



# ABLE Act Improvements

FACT SHEET

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## Background

The Stephen Beck, Jr., Achieving a Better Life Experience Act (ABLE) Act was signed into law on December 19, 2014 after many years of advocacy and bipartisan work in both the House and Senate. The law allows eligible individuals with disabilities the ability to establish "ABLE accounts" that resemble the qualified tuition programs, often called "529 accounts", that have been established under that section of the tax code since 1996. The new ABLE accounts will allow more individual choice and control over spending on qualified disability expenses and limited investment decisions, while protecting eligibility for Medicaid, Supplemental Security Income, and other important federal benefits for people with disabilities. Without these accounts, many people with disabilities have very limited avenues to save and allow for further independence. Unfortunately, in the last few months before enactment of the bill, its scope was limited to people who are disabled prior to age 26, leaving out many people with disabilities who had worked for passage of the legislation.

The ABLE Act created a new Section 529A establishing new tax-favored Qualified ABLE Programs in the Internal Revenue Code. The ABLE Program accounts are intended to be easy to open. Qualified beneficiaries may have only one ABLE account and may open accounts in their home states, if available, or following a change in the law in December 2015, they can open an account in another state. Assets in an ABLE account and distributions from the account for qualifying expenses would be disregarded or receive special treatment when determining the beneficiary's eligibility for federal means-tested benefits.

In 2015, the Department of Treasury and Internal Revenue Service have issued two guidances to states (March 10 and November 20), published a Notice of Proposed Rulemaking (June 19, 2015), and held a public hearing (October 14). The two guidances have made it clear that states can move forward with their ABLE programs and that there will be time to make adjustments if their programs are not in compliance with subsequent final regulations. In addition, the Social Security Administration issued instructions (Program Operations Manual Systems) to its staff on the interaction between the Supplemental Security Income (SSI) program and ABLE accounts (effective December 18). Guidance from other affected federal agencies should be forthcoming.

At least 35 states have passed laws to authorize establishment of ABLE programs, with about 18 expected to begin accepting accounts in 2016. Seven may be available nationwide.

## Key Issues

ABLE Improvement Legislation - On March 17, the six lead sponsors of the original ABLE Act introduced three bills in both the Senate and the House of Representatives to increase the age of onset for eligibility for the ABLE Act and to make other improvements to the ABLE program. They are: Senators Bob Casey (D-PA) and Richard Burr (R-NC) and Representatives

Ander Crenshaw (R-FL), Chris Van Hollen (D-MD), Cathy McMorris Rodgers (R-WA), and Pete Sessions (R-TX). Each has sponsored or co-sponsored all three bills.

The **ABLE Age Adjustment Act** (S. 2704, H.R. 4813) will raise the age limit for ABLE accounts to age 46. Currently, only individuals with a severe disability prior to the age of 26 are eligible to open an ABLE account. Many disabling diseases and conditions can occur later in life. Increasing the age limit for ABLE accounts will allow more individuals to save for disability related expenses in ABLE accounts. Sponsors: Senator Casey and Rep. Van Hollen.

The **ABLE Financial Planning Act** (S. 2703, H.R. 4794) would allow families to rollover savings in a 529 college savings plan into an ABLE account. Many families save for a child's college education by opening a 529 account, sometimes before their child is even born, only to learn later that their child has a severe disability. They face taxes on their withdrawals for anything other than college expenses. The ABLE Financial Planning Act would allow them to rollover the funds in their 529 account into an ABLE account for their disabled child. Sponsors: Senator Casey and Rep. Crenshaw.

The **ABLE to Work Act** (S. 2702, H.R. 4795) would allow individuals and their families to save more money in an ABLE account if the beneficiary works and earns income. It is intended to encourage work and self-sufficiency. Specifically, an ABLE beneficiary who earns income from a job could save up to the Federal Poverty Level, which is currently at \$11,770. The bill will also allow ABLE beneficiaries to qualify for the existing Saver's Credit when they put savings in. Sponsors: Senator Burr and Rep. Crenshaw.

Advocates' Perspective - Many advocacy organizations, including the Consortium for Citizens with Disabilities Task Force on Financial Security, agree that the primary improvement that must be made to the ABLE Act is an increase in the age of onset for eligibility so that people with covered disabilities occurring before full retirement age are eligible, not just those who have disabilities which occur before age 26. Advocates believe that other improvements to the law are also necessary and important, but many organizations believe that new improvement legislation must be focused, first, on increasing the age of onset of disability for eligibility, and, secondarily, addressing other improvements to the law.

## Recommendations

- Congress should move quickly to support and pass the bipartisan ABLE Age Adjustment Act that increases the age of onset of disability for eligibility for the ABLE Act to include people whose disability began before age 46.
- Congress should include in bipartisan legislation to increase the age of onset other improvements to the ABLE Act to make it work better as a savings tool for people with disabilities, including the improvements in the ABLE Financial Planning Act and the ABLE to Work Act.

## Relevant Committees

Senate Finance  
House Ways and Means

For more information, please contact The Arc at (202) 783-2229, Association of University Centers on Disabilities at (301) 588-8252, American Association on Intellectual and Developmental Disabilities at (202) 387-1968, National Association of Councils on Developmental Disabilities at (202) 506-5813, Self-Advocates Becoming Empowered at [SABEnation@gmail.com](mailto:SABEnation@gmail.com), or United Cerebral Palsy at (202) 776-0406.