

2015 -- H 5564 SUBSTITUTE A

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LC001076/SUB A
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

A N A C T

RELATING TO HUMAN SERVICES -- ABLE ACCOUNTS

Introduced By: Representatives Nardolillo, Chippendale, Lancia, Costa, and Giarrusso

Date Introduced: February 25, 2015

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 42-7.2 of the General Laws entitled "Office of Health and Human
2 Services" is hereby amended by adding thereto the following sections:

3 **42-7.2-20.1. ABLE accounts. -- (a) Legislative findings. -- The general assembly finds**
4 **and declares the following:**

5 (1) Blind and disabled persons of this state need not only state financial assistance but
6 also private financial assistance in achieving a better life experience.

7 (2) A federal program exists which allows disabled individuals to make contributions and
8 receive contributions from contributors that may be deposited in an account for their care which
9 amount can grow free of any income tax consequences so long as the contributions are used for
10 qualifying disability expenses pursuant to § 529A of the Internal Revenue Code of 1986, as
11 amended (26 U.S.C. §529A).

12 (3) These accounts may be utilized by disabled individuals for disbursements relating to
13 education, housing, transportation, employment training and support, assistive technology and
14 personal support services, health prevention and wellness, financial management and
15 administrative services, legal fees, expenses for oversight and monitoring, funeral and burial
16 expenses, and other expenses approved under regulations promulgated by the Secretary of the
17 Treasury.

18 (4) This federal program is found to be a financial option worthy of consideration by
19 persons of this state with disabilities.

1 **42-7.2-20.2. Definitions.** -- As used in this section, the following words shall, unless the
2 context clearly requires otherwise, have the following meanings:

3 (1) "Achieving a better life experience account" or "ABLE account" means an account
4 established under the achieving a better life experience program pursuant to this section and any
5 implementing regulations for the purposes of funding future qualified disability expenses of a
6 designated beneficiary.

7 (2) "Achieving a better life experience program" or "program" means the qualified ABLE
8 program established and administered jointly by the executive office in conjunction with the SIC
9 as defined herein and, to the extent so delegated or contracted, any designated administrators.

10 (3) "Contracting state" means a state that has entered into a contract with the executive
11 office to provide residents of Rhode Island or that state with access to a qualified ABLE program.

12 (4) "Designated administrator" means any corporation or other entity whose powers and
13 privileges are provided for in any general or special law, whether for profit or not, designated or
14 retained by the executive office for the purpose of administering, subject to the executive office's
15 and SIC's ongoing supervision, all or any portion of the investment, marketing, recordkeeping,
16 administrative or other functions of the program.

17 (5) "Designated beneficiary" means the individual with a disability named as the
18 beneficiary of an ABLE account.

19 (6) "Executive office" means the executive office of health and human services (EOHHS)
20 or an agency thereof as designated by the secretary of EOHHS.

21 (7) "Individual with a disability" means an individual who is an "eligible individual" as
22 defined under 26 U.S.C. § 529A.

23 (8) "Qualified ABLE program" means a "qualified ABLE program" as defined under 26
24 U.S.C. § 529A.

25 (9) "Qualified disability expenses" means "qualified disability expenses" as defined under
26 26 U.S.C. § 529A.

27 (10) "Secretary of EOHHS" means the secretary of the executive office of health and
28 human services.

29 (11) "Secretary of the Treasury" means the Secretary of the Treasury of the United States.

30 (12) "Section 529A" means Section 529A of the Internal Revenue Code of 1986, as
31 amended, (26 U.S.C. § 529A) or any successor provision thereto, and any regulations
32 promulgated thereunder or tax announcements or other binding regulatory guidance provided
33 with respect thereto.

34 (13) "State" means the state of Rhode Island.

1 (14) "State investment commission" or "SIC" means the state investment commission as
2 established by § 35-10-1.

3 **42-7.2-20.3. Creation of program. --** (a) There shall be established within the executive
4 office and administered, in conjunction with, the SIC, the achieving a better life experience
5 program for the purposes of administering ABLE accounts established to encourage and assist
6 individuals and families in saving private funds for the purpose of supporting individuals with
7 disabilities. Under the program, one or more persons may make contributions to an ABLE
8 account to meet the qualified disability expenses of the designated beneficiary of the account.

9 (b) Unless otherwise permitted under 26 U.S.C. § 529A, the owner of an ABLE account
10 shall be the designated beneficiary of the account.

11 (c) A designated beneficiary may have only one account.

12 (d) Unless otherwise permitted under 26 U.S.C. § 529A, the designated beneficiary of an
13 ABLE account shall be a resident of this state or of a contracting state. The executive office shall
14 determine residency for such purpose in such manner as may be required or permissible under 26
15 U.S.C. § 529A or, in the absence of any guidance under 26 U.S.C. § 529A, by such other means
16 as the executive office shall consider advisable for purposes of satisfying the requirements of 26
17 U.S.C. § 529A.

18 (e) Any person may make contributions to an ABLE account to meet the qualified
19 disability expenses of the designated beneficiary of the account; provided that the account and
20 contributions meet the other requirements of this section and regulations promulgated by the
21 executive office.

22 (f) The executive office, in conjunction with the SIC, and, to the extent required by the
23 terms of such designation, any designated administrator shall operate the program so that it shall
24 constitute a qualified ABLE program in compliance with the requirements of 26 U.S.C. § 529A.

25 (g) The SIC and any designated administrator shall provide investment options for the
26 investment of amounts contributed to an ABLE account.

27 **42-7.2-20.4. Contributions to be held in trust. --** (a) Funds contributed to the program
28 shall be held in trust in a special account or accounts and shall not be co-mingled with any state
29 funds appropriated by the general assembly for the support of or the programs administered by
30 the executive office

31 (b) There shall be separate accounting for each designated beneficiary.

32 (c) Any designated beneficiary under such program may, directly or indirectly, direct the
33 investment of any contributions to the program (or earnings thereon) no more than the allowable
34 limit of 26 U.S.C. § 529A.

1 **42-7.2-20.5. Rules and regulations.** -- The executive office shall, in conjunction with the
2 SIC, have the power and authority to promulgate rules and regulations, enter into contracts and
3 agreements, charge fees and expenses to the funds held under the program or to persons
4 establishing or owning ABLE accounts, make reports, retain designated administrators,
5 employees, experts and consultants and do all other things necessary or convenient to implement
6 this section in accordance with § 529A of the Internal Revenue Code of 1986, as amended (26
7 U.S.C. § 529A).

8 **42-7.2-20.6. Tax exempt earnings.** -- (a) For state income tax purposes, annual earnings
9 of the ABLE program shall be exempt from tax, and shall not be included in the Rhode Island
10 income of the designated beneficiary until withdrawn or distributed from it, and then in
11 accordance with chapter 30 of title 44.

12 (b) The tax administrator may adopt rules and regulations necessary to monitor,
13 implement, and administer the Rhode Island personal income tax provisions referred to in
14 subsection (a) of this section.

15 **42-7.2-20.7. State and local means-tested programs.** -- Accounts established pursuant
16 to this section shall not be included in determining income eligibility of the designated
17 beneficiary for state or local assistance programs.

18 **42-7.2-20.8. Creditors.** -- Notwithstanding any provision of the general or public laws to
19 the contrary, money in the ABLE program shall be exempt from creditor process and shall not be
20 liable to attachment, garnishment, or other process, nor shall it be seized, taken, appropriated or
21 applied by any legal or equitable process or operation of law to pay any debt or liability or any
22 contributor or beneficiary; provided, however, that the state of residency of the designated
23 beneficiary of an ABLE account shall be a creditor of such account in the event of the death of
24 the designated beneficiary.

25 SECTION 2. This act shall take effect on January 1, 2016, or upon adoption of federal
26 regulations by the Secretary of the Treasury regarding the Achieving a Better Life Experience
27 Program as provided in 26 U.S.C. § 529A, whichever is later.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO HUMAN SERVICES -- ABLE ACCOUNTS

1 This act would establish a private savings (ABLE) account for qualifying disabled
2 persons allowing contributions to grow tax free if used for qualifying expenses pursuant to §
3 529A of the Internal Revenue Service Code of 1986, as amended.

4 This act would take effect on January 1, 2016, or upon adoption of federal regulations by
5 the Secretary of the Treasury regarding the Achieving a Better Life Experience Program as
6 provided in 26 U.S.C. § 529A, whichever is later.

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