

Senate File 2070 - Introduced

SENATE FILE 2070

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A BILL FOR

1 An Act relating to trusts for persons with disabilities.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 12I.3, subsection 1, Code 2020, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *g.* Any funds retained in a medical
4 assistance special needs trust pursuant to chapter 633C, or in
5 a supplemental needs trust pursuant to chapter 634A, may be
6 transferred to the Iowa ABLE savings plan trust account of a
7 designated beneficiary who is also the beneficiary of any such
8 trust, in accordance with the applicable provisions of chapters
9 633C, 634A, and this chapter.

10 Sec. 2. Section 12I.4, subsection 3, Code 2020, is amended
11 to read as follows:

12 3. Moneys in the account of a designated beneficiary ~~may~~
13 shall not be claimed by the Iowa Medicaid program as ~~provided~~
14 authorized in section 529A(f) of the Internal Revenue Code ~~and~~
15 ~~subject to limitations imposed by the treasurer of state unless~~
16 such claim is required to maintain qualified ABLE program
17 status under section 529A of the Internal Revenue Code.

18 Sec. 3. Section 249A.53, Code 2020, is amended by adding the
19 following new subsection:

20 NEW SUBSECTION. 3. *a.* Following the death of an individual
21 who is a designated beneficiary of an account established under
22 a participation agreement pursuant to chapter 12I, all of the
23 following shall apply to the extent permitted pursuant to
24 chapter 12I and under federal law including section 529A of the
25 Internal Revenue Code:

26 (1) The department shall not seek recovery of any account
27 balance remaining in the designated beneficiary's account for
28 medical assistance paid to or on behalf of the designated
29 beneficiary on or after the date the participation agreement
30 was entered into and the account established for the designated
31 beneficiary.

32 (2) The department shall not file a claim for payment under
33 section 529A(f) of the Internal Revenue Code.

34 (3) Any account balance remaining in the designated
35 beneficiary's account may be transferred to an account for

1 another eligible individual specified by the designated
2 beneficiary, or if another eligible beneficiary is not so
3 designated, then the account balance shall be transferred to
4 the estate of the designated beneficiary or to the successor
5 as defined in section 633.356.

6 *b.* For the purposes of this section, “*designated*
7 *beneficiary*”, “*Internal Revenue Code*”, and “*participation*
8 *agreement*” mean the same as defined in section 12I.1.

9 *c.* For the purposes of this section, “*eligible individual*”
10 means the same as defined in section 529A of the Internal
11 Revenue Code.

12 Sec. 4. Section 633C.2, Code 2020, is amended to read as
13 follows:

14 **633C.2 Disposition of medical assistance special needs**
15 **trusts.**

16 Any income or assets added to or received by and any income
17 or principal retained in a medical assistance special needs
18 trust shall be used in accordance with a standard that is
19 no more restrictive than specified under federal law. All
20 distributions from a medical assistance special needs trust
21 shall be for the sole benefit of the beneficiary to enhance
22 the quality of life of the beneficiary, and the trustee shall
23 have sole discretion regarding such disbursements to ensure
24 compliance with beneficiary eligibility requirements. Any
25 funds retained in the medical assistance special needs trust of
26 a beneficiary who is also a designated beneficiary as defined
27 in section 12I.1 may be transferred to the Iowa ABLE savings
28 plan trust account of the designated beneficiary in accordance
29 with this chapter and chapter 12I. Any distinct disbursement
30 in excess of one thousand dollars shall be subject to review by
31 the district court sitting in probate. The department shall
32 adopt rules pursuant to [chapter 17A](#) for the establishment and
33 disposition of medical assistance special needs trusts in
34 accordance with [this section](#).

35 Sec. 5. Section 634A.2, Code 2020, is amended by adding the

1 following new subsection:

2 NEW SUBSECTION. 8. Any funds retained in a supplemental
3 needs trust of a beneficiary who is also a designated
4 beneficiary as defined in section 12I.1 may be transferred to
5 the Iowa ABLE savings plan trust account of the designated
6 beneficiary in accordance with this chapter and chapter 12I.

7 EXPLANATION

8 The inclusion of this explanation does not constitute agreement with
9 the explanation's substance by the members of the general assembly.

10 This bill relates to trusts for persons with disabilities.

11 The bill provides that any funds retained in a medical
12 assistance special needs trust or in a supplemental needs trust
13 of a beneficiary with a disability who is also a designated
14 beneficiary of an Iowa ABLE saving plan trust account may be
15 transferred to the Iowa ABLE savings plan trust account of the
16 designated beneficiary in accordance with the provisions of the
17 Code chapters applicable to the specific trusts.

18 The bill also provides that following the death of an
19 individual who is a designated beneficiary of an ABLE savings
20 account established under a participation agreement pursuant
21 to Code chapter 12I (disabilities expenses savings plan
22 trust), to the extent permitted pursuant to Code chapter 12I
23 and under federal law including section 529A of the Internal
24 Revenue Code, the department of human services (DHS) shall
25 not seek recovery of any account balance remaining in the
26 designated beneficiary's account for medical assistance paid
27 to or on behalf of the designated beneficiary on or after
28 the date the participation agreement was entered into and an
29 account established for the designated beneficiary; DHS shall
30 not file a claim for payment under section 529A(f) of the
31 Internal Revenue Code; and any account balance remaining in
32 the designated beneficiary's account may be transferred to
33 an account for another eligible individual specified by the
34 designated beneficiary, or if another eligible beneficiary
35 is not so designated, then the account balance shall be

1 transferred to the estate of the designated beneficiary or to
2 the successor.

3 The bill provides definitions for terms used in the bill and
4 makes conforming Code changes.

5 The disabilities expenses savings plan trust is also known
6 as the Iowa ABLE savings plan trust which was established as
7 a qualified ABLE program under section 529A of the Internal
8 Revenue Code. The purpose of ABLE savings accounts is to
9 encourage and assist individuals and families in saving
10 private funds for the purpose of supporting individuals with
11 disabilities to maintain health, independence, and quality
12 of life and to provide secure funding for disability-related
13 expenses on behalf of designated beneficiaries with
14 disabilities that will supplement, but not supplant, benefits
15 provided through private insurance, the Medicaid program,
16 the federal supplemental security income program, and other
17 sources. ABLE savings accounts allow eligible individuals the
18 opportunity to save and fund a variety of qualified disability
19 expenses without endangering eligibility for certain benefits
20 such as Medicaid and supplemental security income.