HOUSE DOCKET, NO. 4152 FILED ON: 3/7/2014

# HOUSE . . . . . No. 3991

## The Commonwealth of Massachusetts

PRESENTED BY:

***Garrett J. Bradley***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act achieving a better life experience for individuals with disabilities.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|---|
| *Garrett J. Bradley* | *3rd Plymouth* |
| *Jennifer L. Flanagan* | *Worcester and Middlesex* |

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# HOUSE . . . . . No. 3991

By Mr. Bradley of Hingham, a petition (subject to Joint Rule 12) of Garrett J. Bradley and Jennifer L. Flanagan for legislation to create a better life experience for individuals with disabilities program. Children, Families and Persons with Disabilities.

## The Commonwealth of Massachusetts

**In the Year Two Thousand Fourteen**

An Act achieving a better life experience for individuals with disabilities.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. The General Laws are hereby amended by inserting after chapter 15E the following chapter:-

Chapter 15F

Achieving a Better Life Experience Program

Section 1. The General Court finds and declares that:

(1) encouraging and assisting individuals and families in saving private funds for the purpose of supporting individuals with disabilities to maintain health, independence, and quality of life is an important public purpose of the commonwealth;

(2) providing secure funding in the form of income tax exemptions for disability related expenses on behalf of designated beneficiaries with disabilities will supplement, but not supplant, benefits provided through private insurance, the Medicaid program under title XIX of the Social Security Act, the supplemental security income program under Title XVI of such Act, the beneficiary's employment, and other sources; and

(3) this chapter and the general law providing for an exemption from taxation of personal income fulfills the purpose of recognizing the benefits to the commonwealth of achieving a better life experience for individuals with disabilities.

Section 2. As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meanings:-

19 “ABLE account”, a savings and qualified disabilities expense account established and
20 maintained by the Authority, or a designated administrator, pursuant to this chapter and its
21 implementing regulations for the purposes of qualified disability expenses.

22 “Authority”, the Massachusetts Educational Financing Authority as established in section
23 4 of chapter 15C.

24 “Designated administrator”, any corporation whose powers and privileges are provided
25 for in any general or special law, whether for profit or not, designated by the Authority for the
26 purpose of administering ABLE accounts.

27 “Disability verification”, with respect to an individual a verification, to the Authority or
28 its designated administrator, by the designated beneficiary or the parent or guardian of the
29 designated beneficiary that: (i)(1) the person is an individual with a disability; and (2) includes a
30 copy of the designated beneficiary’s diagnosis that such person is an individual with a disability,
31 signed by a physician; (ii) is receiving or, for purposes of Title XIX of the Social Security Act, is
32 deemed to be, or treated as, receiving from the office of Medicaid, benefits under the
33 supplemental security income program under title XVI of such Act, or whose benefits under such
34 program are suspended other than by reason of misconduct; or (iii) is receiving disability benefits
35 under title II of such Act.

36 ‘‘Individual with a disability”, an individual is an individual with a disability for a year if
37 the individual, regardless of age, has a medically determinable physical or mental impairment,
38 which results in marked and severe functional limitations, and which can be expected to result in
39 death or which has lasted or can be expected to last for a continuous period of not less than 12
40 months, or is blind.

41 “Physician”, a medical or osteopathic doctor licensed to practice medicine in the
42 commonwealth.

43 “Qualified disability expenses”, any expenses which are made for the benefit of an
44 individual with a disability, or for the benefit of a special needs trust established for the benefit
45 of such an individual.

46 Section 2. There shall be within Authority, the achieving a better life experience program
47 for the purposes of administering ABLE accounts as an exemption from adjusted gross income
48 pursuant to subclause (17) of section 3 of chapter 62.

49 Section 3. (a) For the purposes of this chapter and subclause (17) of section 3 of chapter
50 62, the following expenses shall be qualified disability expenses if such expenses are made for
51 the benefit of an individual with a disability who is a designated beneficiary and are related to
52 such disability:

53 (1) expenses for education, including tuition for pre-school through post-secondary
54 education, which shall include higher education expenses as defined by 26 U.S.C. §529,
55 subsection (e)(3)(A) and expenses for books, supplies, and educational materials related to
56 preschool and secondary education, tutors, and special education services;

57 (2) expenses for a primary residence, including rent, purchase of a primary residence or
58 an interest in a primary residence, mortgage payments, real property taxes, and utility charges;

59 (3) expenses for transportation, including the use of mass transit, the purchase or
60 modification of vehicles, and moving expenses;

61 (4) expenses related to obtaining and maintaining employment, including job-related
62 training, assistive technology, and personal assistance supports;

63 (5) expenses for health and wellness, including premiums for health insurance, mental
64 health, medical, vision, and dental expenses, habilitation and rehabilitation services, durable
65 medical equipment, therapy, respite care, long term services and supports, nutritional
66 management, communication services and devices, adaptive equipment, assistive technology,
67 and personal assistance;

68 (6) expenses for financial management and administrative services; legal fees; expenses
69 for oversight; monitoring; home improvements, and modifications, maintenance and repairs, at
70 primary residence; or funeral and burial expenses; and

71 (7) expenses for assistive technology and personal support with respect to any item
72 described in this section;

73 (b) A person may make contributions to an ABLE account established pursuant to
74 regulations promulgated by the Authority for the purpose of meeting the qualified disability
75 expenses of the designated beneficiary of the account, and which meets the other requirements of
76 this chapter.

77 (c) An ABLE account shall be a qualified disabilities expense account if: (1) it provides
78 that purchases or contributions may only be made in cash; (2) provides separate accounting for
79 each designated beneficiary; (3) provides that any contributor to, or designated beneficiary
80 under, such program may not directly or indirectly direct the investment of any contributions to
81 the program or any earnings thereon; and (4) provides adequate safeguards to prevent
82 contributions on behalf of a designated beneficiary in excess of those necessary to provide for
83 the qualified disability expenses of the beneficiary.

84 Section 4. An individual shall be treated by the Authority or its designated administrator
85 as an individual with a disability if the person files a disability verification with the Authority or
86 such designated administrator.

87 Section 5. (a) The Authority and the commissioner of revenue shall file a joint annual
88 report with the department of developmental services, the clerks of the house of representatives
89 and senate and the joint committee on children, families and persons with disabilities on the
90 usage of ABLE accounts under subclause 17 of section (3) of chapter 62.

91 (b) Any report under subsection (a) may include: (1) the number of people with an ABLE
92 account; (2) the total amount of contributions to such accounts; (3) the total amount and nature of
93 distributions from such accounts; and (4) issues relating to the abuse of such accounts.

94 Section 6. The Authority may promulgate regulations and enter into agreements to
95 implement the provisions of this chapter.

96 SECTION 2. Clause (a) of subsection B of section 3 of chapter 62 of the General Laws,
97 as appearing in the 2012 Official Edition, is hereby amended by inserting, after subclause (16)
98 the following subclause:-

99 (17) Qualified disability expenses for each verified individual with a disability
100 contributed pursuant to the ABLE program under chapter 15F. In no event shall a distribution or
101 transfer? from a qualified ABLE account be treated as a taxable gift or taxable income.

102 SECTION 3. The Authority shall promulgate regulations pursuant to section 6 of chapter
103 15F of the General Laws no later than December 31, 2014.

104 SECTION 4. This act shall apply to taxable years beginning after the date of the
105 enactment of this act.