3 Section 1A. The interest of a debtor spouse in any bank
4 deposit, including but not limited to savings accounts, checking
5 accounts, certificate of deposit, money market accounts, trustee
6 bank accounts, so-called, or negotiable order of withdrawal
7 accounts owned by the institutionalized individual as defined in
8 section one and held in the names of the institutionalized
9 individual and his spouse as joint tenants with the right of
10 survivorship or as tenants by the entirety, shall be considered as
11 a one-half interest in such bank deposit in the same manner if such
12 debtor spouse were the sole owner of such one-half interest for
13 the purposes of determining such debtor spouse's responsibility
14 for the payment of any medical, hospital or nursing home and
15 incidental expenses. Only such one-half interest of a debtors
16 spouse in such bank deposit shall be subject to seizure or execution
17 by a creditor of such debtor spouse for the aforementioned costs.
18 Nothing in this section shall otherwise alter either the rights of
19 other creditors to such bank deposits or the right survivorship of
20 the other spouse in the interest of the debtors spouse in such bank
21 deposits.

1 SECTION 4. No provision of this act shall be considered to
2 be in conflict with any federal statute or regulation until after a
3 final determination of the Secretary of the United States
4 Department of Health and Human Services, made pursuant to
5 Section 116(a)(3) of the Social Security Act, finding such a
6 conflict.

1 SECTION 5. The department of public welfare shall take all
2 necessary steps to implement the provisions of this act.