



State of Wisconsin

2023 - 2024 LEGISLATURE

LRB-5121/1
ARG&SWB:cde

2023 ASSEMBLY BILL 1012

January 25, 2024 - Introduced by Representatives MACCO, GOYKE, C. ANDERSON, J. ANDERSON, ANDRACA, BALDEH, BARE, BEHNKE, CLANCY, CONLEY, CONSIDINE, DRAKE, EMERSON, HONG, JOERS, S. JOHNSON, KRUG, MADISON, MOORE OMOKUNDE, MURSAU, MYERS, NEUBAUER, O'CONNOR, OHNSTAD, PALMERI, RATCLIFF, SHANKLAND, SINICKI, SNODGRASS, SPIROS, SUBECK and TRANEL, cosponsored by Senators WIMBERGER, HESSELBEIN, ROYS, SPREITZER and LARSON. Referred to Committee on Financial Institutions.

1 AN ACT **to amend** 224.50 (2) (a) and 224.50 (3) (bm); and **to create** 20.144 (3) (ti),
2 69.20 (3) (b) 6. and 7., 224.50 (1) (d) and 224.50 (3m) of the statutes; **relating**
3 **to:** creating a WisKids savings account program within the college savings
4 program and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill creates a WisKids savings accounts program under which the Department of Financial Institutions establishes a master college savings account from which money may be distributed to pay for qualified higher education expenses of children born or adopted in this state. The bill also requires the Department of Health Services to provide information to DFI related to the WisKids savings account program and better aligns with federal law the purposes for which college savings account expenditures may be made.

Under current law, the College Savings Program Board, which is attached to DFI, administers the state's college savings program, commonly referred to by its two program options "Edvest" and "Tomorrow's Scholar." The state's college savings program is a qualified tuition program authorized under federal law, more generally known as a 529 plan. Under the program, a person may establish a college savings account to cover, consistent with federal law, a beneficiary's 1) tuition, fees, room and board, and other costs required to attend an eligible educational institution; and 2) tuition expenses at an elementary or secondary school.

Current law requires DFI to select a vendor for the college savings program through a competitive bidding process, based on factors determined by DFI. The

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contract between DFI and the vendor must contain certain requirements, including that the vendor reimburse the state for administrative program costs.

The bill creates a WisKids savings account program under which DFI establishes a master college savings account that holds money that may be distributed to pay for qualified higher education expenses of children born or adopted in this state. Under the bill, DHS is granted an exception to existing disclosure prohibitions allowing the state registrar of vital records to provide DFI with information related to the birth or adoption of a child in this state and requiring that the state registrar provide DFI with at least the name of the child and, as applicable, the name and address of the child's birth parent or, to the extent available, the name and address of each adoptive parent. In the case of adoption, if the state registrar has prepared a new birth record for the subject of the adoption, the information provided to DFI may not include a copy of the original birth record registered for the subject of the adoption. The state registrar is also not required to disclose adoption information the disclosure of which is prohibited by federal law or other state law.

Upon receiving the information from DHS, DFI must deposit at least \$25 on behalf of the child into the master college savings account or a sub-account, except that DFI must first provide a notice to the child's parents and allow the child to opt out of the program. If DFI makes a deposit on behalf of a child, DFI must maintain an accounting that includes the name of the child, the names of the child's parents, and the principal and earnings in the account attributable to the child. The deposit for the child (the "program participant") is made from an appropriation from the college savings program's segregated fund or is made from program contributions (described further below). Under the bill, DFI must suspend deposits if the balance of the segregated fund falls below a specified level.

Under the bill, DFI makes distributions to third parties to pay program participants' qualified higher education expenses that have been charged to the program participant by the third party. These expenses may not include elementary or secondary school tuition. The bill allows DFI to remove a program participant from the program and make the funds that had been attributable to the program participant available for use by other program participants if 1) DFI has not made any distribution for the program participant before the program participant reaches 28 years of age; 2) DFI has not distributed all funds attributable to the program participant within five years of the first distribution to the program participant; 3) the program participant dies; or 4) the program participant withdraws from the program.

The bill allows DFI to accept contributions to the program from any person on behalf of program participants. As part of DFI's administration of the program, DFI may collect data and conduct research related to the program's operation and results. Any person may share data with DFI to assist in this research or in program fundraising.

The bill also aligns the allowable purposes of an account under the college savings program to match the allowable purposes under federal law. In addition to allowing the use of account funds to cover tuition and related expenses as described

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above in 1) and 2), federal law allows the use of account funds to pay certain apprenticeship expenses and to make payments on a qualified education loan.

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.** 20.144 (3) (ti) of the statutes is created to read:

2 **20.144 (3) (ti)** *WisKids savings accounts; college savings program trust fund.*
3 From the college savings program trust fund, a sum sufficient for the payment of
4 WisKids savings account deposits under s. 224.50 (3m).

5 **SECTION 2.** 69.20 (3) (b) 6. and 7. of the statutes are created to read:

6 **69.20 (3) (b) 6.** The information is from a birth record of a registrant born in
7 this state and is submitted to the department of financial institutions for the purpose
8 of administering s. 224.50 (3m). At a minimum, the state registrar shall disclose to
9 the department of financial institutions the name of the child and the name and
10 address of the parent who gave birth to the child.

11 7. The information is from a copy of an order granting an adoption as provided
12 in s. 69.15 (2), the individual adopted is a minor, and the information is submitted
13 to the department of financial institutions for the purpose of administering s. 224.50
14 (3m). If the state registrar has prepared a new birth record under s. 69.15 (2), the
15 information provided to the department of financial institutions may not include a
16 copy of the original birth record registered for the subject of the adoption. At a
17 minimum, the state registrar shall disclose to the department of financial
18 institutions the name of the child and, to the extent available, the name and address
19 of each adoptive parent of the child, except that this subdivision does not require the

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1 state registrar to disclose any information the disclosure of which is prohibited by
2 federal law or by state law other than this chapter.

3 **SECTION 3.** 224.50 (1) (d) of the statutes is created to read:

4 224.50 (1) (d) “Record” has the meaning given in s. 137.11 (12).

5 **SECTION 4.** 224.50 (2) (a) of the statutes is amended to read:

6 224.50 (2) (a) Except as provided in s. 224.51, and subject to sub. (3m), establish
7 and administer a college savings program that allows an individual, trust, legal
8 guardian, or entity described under 26 USC 529 (e) (1) (C) to establish a college
9 savings account ~~to cover tuition, fees, and the costs of room and board, books,~~
10 ~~supplies, and equipment required for the enrollment or attendance of a beneficiary~~
11 ~~at an eligible educational institution, as defined under 26 USC 529, and to cover~~
12 ~~tuition expenses in connection with enrollment or attendance at an elementary or~~
13 ~~secondary public, private, or religious school, as described in section 11032 of P.L.~~
14 ~~115-97, related to qualified tuition programs under for the purposes set forth in 26~~
15 USC 529.

16 **SECTION 5.** 224.50 (3) (bm) of the statutes is amended to read:

17 224.50 (3) (bm) Beginning on August 1, 2015, no contribution may be made to
18 an account if the contribution would cause the account balance of a beneficiary’s
19 account, or the combined balance of all accounts of a beneficiary, to exceed \$425,000.
20 This contribution limitation applies to all accounts that are established on and after
21 that date, and to all accounts that are in existence on that date that have not yet
22 reached the balance limit specified in this paragraph, subject to the annual increase
23 described in sub. (2) (i), except that this paragraph does not apply to an account
established under sub. (3m) (b).

25 **SECTION 6.** 224.50 (3m) of the statutes is created to read:

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1 **224.50 (3m) WISKIDS SAVINGS ACCOUNT PROGRAM.** (a) In this subsection:

2 1. “Parent” means a child’s parent as identified or updated in the child’s record
3 of birth or a court’s adoption order relating to the child or as subsequently updated
4 in the records of the department or in the system of vital records, as defined in s. 69.01
5 (25) (a).

6 2. “Program participant” means a child for whom the department has made a
7 deposit under par. (c) and maintains an accounting under par. (d).

8 3. “Qualified higher education expenses” has the meaning given in 26 USC 529
9 (e) (3) and includes the meaning under 26 USC 529 (c) (8) and (9) but excludes the
10 meaning under 26 USC 529 (c) (7).

11 (b) The department shall establish a master holding account, and may
12 establish additional accounts, under this section.

13 (c) 1. Subject to pars. (e) and (L) 2., whenever the department receives
14 information from a birth record as provided in s. 69.20 (3) (b) 6., the department shall
15 deposit at least \$25 into an account established under par. (b) for the identified child.

16 2. Subject to pars. (e) and (L) 2., whenever the department receives adoption
17 information as provided in s. 69.20 (3) (b) 7., the department shall deposit at least
18 \$25 into an account established under par. (b) for the identified child if the
19 department has not already made a deposit for the child under subd. 1.

20 3. Deposits under this paragraph shall be made from the appropriations under
21 s. 20.144 (3) (th) and (ti) and, as applicable, from the appropriation under s. 20.144
22 (1) (h).

23 (d) For each account established under par. (b), the department shall maintain
24 an accounting that includes the following information:

ASSEMBLY BILL 1012**SECTION 6**

1 1. The name of each child for whom the department made a deposit under par.

2 (c).

3 2. The name of each parent of the child under subd. 1.

4 3. The principal and earnings in the account attributable to the child under
5 subd. 1.

6 (e) 1. Before depositing money into an account established under par. (b) on
7 behalf of a child described in par. (c), the department shall provide notice in a record
8 to each parent of the child. The notice shall contain all of the following information:

9 a. A description of the program under this subsection, including the amount the
10 department will deposit into the account for the child.

11 b. That the parent may elect not to participate in the program under this
12 subsection and forgo the department's deposit of money into the account.

13 c. That the department will consider the child to participate in the program
14 under this subsection and will deposit money into the account on behalf of the child
15 unless a parent of the child notifies the department within 30 days of the date of the
16 notice that the child opts out of the program.

17 2. If a parent informs the department within 30 days of the date of the notice
18 under subd. 1. that the child opts out of the program, the department may not include
19 the child in the program under this subsection.

20 3. If the department determines, based on available information, that neither
21 the child, nor any parent of the child, was a resident of this state at the time of the
22 birth or adoption, the department shall not include the child in the program under
23 this subsection.

24 (f) If the department receives adoption information regarding a child for whom
25 the department has already deposited money under par. (c) 1., the department shall

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1 update its records to designate each adoptive parent, and to remove each parent
2 identified in the birth records, as the child's parent for purposes of this subsection.

3 (g) Upon request of a program participant, the department shall direct that a
4 distribution from an account established under par. (b) be made on behalf of the
5 program participant to a 3rd party if all of the following apply:

6 1. The distribution is made to pay, in whole or in part, the program participant's
7 qualified higher education expenses.

8 2. The 3rd party has charged the program participant for these qualified higher
9 education expenses.

10 3. There are funds in the account attributable to the program participant
11 available to pay the distribution under subd. 1.

12 (h) 1. The department may remove a program participant from the program
13 and make the funds that had been attributable to the program participant available
14 for use by other program participants if any of the following applies:

15 a. The department has not made any distribution under par. (g) for the program
16 participant before the program participant reaches 28 years of age or has not
17 distributed all funds attributable to the program participant within 5 years of the
18 department's first distribution to the program participant.

19 b. The program participant dies.

20 c. The program participant, or a parent of the program participant, notifies the
21 department in a record that the program participant is discontinuing participation
22 in the program.

23 (i) The department may accept contributions to the program from any person
24 on behalf of program participants. These contributions to the program are subject
25 to par. (k) and are not amounts paid into a college savings account for purposes of s.

1 71.05 (6) (b) 32. These contributions are irrevocable after the department deposits
2 the contributed funds into an account established under par. (b).

3 (j) As part of the department's administration of the program under this
4 subsection, the department may collect data and conduct research related to the
5 program's operation and results. Any person may share data with the department
6 to assist the department in its efforts to conduct program research or secure program
7 contributions under par. (i).

8 (k) A program participant has no property interest in an account established
9 under par. (b), and all money in an account under par. (b) remains solely the property
10 of the state, until the money is distributed for the program participant as provided
11 in par. (g).

12 (L) 1. No later than December 31, 2024, the department shall determine the
13 minimum balance of the college savings program trust fund that must be maintained
14 to meet current and reasonably anticipated future obligations under this section.
15 The board shall review the determination at least once every 2 years and make any
16 necessary modifications. The board shall engage, and may rely on the opinions of,
17 one or more actuaries or other professionals retained under sub. (4) to assist in
18 meeting the requirements of this subdivision.

19 2. If the balance of the college savings program trust fund falls below the
20 amount established under subd. 1., the department shall suspend making deposits
21 under par. (d) until the balance is at least the amount established under subd. 1.
22 When the department resumes making deposits under par. (d), it shall first make
23 deposits on behalf of children for whom deposits would have been made, in the order
24 in which the deposits would have been made, had deposits not been suspended, and

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1 shall thereafter make deposits based on birth or adoption information received after
2 deposits resumed.

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(END)