

1.1 moves to amend H.F. No. 3729 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Minnesota Statutes 2015 Supplement, section 256B.059, subdivision 5,
1.4 is amended to read:

1.5 Subd. 5. **Asset availability.** (a) At the time of initial determination of eligibility for
1.6 medical assistance benefits following the first continuous period of institutionalization on
1.7 or after October 1, 1989, assets considered available to the institutionalized spouse shall
1.8 be the total value of all assets in which either spouse has an ownership interest, reduced by
1.9 the following amount for the community spouse:

1.10 (1) prior to July 1, 1994, the greater of:

1.11 (i) \$14,148;

1.12 (ii) the lesser of the spousal share or \$70,740; or

1.13 (iii) the amount required by court order to be paid to the community spouse;

1.14 (2) for persons whose date of initial determination of eligibility for medical
1.15 assistance following their first continuous period of institutionalization occurs on or after
1.16 July 1, 1994, the greater of:

1.17 (i) \$20,000;

1.18 (ii) the lesser of the spousal share or \$70,740; or

1.19 (iii) the amount required by court order to be paid to the community spouse.

1.20 The value of assets transferred for the sole benefit of the community spouse under section
1.21 256B.0595, subdivision 4, in combination with other assets available to the community
1.22 spouse under this section, cannot exceed the limit for the community spouse asset
1.23 allowance determined under subdivision 3 or 4. Assets that exceed this allowance shall
1.24 be considered available to the institutionalized spouse. If the community spouse asset
1.25 allowance has been increased under subdivision 4, then the assets considered available to
1.26 the institutionalized spouse under this subdivision shall be further reduced by the value of
1.27 additional amounts allowed under subdivision 4.

2.1 (b) An institutionalized spouse may be found eligible for medical assistance even
2.2 though assets in excess of the allowable amount are found to be available under paragraph
2.3 (a) if the assets are owned jointly or individually by the community spouse, and the
2.4 institutionalized spouse cannot use those assets to pay for the cost of care without the
2.5 consent of the community spouse, and if:

2.6 (i) the institutionalized spouse assigns to the commissioner the right to support from
2.7 the community spouse under section 256B.14, subdivision 3;

2.8 (ii) the institutionalized spouse lacks the ability to execute an assignment due to a
2.9 physical or mental impairment; ~~or~~

2.10 (iii) the denial of eligibility would cause an imminent threat to the institutionalized
2.11 spouse's health and well-being; or

2.12 (iv) the assets in excess of the amount under paragraph (a) are assets owned by the
2.13 community spouse, and the denial of eligibility would cause an undue hardship to the
2.14 family due to the loss of retirement funds for the community spouse or funds protected for
2.15 the post-secondary education of a child under age 25. For purposes of this clause, only
2.16 retirement assets held by the community spouse in a tax-deferred retirement account,
2.17 including a defined benefit plan, defined contribution plan, employer-sponsored individual
2.18 retirement arrangement, or an individually-purchased individual retirement arrangement,
2.19 are protected, and are only protected until the community spouse is eligible to withdraw
2.20 retirement funds from any or all accounts without penalty. For purposes of this clause,
2.21 only funds in a plan designated under section 529 of the Internal Revenue Code on behalf
2.22 of a child of either or both spouses who is under the age of 25 are protected. There shall
2.23 not be an assignment of spousal support to the commissioner or a cause of action against
2.24 the individual's spouse under section 256B.14, subdivision 3, for the funds in the protected
2.25 retirement and college savings accounts.

2.26 (c) After the month in which the institutionalized spouse is determined eligible for
2.27 medical assistance, during the continuous period of institutionalization, no assets of the
2.28 community spouse are considered available to the institutionalized spouse, unless the
2.29 institutionalized spouse has been found eligible under paragraph (b).

2.30 (d) Assets determined to be available to the institutionalized spouse under this
2.31 section must be used for the health care or personal needs of the institutionalized spouse.

2.32 (e) For purposes of this section, assets do not include assets excluded under the
2.33 Supplemental Security Income program.

2.34 **EFFECTIVE DATE.** This section is effective June 1, 2016."

2.35 Amend the title accordingly