

**SUBJECT:** Expanding eligible participants for the Texas ABLE program

**COMMITTEE:** Pensions, Investments and Financial Services — favorable, without amendment

**VOTE:** 8 ayes — Murphy, Vo, Capriglione, Flynn, Gervin-Hawkins, Lambert, Stephenson, Wu

1 nay — Gutierrez

2 absent — Leach, Longoria

**SENATE VOTE:** On final passage, April 23 — 31-0

**WITNESSES:** For — (*Registered, but did not testify:* Chris Masey, Coalition of Texans with Disabilities)

Against — None

On — (*Registered, but did not testify:* Linda Fernandez, Comptroller of Public Accounts)

**BACKGROUND:** Education Code ch. 54, subch. J governs the Texas Achieving a Better Life Experience (ABLE) program, which encourages and assists individuals and families in saving funds for the purpose of supporting individuals with disabilities to maintain their health, independence, and quality of life.

Sec. 54.910(b) provides for cases in which the designated beneficiary of an ABLE savings account is a minor by establishing that in those cases a parent, custodian, or other fiduciary appointed for the purpose of managing the minor's financial affairs may participate in the ABLE program on the beneficiary's behalf.

Interested observers have expressed concern that this statute could be interpreted to imply that a legal guardian or agent under a power of

attorney would be excluded from opening a Texas ABLE account for an adult beneficiary. They also note that the statute does not explicitly allow a court-appointed guardian to establish a Texas ABLE account for an eligible ward.

**DIGEST:**

SB 1184 would expand eligibility for the Texas ABLE program by authorizing the parent, legal guardian, or other fiduciary of any designated beneficiary who was not able or chose not to exercise signature authority over a program savings account to participate in the program on behalf of the beneficiary.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.