

**As Introduced**

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

**H. B. No. 634**

**Representative Barhorst**

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**A BILL**

To amend section 113.53 of the Revised Code to 1  
generally exempt funds in an Ohio ABLE account 2  
from collection under the Medicaid Estate 3  
Recovery Program. 4

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

**Section 1.** That section 113.53 of the Revised Code be 5  
amended to read as follows: 6

**Sec. 113.53.** (A) A designated beneficiary, or a trustee or 7  
guardian of a designated beneficiary who lacks capacity to enter 8  
into an agreement, may apply, on forms prescribed by the 9  
treasurer of state, to open a program account. A beneficiary may 10  
have only one ABLE account. The treasurer of state may impose a 11  
nonrefundable application fee. The application shall require the 12  
applicant to provide the following information: 13

(1) The name, address, social security number, and birth 14  
date of the designated beneficiary; 15

(2) The name, address, and social security number of the 16  
designated beneficiary's trustee or guardian, if applicable; 17

(3) Certification by the applicant that the applicant 18

understands the maximum account value and the consequences under 19  
division (C) of this section for excess contributions and 20  
understands how program account values exceeding the amount 21  
designated under section 103 of the "Stephen Beck, Jr., ABLE Act 22  
of 2014," 26 U.S.C. 529A note, may affect the applicant's 23  
resources for determining the applicant's eligibility for the 24  
supplemental security income program; 25

(4) Any additional information required by the treasurer 26  
of state. 27

(B) (1) To qualify for a program account, a designated 28  
beneficiary must be an eligible individual at the time the 29  
program account is opened. Before opening a program account, the 30  
treasurer of state or program manager shall enter into an 31  
agreement with the account owner that discloses the requirements 32  
and restrictions on contributions and withdrawals from the 33  
program account. 34

(2) Any person may make contributions to a program account 35  
after the account is opened, subject to the limitations imposed 36  
by section 529A of the Internal Revenue Code and any rules 37  
adopted by the secretary. 38

(C) Contributions to a program account shall be made in 39  
cash. The treasurer of state or program manager shall reject or 40  
promptly withdraw a contribution to a program account if that 41  
contribution would exceed the annual limits prescribed in 42  
subsection (b) (2) (B) of section 529A of the Internal Revenue 43  
Code. The treasurer or program manager shall reject or promptly 44  
withdraw a contribution if the value of the program account 45  
equals or exceeds the maximum account value or the designated 46  
beneficiary is not an eligible individual in the current 47  
calendar year. 48

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

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

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

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

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

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

~~(G)~~ (G) (1) Money in an ABLE account shall be exempt from

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 105

Code is hereby repealed.

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