

As Introduced

**135th General Assembly
Regular Session
2023-2024**

S. B. No. 296

**Senator Brenner
Cosponsor: Senator Schaffer**

A BILL

To amend section 113.53 of the Revised Code to
generally exempt funds in an Ohio ABLE account
from collection under the Medicaid Estate
Recovery Program.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 113.53 of the Revised Code be
amended to read as follows:

Sec. 113.53. (A) A designated beneficiary, or a trustee or
guardian of a designated beneficiary who lacks capacity to enter
into an agreement, may apply, on forms prescribed by the
treasurer of state, to open a program account. A beneficiary may
have only one ABLE account. The treasurer of state may impose a
nonrefundable application fee. The application shall require the
applicant to provide the following information:

(1) The name, address, social security number, and birth
date of the designated beneficiary;

(2) The name, address, and social security number of the
designated beneficiary's trustee or guardian, if applicable;

(3) Certification by the applicant that the applicant understands the maximum account value and the consequences under division (C) of this section for excess contributions and understands how program account values exceeding the amount designated under section 103 of the "Stephen Beck, Jr., ABLE Act of 2014," 26 U.S.C. 529A note, may affect the applicant's resources for determining the applicant's eligibility for the supplemental security income program;

(4) Any additional information required by the treasurer of state.

(B) (1) To qualify for a program account, a designated beneficiary must be an eligible individual at the time the program account is opened. Before opening a program account, the treasurer of state or program manager shall enter into an agreement with the account owner that discloses the requirements and restrictions on contributions and withdrawals from the program account.

(2) Any person may make contributions to a program account after the account is opened, subject to the limitations imposed by section 529A of the Internal Revenue Code and any rules adopted by the secretary.

(C) Contributions to a program account shall be made in cash. The treasurer of state or program manager shall reject or promptly withdraw a contribution to a program account if that contribution would exceed the annual limits prescribed in subsection (b) (2) (B) of section 529A of the Internal Revenue Code. The treasurer or program manager shall reject or promptly withdraw a contribution if the value of the program account equals or exceeds the maximum account value or the designated beneficiary is not an eligible individual in the current

calendar year. 48

(D) (1) To the extent authorized by federal law, and in 49
accordance with rules adopted by the treasurer of state, an 50
account owner may change the designated beneficiary of a program 51
account to another individual. 52

(2) No account owner may use an interest in an ABLE 53
account as security for a loan. Any pledge of an interest in an 54
account shall be void and of no force and effect. 55

(E) (1) A distribution from a program account to any 56
individual or for the benefit of any individual during a 57
calendar year shall be reported to the internal revenue service 58
and the designated beneficiary or the distributee to the extent 59
required under state or federal law. 60

(2) Statements shall be provided to each account owner of 61
a program account at least four times each year within thirty 62
days after the end of the quarterly period to which a statement 63
relates. The statement shall identify the contributions made 64
during the preceding quarter, the total contributions made to 65
the account through the last day of that quarter, the value of 66
the account on the last day of that quarter, distributions made 67
during that quarter, and any other information that the 68
treasurer of state requires to be reported to the account owner. 69

(3) Statements and information relating to program 70
accounts shall be prepared and filed to the extent required 71
under sections 113.50 to 113.56 of the Revised Code and any 72
other state or federal law. 73

(F) The program shall provide separate accounting for each 74
designated beneficiary. An annual fee may be imposed upon the 75
account owner for the maintenance of a program account. 76

~~(G) (1)~~ Money in an ABLE account shall be exempt from 77
attachment, execution, or garnishment as provided in section 78
2329.66 of the Revised Code, ~~and is~~. 79

(2) Unless required by federal law, money in an ABLE 80
account is not subject to claims made under the medicaid estate 81
recovery program instituted pursuant to section 5162.21 of the 82
Revised Code, in accordance with subsection (f) of section 529A 83
of the Internal Revenue Code and subject to any limitations 84
imposed by the secretary. 85

(H) (1) Notwithstanding any other provision of state law, 86
all of the following shall be disregarded for the purposes of 87
determining an individual's eligibility for a means-tested 88
public assistance program funded only with state, local, or 89
state and local funds and the amount of assistance or benefits 90
the individual is eligible to receive under the program: 91

(a) Any amount in an ABLE account, including earnings on 92
the account; 93

(b) Any contributions to an ABLE account; 94

(c) Any distribution from an ABLE account for qualified 95
disability expenses. 96

(2) Division (H) (1) of this section applies only to an 97
individual who is either of the following: 98

(a) The designated beneficiary of the ABLE account; 99

(b) An individual whose eligibility for the means-tested 100
program is conditioned on the ABLE account's designated 101
beneficiary disclosing the designated beneficiary's income, 102
resources, or both to the entity administering the means-tested 103
public assistance program. 104

Section 2. That existing section 113.53 of the Revised Code is hereby repealed. 105
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