

2015 -- H 5564

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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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. Title 40 of the General Laws entitled "HUMAN SERVICES" is hereby  
2 amended by adding thereto the following chapter:

3 CHAPTER 23

4 ABLE ACCOUNTS

5 **40-23-1. Legislative findings.** – The general assembly finds and declares the following:

6 (1) The blind, disabled, and persons of this state suffering from a physical or mental  
7 impairment resulting in severe functional limitations need not only state financial assistance but  
8 also private financial assistance in achieving a better life experience.

9 (2) A federal program exists which allows those individuals to receive contributions from  
10 contributors that may be deposited in an account for their care which amount can grow free of  
11 any income tax consequences if the contributions are used for qualifying expenses pursuant to §  
12 529A of the Internal Revenue Code of 1986, as amended (26 U.S.C. §529A).

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

19 (4) This federal program is found to be a financial option worthy of consideration by

1 persons of this state suffering from physical or mental disabilities and/or impairments.

2 **40-23-2. Definitions.** – As used in this chapter, the following words shall, unless the  
3 context clearly requires otherwise, have the following meanings:

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

7 (2) "Achieving a better life experience program" or "program" means the qualified ABLE  
8 program established and administered by department of human services and, to the extent so  
9 delegated or contracted by the department of human services, one or more designated  
10 administrators.

11 (3) "Contracting state" means a "contracting state" as defined under 26 U.S.C. § 529A.

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 department of human services for the purpose of administering, subject to the  
15 department'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) "Individual with a disability" means an individual who is an "eligible individual" as  
20 defined under § 529A.

21 (7) "Qualified ABLE program" means a "qualified ABLE program" as defined under 26  
22 U.S.C. § 529A.

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

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

29 (10) "State" means the state of Rhode Island.

30 **40-23-3. Creation of program.** – (a) There shall be established within the department of  
31 human services the achieving a better life experience program for the purposes of administering  
32 achieving a better life experience accounts established to encourage and assist individuals and  
33 families in saving private funds for the purpose of supporting individuals with disabilities. Under  
34 the program, one or more persons may make contributions to an ABLE account to meet the

1 qualified disability expenses of the designated beneficiary of the account.

2 (b) Unless otherwise permitted under 26 U.S.C. § 529A, the owner of an ABLE account  
3 shall be the designated beneficiary of the account; provided that if the designated beneficiary of  
4 the account is a minor or has a custodian or other fiduciary appointed for the purposes of  
5 managing such beneficiary's financial affairs, a custodian or fiduciary for such designated  
6 beneficiary may serve as the account owner if such form of ownership is permitted or not  
7 prohibited under 26 U.S.C. § 529A.

8 (c) Unless otherwise permitted under 26 U.S.C. § 529A, the designated beneficiary of an  
9 ABLE account shall be a resident of the state or of a contracting state. The department shall  
10 determine residency for such purpose in such manner as may be required or permissible under 26  
11 U.S.C. § 529A or, in the absence of any guidance under 26 U.S.C. § 529A, by such other means  
12 as the department shall consider advisable for purposes of satisfying the requirements of 26  
13 U.S.C. § 529A.

14 (d) Any person may make contributions to an ABLE account to meet the qualified  
15 disability expenses of the designated beneficiary of the account; provided that the account and  
16 contributions meet the other requirements of this section and regulations promulgated by the  
17 department.

18 (e) The department and, to the extent required by the terms of such designation, any  
19 designated administrator shall operate the program so that it shall constitute a qualified ABLE  
20 program in compliance with the requirements of 26 U.S.C. § 529A.

21 (f) The department and any designated administrator shall provide investment options for  
22 the investment of amounts contributed to an ABLE account.

23 **40-23-4. Contributions to be held in trust. --** Funds contributed to the program shall be  
24 held in trust in a special account to be created by the department and shall not be co-mingled with  
25 any state funds appropriated by the general assembly for the support of or the programs  
26 administered by the department

27 **40-23-5. Rules and regulations. --** The department shall have the power and authority to  
28 promulgate rules and regulations, enter into contracts and agreements, charge fees and expenses  
29 to the funds held under the program or to persons establishing or owning ABLE accounts, make  
30 reports, retain designated administrators, employees, experts and consultants and do all other  
31 things necessary or convenient to implement this section.

32 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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- 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 upon passage.

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