



2023 SENATE BILL 122

March 8, 2023 - Introduced by Senators JACQUE, TAYLOR, BALLWEG, FELZKOWSKI, HESSELBEIN, LARSON, QUINN, ROYS and SPREITZER, cosponsored by Representatives MURSAU, SUBECK, C. ANDERSON, J. ANDERSON, ANDRACA, BARE, BEHNKE, BODDEN, BRANDTJEN, CONLEY, DITTRICH, DONOVAN, EDMING, HAYWOOD, JACOBSON, JOERS, MOSES, O'CONNOR, OHNSTAD, RATCLIFF, SCHMIDT, SHANKLAND, SINICKI and STUBBS. Referred to Committee on Licensing, Constitution and Federalism.

1 **AN ACT to amend** 71.05 (6) (a) 28.; and **to create** 224.55 of the statutes; **relating**
2 **to:** requiring the Department of Financial Institutions to implement a section
3 529A ABLE savings account program and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill requires the Department of Financial Institutions to implement a qualified ABLE program under section 529A of the Internal Revenue Code allowing tax-exempt accounts for qualified expenses incurred by individuals with disabilities.

Under current federal law, states may create a qualified Achieving a Better Life Experience program under which an individual may establish a tax-exempt savings account to pay for qualified expenses, such as education, housing, and transportation costs, for a beneficiary who is an individual with disabilities, as defined under federal law. Although these accounts, commonly referred to as “ABLE accounts” or “section 529A accounts,” cannot be established under this state’s law, they can be established under another state’s law, and if so established, withdrawals from these accounts for payment of qualified disability expenses for the account beneficiary are exempt from taxation in this state.

This bill requires DFI to implement and administer a qualified ABLE program, either directly or by entering into an agreement with another state or alliance of states to establish an ABLE program or otherwise administer ABLE program services for the residents of this state. DFI must, within approximately six months, determine whether implementing the ABLE program directly or by entering into an

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agreement is the best option for this state's residents. If DFI enters into an agreement, the agreement may require the party contracting with DFI to do any of the following: 1) develop and implement an ABLE program in accordance with all requirements under federal law and modify the ABLE program as necessary for participants to qualify for federal income tax benefits; 2) contract for professional and technical assistance and advice in developing marketing plans and promotional materials to publicize the ABLE program; 3) work with organizations with expertise in supporting people with disabilities and their families in administering the agreement and ensuring accessibility of the ABLE program for people with disabilities; or 4) take any other action necessary to implement and administer the ABLE program. The bill also requires DFI to provide on its website and in written materials certain information concerning ABLE accounts.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 71.05 (6) (a) 28. of the statutes is amended to read:

2 71.05 **(6)** (a) 28. Upon the termination of an account as described under s.
3 16.643 or 224.55, any amount in the account that is returned to an account owner's
4 estate.

5 **SECTION 2.** 224.55 of the statutes is created to read:

6 **224.55 Support accounts for individuals with disabilities. (1)**

7 DEFINITIONS. In this section:

8 (a) "ABLE account" means an account established under an ABLE program.

9 (b) "ABLE program" means a qualified ABLE program under section 529A of
10 the Internal Revenue Code.

11 **(2) DEPARTMENT TO ESTABLISH ABLE PROGRAM.** (a) *Implementation directly or*
12 *by agreement.* The department shall implement and administer an ABLE program,
13 either directly or by entering into a formal or informal agreement with another state,

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1 or with an entity representing an alliance of states, to establish an ABLE program
2 or otherwise administer ABLE program services for the residents of this state.

3 (b) *Review of other states' partnership programs.* The department shall review
4 section 529A ABLE state partnership programs offered by other states and, no later
5 than the first day of the 7th month beginning after the effective date of this
6 subsection, determine whether, as the best option for Wisconsin residents, the
7 department will implement the ABLE program under par. (a) directly or by entering
8 into an agreement.

9 (c) *Agreement terms.* An agreement under par. (a) may require the party
10 contracting with the department, in addition to providing any other services, to do
11 any of the following:

12 1. Develop and implement an ABLE program in accordance with all
13 requirements under section 529A of the Internal Revenue Code, and modify this
14 ABLE program as necessary for participants in the ABLE program to qualify for the
15 federal income tax benefits or treatment provided under section 529A of the Internal
16 Revenue Code and rules adopted under section 529A.

17 2. Engage the services of vendors on a contractual basis for rendering
18 professional and technical assistance and advice in developing marketing plans and
19 promotional materials to publicize the ABLE program.

20 3. Work with organizations with expertise in supporting people with
21 disabilities and their families in administering the agreement and ensuring
22 accessibility of the ABLE program for people with disabilities.

23 4. Take any other action necessary to implement and administer the ABLE
24 program.

