

HOUSE RESEARCH

Bill Summary

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Overview

This bill expands the authority of the Department of Human Services to recover against certain trusts and annuities, when individuals have received services from state health care programs.

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- 1 Recovery of medical assistance from trusts and annuities.** Adds § 501B.895. Expands DHS authority to recover against certain trusts and annuities.

Subd. 1. Policy, applicability, purpose, and construction; definition. (a) States that provisions continuing a deceased recipient's life estates and joint tenancy interests, and including the GAMC and alternative care programs in the definition of "medical assistance" for purposes of claims against estates, apply to this section.

(b) Provides that this section and section 256B.15 give effect to specified U.S. Code provisions, but do not give rise to liens in favor of any other parties.

(c) States that this section is deemed to be included as a provision of all trusts and annuities created or established on or after July 1, 2005, and that relevant persons are deemed to have irrevocably consented to the provisions.

(d) Provides that trusts and trustees, and annuities and parties administering annuities, are subject to the laws and courts of this state, to the extent the recipient or the

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recipient's predeceased spouse had an interest in the trust or annuities at the time of death.

(e) Provides that the rights and remedies under this section are in addition to other rights and remedies, are cumulative, and that the use of the rights and remedies does not preclude use of any other rights and remedies.

Subd. 2. Definitions. Defines terms.

Subd. 3. Applicability. States that this section applies to all trusts to the extent they contain the assets of a recipient or their spouse, and all annuities and other arrangements similar to trusts and annuities, that are created or established on or after July 1, 2005, except as otherwise provided under federal law.

Subd. 4. Estate. For purposes of MA recovery, includes the following in the estate: (1) interests a recipient has in trusts or annuities at the time of death; (2) interests a recipient's surviving spouse has in trusts or annuities at the time of death; and (3) life estates in real property owned by a trust or annuity in which the recipient or spouse has an interest in at time of death.

Subd. 5. Extent of interest. (a) Provides that at the time of death, a recipient is deemed to have a interest in: (1) all unpaid principal and income of an annuity that the recipient owned or had an interest in and which was funded with property the recipient owned or had an interest in, whether held individually, jointly, or as marital property; (2) all remaining trust assets, proceeds, and income the administrator was obligated or had discretion to pay, to the extent they were or can be traced to assets the recipient's or recipient's spouse owned or had an interest in; and (3) all remaining trust assets the recipient owned or had an interest in, and related proceeds and income.

(b) Provides that at the time of death, a surviving spouse of a predeceased recipient spouse is deemed to have a interest in: (1) all unpaid principal and income of an annuity that the surviving spouse of a predeceased recipient spouse owned or had an interest in and which was funded with marital property the surviving spouse and predeceased recipient spouse owned or had an interest in, whether individually or jointly, or in which the predeceased recipient spouse owned or had an interest; and (2) all of the trust assets the surviving spouse and the predeceased recipient owned or had an interest in, or in which the predeceased recipient spouse owned or had an interest, and proceeds and income from those assets and proceeds.

(c) Provides that a deceased recipient or deceased surviving spouse has an interest in the entire life estate in real property that a trust or annuity owns when the recipient or surviving spouse dies.

(d) Provides that all assets and related proceeds and income shall be presumed to be assets the recipient owned or had an interest in. Allows anyone contesting this in an appeal, court proceeding, or otherwise may overcome this presumption by clear and

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convincing evidence.

Subd. 6. First use of assets. Specifies requirements for administrators related to setting aside assets to pay MA claims.

Subd. 7. Clearance for medical assistance claims. Specifies criteria for the application for a clearance of MA claims and specifies duties of the commissioner related to processing claims.

Subd. 8. Recovery. Establishes procedures related to recovery from estates being probated, and those not under probate.

Subd. 9. Appeal. Specifies appeal procedures for estates that are not being probated.

Subd. 10. Life estates. Sets requirements related to terminating, transferring, or encumbering a life estate owned by a trust or an annuity.

Subd. 11. Liability and remedies. Provides that administrators who do not comply with this section are liable for the lesser of the unpaid amount of claims or the value of the portion of the trust or annuity payable in satisfaction of claims. If there is a failure to comply, assigns liability to anyone receiving anything of value from the trust or annuity. Allows the commissioner or a county agency to bring civil actions in district court to compel compliance or obtain judgment or relief, and specifies related requirements.

Subd. 12. Exceptions. States that this section does not apply to supplemental needs trusts or special needs trusts that qualify as exempt assets, to testamentary trusts, or to a trust or annuity otherwise subject to this section, to the extent that persons other than a recipient, the recipient's spouse, a predeceased spouse, or anyone with authority to act on their behalf used their own funds or assets to fund the trust or annuity at the time it was created or established.

Subd. 13. Settlement. Allows the commissioner, the commissioner's designee, or a county agency to settle and compromise recoveries under this section.

Provides that the section is effective on the day following final enactment, applies to all trusts and annuities created or established on or after July 1, 2005, and applies to all interests in real or personal property.