

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 428 Session of 2013

INTRODUCED BY COSTA, BREWSTER, GREENLEAF, BROWNE, MENSCH, HUGHES, WASHINGTON, FERLO, WAUGH, BLAKE, TARTAGLIONE AND SCHWANK, FEBRUARY 5, 2013

AS AMENDED ON THIRD CONSIDERATION, JUNE 16, 2014

AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 pooled trusts for persons with disabilities.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 7799.3 heading and subsections (f) and
7 (h) of Title 20 of the Pennsylvania Consolidated Statutes are
8 amended to read:

9 § 7799.3. Pooled trusts for [persons] individuals with
10 disabilities.

11 * * *

12 (f) Notice.--The Office of Attorney General and the
13 Department of Public Welfare shall make available information on
14 the treatment of pooled trusts for the [persons] individuals
15 with disabilities in the medical assistance program.

16 * * *

17 (h) Definitions.--As used in this section, the following
18 words and phrases shall have the meanings given to them in this

1 subsection:

2 "Beneficiary." An individual with a disability who has the
3 right to receive services and benefits of a pooled trust.

4 "Board." A group of persons vested with the management of
5 the business affairs of a trustee.

6 "Disability." A physical or mental impairment as defined in
7 section 1614 of the Social Security Act (49 Stat. 620, 42 U.S.C.
8 § 1382c).

9 "Pooled trust." A trust which meets all of the following:

10 (1) The trust contains assets of more than one
11 beneficiary.

12 (2) Each beneficiary [has] is an individual with a
13 disability.

14 (3) The trust is managed by a nonprofit corporation.

15 (4) A separate account is maintained for each
16 beneficiary of the trust, but, for purposes of investment and
17 management of funds, the trust pools these accounts. Accounts
18 in the trust may be established by the parent, grandparent or
19 legal guardian of the individual with a disability, by the
20 individual with a disability or by a court.

21 (5) [Upon the death of a beneficiary or upon the earlier <--
22 termination of the trust, amounts remaining in the
23 beneficiary's account must be distributed in accordance with
24 one of the following:

25 (i) The trust may retain up to 50% of the remaining
26 balance for the benefit of other beneficiaries ~~or other~~ <--
27 ~~individuals with disabilities~~. The remaining 50% of the
28 balance must be reimbursed to the Commonwealth and any
29 other state that provided medical assistance up to an
30 amount equal to the total amount of medical assistance

1 paid on behalf of the beneficiary.

2 (ii) The amounts must be used to reimburse the
3 Commonwealth and any other state that provided medical
4 assistance up to an amount equal to the total amount of
5 medical assistance paid on behalf of the beneficiary.] TO <--
6 THE EXTENT THAT AMOUNTS REMAINING IN THE BENEFICIARY'S
7 ACCOUNT UPON THE DEATH OF THE BENEFICIARY ARE NOT
8 RETAINED BY THE TRUST, THE TRUST PAYS FROM THE REMAINING
9 AMOUNTS IN THE ACCOUNT TO THE COMMONWEALTH AND ANY OTHER
10 STATE THAT PROVIDED MEDICAL ASSISTANCE AN AMOUNT EQUAL TO
11 THE TOTAL AMOUNT OF MEDICAL ASSISTANCE PAID ON BEHALF OF
12 THE BENEFICIARY.

13 "Trustee." A nonprofit organization that manages a pooled
14 trust.

15 Section 2. This act shall take effect in 60 days.