

**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**

**DHS Position:** **FAVORABLE WITH AMENDMENTS**

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The Maryland Department of Human Services (DHS) thanks the Committee for the opportunity to provide written support for Senate Bill 343 (SB 343) with amendments to enhance protection of vulnerable individuals from financial exploitation.

Senate Bill 343 would establish certain procedures for Achieving a Better Life Experience (ABLE) accounts and the distribution of funds beginning October 1, 2023. The bill specifically establishes who, other than the designated beneficiary of the account, can establish an account on the designated beneficiary's behalf, as well as request distributions from the account for the designated beneficiary. This bill also requires the Maryland 529 Board to have procedures set for how account establishment and distribution can occur with an authorized representative.

The Office of Adult Services within DHS focuses on the needs of the elderly, disabled, and vulnerable adults. It works with local departments of social services and community based organizations to coordinate services for the vulnerable adult population throughout Maryland to promote their safety, stability, and independence. These services are delivered with the principles of personal dignity, quality of life, privacy, and the right to make choices. Adult Protective Services is mandated to investigate allegations of financial exploitation of vulnerable adults in Maryland. Financial exploitation investigations continue to increase as more public awareness and educational outreach is provided on the topic. Senate Bill 343, as written, leaves room for potential financial exploitation of the vulnerable adults DHS serves.

DHS requests the Committee take the following amendments into consideration to ensure that individuals have the opportunity to make life decisions regarding their financial well being, while at the same time ensuring that sufficient protections exist to prevent the misuse of these funds and the exploitation of these individuals:

**Proposed Amendment 1:** On page 3 line 6 strike "A PERSON SELECTED BY THE ELIGIBLE INDIVIDUAL" and instead state "THE ELIGIBLE INDIVIDUALS'S POWER OF ATTORNEY"; and

**Proposed Amendment 2:** On page 3 line 9 strike "WHETHER A MINOR OR AN ADULT,"; line 10 strike the colon; and strike line 11 and 12 in their entirety; and

**Proposed Amendment 3:** On page 3 line 13 strike "IF THE ELIGIBLE INDIVIDUAL" and instead state "AND"; and

**Proposed Amendment 4:** On page 4 line 8 strike "OR", line 10 strike period and instead state "; OR" and under line 10 add "(V) A DIRECTOR OF A LOCAL DEPARTMENT OF SOCIAL SERVICES OR AREA AGENCY ON AGING APPOINTED AS GUARDIAN OF THE PERSON OF THE ELIGIBLE INDIVIDUAL UNDER



§ 13-705 OF THE ESTATES AND TRUSTS ARTICLE.”

DHS believes the proposed amendments enhance protections for vulnerable individuals from tax liability, loss of benefits, and potential misuse of assets. Additionally, the proposed amendments remove public guardians of adults from the list of individuals who are permitted to open ABLE accounts on behalf of eligible individuals, which is in line with the prohibition against public guardians of adults serving as guardians of property in Estates & Trusts § 13-207(e).

The Department is grateful to offer our support with the Committee’s receipt and acceptance of the above enumerated amendments. DHS welcomes continued collaboration with the Committee on SB 343.

