



**Date:** March 21, 2023

**Bill number:** SB0343

**Committee:** House Health and Government Operations Committee

**Bill title:** Maryland Achieving a Better Life Experience (ABLE) Program- Account Establishment

**Maryland 529 Position:** Favorable with an Amendment

The Maryland ABLE Program thanks the Committee for the opportunity to provide information related to Senate Bill 343 (HB 354). We are asking that this committee vote favorably to pass this bill, as written, with the amendment to change the date of implementation from October 1, 2023 to June 1, 2023. This will expedite the opportunity for more ABLE eligible persons throughout the state of Maryland to open ABLE accounts.

All ABLE Programs across the nation are governed by Treasury (26 CFR Parts 1, 25, 26, and 301 under section 529A of the Internal Revenue Code). These regulations define the requirements for managing and operating a qualified ABLE Program. Initially programs operated under the DRAFT regulations until November 20, 2020, when the final regulations were enacted. The preamble to these regulations' states:

The Treasury Department and the IRS recognize that there may be situations in which an eligible individual with legal capacity may want another person to establish, or to serve as the person with signature authority over, the ABLE account for that eligible individual. Therefore, the final regulations clarify that an eligible individual with legal capacity may delegate these responsibilities to any other person. Furthermore, the Treasury Department and the IRS recognize that expanding the categories of individuals who may serve as signatories of an ABLE account of a designated beneficiary who lacks legal capacity affords less cumbersome alternatives to a court-appointed guardian in the event the designated beneficiary has no agent under a power of attorney or parent to exercise signature authority.

The National Association of State Treasurers (NAST) ABLE State Plan Network (APN) worked as a group to review and interpret how to operationalize the changes that were set forth in these final regulations. A presentation on the consensus of the ASPN workgroups was presented at the Treasury Management Training Symposium in June 2022. In August 2022, the Maryland ABLE Program conducted nine different focus groups. The purpose of these meetings was to provide transparency regarding legislation that the Program would need to submit and to seek input from state leaders, organizations that support people with disabilities, family members of people with disabilities, self-advocacy groups, and others with disabilities. Based on these virtual group meetings, Maryland ABLE learned that 98% of all participants were in favor of this legislative change. The only recommendations for change that were offered at that time were to include provisions for protection of a person with a disability from the recently

passed Supported Decision-Making statute (SB559, enacted 10/1/22). Those requested provisions have been included in the bill before you.

Currently 46/47 states and the District of Columbia have fully implemented the final IRS regulations regarding who may open and manage an ABLE account. Maryland is the last state to do so. To allow the Maryland ABLE Program to continue to operate as a “qualified ABLE Program,” we must implement the changes as indicated, per IRS regulations. SB 343, with the requested amended implementation date, passed in the Maryland Senate Education Energy and Environment Committee with a vote of 45-0 on 2/27/23.