

State of Wisconsin



2015 Assembly Bill 731

Date of enactment: **March 30, 2016**

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2015 WISCONSIN ACT 312

AN ACT *to amend* 71.05 (6) (a) 27., 71.05 (6) (a) 28., 71.05 (6) (b) 52. and 71.07 (5) (a) 9.; *to repeal and recreate* 16.643; and *to create* 71.98 (7) of the statutes; **relating to:** repealing the authority to create ABLE accounts in this state, creating tax benefits for contributions to ABLE accounts in other states, and updating references to the Internal Revenue Code.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 16.643 of the statutes, as created by [2015 Wisconsin Act 55](#), is repealed and recreated to read:

16.643 Support accounts for persons with disabilities. (1) **TERMINATION OF ACCOUNT.** Upon the death of an account owner whose account is part of a qualified ABLE program under section [529A](#) of the Internal Revenue Code, the account shall terminate, and upon such termination any amount remaining in the account shall be recoverable by the state under s. 49.849 as property of a decedent that is recoverable under that statute. Any amount that remains in the account following such recovery under s. 49.849 shall be paid to the account owner's estate. Recovery authorized under this subsection may relate only to public assistance received by a beneficiary on and after the date on which an account is established.

(2) **ELIGIBILITY FOR LONG-TERM CARE PROGRAMS.** A person who is determining eligibility for an individual for a long-term care program under s. 46.27, 46.275, or 46.277, the family care benefit under s. 46.286, the family care partnership program, the long-term care program defined in s. 46.2899 (1), or any other demonstration program or program operated under a waiver of federal medicaid law that provides long-term care benefits shall

exclude from the determination any income from assets accumulated in an account that is part of a qualified ABLE program under section [529A](#) of the Internal Revenue Code.

SECTION 2. 71.05 (6) (a) 27. of the statutes, as created by [2015 Wisconsin Act 55](#), is amended to read:

71.05 (6) (a) 27. Except as provided in subd. 28., any ~~accumulated interest, dividends, or other gain that accrues from an account described under s. 16.643 during the taxable year in which a withdrawal occurs from such an account if any amount of the money or other assets in the account is withdrawn by, or at the direction of, an account owner~~ to the extent that an amount is not included in federal adjusted gross income, any amount withdrawn from a qualified ABLE account described under section [529A](#) (b) (1) of the Internal Revenue Code for any reason other than the payment of qualified disability expenses, as defined in s. ~~16.643 (1) (e)~~ section [529A](#) (e) (5) of the Internal Revenue Code, for the account beneficiary.

SECTION 3. 71.05 (6) (a) 28. of the statutes, as created by [2015 Wisconsin Act 55](#), is amended to read:

71.05 (6) (a) 28. Upon the termination of an account as described under s. 16.643 ~~(3) (d)~~, any amount in the account that is returned to ~~an account owner, or~~ an account owner's estate.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

SECTION 4. 71.05 (6) (b) 52. of the statutes, as created by 2015 Wisconsin Act 55, is amended to read:

71.05 (6) (b) 52. Subject to the limits under s. 16.643 (3)(c) 1. and 2. section 529A (b) (2) of the Internal Revenue Code, any amount that is deposited by an account owner or any other person for the taxable year in which the contribution is made into an ABLE account described under s. 16.643, ~~and any interest, dividends, or other gain that accrues in the account if the interest, dividends, or other gain is redeposited into the account~~ section 529A (b) (1) of the Internal Revenue Code. The subtraction under this subdivision does not apply to rollover contributions or transfers.

SECTION 5. 71.07 (5) (a) 9. of the statutes, as created by 2015 Wisconsin Act 55, is amended to read:

71.07 (5) (a) 9. The amount claimed as a deduction for unreimbursed medical expenses under section 213 (a) of the Internal Revenue Code to the extent that the funds used to pay for the unreimbursed expenses for which the

deduction was claimed were withdrawn from an ABLE account described under ~~s. 16.643~~ section 529A (b) (1) of the Internal Revenue Code.

SECTION 5e. 71.98 (7) of the statutes is created to read:

71.98 (7) ABLE ACCOUNTS. For taxable years beginning after December 31, 2015, section 303 of Division Q of P.L. 114-113, related to state of residence changes that relate to qualified ABLE accounts.

SECTION 6. Initial applicability.

(1) The treatment of sections 71.05 (6) (a) 27. and 28. and (b) 52. and 71.07 (5) (a) 9. of the statutes first applies to taxable years beginning on January 1 of the year in which this subsection takes effect, except that if this subsection takes effect after July 31, the treatment of sections 71.05 (6) (a) 27. and 28. and (b) 52. and 71.07 (5) (a) 9. of the statutes first applies to taxable years beginning on January 1 of the year following the year in which this subsection takes effect.