



SPONSOR: Sen. Paradee & Rep. Griffith & Rep. Heffernan
Sens. Sokola, Townsend, Gay, Hansen, Lopez, Poore,
Pettyjohn, Wilson, Pinkney; Reps. Baumbach, Longhurst,
Lynn, K. Johnson, Osienski, Gray, Carson, Bush

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 210

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE DELAWARE ACHIEVING A
BETTER LIFE EXPERIENCE PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 9602A, Title 16 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 9602A. Definitions.

4 As used in this chapter, unless otherwise defined in the federal law or federal regulations, which federal definitions
5 shall control:

6 (1) "Account" means an individual account, a trust account, or a savings account established in accordance
7 with the provisions of this chapter. An account may be established only for an eligible individual.

8 (2) "Account owner" means ~~an eligible individual, or if the eligible individual is under 18 years of age or is~~
9 ~~incapacitated, a parent or legal guardian of the eligible individual~~ the designated beneficiary. A person with signature
10 authority over the account (if other than the designated beneficiary) may neither have nor acquire any beneficial
11 interest in the account and must administer the account for the designated beneficiary.

12 (4) "Designated beneficiary" means, ~~with respect to an account or accounts, the eligible individual whose~~
13 ~~qualified disability expenses are expected to be paid from the account~~ the individual for whom the account was
14 established or who has succeeded the former designated beneficiary in that capacity. If the designated beneficiary is not
15 able to exercise signature authority over his or her account or chooses to have an account established but not to
16 exercise signature authority, references to the designated beneficiary include actions by the person with signature
17 authority over the account.

18 (8) "Qualified disability expenses" means ~~any expenses related to the eligible individual's blindness or~~
19 ~~disability which are made for the benefit of an eligible individual who is the designated beneficiary, including the~~
20 ~~following expenses: education, housing, transportation, employment training and support, assistive technology and~~
21 ~~personal support services, health, prevention and wellness, financial management and administrative services, legal~~

~~fees, expenses for oversight and monitoring, funeral and burial expenses, and other expenses, which are approved by the federal regulations~~ any expenses incurred at a time when the designated beneficiary is an eligible individual that relate to the blindness or disability of the designated beneficiary, including expenses that are for the benefit of the designated beneficiary in maintaining or improving health, independence, or quality of life; provided, however, that any expenses incurred at a time when a designated beneficiary is neither disabled nor blind are not qualified disability expenses, even if the designated beneficiary is an eligible individual for that entire taxable year.

Section 2. Amend § 9605A, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 9605A. The Program.

(a) An account may be opened by ~~any person who desires to save to pay the qualified disability expenses of an eligible individual, by making an initial contribution to the Program in accordance with regulations promulgated by the Board;~~

(1) The eligible individual.

(2) A person selected by the eligible individual.

(3) If an eligible individual (whether a minor or adult) is unable to establish his or her own account, the eligible individual's agent under a power of attorney or, if none, by a conservator or legal guardian, spouse, parent, sibling, grandparent of the eligible individual, or a representative payee appointed for the eligible individual by the Social Security Administration, in that order.

SYNOPSIS

This Act responds to the promulgation of final federal regulations, 85 FR 74010, for state-sponsored savings programs under section 529A of the Internal Revenue Code, the Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014 ("ABLE"), through which contributions may be made to the account of an eligible individual with a disability to meet qualified disability expenses. The federal regulations, among other things, resolve questions related to who may establish and exercise signature authority over an ABLE account. The final regulations clarify that an eligible individual with legal capacity may delegate signature authority to any other person and provide a hierarchy of persons who may establish or exercise signature authority over an ABLE account for an individual without legal capacity. The final regulations also clarify that expenses incurred at a time when a designated beneficiary is neither disabled nor blind are not qualified disability expenses. The Act makes changes to Chapter 96A of Title 16 of the Delaware Code for the sole purpose of conforming the Code to these aspects of the final regulations.

Author: Senator Paradee