

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1041

H. P. 850

House of Representatives, March 15, 1977

Referred to the Committee on Health and Institutional Services. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Trafton of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT Concerning Transfer of Assets for the Purpose of Qualifying for Medical Assistance.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 22 MRSA § 3174, sub-§§ 2 and 3, as enacted by PL 1973, c. 790, § 2, are amended to read:

2. **Residence.** Is living in the State at the date of the application; ~~and~~

3. **Inmate.** Is not an inmate of any public institution, except as a patient in a medical institution, but an inmate of such an institution may file application for aid and any allowance made thereon shall take effect and be paid upon his ceasing to be an inmate of such institution; and

Sec. 2. 22 MRSA § 3174, sub-§ 4 is enacted to read:

4. **Transfer of property.** Has not made a voluntary or involuntary assignment or transfer of any legal or equitable interests in real or personal property for the purpose of qualifying for aid in the form of medical assistance, including but not limited to benefits for intermediate care or extended care, within one year immediately prior to the date of application for aid; except that an applicant may be eligible if an assignment or transfer determined to be for the purpose of qualifying for aid is also determined to be for the purpose of avoiding severe hardship or does avoid severe hardship for a person who is related by blood or marriage to the applicant. Severe hardship shall include, but not be limited to, conditions which would require an individual to apply for public welfare benefits. In the absence of other supporting evidence, an assignment or transfer of property made without consideration, for a consideration which is not paid or which does not approximate the fair cash

market value of the property shall be deemed to have been made for the purpose of qualifying for aid.

STATEMENT OF FACT

The purpose of this bill is to transfer assets by nursing home inmates assisted by the State. Presently, persons with substantial property who intend to enter a nursing home may transfer this property without receiving reasonable or any payment and, by leaving themselves without income or property, qualify for medical assistance payments for the entire cost of care in the nursing home. This Act would disqualify any person who made a transfer of property within one year of application in order to become eligible for these medical assistance benefits unless the transfer was also for the purpose of avoiding severe hardship for the person receiving the property. The severe hardship provision is limited to relatives by blood or marriage who are members of the applicant's household. Any person who had transferred property within one year of application for purposes other than qualifying for medical assistance would not be disqualified. The bill also declares that a transfer of property without reasonable consideration should be considered to have been made for the purpose of qualifying for aid unless other contrary evidence is presented.