

BILL ANALYSIS

Senate Research Center

S.B. 1184
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Business & Commerce
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Federal Achieving a Better Life Experience (ABLE) Act was signed into law in December 2014 and the Texas ABLE Program was established with the passage of S.B. 1664 in 2015 allowing people with disabilities to have a tax-advantaged savings accounts to fund and manage their disability expenses leading to greater independence and healthier living.

The ABLE statute allows the parent of a minor, a custodian, or other fiduciary to serve as a participant and establish a Texas ABLE account (Section 54.910(b), Subchapter J, Chapter 54, Education Code).

The current statute could be interpreted to imply that a legal guardian or agent under a power of attorney would be excluded from opening an ABLE account for an adult beneficiary.

The statute currently does not explicitly allow a court-appointed guardian to establish a Texas ABLE account for an eligible ward, an unnecessary limitation not required by federal law.

This change would open up enrollment to all agents under powers of attorney and legal guardians, including eligible wards of court-appointed guardians, of qualifying adult beneficiaries.

As proposed, S.B. 1184 amends current law relating to eligible participants in the Texas Achieving a Better Life Experience (ABLE) Program.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 54.910(b), Education Code, as follows:

(b) Authorizes the parent, legal guardian, or other fiduciary of the beneficiary, if the designated beneficiary is not able to exercise signature authority over an account or chooses to establish an account but not exercise signature authority, to serve as the participant if permitted by Section 529A, Internal Revenue Code. Deletes existing text authorizing a parent or custodian, if the designated beneficiary of the account is a minor or has a custodian or other fiduciary appointed for the purpose of managing the minor's financial affairs, to serve as the participant if that form of ownership is permitted or not prohibited by Section 529A, Internal Revenue Code.

SECTION 2. Effective date: upon passage or September 1, 2019.