

Legislative Update

Florida Legislative Update

Last Day of Florida Legislative Session is May 3, 2013.

2013 Bills

RED - Already Law

GREEN - Moving along well

Blue or Black - Who Knows?

HB 15: Funerals and Burials

GENERAL BILL by Rooney ; Eagle ; (CO-INTRODUCERS) Albritton ; Campbell ; Castor Dentel ; Coley ; Edwards ; Harrell ; Hudson ; Mayfield ; McBurney ; Metz ; O'Toole ; Pafford ; Passidomo ; Pigman ; Pilon ; Porter ; Rehwinkel Vasilinda ; Steube ; Stewart

Funerals and Burials; Prohibits engaging in protest activities within specified distance of property line of location of funeral or burial; provides exception; provides criminal penalties.

Last Action: 04/11/2013 Chapter No. 2013-19

Effective Date: October 1, 2013

CS/HB 19: Grandparent Visitation Rights

GENERAL BILL by Civil Justice Subcommittee ; Rouson ; (CO-INTRODUCERS) Broxson ; Campbell ; Edwards ; Gaetz ; Stewart ; Tobia ; Williams, A.

Grandparent Visitation Rights; Authorizes grandparent of minor child to petition court for visitation; requires preliminary hearing; provides for payment of attorney fees & costs by petitioner who fails to make prima facie showing of harm; provides for application of Uniform Child Custody Jurisdiction &

Enforcement Act; provides conditions under which court may terminate grandparent visitation order upon adoption of minor child by stepparent or close relative; provides for great-grandparent's right to notice of adoption.

Last Action: 03/21/2013 Now in Healthy Families Subcommittee -HJ 305

Effective Date: July 1, 2013

CS/HB 95: Charitable Contributions

GENERAL BILL by Regulatory Affairs Committee ; Holder ; (CO-INTRODUCER) Pilon

Charitable Contributions; Defines "charitable contribution" & "qualified religious or charitable entity or organization"; provides that transfer of charitable contribution that is received in good faith by qualified religious or charitable entity or organization is not fraudulent transfer; provides exceptions.

Senate Committee References: Banking and Insurance (BI), Commerce and Tourism (CM), Rules (RC)

Last Action: 04/03/2013 Referred to Banking and Insurance; Commerce and Tourism; Rules -SJ 290

Effective Date: July 1, 2013

CS/SB 110: Florida Mental Health Act

GENERAL BILL by Children, Families, and Elder Affairs ; [Flores](#)

Florida Mental Health Act; Requiring the Department of Children and Families to convene a work group to review the Florida Mental Health Act to determine whether certain revisions are necessary; requiring the work group to submit a report to the Governor and the Legislature by a specified date, etc.

Senate Committee References: [Children, Families, and Elder Affairs \(CF\)](#) , [Health Policy \(HP\)](#) , [Judiciary \(JU\)](#)

Last Action: 04/16/2013 CS by Children, Families, and Elder Affairs read 1st time -SJ 477

Effective Date: July 1, 2013

CS/CS/CS/HB 125: Program of All-inclusive Care for the Elderly

GENERAL BILL by Health and Human Services Committee ; Health Care Appropriations Subcommittee ; Health Innovation Subcommittee ; Smith ; (CO-INTRODUCER) Fasano

Program of All-inclusive Care for the Elderly; Requires AHCA to contract with certain organizations or not-for-profit corporation to provide federal Program of All-inclusive Care for Elderly (PACE) services in

Duval, St. Johns, Baker, Nassau, Alachua, Clay, Hernando, and Pasco Counties; provides exemption from ch. 641, F.S., for organization or not-for-profit corporation providing PACE services; authorizes, subject to appropriation, enrollment slots for program in such counties; prohibits AHCA from issuing additional PACE contracts; requires PACE projects approved after specified date to be subject to certain rate-setting & encounter data submission requirements.

Last Action: 04/18/2013 CS/CS/CS by Health and Human Services Committee read 1st time -HJ 676

Effective Date: July 1, 2013

CS/HB 167: Annuities

GENERAL BILL by Insurance and Banking Subcommittee ; Broxson

Annuities; Provides that recommendations relating to annuities made by insurer or its agents apply to all consumers not just senior consumers; revises & provides definitions; revises duties of insurers & agents; provides that recommendations must be based on consumer suitability information; revises information relating to annuities that must be provided by insurer or its agent to consumer; revises requirements for monitoring contractors that provide certain functions for insurer relating to insurer's system for supervising recommendations; revises provisions relating to relationship between act & federal Financial Industry Regulatory Authority; prohibits specified charges for annuities issued to persons 65 years of age or older; increases period that unconditional refund must remain available with respect to certain annuity contracts; makes such unconditional refunds available to all prospective annuity contract buyers without regard to buyer's age; revises requirements for cover pages of annuity contracts.

Last Action: 03/14/2013 Placed on Calendar -HJ 248

Effective Date: October 1, 2013

CS/HB 171: Disposition of Human Remains

GENERAL BILL by Health Quality Subcommittee ; Rooney ; (CO-INTRODUCERS) Baxley ; McBurney ; Renuart ; Roberson, K

Disposition of Human Remains; Revises various provisions relating to procedures for registration of certificates of death or fetal death & medical certification of causes of death; procedures for reporting & disposition of unclaimed remains; disposition of remains of deceased persons whose identities are not known; procedures for anatomical board's retention & use of human remains; final disposition of unclaimed remains of indigent persons; selling or buying of human remains or transmitting or conveying such remains outside state; limitations on liability of funeral directors, funeral or direct disposal

establishments, & veterans' service organizations; and repeal of provisions relating to claims of bodies after delivery to anatomical board.

Senate Committee References: Regulated Industries (RI), Health Policy (HP), Judiciary (JU), Appropriations (AP)

Last Action: 03/25/2013 Received -SJ 256

Effective Date: July 1, 2013

HB 187: Assisted Living Facilities

GENERAL BILL by Fasano

Assisted Living Facilities; Revises duties of case manager for, & the community living support plan of, mental health resident of assisted living facility; requires revocation of facility license for certain violations that result in death of a resident; requires licensure of facility administrators; revises training requirements for staff who provide care for persons with Alzheimer's disease & related disorders; provides for fines & grounds for disciplinary action for ALF administrators.

Last Action: 03/05/2013 Introduced -HJ 33

Effective Date: This act shall take effect July 1, 2013.

CS/SB 646: Assisted Living Facilities

GENERAL BILL by Health Policy ; Children, Families, and Elder Affairs

Assisted Living Facilities; Providing that Medicaid prepaid behavioral health plans are responsible for enrolled mental health residents; revising the actions in which the Agency for Health Care Administration may deny, revoke, or suspend the license of an assisted living facility and impose an administrative fine; requiring the agency to regularly inspect every licensed assisted living facility; requiring the agency to propose a rating system of assisted living facilities for consumers and create content for the agency's website that makes available to consumers information regarding assisted living facilities, etc.

Senate Committee References: [Health Policy \(HP\)](#), [Judiciary \(JU\)](#)

Last Action: 04/16/2013 In Messages

Effective Date: July 1, 2013

CS/CS/HB 229: Land Trusts

GENERAL BILL by Judiciary Committee ; Civil Justice Subcommittee ; Rodriguez

Land Trusts; Providing requirements relating to vesting of ownership in trustee; revises rights, liabilities, & duties of land trust beneficiaries; provides exclusion & applicability; revises provisions relating to land trust transfers of real property & vesting of ownership in trustee; prohibits operation of statute of uses & doctrine of merger to execute land trust or to vest trust property under certain conditions; provides conditions under which beneficial interest is deemed real property; authorizes certain beneficial ownership methods; provides for perfection of security documents; provides that trustee's legal & equitable title to trust property is separate & distinct from beneficiary's beneficial interest in land trust & trust property; prohibits lien, judgment, mortgage, security interest or other encumbrance against one interest from automatically attaching to another interest; provides that appointment of guardian ad litem is not necessary in certain foreclosure litigation affecting title to trust property of land trust; provides for determination of applicable law for certain trusts; provides applicability relating to UCC financing statements; provides requirements for recording effectiveness; revises & provides scope of Florida Trust Code.

Last Action: 03/25/2013 Placed on Calendar -HJ 346

Effective Date: upon becoming a law

CS/CS/HB 231: Family Law

GENERAL BILL by Judiciary Committee ; Civil Justice Subcommittee ; Workman ; (CO-INTRODUCERS) Cummings ; Diaz ; Gaetz ; Hood ; Hooper ; Hutson ; Moskowitz ; Raburn

Family Law; Revises factors to be considered in alimony awards; provides that award of alimony automatically terminates without further action under certain circumstances; provides that the party seeking alimony has burden of proof; requires court to consider specified factors when determining type and amount of alimony; revises provisions for award of durational alimony; provides presumptions for or against awards based duration of marriage; provides for imputation of income in certain circumstances; provides for offset of or other consideration of alimony obligation in determining equitable distribution or child support in certain circumstances; provides presumption in favor of equal time-sharing by parents; provides exceptions; provides that alimony order be modified upon showing of substantial change in circumstances by clear & convincing evidence; provides that increase in an obligor's income may not be considered permanent in nature until maintained for specified period; provides for attorney fees & costs if obligee unnecessarily or unreasonably litigates petition for modification or termination; revises provisions relating to effect of supportive relationship on alimony; provides that attaining of retirement age is substantial change in circumstances; allows separate adjudication of issues in certain circumstances; provides for applicability.

Last Action: 04/17/2013 Laid on Table, refer to CS/CS/SB 718 -HJ 657

Effective Date: July 1, 2013

CS/CS/SB 718: Family Law

GENERAL BILL by Rules ; Judiciary ; [Stargel](#) ; (CO-INTRODUCERS) [Grimsley](#) ; [Richter](#) ; [Thrasher](#) ; [Soto](#) ; [Altman](#)

Family Law; Redefining the term "marital assets and liabilities" for purposes of equitable distribution in dissolution of marriage actions; providing for the priority of bridge-the-gap alimony, followed by rehabilitative alimony, over any other form; providing for retirement of a party against whom alimony is sought; providing that income and assets of obligor's subsequent spouse or person with whom the obligor is residing are generally not relevant to modification, etc.

Last Action: 04/18/2013 CS passed; YEAS 85 NAYS 31 -HJ 674

Effective Date: July 1, 2013

CS/HB 339: Developmental Disabilities

GENERAL BILL by Healthy Families Subcommittee ; Ahern ; Ford ; (CO-INTRODUCERS) Albritton ; Berman ; Cummings ; Fasano ; Goodson ; Ingram ; Rodrigues ; Rooney

Developmental Disabilities; Establishes Developmental Disabilities Savings Program; requires program to provide certain information; provides that program may not be implemented until certain legal opinions are obtained; establishing Developmental Disabilities Savings Program Board to administer program; provides for membership, purpose, powers, & duties of board; requires board to accept certain policies & procedures; provides for expiration of program.

Last Action: 03/18/2013 CS by Healthy Families Subcommittee read 1st time -HJ 264

Effective Date: July 1, 2013, or upon the date that the federal "Achieving a Better Life Experience (ABLE) Act of 2013," S.313/H.R.647, or similar legislation becomes law, whichever occurs later

CS/SB 472: Developmental Disabilities

GENERAL BILL by Children, Families, and Elder Affairs ; [Bean](#)

Developmental Disabilities; Citing this act as the "C.V. Clay Ford/Gabriela Poole Developmental Disabilities Savings Plan"; establishing the Developmental Disabilities Savings Program to allow for advance saving for services for children who have developmental disabilities and who will be ineligible for certain services

due to age; providing that the program may not be implemented until certain legal opinions are obtained; establishing the Developmental Disabilities Savings Program Board to administer the savings program; providing a sunset clause, etc.

Senate Committee References: [Children, Families, and Elder Affairs \(CF\)](#), [Banking and Insurance \(BI\)](#), [Appropriations Subcommittee on Health and Human Services \(AHS\)](#), [Appropriations \(AP\)](#)

Last Action: 04/04/2013 CS by Children, Families, and Elder Affairs read 1st time -SJ 352

Effective Date: July 1, 2013, or upon the date that the federal "Achieving a Better Life Experience Act of 2013" or "ABLE Act of 2013," S.313/H.R.647, or similar legislation becomes law, whichever occurs later.

SB 342: Rental of Homestead Property

GENERAL BILL by [Thrasher](#)

Rental of Homestead Property; Revising criteria under which rental of homestead property is allowed for tax exemption purposes and not considered abandoned, etc.

Senate Committee References: [Community Affairs \(CA\)](#), [Appropriations Subcommittee on Finance and Tax \(AFT\)](#), [Appropriations \(AP\)](#)

Last Action: 04/10/2013 In Messages

Effective Date: July 1, 2013

HB 459: Autism

GENERAL BILL by Rooney ; (CO-INTRODUCERS) Hager ; Stark

Autism; Requires physician to refer minor to appropriate specialist for screening for autism spectrum disorder; requires insurers & HMOs to provide direct patient access to appropriate specialist for screening for or evaluation or diagnosis of autism spectrum disorder; requires coverage for minimum number of visits per year.

Last Action: 03/05/2013 Introduced -HJ 55

Effective Date: July 1, 2013

CS/CS/CS/HB 465: Exceptional Student Education

GENERAL BILL by Education Committee ; Education Appropriations Subcommittee ; Choice and Innovation Subcommittee ; Brodeur ; Diaz ; (CO-INTRODUCERS) Gaetz ; McGhee ; Rangel ; Rodrigues

Exceptional Student Education; Provides requirements for parent meetings with school district personnel relating to ESE & services; provides terms relating to instructional settings; requires use of parental consent forms for actions in student's IEP; provides requirements for certain changes in IEP; encourages public & private instructional personnel collaboration; provides requirements for renewal of professional certificate relating to teaching students with disabilities.

Last Action: 04/11/2013 Placed on Calendar -HJ 578

Effective Date: July 1, 2013

CS/SB 1108: Exceptional Student Education - Similar

GENERAL BILL by Education ; [Gardiner](#) ; [Thrasher](#) ; (CO-INTRODUCER) [Ring](#)

Exceptional Student Education; Prohibiting certain actions with respect to parent meetings with school district personnel; requiring a school district to provide exceptional student education-related services to certain home education program students; requiring a district school board to provide parents with information regarding the funding the school district receives for exceptional student education; requiring the use of parental consent forms for specified actions in a student's individual education plan, etc.

Senate Committee References: [Education \(ED\)](#) , [Appropriations Subcommittee on Education \(AED\)](#) , [Appropriations \(AP\)](#)

Last Action: 04/22/2013 Placed on Calendar, on 2nd reading

Effective Date: July 1, 2013

CS/CS/HB 583: Estates

GENERAL BILL by Insurance and Banking Subcommittee ; Civil Justice Subcommittee ; Spano
Estates; Deletes provision that provides that information relating to state death tax credit or generation-skipping transfer credit is not applicable to estates of decedents dying after specified date; provides for retroactive effect & application; provides for retroactive effect & application; provides exception to property held by agents & fiduciaries; provides that property held by fiduciaries under trust instruments is presumed unclaimed; revises language regarding instruments governed by laws of different state; provides provisions relating to gifts to lawyers & other disqualified persons; requires custodian of will to supply testator's date of death or last four digits of testator's social security number;

provides original will submitted with pleading is considered to be deposited with clerk; requires clerk to retain & preserve original will in its original form for period of time; provides for in rem jurisdiction & personal jurisdiction over trustee, beneficiary, or other person; deletes provision referring to other methods of obtaining jurisdiction; provides methods of service of process in actions involving trusts & beneficiaries; repeals provisions relating to trust proceedings & dismissal of matters relating to foreign trusts; repeals provision relating to delegation of powers by trustee; clarifies duties of trustee.

Last Action: 04/03/2013 Placed on Calendar -HJ 414

Effective Date: October 1, 2013

CS/CS/SB 492: Estates - Similar

GENERAL BILL by Banking and Insurance ; Judiciary ; [Hukill](#)

Estates; Deleting a provision that provides that certain information relating to a state death tax credit or a generation-skipping transfer credit is not applicable to estates of decedents dying after a specific date; providing an exception to property held by agents and fiduciaries; providing that property held by fiduciaries under trust instruments is presumed unclaimed under certain circumstances; specifying that a certain subsection does not require a caveator to be served with formal notice of its own petition for administration; providing provisions relating to gifts to lawyers and other disqualified persons, etc.

Senate Committee References: [Judiciary \(JU\)](#) , [Banking and Insurance \(BI\)](#)

Last Action: 04/10/2013 In Messages

Effective Date: October 1, 2013

CS/SB 794: Medicaid Eligibility

GENERAL BILL by Children, Families, and Elder Affairs ; [Brandes](#)

Medicaid Eligibility; Providing conditions for the Department of Children and Families to evaluate an applicant's life insurance policy when determining eligibility for Medicaid services; authorizing the Agency for Health Care Administration to use federal or state funds under the Medicaid program to pay life insurance premiums of an applicant or recipient under certain circumstances; providing conditions for the owner of a life insurance policy to enter into a viatical settlement contract with a health care services provider for coverage of Medicaid long-term care services, etc.

Senate Committee References: [Children, Families, and Elder Affairs \(CF\)](#) , [Banking and Insurance \(BI\)](#) , [Appropriations Subcommittee on Health and Human Services \(AHS\)](#) , [Appropriations \(AP\)](#)

Last Action: 03/07/2013 CS by Children, Families, and Elder Affairs read 1st time -SJ 187

Effective Date: October 1, 2013

HB 535: Medicaid Eligibility - similar

GENERAL BILL by Patronis ; (CO-INTRODUCER) Van Zant

Medicaid Eligibility; Provides conditions for DCF to evaluate applicant's life insurance policy when determining eligibility for Medicaid services; authorizes AHCA to use federal or state funds under Medicaid program to pay life insurance premiums of an applicant or recipient; provides restrictions on sale, assignment, or transfer of ownership of life insurance policy for which state is named as beneficiary or which is collaterally assigned to state; provides conditions for owner of life insurance policy to enter into viatical settlement contract with health care services provider for coverage of Medicaid long-term care services; requires that all marketing materials, actuarial memoranda, & pricing methodologies used by viatical settlement provider be filed with & approved by OIR.

Last Action: 03/05/2013 Introduced -HJ 60

Effective Date: July 1, 2013

CS/HB 841: Powers of Attorney

GENERAL BILL by Judiciary Committee ; Powell ; (CO-INTRODUCERS) Berman ; Spano

Powers of Attorney; Provides additional exceptions to applicability of specified power of attorney provisions; provides that an original power of attorney may be recorded in official records; adds exceptions to provision that prohibits agent who has accepted appointment from delegating authority to third person; authorizes third person to require an agent to execute affidavit stating that agent's authority was not terminated because of certain circumstances; revises form for affidavits; requires third person who rejects power of attorney for certain reasons to state reason for rejection in writing; provides for notice to broker-dealer; revises provisions relating to when notary may sign principal's name to documents; clarifies that certain gift amounts are based on calendar year; specifies that broker-dealer does not have duty to inquire into certain actions by an agent & is not liable for relying in good faith on an agent's actions; provides that agent acquires general authority regarding securities held by broker-dealer.

Senate Committee References: Judiciary (JU), Governmental Oversight and Accountability (GO), Rules (RC)

Last Action: 04/15/2013 Received -SJ 435

Effective Date: upon becoming a law

SB 832: Powers of Attorney - Similar

GENERAL BILL by [Joyner](#)

Powers of Attorney; Authorizing a notary public to sign the principal's name to the power of attorney under certain circumstances; providing that an original power of attorney, rather than a photocopy or electronic copy, may be required under certain circumstances; providing that an original power of attorney may be presented for recording in the official records for a fee; adding exceptions to a provision that prohibits an agent who has accepted appointment from delegating authority to a third person, etc.

Senate Committee References: [Judiciary \(JU\)](#), [Governmental Oversight and Accountability \(GO\)](#), [Rules \(RC\)](#)

Last Action: 03/07/2013 Now in Governmental Oversight and Accountability -SJ 156

Effective Date: Upon becoming a law.

CS/CS/HB 939: Medicaid Recoveries

GENERAL BILL by Health and Human Services Committee ; Health Innovation Subcommittee ; Pigman
Medicaid Recoveries; Increases number of years provider must keep records; requires change in principal to be reported by Medicaid provider to AHCA; revises provisions relating to AHCA's onsite inspection responsibilities; revises provisions relating to background screening; revises provisions relating to settlements of Medicaid claims; provides procedures for contesting amount of medical expense damages; provides conditions regarding admissible evidence, venue, & attorney fees & costs; revises grounds for terminating provider from program, for seeking certain remedies for violations, & for imposing certain sanctions; provides limitation on information AHCA may consider when making determination of overpayment; specifies records provider must present to contest overpayment; clarifies provision regarding accrued interest on certain payments withheld from a provider; deletes requirement that agency place payments withheld from provider in suspended account & revising when provider must reimburse overpayments; revises membership requirements for Medicaid & Public Assistance Fraud Strike Force within DFS & provides for future review & repeal; amends provisions relating to interagency agreements to detect & deter Medicaid & public assistance fraud & provides for future review & repeal.

Last Action: 04/19/2013 Placed on Special Order Calendar, 04/23/13

Effective Date: July 1, 2013

HB 941: Fees and Costs Incurred in Guardianship Proceedings

GENERAL BILL by Schwartz

Fees and Costs Incurred in Guardianship Proceedings; Provides that fees & costs incurred by attorney who has rendered services to ward in compensation proceedings are payable from guardianship assets; provides that expert testimony is unnecessary in proceedings to determine compensation for attorney or guardian; provides that court may appoint guardian ad litem to minor if necessary to protect minor's interests in settlement; provides that settlement of minor's claim is subject to certain confidentiality provisions; directs that examining committee be paid from state funds as court-appointed expert witnesses if petition for incapacity is dismissed; requires that petitioner reimburse state for expert witness fees if court finds petition to have been filed in bad faith.

Senate Committee References: Judiciary (JU), Children, Families, and Elder Affairs (CF), Appropriations Subcommittee on Criminal and Civil Justice (ACJ), Appropriations (AP)

Last Action: 04/15/2013 Received -SJ 435

Effective Date: upon becoming a law

SB 590: Fees and Costs Incurred in Guardianship Proceedings

GENERAL BILL by [Joyner](#)

Fees and Costs Incurred in Guardianship Proceedings; Providing that fees and costs incurred by an attorney who has rendered services to a ward in compensation proceedings are payable from guardianship assets; directing that the examining committee be paid from state funds as court-appointed expert witnesses if a petition for incapacity is dismissed; requiring that a petitioner reimburse the state for expert witness fees if the court finds the petition to have been filed in bad faith, etc.

Senate Committee References: [Judiciary \(JU\)](#), [Children, Families, and Elder Affairs \(CF\)](#), [Appropriations Subcommittee on Criminal and Civil Justice \(ACJ\)](#), [Appropriations \(AP\)](#)

Last Action: 04/15/2013 Now in Appropriations Subcommittee on Criminal and Civil Justice -SJ 476

Effective Date: Upon becoming law and shall apply to all proceedings pending on that date.

CS/HB 995: Conveyances of Real Property

GENERAL BILL by Civil Justice Subcommittee ; Broxson ; (CO-INTRODUCER) Campbell

Conveyances of Real Property; Provides that specified period after recording of certain instruments from which it appears that person owning real property attempted to convey, affect, or devise property, instrument shall be held to have its purported effect; provides that power of attorney validated under

this provision is only valid for purpose of effectuating instrument with which it was recorded; provides period for making claim or defense in court to determine validity or invalidity of instrument that may be affected by amendments made by this act.

Last Action: 03/28/2013 Placed on Calendar -HJ 373

Effective Date: October 1, 2013

CS/CS/HB 1109: Transitional Living Facilities

GENERAL BILL by Health and Human Services Committee ; Health Innovation Subcommittee ; Magar
Transitional Living Facilities; Provides requirements for transitional living facilities including license applications, applications and fees, client admission, transfer, & discharge, individual treatment plans & client services, provider responsibilities, medication practices, client safety, background screening, property & personal affairs of clients, & receivership proceedings; provides criminal penalties for violations; provides rulemaking authority; provides for classification of deficiencies; requires AHCA to develop electronic systems for certain purposes; repeals provisions relating to transitional living facilities.

Last Action: 04/19/2013 Placed on Special Order Calendar, 04/23/13

Effective Date: July 1, 2013

HB 1119: Intellectual Disabilities

GENERAL BILL by Adkins ; (CO-INTRODUCERS) Ahern ; Berman ; Cummings ; Fasano ; Ford ; Gibbons ; Goodson ; Hager ; Harrell ; Hood ; Jones ; Kerner ; LaRosa ; Lee ; Mayfield ; Moskowitz ; Pafford ; Patronis ; Perry ; Pigman ; Pritchett ; Raburn ; Rader ; Raschein ; Renuart ; Rodrigues ; Rooney ; Van Zant

Intellectual Disabilities; Substitutes Arc of Florida for Association for Retarded Citizens for purposes of certain proceedings relating to children; substitutes term "intellectual disability" for "mental retardation"; clarifies in specified provisions that meaning of terms "intellectual disability" or "intellectually disabled" is same as meaning of terms "mental retardation," "retarded," & "mentally retarded" for purposes of matters relating to criminal laws & court rules.

Last Action: 04/09/2013 Placed on Calendar -HJ 453

Effective Date: July 1, 2013

CS/HB 1323: Medicaid Eligibility

GENERAL BILL by Health Innovation Subcommittee ; Nunez ; (CO-INTRODUCERS) Ahern ; Steube

Medicaid Eligibility; Provides asset transfer limitations for determination of eligibility for certain nursing facility services under Medicaid program after specified date; requires DCF to determine institutional spouse ineligible for Medicaid under certain circumstances; authorizes Agency for Health Care Administration to recover certain Medicaid expenses; authorizes DCF to adopt rules.

Last Action: 04/02/2013 Placed on Calendar -HJ 406

Effective Date: upon becoming a law

SB 1346: Medicaid Managed Care - LIKELY DEAD

GENERAL BILL by [Montford](#)

Medicaid Managed Care; Providing an exemption from mandatory enrollment in managed care for children residing in certain licensed residential programs approved by the Department of Children and Families, etc.

Senate Committee References: [Health Policy \(HP\)](#) , [Children, Families, and Elder Affairs \(CF\)](#) , [Appropriations Subcommittee on Health and Human Services \(AHS\)](#) , [Appropriations \(AP\)](#)

Last Action: 03/05/2013 Introduced -SJ 100

Effective Date: July 1, 2013

HB 1195: Medicaid Managed Care - Identical

GENERAL BILL by Pritchett ; (CO-INTRODUCERS) Porter ; Steube

Medicaid Managed Care; Provides exemption from mandatory enrollment in managed care for children residing in certain licensed residential programs approved by DCF.

Last Action: 03/26/2013 On Committee agenda-- Health Innovation Subcommittee, 03/28/13, 8:00 am, 306 HOB --Not considered

Effective Date: July 1, 2013

HB 1351: Care of Children in Nursing Home Facilities

GENERAL BILL by Davis

Care of Children in Nursing Home Facilities; Requires AHCA, in collaboration with DOH's Division of Children's Medical Services, to adopt rules for care of children in Children's Special Care Centers;

provides licensure requirements for such facilities; provides requirements relating to child's individualized care plan.

Last Action: 03/08/2013 Referred to Health Innovation Subcommittee; Health Care Appropriations Subcommittee; Health and Human Services Committee -HJ 213

Effective Date: July 1, 2013

CS/SB 1748: Medicaid Eligibility

GENERAL BILL by Children, Families, and Elder Affairs ; [Evers](#)

Medicaid Eligibility; Requiring the Department of Children and Families to review financial transactions affecting eligibility; exempting the value of a Medicaid applicant's life insurance policy, annuity, or group certificate from the determination of the applicant's Medicaid eligibility under certain circumstances; authorizing a state agency to delay implementation of certain provisions if a federal waiver or authorization is required; specifying limitations, etc.

Senate Committee References: [Children, Families, and Elder Affairs \(CF\)](#), [Appropriations Subcommittee on Health and Human Services \(AHS\)](#), [Appropriations \(AP\)](#)

Last Action: 04/18/2013 Now in Appropriations

Effective Date: July 1, 2013

Federal Update:

ABLE Act - Achieving a Better Life Experience

<http://beta.congress.gov/bill/113th-congress/house-bill/647>

[Introduced in House \(02/13/2013\)](#)

[Congressional Bills 113th Congress]
[From the U.S. Government Printing Office]
[H.R. 647 Introduced in House (IH)]

113th CONGRESS
1st Session

H. R. 647

To amend the Internal Revenue Code of 1986 to provide for the tax treatment of ABLE accounts established under State programs for the

care of family members with disabilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

February 13, 2013

Mr. Crenshaw (for himself, Mr. Van Hollen, Mrs. McMorris Rodgers, Mr. Sessions, Mr. Runyan, Mr. Mica, Ms. Tsongas, Mr. Coffman, Mr. Roe of Tennessee, Mr. Cooper, Mr. Moran, Mr. Harper, Mr. Connolly, Mr. Sarbanes, Ms. Clarke, Mr. Larsen of Washington, Mr. Gerlach, Mr. Larson of Connecticut, Mr. Carson of Indiana, Mr. Tonko, Mr. Cicilline, Mr. Ryan of Ohio, Mr. Young of Florida, Mr. Holt, Mrs. Capps, Mr. Bachus, Mr. McGovern, Ms. Bonamici, Mr. Matheson, Mr. Miller of Florida, Mr. Nunnelee, Mr. Stivers, Mr. Womack, Ms. Herrera Beutler, Mr. Johnson of Ohio, Mrs. Davis of California, Mr. Courtney, Mr. King of New York, Mrs. Hartzler, Mr. McKinley, Mr. Smith of New Jersey, Mr. Vela, Mr. Wolf, Mrs. Capito, Mr. Yarmuth, Ms. Brownley of California, Mr. Yoder, Mr. Rooney, Mr. Marchant, Mrs. Brooks of Indiana, Ms. Norton, Mrs. Bachmann, Mr. Honda, Mr. Meehan, Mr. Benishek, Mr. Poe of Texas, Mr. Welch, Mr. Walberg, and Mr. Deutch) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to provide for the tax treatment of ABLE accounts established under State programs for the care of family members with disabilities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ``Achieving a Better Life Experience Act of 2013'' or the ``ABLE Act of 2013''.

SEC. 2. PURPOSES.

The purposes of this Act are as follows:

(1) To encourage and assist individuals and families in saving private funds for the purpose of supporting individuals with disabilities to maintain health, independence, and quality of life.

(2) To provide secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that 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.

SEC. 3. ABLE ACCOUNTS.

(a) Establishment.--

(1) In general.--Section 529 of the Internal Revenue Code of 1986 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

``(f) ABLE Accounts.--

``(1) General rules.--For purposes of any other provision of law with respect to a qualified ABLE program and an ABLE account, except as otherwise provided in this subsection--

``(A) a qualified ABLE program and an ABLE account shall be treated in the same manner as a qualified tuition program and an account described in subsection (b)(1)(A)(ii), respectively, are treated,

``(B) qualified disability expenses with respect to a program or account described in subparagraph (A) shall be treated in the same manner as qualified higher education expenses are treated, and

``(C) maximum contributions shall be no higher than the limit established by the State for their regular 529 account.

``(2) Qualified able program.--For purposes of this subsection, the term 'qualified ABLE program' means a program established and maintained by a State or agency or instrumentality thereof--

``(A) under which a person may make contributions to an ABLE account which is established for the purpose of meeting the qualified disability expenses of the designated beneficiary of the account,

``(B) which meets the requirements of the preceding subsections of this section (as modified by this subsection), determined by substituting--

``(i) 'qualified ABLE program' for

'qualified tuition program', and

``(ii) 'ABLE account' for 'account', and

``(C) which meets the other requirements of this subsection.

``(3) Qualified disability expenses.--For purposes of this subsection--

``(A) In general.--The term 'qualified disability expenses' means any expenses which are made for the benefit of an individual with a disability who is a designated beneficiary.

``(B) Expenses included.--The following expenses shall be qualified disability expenses if such expenses are made for the benefit of an individual with a disability who is a designated beneficiary and are related to such disability:

``(i) Education.--Expenses for education, including tuition for preschool thru post-secondary education, which shall include higher education expenses (as defined by subsection (e)(3)) and expenses for books, supplies, and educational materials related to preschool and secondary education, tutors, and special education services.

``(ii) Housing.--Expenses for a primary residence, including rent, purchase of a primary residence or an interest in a primary residence, mortgage payments, real property taxes, and utility charges.

``(iii) Transportation.--Expenses for

transportation, including the use of mass transit, the purchase or modification of vehicles, and moving expenses.

``(iv) Employment support.--Expenses related to obtaining and maintaining employment, including job-related training, assistive technology, and personal assistance supports.

``(v) Health, prevention, and wellness.--Expenses for health and wellness, including premiums for health insurance, mental health, medical, vision, and dental expenses, habilitation and rehabilitation services, durable medical equipment, therapy, respite care, long term services and supports, nutritional management, communication services and devices, adaptive equipment, assistive technology, and personal assistance.

``(vi) Miscellaneous expenses.--Financial management and administrative services; legal fees; expenses for oversight; monitoring; home improvements, and modifications, maintenance and repairs, at primary residence; or funeral and burial expenses.

``(vii) Assistive technology and personal support services.--Expenses for assistive technology and personal support with respect to any item described in clauses (i) through (vi).

``(viii) Other approved expenses.--Any other expenses which are approved by the Secretary under regulations and consistent with the purposes of this section.

``(C) Individual with a disability.--

``(i) In general.--Except as provided in clause (ii), an individual is an individual with a disability for a year if the individual (regardless of age)--

``(I) has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 month, or

``(II) is blind.

``(ii) Disability certification required.--An individual shall not be treated as an individual with a disability for a year unless the individual--

``(I) is receiving (or, for purposes of title XIX of the Social Security Act, is deemed to be, or treated as, receiving by the State Medicaid Agency) benefits under the supplemental security income program under title XVI of such Act, or whose benefits under such program are suspended other than by reason of misconduct,

``(II) is receiving disability benefits under title II of such Act, or

``(III) files a disability

certification with the Secretary for such year.

``(iii) Disability certification defined.--The term 'disability certification' means, with respect to an individual, a certification to the satisfaction of the Secretary by the designated beneficiary or the parent or guardian of the designated beneficiary that--

``(I) the individual meets the criteria described in clause (i), and
``(II) includes a copy of the designated beneficiary's diagnosis, signed by a physician meeting the criteria of section 1861(r)(1) of the Social Security Act.

``(iv) Restriction on use of certification.--No inference may be drawn from a disability certification for purposes of establishing eligibility for benefits under title II, XVI, or XIX of the Social Security Act.

``(4) Rollovers from able accounts.--Subsection (c)(3)(A) shall not apply to any amount paid or distributed from an ABLE account to the extent that the amount received is paid, not later than the 60th day after the date of such payment or distribution, into--

``(A) another ABLE account for the benefit of--
``(i) the same beneficiary, or
``(ii) an individual with a disability who is a family member of the beneficiary,
``(B) any trust which is described in subparagraph (A) or (C) of section 1917(d)(4) of the Social Security Act and which is for the benefit of an individual described in clause (i) or (ii) of subparagraph (A), or
``(C) a qualified tuition program--
``(i) for the benefit of the designated beneficiary, or
``(ii) to the credit of another designated beneficiary under a qualified tuition program who is a member of the family of the designated beneficiary with respect to which the distribution was made.

The preceding sentence shall not apply to any payment or distribution if it applied to any prior payment or distribution during the 12-month period ending on the date of the payment or distribution.

``(5) Transfer to state.--Subject to any outstanding payments due for qualified disability expenses, in the case that the designated beneficiary dies or ceases to be an individual with a disability, all amounts remaining in the qualified ABLE account not in excess of the amount equal to the total medical assistance paid for the designated beneficiary after the establishment of the account, net of any premiums paid from the account or paid by or on behalf of the beneficiary to a Medicaid Buy-In program, under any State Medicaid plan established under title XIX of the Social Security Act shall be distributed to such State upon filing of a claim for payment by such State. For purposes of this paragraph, the State shall be a creditor of an ABLE account and not a beneficiary. Subsection (c)(3) shall not apply to a distribution under the preceding sentence.

``(6) Regulations.--Not later than 6 months after the date of the enactment of this section, the Secretary may prescribe

such regulations or other guidance as the Secretary determines necessary or appropriate to carry out the purposes of this section, including regulations to prevent fraud and abuse with respect to amounts claimed as qualified disability expenses.''.

(2) Conforming amendment.--Paragraph (2) of section 6693(a) of the Internal Revenue Code of 1986 such Code is amended by striking ``and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ``and'', and by inserting after subparagraph (E) the following new subparagraph:

``(F) section 529(d) by reason of 529(f) (relating to ABLE accounts).''.

(b) Annual Reports.--

(1) In general.--The Secretary of the Treasury shall report annually to Congress on the usage of ABLE accounts under section 529(f) of the Internal Revenue Code of 1986.

(2) Contents of report.--Any report under paragraph (1) may include--

- (A) the number of people with an ABLE account,
- (B) the total amount of contributions to such accounts,
- (C) the total amount and nature of distributions from such accounts,
- (D) issues relating to the abuse of such accounts, if any, and
- (E) the amounts repaid from such accounts to State Medicaid programs established under title XIX of the Social Security Act.

(c) Effective Date.--The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4. TREATMENT OF ABLE ACCOUNTS UNDER CERTAIN FEDERAL PROGRAMS.

(a) Account Funds Disregarded for Purposes of Certain Other Means-Tested Federal Programs.--Notwithstanding any other provision of Federal law that requires consideration of 1 or more financial circumstances of an individual, for the purpose of determining eligibility to receive, or the amount of, any assistance or benefit authorized by such provision to be provided to or for the benefit of such individual, any amount (including earnings thereon) in any ABLE account (as defined in section 529(f) of the Internal Revenue Code of 1986) of such individual, and any distribution for qualified disability expenses (as defined in paragraph (3) of such section) shall be disregarded for such purpose with respect to any period during which such individual maintains, makes contributions to, or receives distributions from such ABLE account, except that, in the case of the supplemental security income program under title XVI of the Social Security Act, a distribution for housing expenses (as defined in subparagraph (B)(ii) of such paragraph) shall not be so disregarded, and in the case of such program, only the 1st \$100,000 of the amount (including such earnings) in such ABLE account shall be so disregarded.

(b) Suspension of SSI Benefits During Periods of Excessive Account Funds.--

(1) In general.--The benefits of an individual under the supplemental security income program under title XVI of the Social Security Act shall not be terminated, but shall be suspended, by reason of excess resources of the individual attributable to an amount in the ABLE account (as defined in section 529(f) of the Internal Revenue Code of 1986) of the individual not disregarded under subsection (a) of this section.

(2) No impact on medicaid eligibility.--An individual who

would be receiving payment of such supplemental security income benefits but for the application of the previous sentence shall be treated for purposes of title XIX of the Social Security Act as if the individual continued to be receiving payment of such benefits.

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f. Reimbursements to a third party

Reimbursements made from the trust to a third party for funds expended on behalf of the trust beneficiary are not income. In addition, reimbursements from the trust to pay a credit card belonging to a third party for purchases made for the trust beneficiary are not income.

Existing income and resource rules apply to items a trust beneficiary receives from a third party. If a trust beneficiary receives a non-cash item (other than food or shelter), it is in-kind income if the item would not be a partially or totally excluded non-liquid resource if retained into the month after the month of receipt. If a trust beneficiary receives food or shelter, it is income in the form of in-kind support and maintenance (ISM).

Subjects believed to be under consideration by Social Security:

Currently, SSA is working on new language to clarify that special needs trusts may pay for third party travel expenses under the following circumstances:

- to accompany the beneficiary to seek medical treatment and
 - to allow third parties to visit a beneficiary who is living in certain settings, to ensure his/her safety and medical well-being.
- ☐ Anticipate these provisions to be published shortly.

SSA will propose regulations for certain other POMS changes such as:

- Third party travel expenses for circumstances other than those related to medical treatment or oversight of safety and medical well-being.
- Payment of certain legal obligations of the beneficiary from trust considered to be for the benefit/sole benefit of the beneficiary.