

LEGISLATIVE BILL 705

Approved by the Governor August 06, 2020

Introduced by Murman, 38.

A BILL FOR AN ACT relating to the achieving a better life experience program; to amend section 77-1403, Reissue Revised Statutes of Nebraska; to provide for distribution of accounts upon death; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 77-1403, Reissue Revised Statutes of Nebraska, is amended to read:

77-1403 (1) Unless otherwise permitted under section 529A, the owner of an account shall be the designated beneficiary of the account, except that if the designated beneficiary of the account is a minor or has a custodian or other fiduciary appointed for the purposes of managing such beneficiary's financial affairs, a custodian or fiduciary for such designated beneficiary may serve as the account owner if such form of ownership is permitted or not prohibited under section 529A.

(2) Unless otherwise permitted under section 529A, the designated beneficiary of an account shall be a resident of the state or of a contracting state. The State Treasurer shall determine residency of Nebraska residents for such purpose in such manner as may be required or permissible under section 529A or, in the absence of any guidance under section 529A, by such other means as the State Treasurer shall consider advisable for purposes of satisfying the requirements of section 529A.

(3) To the extent permitted by federal law, upon the death of a designated beneficiary of an account, the owner of the account or the personal representative of the designated beneficiary may have the balance of the account transferred to another account under the program specified by the owner of the account, the designated beneficiary, or the estate of the designated beneficiary.

(4) At the time an account is established under the program and prior to any transfer pursuant to subsection (3) of this section, the State Treasurer shall notify the owner of the account, the designated beneficiary, and the estate of the designated beneficiary, if applicable, of the potential tax consequences of transferring funds pursuant to subsection (3) of this section.

(5) Upon the death of a designated beneficiary and after the Department of Health and Human Services has received approval from the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services:

(a) The state shall not seek recovery of any amount remaining in the account of the designated beneficiary for any amount of medical assistance received by the designated beneficiary or his or her spouse or dependent under the medical assistance program pursuant to the Medical Assistance Act after the establishment of the account; and

(b) The state shall not file a claim for the payment under subdivision (f) of section 529A of the Internal Revenue Code, as amended.

Sec. 2. Original section 77-1403, Reissue Revised Statutes of Nebraska, is repealed.