



Senate

General Assembly

File No. 153

February Session, 2022

Substitute Senate Bill No. 376

Senate, March 28, 2022

The Committee on Public Health reported through SEN. DAUGHERTY ABRAMS of the 13th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

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

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 3-39r of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2022*):

3 (a) Notwithstanding any provision of the general statutes, moneys
4 invested in an individual ABLE account, contributions to an individual
5 ABLE account and distributions for qualified disability expenses
6 pursuant to sections 3-39j to 3-39q, inclusive, shall be disregarded for
7 purposes of determining an individual's eligibility for assistance under
8 the temporary family assistance program, as described in section 17b-
9 112, programs funded under the federal Low Income Home Energy
10 Assistance Program block grant, the state-administered general
11 assistance program, established pursuant to section 17b-190, and any
12 other federally funded assistance or benefit program, including, but not
13 limited to, the state's medical assistance program, whenever such

14 program requires consideration of one or more financial circumstances
15 of an individual for the purpose of determining the individual's
16 eligibility to receive any assistance or benefit or the amount of any
17 assistance or benefit.

18 (b) Notwithstanding any provision of the general statutes, no moneys
19 invested in the ABLE accounts shall be considered to be an asset for
20 purposes of determining an individual's eligibility for need-based,
21 institutional aid grants offered to an individual at the public eligible
22 educational institutions in the state.

23 Sec. 2. Section 3-39j of the 2022 supplement to the general statutes is
24 repealed and the following is substituted in lieu thereof (*Effective July 1,*
25 *2022*):

26 As used in this section and sections 3-39k to 3-39r, inclusive:

27 (1) "Achieving a better life experience account" or "ABLE account"
28 means an account established and maintained pursuant to sections 3-
29 39k to 3-39q, inclusive, for the purposes of paying the qualified
30 disability expenses related to the blindness or disability of a designated
31 beneficiary.

32 (2) "Deposit" means a deposit, payment, contribution, gift or other
33 transfer of funds.

34 (3) "Depositor" means any person making a deposit into an ABLE
35 account pursuant to a participation agreement.

36 (4) "Designated beneficiary" means any eligible individual who [has
37 established an ABLE account under a qualified ABLE program and] is
38 the owner of [such] an ABLE account established under a qualified
39 ABLE program.

40 (5) "Disability certification" means, with respect to an individual, a
41 certification to the satisfaction of the Secretary of the Treasury of the
42 United States by the individual or the parent or guardian of the
43 individual or an individual establishing an ABLE account pursuant to

44 subsection (g) of section 3-39k, as amended by this act, that (A) certifies
45 that (i) the individual has a medically determinable physical or mental
46 impairment, that results in marked and severe functional limitations,
47 and that can be expected to result in death or that has lasted or can be
48 expected to last for a continuous period of not less than twelve months,
49 or is blind within the meaning of Section 1614(a)(2) of the Social Security
50 Act, and (ii) such impairment or blindness occurred before the date on
51 which the individual attained the age of twenty-six, and (B) includes a
52 copy of the individual's diagnosis relating to the individual's relevant
53 impairment or blindness that is signed by a physician who is licensed
54 pursuant to chapter 370 or, to the extent permitted by federal law, (i) an
55 advanced practice registered nurse who is licensed pursuant to chapter
56 378, (ii) a physician assistant who is licensed pursuant to chapter 370, or
57 (iii) if the individual's impairment is blindness, an optometrist licensed
58 pursuant to chapter 380.

59 (6) "Eligible individual" means an individual who is entitled to
60 benefits during a taxable year based on blindness or disability under
61 Title II or XVI of the Social Security Act, and such blindness or disability
62 occurred before the date on which the individual attained the age of
63 twenty-six, provided a disability certification or self-certification with
64 respect to such individual is filed with the State Treasurer for such
65 taxable year.

66 (7) "Federal ABLÉ Act" means the federal ABLÉ Act of 2014, P.L. 113-
67 295, as amended from time to time.

68 (8) "Participation agreement" means an agreement between the trust
69 established pursuant to section 3-39k and depositors that provides for
70 participation in an ABLÉ account for the benefit of a designated
71 beneficiary.

72 (9) "Qualified disability expenses" means any expenses related to an
73 eligible individual's blindness or disability that are made for the benefit
74 of an eligible individual who is the designated beneficiary, including the
75 following expenses: Education, housing, transportation, employment
76 training and support, assistive technology and personal support

77 services, health, prevention and wellness, financial management and
78 administrative services, legal fees, expenses for oversight and
79 monitoring, funeral and burial expenses, and other expenses that are
80 approved by the Secretary of the Treasury of the United States under
81 regulations adopted by the Secretary pursuant to the federal ABLÉ Act.

82 (10) "Self-certification" means a certification, under penalty of
83 perjury, to the satisfaction of the Secretary of the Treasury of the United
84 States by an individual establishing an ABLÉ account that (A) certifies
85 that (i) the individual has a medically determinable physical or mental
86 impairment that results in marked and severe functional limitations and
87 that can be expected to result in death or that has lasted or can be
88 expected to last for a continuous period of not less than twelve months,
89 or is blind within the meaning of Section 1614(a)(2) of the Social Security
90 Act, (ii) such impairment or blindness occurred before the date on which
91 the individual attained the age of twenty-six, and (iii) the person
92 establishing the account is the individual who will be the designated
93 beneficiary of the account or is a person authorized to establish such
94 account under the provisions of subsection (g) of section 3-39k, as
95 amended by this act, and (B) includes the applicable diagnostic code
96 from those listed on Internal Revenue Service Form 5498-QA identifying
97 the individual's impairment.

98 Sec. 3. Section 3-39k of the general statutes is repealed and the
99 following is substituted in lieu thereof (*Effective July 1, 2022*):

100 (a) The State Treasurer (1) shall establish a qualified ABLÉ program
101 pursuant to the federal ABLÉ Act and sections 3-39j to 3-39q, inclusive,
102 and (2) may contract with any state with a qualified ABLÉ program
103 established pursuant to the federal ABLÉ Act to provide residents of this
104 state with access to such state's program.

105 (b) (1) Under the program established pursuant to subdivision (1) of
106 subsection (a) of this section: (A) The State Treasurer shall administer
107 individual ABLÉ accounts to encourage and assist eligible individuals
108 and their families in saving private funds to provide support for eligible
109 individuals, and (B) a person may make contributions to an individual

110 ABLE account to meet the qualified disability expenses of the
111 designated beneficiary of the account.

112 (2) For the purposes of such program, there is established within the
113 Office of the State Treasurer the Connecticut Achieving A Better Life
114 Experience Trust. The trust shall constitute an instrumentality of the
115 state and shall perform essential governmental functions, as provided
116 in sections 3-39j to 3-39q, inclusive. The trust shall receive and hold all
117 payments and deposits intended for ABLE accounts as well as gifts,
118 bequests, endowments or federal, state or local grants and any other
119 funds from public or private sources and all earnings, until disbursed in
120 accordance with sections 3-39j to 3-39q, inclusive.

121 (c) (1) The amounts on deposit in the trust shall not constitute
122 property of the state and the trust shall not be construed to be a
123 department, institution or agency of the state. Amounts on deposit in
124 the trust shall not be commingled with state funds and the state shall
125 have no claim to or against, or interest in, such amounts, except as
126 provided in subdivision (2) of this subsection. Any contract entered into
127 by, or any obligation of, the trust shall not constitute a debt or obligation
128 of the state and the state shall have no obligation to any designated
129 beneficiary or any other person on account of the trust and all amounts
130 obligated to be paid from the trust shall be limited to amounts available
131 for such obligation on deposit in the trust. The amounts on deposit in
132 the trust may only be disbursed in accordance with the provisions of
133 sections 3-39j to 3-39q, inclusive.

134 (2) The trust shall continue in existence as long as it holds any
135 deposits or other funds or has any obligations and until its existence is
136 terminated by law, and upon termination of the trust, any unclaimed
137 assets of the trust shall return to the state. Property of the trust shall be
138 governed by section 3-61a.

139 (d) The State Treasurer shall be responsible for the receipt,
140 maintenance, administration, investment and disbursements of
141 amounts from the trust. The trust shall not receive deposits in any form
142 other than cash. No depositor or designated beneficiary may direct the

143 investment of any contributions or amounts held in the trust other than
144 in the specific fund options provided for by the trust and shall not direct
145 investments in such specific fund options more than two times in any
146 calendar year. No interest, or portion of any interest, in the program
147 shall be used as security for a loan.

148 (e) A person may make deposits to an ABLE account to meet the
149 qualified disability expenses of the designated beneficiary of the
150 account, provided the trust and deposits meet the other requirements of
151 this section, the federal ABLE Act and any regulations adopted
152 pursuant to the federal ABLE Act by the Secretary of the Treasury of the
153 United States.

154 (f) On or before December 31, 2017, and annually thereafter, the State
155 Treasurer shall submit (1) in accordance with the provisions of
156 subsection (a) of section 3-37, a report to the Governor on the operations
157 of the trust, including the receipts, disbursements, assets, investments
158 and liabilities and administrative costs of the trust for the prior fiscal
159 year, and (2) in accordance with the provisions of section 11-4a, a report
160 on the trust and any contract entered into pursuant to subdivision (2) of
161 subsection (a) of this section to the joint standing committees of the
162 General Assembly having cognizance of matters relating to finance and
163 public health, and shall make such report available to each depositor
164 and designated beneficiary. The report required under subdivision (2)
165 of this subsection shall include, but need not be limited to: (A) The
166 number of ABLE accounts; (B) the total amount of contributions to such
167 accounts; (C) the total amount and nature of distributions from such
168 accounts; and (D) a description of issues relating to the abuse of such
169 accounts, if any.

170 (g) An ABLE account may be established (1) by the eligible
171 individual, (2) by a person selected by the eligible individual, or (3) if
172 the eligible individual is unable to establish an ABLE account, on behalf
173 of such individual by, in the following order: Such individual's agent
174 under a power of attorney, a conservator or legal guardian, spouse,
175 parent, sibling, grandparent, or a representative payee appointed for the

176 eligible individual by the Social Security Administration.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2022</i>	3-39r
Sec. 2	<i>July 1, 2022</i>	3-39j
Sec. 3	<i>July 1, 2022</i>	3-39k

PH *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 23 \$	FY 24 \$
Social Services, Dept.(DSS)	GF - Potential Cost	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill excludes funds in an "Achieving a Better Life Experience" (ABLE) account¹ in the determination of a person's eligibility for the Department of Social Services (DSS) administered general assistance program (SAGA). Since most individuals with an ABLE account are receiving benefits under Social Security Disability Insurance (SSDI) program and the Supplemental Security Income (SSI) program and therefore not eligible for SAGA, the impact of the bill is anticipated to be minimal, if any.

The bill also makes other technical changes that have no fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

¹ DDS consumers are eligible to have an ABLE account.

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)