

House Bill 1605

By: Representatives Hilton of the 48<sup>th</sup>, Hagan of the 156<sup>th</sup>, Cox of the 28<sup>th</sup>, and O'Steen of the 169<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 9 of Title 30 of the Official Code of Georgia Annotated, relating to  
2 Georgia Achieving a Better Life Experience (ABLE), so as to prohibit the Department of  
3 Community Health from making claims for Medicaid estate recovery of funds from ABLE  
4 accounts maintained through any qualified ABLE account, except as required by applicable  
5 federal law; to provide a definition; to provide for legislative findings; to provide for related  
6 matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 The General Assembly finds and declares that:

- 10 (1) ABLE accounts are intended to encourage and assist individuals and families in saving  
11 private funds for the purpose of supporting individuals with disabilities to maintain health,  
12 independence, and quality of life; and  
13 (2) Reclaiming remaining funds in an ABLE account upon the death of a beneficiary for  
14 Medicaid reimbursement, often known as a "clawback", creates a barrier to enrollment and  
15 undermines the purpose of providing long-term financial security for Georgians with  
16 disabilities.

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**SECTION 2.**

17

18 Chapter 9 of Title 30 of the Official Code of Georgia Annotated, relating to Georgia  
19 Achieving a Better Life Experience (ABLE), is amended by revising Code Section 30-9-14,  
20 relating to death of designated beneficiary of ABLE Trust Fund, as follows:

21 "30-9-14.

22 (a) As used in this Code section, the term 'ABLE account' includes an account established  
23 and owed by an eligible individual who is resident of this state, regardless of whether such  
24 account is maintained through a Georgia ABLE program or another qualified ABLE  
25 program. ~~Upon the death of a designated beneficiary of a Georgia ABLE Trust Fund~~  
26 ~~account, the Department of Community Health and the Medicaid program for another state~~  
27 ~~may file a claim with the Georgia ABLE Program for the total amount of medical~~  
28 ~~assistance provided for the designated beneficiary under the Medicaid program after the~~  
29 ~~date of the establishment of the ABLE account, less any premiums paid by or on behalf of~~  
30 ~~the designated beneficiary to a Medicaid buy-in program. Funds in the ABLE account of~~  
31 ~~the deceased designated beneficiary must first be distributed for qualified disability~~  
32 ~~expenses followed by distributions for the Medicaid claim authorized under this subsection.~~  
33 ~~Any remaining amount shall be distributed as provided in the participation agreement.~~

34 (b) Except as required by applicable federal law, neither the Department of Community  
35 Health nor any other state agency shall be authorized to make any claim for Medicaid  
36 estate recovery of funds pursuant to Code Section 49-4-147.1 from funds in an ABLE  
37 account. ~~The corporation shall assist and cooperate with the Department of Community~~  
38 ~~Health and Medicaid programs in other states upon the death of a designated beneficiary~~  
39 ~~of the trust fund by coordinating through the Department of Community Health with the~~  
40 ~~information needed to accomplish the purpose and objective of subsection (a) of this Code~~  
41 ~~section."~~

42 **SECTION 3.**

43 Said chapter is further amended by revising Code Section 30-9-15, relating to assignment of  
44 ABLE account prohibited, as follows:

45 "30-9-15.

46 An ABLE account may not be assigned for the benefit of creditors, used as security or  
47 collateral for any loan, or otherwise subject to alienation, sale, transfer, assignment, pledge,  
48 encumbrance, or charge. Moneys ~~Except as provided in Code Section 30-9-14, moneys~~  
49 paid into or out of an ABLE account, and the income and assets of such account, are not  
50 liable to attachment, levy, garnishment, or legal process in this state in favor of any creditor  
51 of or claimant against any designated beneficiary or account contributor."

52 **SECTION 4.**

53 All laws and parts of laws in conflict with this Act are repealed.