

COMMITTEE BILL ANALYSIS

Bill: Senate Bill 428

Printer's No.: 359

Sponsor: Senator Costa

Prepared by: Gregg Warner

Synopsis: This legislation amends the Probate, Estates and Fiduciaries Code, Title 20 of the Pennsylvania Consolidated Statutes, relating to pooled trusts for persons with disabilities.

Summary: The bill amends section 7799.3 of the Probate, Estates and Fiduciaries Code to allow for some of the residual funds from a beneficiary's account within a pooled trust to be distributed upon the beneficiary's death to other individuals with disabilities in need of services. Currently, a trust may retain up to 50% of the remaining balance for the benefit of other beneficiaries.

The remaining 50% must be reimbursed to the Commonwealth and any other state that provided medical assistance up to an amount equal to the total amount of medical assistance paid on behalf of the beneficiary.

This bill adds the phrase "or other individuals with disabilities" to the provision for the portion the trust is permitted to keep and would not affect the portion that goes back to the Commonwealth.

Effective date

This act takes effect in 60 days.

Background: According to the sponsor "This measure would allow the governing board of pooled trusts to further assist disabled individuals in their communities who desperately need support and services that are on long waiting lists and who have no other place to turn for assistance."

The sponsor provided the following example: If a parent places funds in a pooled trust for the benefit of their child to receive services such as MH/MR services, funds in that account may pay for such services throughout the life of the child. However, upon the death of that child 50% of funds in the account may only be used to pay for services for other beneficiaries of the pooled trust who have accounts. The bill will provide that upon the death of a child for whom a pooled trust account has been established, the remaining funds in that account may be used for other beneficiaries of the trust and any other individual who is receiving services for a disability even if that individual is not a beneficiary of the pooled trust. The governing body of the pooled trust will make the decision whether to provide those funds.

Prior legislation

Similar language was included in 2002 Act 168 but was omitted when the provisions of that act were codified into the Probate, Estates and Fiduciaries Code by 2006 Act 98. The additional language restores the ability of the governing body of a pooled trust to use the remaining assets for individuals who are not beneficiaries of the trust but who are in need of disability services not otherwise provided through public assistance programs.

Legislative history

During the 2011-2012 session, this legislation was introduced as Senate Bill 862.