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# OHIO LEGISLATIVE SERVICE COMMISSION

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S.B. 296  
135<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Sen. Brenner

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### SUMMARY

- Exempts funds in an ABLÉ account from collection under the Ohio Medicaid Estate Recovery Program to the extent permitted under federal law.

### DETAILED ANALYSIS

#### Overview

The federal Achieving a Better Life Experience (ABLE) Act allows eligible individuals with disabilities to invest money in tax-advantaged accounts that can be spent on qualified expenses, including housing, transportation, education, assistive technology, health and wellness expenses, and others. To be eligible for an ABLÉ account under the act (also referred to as a STABLE Account in Ohio), an individual must have developed a qualifying disability before age 26 (the age limit increases to 46 on January 1, 2026).<sup>1</sup>

#### ABLE accounts and Medicaid estate recovery

The bill exempts ABLÉ accounts from Ohio's Medicaid Estate Recovery Program. State Medicaid programs are required by federal law to implement an estate recovery program under which the state must seek to recoup funds spent on Medicaid services from the estates of certain deceased Medicaid recipients.<sup>2</sup> When such a recipient dies, the Ohio Department of Medicaid (ODM) certifies the amount due, and the Ohio Attorney General is tasked with collecting the debt from the recipient's estate, including homes, bank and investment accounts, and other assets.<sup>3</sup>

<sup>1</sup> R.C.113.53; 26 United States Code (U.S.C.) 529A, not in the bill.

<sup>2</sup> 42 U.S.C. 1396p(b), not in the bill.

<sup>3</sup> R.C. 5162.21; R.C. 5162.212, not in the bill.

Under state Medicaid recovery programs, the federal law requires recovery of the following amounts:

1. Expenses for nursing facility services, home and community-based services, and related hospital and prescription services paid on behalf of a Medicaid recipient over age 55; and
2. All medical assistance paid on behalf of a Medicaid recipient receiving long-term services and supports in a facility permanently (referred to as “permanently institutionalized” individuals).

States may elect to apply estate recovery under additional circumstances, for example, by recovering all medical assistance paid on behalf of a Medicaid recipient over age 55, not just for nursing facility and associated expenses as under (1) above.<sup>4</sup> ODM has elected to exercise that option.

The bill exempts money in an ABLÉ account from Medicaid estate recovery to the extent permitted under federal law.<sup>5</sup> Because federal law requires states to exercise Medicaid estate recovery for the amounts described in (1) and (2) above, despite the bill’s prohibition, it appears that ABLÉ accounts may be recoverable by ODM against those individuals for those amounts. The bill’s prohibition does apply to other individuals subject to Medicaid estate recovery pursuant to state options.

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## HISTORY

Action	Date
Introduced	06-24-24

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<sup>4</sup> 42 U.S.C. 1396p(b).

<sup>5</sup> R.C. 113.53(G)(2).