

By: Zaffirini, et al.
(Burkett)

S.B. No. 1764

A BILL TO BE ENTITLED

AN ACT

relating to the investment of funds in, and operation of
guardianships of the estate in relation to, accounts established
under the Texas Achieving a Better Life Experience (ABLE) Program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1161.003, Estates Code, is amended to
read as follows:

Sec. 1161.003. INVESTMENTS THAT MEET STANDARD FOR
INVESTMENT. A guardian of the estate is considered to have
exercised the standard required by Section 1161.002(a) with respect
to investing the ward's estate if the guardian invests in the
following:

(1) bonds or other obligations of the United States;
(2) tax-supported bonds of this state;
(3) except as limited by Sections 1161.004(b) and (c),
tax-supported bonds of a county, district, political subdivision,
or municipality in this state;

(4) if the payment of the shares or share accounts is
insured by the Federal Deposit Insurance Corporation, shares or
share accounts of:

(A) a state savings and loan association or
savings bank that has its main office or a branch office in this
state; or

(B) a federal savings and loan association or

1 savings bank that has its main office or a branch office in this
2 state;

3 (5) collateral bonds that:

4 (A) are issued by a company incorporated under
5 the laws of this state that has a paid-in capital of \$1 million or
6 more;

7 (B) are a direct obligation of the company; and

8 (C) are specifically secured by first mortgage
9 real estate notes or other securities pledged with a trustee; ~~or~~

10 (6) interest-bearing time deposits that may be
11 withdrawn on or before one year after demand in a bank that does
12 business in this state, if the payment of the time deposits is
13 insured by the Federal Deposit Insurance Corporation; or

14 (7) an ABLE account established in accordance with the
15 Texas Achieving a Better Life Experience (ABLE) Program under
16 Subchapter J, Chapter 54, Education Code.

17 SECTION 2. Subchapter A, Chapter 1202, Estates Code, is
18 amended by adding Section 1202.003 to read as follows:

19 Sec. 1202.003. TERMINATION OF GUARDIANSHIP OF ESTATE ON
20 ESTABLISHMENT OF ABLE ACCOUNT BY CERTAIN PERSONS. On application
21 by the guardian of the estate of a ward or another person interested
22 in the ward's welfare, the court may order that the guardianship of
23 the estate of the ward terminate and be settled and closed if the
24 court finds that the ward no longer needs a guardian of the estate
25 because all of the ward's assets have been placed in an ABLE account
26 established in accordance with the Texas Achieving a Better Life
27 Experience (ABLE) Program under Subchapter J, Chapter 54, Education

1 Code, and the ward is the designated beneficiary of the account.

2 SECTION 3. Section 142.004(a), Property Code, is amended to
3 read as follows:

4 (a) In a suit in which a minor or incapacitated person who
5 has no legal guardian is represented by a next friend or an
6 appointed guardian ad litem, any money recovered by the plaintiff,
7 if not otherwise managed under this chapter, may be invested:

8 (1) by the next friend or guardian ad litem in:

9 (A) a higher education savings plan established
10 under Subchapter G, Chapter 54, Education Code, [~~or~~] a prepaid
11 tuition program established under Subchapter H, Chapter 54,
12 Education Code, or an ABLE account established in accordance with
13 the Texas Achieving a Better Life Experience (ABLE) Program under
14 Subchapter J, Chapter 54, Education Code; or

15 (B) interest-bearing time deposits in a
16 financial institution doing business in this state and insured by
17 the Federal Deposit Insurance Corporation; or

18 (2) by the clerk of the court, on written order of the
19 court of proper jurisdiction, in:

20 (A) a higher education savings plan established
21 under Subchapter G, Chapter 54, Education Code, [~~or~~] a prepaid
22 tuition program established under Subchapter H, Chapter 54,
23 Education Code, or an ABLE account established in accordance with
24 the Texas Achieving a Better Life Experience (ABLE) Program under
25 Subchapter J, Chapter 54, Education Code;

26 (B) interest-bearing deposits in a financial
27 institution doing business in this state and insured by the Federal

1 Deposit Insurance Corporation;

2 (C) United States treasury bills;

3 (D) an eligible interlocal investment pool that
4 meets the requirements of Sections 2256.016, 2256.017, and
5 2256.019, Government Code; or

6 (E) a no-load money market mutual fund, if the
7 fund:

8 (i) is regulated by the Securities and
9 Exchange Commission;

10 (ii) has a dollar weighted average stated
11 maturity of 90 days or fewer; and

12 (iii) includes in its investment objectives
13 the maintenance of a stable net asset value of \$1 for each share.

14 SECTION 4. This Act takes effect September 1, 2017.