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## OLR Bill Analysis

### sSB 376

#### ***AN ACT CONCERNING THE DEPARTMENT OF DEVELOPMENTAL SERVICES' RECOMMENDATIONS REGARDING ABLE ACCOUNTS.***

#### **SUMMARY**

This bill requires funds invested in, contributed to, or distributed from, an “Achieving a Better Life Experience” (ABLE) account to be disregarded when determining someone's eligibility for the state-administered general assistance program (SAGA). SAGA generally provides cash assistance to single or married childless individuals who have very low incomes, do not qualify for other cash assistance programs, and are considered “transitional” or “unemployable.”

The bill also makes minor and technical changes to the ABLE statutes, codifying recent changes to federal regulations, including:

1. establishing a hierarchy of individuals authorized to establish an ABLE account for an eligible individual and
2. allowing eligible individuals to self-certify their disability status when opening an ABLE account, to the satisfaction of the U.S. Treasury secretary (26 CFR § 1.529A-2 (C)(1)).

By law, the ABLE program provides tax advantaged savings accounts to help individuals and their families save private funds to pay for certain expenses related to disability or blindness (see BACKGROUND).

EFFECTIVE DATE: July 1, 2022

#### **ESTABLISHING AN ABLE ACCOUNT**

##### ***Opening an Account***

Under the bill, an eligible individual, or a person he or she selects, may open an ABLE account for that individual. If the eligible individual is unable to open an account (presumably due to mental or physical

incapacity), the bill authorizes the following individuals to do so on the eligible individual's behalf, in the following order:

1. the individual's agent under a power of attorney;
2. a conservator or legal guardian;
3. a spouse, parent, sibling, grandparent; or
4. a representative payee appointed by the U.S. Social Security Administration.

Under prior federal regulations, an ABLE account could be opened only by the eligible individual or his or her parent, guardian, or agent under a power of attorney.

### ***Disability Self-certifications***

The bill allows an eligible individual to self-certify, under penalty of perjury, his or her disability status when opening an ABLE account. Under the bill, the disability self-certification must, to the satisfaction of the U.S. Treasury secretary:

1. certify the individual is blind or has a medically determinable physical or mental impairment that (a) results in marked and severe functional limitations and (b) can be expected to result in death or will last for at least 12 months;
2. certify the impairment or blindness occurred before age 26;
3. certify the person establishing the account is the designated beneficiary or is authorized to establish the account; and
4. include the diagnostic code for the individual's impairment.

By law, perjury is a class D felony, which is punishable by up to five years in prison, up to \$5,000, or both (CGS § 53a-156).

## **BACKGROUND**

### ***Federal Law***

The federal ABLE Act (P. L. 113-295) allows states to establish and maintain qualified ABLE programs to:

1. encourage and help individuals and families save private funds to support individuals with disabilities to maintain health, independence, and quality of life and
2. provide secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not replace, benefits provided through private insurance, Medicaid, Supplemental Security Income, employment, and other sources.

Generally, under federal law, qualified ABLE programs are exempt from federal taxation, and funds in ABLE accounts may not be considered when determining eligibility for benefits or assistance programs authorized by federal law unless the funds exceed \$100,000.

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute

Yea 31 Nay 0 (03/16/2022)