

By the Committee on Children, Families, and Elder Affairs; and  
Senator Peadar

586-03226-10

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1                   A bill to be entitled  
2           An act relating to the Developmental Disabilities  
3           Savings Program; creating the Services for Children  
4           with Developmental Disabilities Task Force; requiring  
5           the task force to develop recommendations and a plan  
6           for the creation of, and enrollment in, the  
7           Developmental Disabilities Savings Program; providing  
8           for membership of the task force; requiring the Agency  
9           for Persons with Disabilities to provide  
10          administrative support to the task force; requiring  
11          the task force to submit its plan and recommendations  
12          to the Legislature; providing for abolishment of the  
13          task force; creating the Developmental Disabilities  
14          Savings Program; providing legislative findings and  
15          intent; providing definitions; providing requirements  
16          for the program; providing requirements that must be  
17          met prior to implementation of the program; providing  
18          for construction; providing an effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

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22           Section 1. Services for Children with Developmental  
23 Disabilities Task Force.—The Services for Children with  
24 Developmental Disabilities Task Force is created to make  
25 recommendations and develop a plan for the creation of, and  
26 enrollment in, the Developmental Disabilities Savings Program.

27           (1) The task force shall consist of the following members:

28           (a) A member of the House of Representatives appointed by  
29 the Speaker of the House of Representatives.

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30 (b) A member of the Senate appointed by the President of  
31 the Senate.

32 (c) The director of the Agency for Persons with  
33 Disabilities.

34 (d) The director of the Division of Vocational  
35 Rehabilitation.

36 (e) The executive director of the State Board of  
37 Administration.

38 (f) The Commissioner of Education.

39 (g) The executive director of The Arc of Florida.

40 (h) An Arc of Florida family board member appointed by the  
41 executive director of The Arc of Florida.

42 (i) The chair of the Family Care Council Florida.

43 (j) A parent representative from the Family Care Council  
44 Florida appointed by the chair of the Family Care Council  
45 Florida.

46 (2) The Agency for Persons with Disabilities shall provide  
47 administrative support to the task force.

48 (3) Members of the task force shall serve without  
49 compensation but are entitled to reimbursement for per diem and  
50 travel expenses as provided in s. 112.061, Florida Statutes.

51 (4) The task force shall submit its recommendations and  
52 plan to the President of the Senate and the Speaker of the House  
53 of Representatives when it has completed its task or April 2,  
54 2012, whichever occurs first.

55 (4) The task force shall continue until enrollment in the  
56 Developmental Disabilities Savings Program has commenced, at  
57 which time the task force is abolished or June 31, 2013,  
58 whichever occurs first.

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59           Section 2. Developmental Disabilities Savings Program.—

60           (1) LEGISLATIVE INTENT.—

61           (a) The Legislature recognizes the need to provide  
62 opportunities for increased access to services, at the  
63 discretion of the family, for those families who have children  
64 with developmental disabilities. The years after a student who  
65 has a developmental disability ages out of the education system  
66 are critical for learning and transitioning. The Legislature  
67 finds that the creation of a savings program for such families  
68 can offer future accessibility to services, regardless of  
69 income, insurance, or Medicaid eligibility.

70           (b) It is the intent of the Legislature that a  
71 developmental disabilities savings program that includes a  
72 contract plan be established through which many of the costs  
73 associated with children who have developmental disabilities who  
74 age out of the education system may be paid or saved for in  
75 advance. It is the intent that a developmental disabilities  
76 savings program be conducted in a manner that maximizes program  
77 efficiency and effectiveness.

78           (2) DEFINITIONS.—As used in this section, the term:

79           (a) "Contract plan" means the advance payment plan under  
80 the Developmental Disabilities Savings Program that provides the  
81 opportunity for a purchaser to enter into an advance payment  
82 contract to provide funds that a purchaser may use for future or  
83 other eligible services for a qualified beneficiary.

84           (b) "Developmental disability" means a disability defined  
85 in s. 393.063, Florida Statutes, or a severe, chronic disability  
86 that:

87           1. Is attributable to a mental or physical impairment or a

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88 combination of those impairments.

89 2. Occurs before the individual reaches 18 years of age.

90 3. Is likely to continue indefinitely.

91 4. Results in substantial functional limitations in three  
92 or more of the following areas of major life activity: self-  
93 care, receptive and expressive language, learning, mobility,  
94 self-direction, capacity for independent living, or economic  
95 self-sufficiency.

96 5. Reflects the individual's need for a combination and  
97 sequence of special, interdisciplinary, or generic services,  
98 individualized supports, or other forms of assistance that are  
99 of lifelong or extended duration and are individually planned  
100 and coordinated.

101 6. For a child younger than 10 years of age, is likely to  
102 meet the criteria in subparagraphs 1.-5. without intervention.

103 (c) "Eligible services" means:

104 1. Specific services that may include respite care,  
105 provision of rehabilitation and habilitation services, assistive  
106 technology, personal assistance services, counseling, support  
107 for families headed by aging caregivers, vehicular and home  
108 modifications, and assistance with extraordinary expenses  
109 associated with the needs of individuals with developmental  
110 disabilities.

111 2. Health-related services that may include medical,  
112 dental, mental health, and other human and social services to  
113 enhance the well-being of the individual, as well as durable and  
114 consumable medical supplies.

115 3. Housing-related services that may result in individuals  
116 with developmental disabilities having access to and use of

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117 housing and housing supports and services in their communities,  
118 including assistance related to renting, owning, or modifying an  
119 apartment or home.

120 4. Education-related services such as attendance in a  
121 training or educational setting, technology, and personnel-  
122 related services that assist in obtaining and maximizing the  
123 educational experience.

124 5. Employment-related services that are necessary to assist  
125 the individual in meeting essential job functions through  
126 technology, personnel-related expenses, and transportation  
127 expenses.

128 (d) "Internal Revenue Code" means the Internal Revenue Code  
129 of 1986, as defined in s. 220.03, Florida Statutes, and  
130 regulations adopted thereunder.

131 (e) "Purchaser" means a parent or grandparent who is a  
132 resident of the state who makes or is obligated to make advance  
133 payments for eligible services in accordance with a contract  
134 plan for his or her child or grandchild or a nonresident,  
135 noncustodial parent who makes or is obligated to make advance  
136 payments for eligible services in accordance with a contract  
137 plan for his or her child.

138 (f) "Qualified beneficiary" means a person with a  
139 developmental disability who is a resident of the state and who  
140 is under 22 years of age at the time a purchaser enters into an  
141 advance payment contract.

142 (g) "Savings program" means the Developmental Disabilities  
143 Savings Program.

144 (3) SAVINGS PROGRAM.—the Developmental Disabilities Savings  
145 Program is created. The program must:

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146 (a) The savings program shall provide a contract plan  
147 through which eligible services for individuals with  
148 developmental disabilities may be paid in advance.

149 (b) The program shall provide education and training  
150 concerning the savings program and its benefits for individuals  
151 who have developmental disabilities to advance their goals and  
152 become contributing members of society.

153 (c) Inform the purchaser of the potential effect of advance  
154 payment contracts offered under the savings program on  
155 eligibility for Medicaid or other state or federally funded  
156 programs.

157 (4) IMPLEMENTATION.—The savings program may not be  
158 implemented until it has obtained all of the following:

159 (a) A written opinion of qualified counsel specializing in  
160 federal securities law that the savings program and the offering  
161 of participation in the savings program does not violate federal  
162 securities law.

163 (b) A private letter ruling from the Internal Revenue  
164 Service, indicating that moneys deposited according to contract  
165 plans and payments made according to the contract plan pursuant  
166 to the savings program are tax deferred under the Internal  
167 Revenue Code. If the Internal Revenue Service declines to rule  
168 on the request, the program may rely on legal opinion rendered  
169 by a qualified attorney specializing in tax law.

170 (5) CONSTRUCTION.—The savings program may not be construed  
171 as a promise or guarantee that a qualified beneficiary or a  
172 designated beneficiary will become Medicaid eligible, receive  
173 permanent services, be enrolled in the Medicaid waiver program,  
174 or receive any other state or federal assistance.

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Section 3. This act shall take effect July 1, 2010.