

# HOUSE RESEARCH

## Bill Summary

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### Overview

This bill modifies the treatment of assets when a spouse is institutionalized. If a spouse is in need of nursing home care and applies for medical assistance, an assessment of the marital assets is completed and then assets are allocated between the institutionalized spouse and the community spouse. By law, a community spouse asset allowance has been established to help the community spouse avoid impoverishment. Current Minnesota law requires assets in excess of the community spouse asset allowance to be made available for the cost of the institutionalized spouse's nursing home care. This bill eliminates that requirement in response to a recent court ruling.

In the case *Geston v. Anderson*, 729 F.3d 1077 (2013), the 8<sup>th</sup> Circuit Court of Appeals found when excess assets are converted to an annuity for the benefit of the community spouse after institutionalization but before filing an application for medical assistance, then the excess assets do not affect the medical assistance eligibility for the institutionalized spouse. The court found that the annuity was an uncountable stream of unearned income and did not increase the community spouse's assets.

### Section

- 1** **Asset availability.** Amends § 256B.059, subd. 5. Provides that assets in retirement accounts, converted and annuitized to income to benefit the community spouse, are not considered excess assets available to the institutionalized spouse.

Provides that this section is effective upon federal approval of the state plan amendment or January 1, 2015, whichever is later.

**Section**

- 2**      **Instructions to the commissioner.** Instructs the commissioner to submit a state plan amendment and seek the approval required in subdivision 1. Provides an immediate effective date.