

HOUSE BILL 354

O3, J1
HB 431/16 – HGO

3lr1647
CF 3lr1646

By: **Delegate Chang**

Introduced and read first time: January 26, 2023

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Achieving a Better Life Experience (ABLE) Program – Account**
3 **Establishment – Procedures**

4 FOR the purpose of establishing certain procedures regarding the persons who may
5 establish or receive distributions from an ABLE account in the Maryland ABLE
6 Program for a certain eligible individual; requiring the Maryland 529 Board to adopt
7 certain procedures regarding the establishment and operation of an ABLE account
8 by a person other than a certain designated beneficiary; and generally relating to the
9 Maryland ABLE Program.

10 BY repealing and reenacting, with amendments,
11 Article – Education
12 Section 18–19C–01, 18–19C–02(d), and 18–19C–04
13 Annotated Code of Maryland
14 (2022 Replacement Volume)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
16 That the Laws of Maryland read as follows:

17 **Article – Education**

18 18–19C–01.

19 (a) In this subtitle the following words have the meanings indicated.

20 (b) “ABLE account” means an account described under § 529A(e) of the Internal
21 Revenue Code.

22 (c) “ABLE account contributor” means an individual who contributes money to
23 an ABLE account described under § 529A(e) of the Internal Revenue Code.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (d) "ABLE account holder" means an individual who has established an account
2 described under § 529A(e) of the Internal Revenue Code and is the designated beneficiary
3 of the account.

4 (e) "Board" means the Maryland 529 Board established under § 18–1904 of this
5 title.

6 (f) "Designated beneficiary" means an individual described in § 529A(e) of the
7 Internal Revenue Code.

8 (g) **"ELIGIBLE INDIVIDUAL" MEANS AN INDIVIDUAL DESCRIBED IN §**
9 **529A(E) OF THE INTERNAL REVENUE CODE.**

10 (H) "Maryland ABLE Program" means a qualified ABLE program described in §
11 529A(b) of the Internal Revenue Code.

12 [(h)] (I) "Qualified disability expenses" means expenses described in § 529A(e)
13 of the Internal Revenue Code.

14 18–19C–02.

15 (d) (1) The Board shall adopt procedures relating to:

16 (i) Enrollment for participation in the Maryland ABLE Program;
17 [and]

18 (ii) Start–up costs incurred by the State for the development of the
19 Maryland ABLE Program with these costs to be reimbursed to the State by the Maryland
20 ABLE Program; AND

21 (III) **THE ESTABLISHMENT AND OPERATION OF AN ABLE**
22 **ACCOUNT BY A PERSON OTHER THAN A DESIGNATED BENEFICIARY AS DESCRIBED IN**
23 **§ 18–19C–04 OF THIS SUBTITLE.**

24 (2) The Board shall adopt any other procedures that the Board considers
25 necessary to carry out the provisions of this subtitle.

26 18–19C–04.

27 (a) (1) An eligible individual[, as defined in § 529A(e) of the Internal Revenue
28 Code,] may participate in and benefit from the Maryland ABLE Program.

29 (2) **AN ABLE ACCOUNT MAY BE ESTABLISHED ONLY FOR AN**
30 **ELIGIBLE INDIVIDUAL BY:**

31 (I) **THE ELIGIBLE INDIVIDUAL;**

1 (II) A PERSON SELECTED BY THE ELIGIBLE INDIVIDUAL; OR

2 (III) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION AND
3 EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, IF AN ELIGIBLE
4 INDIVIDUAL, WHETHER A MINOR OR AN ADULT, IS UNABLE TO ESTABLISH AN ABLE
5 ACCOUNT:

6 1. THE ELIGIBLE INDIVIDUAL'S AGENT UNDER A POWER
7 OF ATTORNEY; OR

8 2. IF THE ELIGIBLE INDIVIDUAL DOES NOT HAVE A
9 POWER OF ATTORNEY, IN THE FOLLOWING ORDER, THE ELIGIBLE INDIVIDUAL'S:

10 A. CONSERVATOR OR LEGAL GUARDIAN;

11 B. SPOUSE;

12 C. PARENT;

13 D. SIBLING;

14 E. GRANDPARENT; OR

15 F. REPRESENTATIVE PAYEE APPOINTED FOR THE
16 ELIGIBLE INDIVIDUAL BY THE SOCIAL SECURITY ADMINISTRATION.

17 (3) THE BOARD MAY ACCEPT A CERTIFICATION MADE UNDER THE
18 PENALTIES OF PERJURY FROM THE PERSON SEEKING TO ESTABLISH AN ABLE
19 ACCOUNT THAT INDICATES:

20 (I) THE BASIS OF THE PERSON'S AUTHORITY TO ESTABLISH
21 THE ABLE ACCOUNT; AND

22 (II) THERE IS NO OTHER PERSON WITH A HIGHER PRIORITY TO
23 ESTABLISH THE ABLE ACCOUNT UNDER PARAGRAPH (2)(III) OF THIS SUBSECTION.

24 (4) THE FOLLOWING INDIVIDUALS MAY NOT ESTABLISH AN ABLE
25 ACCOUNT ON BEHALF OF AN ELIGIBLE INDIVIDUAL:

26 (I) A MINOR;

1 **(II) AN INDIVIDUAL AGAINST WHOM THE ELIGIBLE INDIVIDUAL**
2 **HAS OBTAINED A PEACE OR PROTECTIVE ORDER;**

3 **(III) AN INDIVIDUAL WHO HAS BEEN HELD CIVILLY OR**
4 **CRIMINALLY LIABLE FOR FINANCIAL EXPLOITATION UNDER TITLE 13, SUBTITLE 6**
5 **OF THE ESTATES AND TRUSTS ARTICLE; OR**

6 **(IV) AN INDIVIDUAL WHO IS THE SUBJECT OF A CIVIL OR**
7 **CRIMINAL ORDER PROHIBITING CONTACT WITH THE ELIGIBLE INDIVIDUAL.**

8 (b) [Distributions] **SUBJECT TO THE PROVISIONS OF § 529A OF THE**
9 **INTERNAL REVENUE CODE, DISTRIBUTIONS** shall be requested by the designated
10 beneficiary [subject to the provisions of § 529A of the Internal Revenue Code] **OR THE**
11 **PERSON AUTHORIZED TO ESTABLISH THE ABLE ACCOUNT UNDER SUBSECTION (A)**
12 **OF THIS SECTION.**

13 **(C) THE BOARD MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.**

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2023.