

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 344

(Senators Feldman and Zucker)

Budget and Taxation

Health and Government Operations

Maryland Achieving a Better Life Experience (ABLE) Program - Account
Clarifications

This bill clarifies the *annual* contribution limits for Achieving a Better Life Experience (ABLE) accounts.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: The bill does not affect State finances as it is clarifying in nature. The fiscal and policy note for the legislation requiring the Maryland 529 Board to establish and administer the ABLE program (House Bill 431 of 2016) reflected the contribution limits that are clarified by this bill. The Governor's proposed FY 2018 budget includes \$194,500 for the board to implement the program.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background: Chapter 39 of 2016 required the Maryland 529 Board, in consultation with the Maryland Department of Disabilities, to establish, administer, manage, and promote the Maryland ABLE Program. The purpose of the program is to (1) encourage and assist individuals and families in saving private funds to support individuals with disabilities to maintain health, independence, and quality of life and (2) provide secure funding for disability-related expenses on behalf of designated

beneficiaries with disabilities that will supplement, not supplant, benefits provided through other specified public and private sources. The Act implemented recommendations of a State task force established in 2015.

In an April 11, 2016 letter to the Governor, the Office of the Attorney General advised that the legislation contained an apparent drafting error and, while the provision can be construed consistent with the legislature's intent, it should be corrected. The full text of the letter can be found on the Department of Legislative Services' [website](#).

In summary, the Act specifies that money and assets in the account of each ABLE account holder may not exceed the amount specified in § 2503(b) of the Internal Revenue Code for each calendar year in which the taxable year begins. This language appears to impose a limit, of an amount equal to the federal gift tax exclusion, on the total balance of an ABLE account rather than on the annual contributions to an account. However, another provision of the Act suggests that, consistent with § 529A of the Internal Revenue Code, the limitation was to apply to the *annual contributions* to an ABLE account, not the total account balance. The letter further advised that nothing in the legislative record suggests that the General Assembly intended to impose a limit on ABLE account balances of an amount equal to the federal gift tax exclusion. Instead, the General Assembly's intent most likely was to conform Maryland's ABLE Program to federal law.

Achieving a Better Life Experience Program – Federal Requirements

The Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014 was enacted at the federal level in December 2014. The Act creates a new § 529A of the Internal Revenue Code that permits a state (or a state agency or instrumentality) to establish and maintain a new type of tax-advantaged savings program, a qualified ABLE program, under which contributions may be made to an account that is established for the purpose of meeting the qualified disability expenses of the designated beneficiary of the account. State programs must adhere to minimum federal guidelines to be considered qualified ABLE programs under federal law.

Eligibility is limited to individuals with significant disabilities for whom the onset of the disability occurred prior to age 26. The total amount of contributions in a single year to an ABLE account is limited to the amount allowed for tax-free gifts (\$14,000 currently). Assets over \$100,000 in an account count toward eligibility for Social Security supplemental income.

Additional Information

Prior Introductions: None.

Cross File: HB 448 (Delegate Bromwell, *et al.*) - Health and Government Operations.

Information Source(s): Maryland 529 Board; Office of the Attorney General;
Department of Legislative Services

Fiscal Note History: First Reader - February 10, 2017
md/rhh Third Reader - March 20, 2017

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