

## Chapter 390

**(House Bill 782)**

AN ACT concerning

**Maryland Achieving a Better Life Experience (ABLE) Program – ~~Death of a Designated Beneficiary~~ Modifications**

FOR the purpose of providing that certain money in the Maryland Prepaid College Trust may not be considered money of or be commingled with the Maryland Broker–Dealer College Investment Plan or the Maryland ABLE Program; altering the title of a certain savings plan under the authority of the Maryland 529 Board; requiring the Board to allow the transfer of funds from certain trusts and plans to a certain program; altering the limit on money and assets that a certain account holder can contribute to an ABLE account during a certain period of time; altering the circumstances under which the Board shall issue a refund to an ABLE account contributor; authorizing money and assets in an ABLE account to be transferred, on the death of a designated beneficiary, to a certain estate or a certain ABLE account for an eligible individual, unless prohibited by federal law; prohibiting the State, unless required by federal law, from seeking payment from an ABLE account or its proceeds for certain medical benefits paid for the designated beneficiary; altering certain definitions; and generally relating to the Maryland ABLE Program.

BY repealing and reenacting, without amendments,

Article – Education

Section 18–1903(a), 18–19A–01(a), 18–19A–02(a), 18–19B–01(a), 18–19B–02(a), 18–19C–01(b), and 18–19C–02(b)

Annotated Code of Maryland

(2014 Replacement Volume and 2017 Supplement)

~~BY repealing~~~~Article – Education~~~~Section 18–19C–10~~~~Annotated Code of Maryland~~~~(2014 Replacement Volume and 2017 Supplement)~~

BY adding to

Article – Education

Section 18–1903(h) and (i), 18–1909(h), and 18–19C–10

Annotated Code of Maryland

(2014 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,Article – Education

Section 18-1903(h) and (i), 18-1905.1(a), 18-1909(h), 18-19A-01(c), 18-19A-02(e), 18-19B-01(c), 18-19B-02(d), 18-19C-03(c), and 18-19C-09(b)

Annotated Code of Maryland  
(2014 Replacement Volume and 2017 Supplement)

BY repealing

Article – Education  
Section 18-19C-10  
Annotated Code of Maryland  
(2014 Replacement Volume and 2017 Supplement)

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

### **Article – Education**

18-1903.

(a) There is a Maryland Prepaid College Trust.

**(H) MONEY OF THE TRUST MAY NOT BE CONSIDERED MONEY OF OR BE COMMINGLED WITH THE MARYLAND BROKER-DEALER COLLEGE INVESTMENT PLAN.**

**(I) MONEY OF THE TRUST MAY NOT BE CONSIDERED MONEY OF OR BE COMMINGLED WITH THE MARYLAND ABLE PROGRAM.**

**[(h)] (J) (1) The debts, contracts, and obligations of the Trust are not the contracts, debts, or obligations of the State and neither the faith and credit nor taxing power of the State is pledged directly or indirectly or contingently, morally or otherwise, to the payment of the debts, contracts, and obligations.**

**(2) The Board cannot directly or indirectly or contingently obligate, morally or otherwise, the State to levy or pledge any form of taxation whatsoever for the debts and obligations of the Trust or to make any appropriation for the payment of the debts and obligations of the Trust.**

**[(i)] (K) Neither the State nor any eligible institution of higher education shall be liable for any losses or shortage of funds in the event that the Maryland Prepaid College Trust is insufficient to meet the tuition requirements of an institution attended by the qualified beneficiary.**

18-1905.1.

(a) (1) The Board shall develop and implement a marketing plan to increase participation in [the College Savings Plans of] Maryland 529.

(2) (i) The marketing plan shall identify methods to increase general participation in [the College Savings Plans of] Maryland 529.

(ii) The Board shall coordinate with the Board of Trustees of the Maryland Teachers and State Employees Supplemental Retirement Plans and local school systems, respectively, to identify methods to increase participation in [the College Savings Plans of] Maryland 529 among:

1. State employees that participate in other State tax savings programs; and

2. Families of students in local school systems with lower rates of participation in [the College Savings Plans of] Maryland 529 than the State population.

18-1909.

**(H) THE BOARD SHALL ALLOW THE TRANSFER OF FUNDS FROM THE TRUST TO ANY QUALIFIED ABLE PROGRAM ESTABLISHED IN ACCORDANCE WITH § 529A OF THE INTERNAL REVENUE CODE.**

[(h)] (I) The Board shall set procedures to ensure that contributions to the Trust plus contributions or payments to other qualified State tuition programs do not exceed a total maximum amount determined by § 529 of the Internal Revenue Code for contributions to multiple qualified State tuition programs.

18-19A-01.

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

(c) “Board” means the [College Savings Plans of] Maryland 529 Board established under § 18-1904 of this title.

18-19A-02.

(a) There is a Maryland College Investment Plan.

(e) The Board shall adopt procedures relating to:

(1) Application procedures for participation in the Plan;

(2) Start-up costs incurred by the State for the development of the Plan with these costs to be reimbursed to the State by the Plan;

(3) Early withdrawals, so that there will be no major detriment to the remaining account holders in the Plan;

(4) The State contribution program; [and]

(5) Transfer of funds from the Plan to other qualified State tuition programs and from other qualified State tuition programs to the Plan in accordance with federal law; AND

**(6) TRANSFER OF FUNDS FROM THE PLAN TO A QUALIFIED ABLE PROGRAM ESTABLISHED IN ACCORDANCE WITH § 529A OF THE INTERNAL REVENUE CODE.**

18-19B-01.

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

(c) “Board” means the [College Savings Plans of] Maryland 529 Board established under § 18-1904 of this title.

18-19B-02.

(a) The Board may establish a Maryland Broker-Dealer College Investment Plan.

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

(i) Enrollment procedures for participation in the Broker-Dealer Plan;

(ii) Start-up costs incurred by the State for the development of the Broker-Dealer Plan with these costs to be reimbursed to the State by the Broker-Dealer Plan;

(iii) Early withdrawals so that there will be no major detriment to the remaining account holders in the Broker-Dealer Plan; [and]

(iv) Transfer of funds from the Broker-Dealer Plan to other qualified State tuition programs and from other qualified State tuition programs to the Broker-Dealer Plan in accordance with federal law; and

**(v) TRANSFER OF FUNDS FROM THE BROKER-DEALER PLAN TO A QUALIFIED ABLE PROGRAM ESTABLISHED IN ACCORDANCE WITH § 529A OF THE INTERNAL REVENUE CODE.**

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

18-19C-01.

(b) "ABLE account" means an account described under § 529A(e) of the Internal Revenue Code.

18-19C-02.

(b) The purpose of the Maryland ABLE 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 private insurance, the Medicaid program under Title XIX of the Social Security Act, the Supplemental Security Income program under Title XVI of the Social Security Act, the beneficiary's employment, and any other source.

18-19C-03.

(c) (1) The Maryland ABLE Program is subject to the provisions of § 529A of the Internal Revenue Code.

(2) The Maryland ABLE Program shall include provisions for automatic contributions.

(3) Money and assets in the accounts established under the Maryland ABLE Program or an ABLE program in any other state may not be considered for the purpose of determining eligibility to receive, or the amount of, any assistance or benefits from local or State means-tested programs.

(4) Money and assets contributed in each calendar year to the account of each ABLE account holder may not exceed the amount specified in § [2503(b)] 529A(B)(2) of the Internal Revenue Code for each calendar year in which the taxable year begins.

(5) Contributions to the account of each ABLE account holder may not exceed the maximum amount determined by the Board to be in accordance with § 529A(b)(6) of the Internal Revenue Code.

18-19C-09.

(b) If the contribution of an ABLE account contributor under the Maryland ABLE Program would result in aggregate contributions from all contributors to the ABLE account for the taxable year exceeding the amount specified in § [2503(b)] 529A(B)(2) of the Internal Revenue Code for each calendar year in which the taxable year begins, the Board shall issue a refund to the ABLE account contributor.

[18–19C–10.

In accordance with § 529A(f) of the Internal Revenue Code, on the death of a designated beneficiary, any state may file a claim for the amount of the total medical assistance paid for the designated beneficiary under the state’s Medicaid plan after the establishment of an ABLE account.]

**18–19C–10.**

**(A) UNLESS PROHIBITED BY FEDERAL LAW, ON THE DEATH OF A DESIGNATED BENEFICIARY, MONEY AND ASSETS IN AN ABLE ACCOUNT MAY BE TRANSFERRED TO:**

**(1) THE ESTATE OF THE DESIGNATED BENEFICIARY; OR**

**(2) AN ABLE ACCOUNT FOR ANOTHER ELIGIBLE INDIVIDUAL SPECIFIED BY THE DESIGNATED BENEFICIARY OR THE ESTATE OF THE DESIGNATED BENEFICIARY.**

**(B) UNLESS REQUIRED BY FEDERAL LAW, AN AGENCY OR INSTRUMENTALITY OF THE STATE MAY NOT SEEK PAYMENT UNDER § 529A(F) OF THE INTERNAL REVENUE CODE FROM AN ABLE ACCOUNT OR ITS PROCEEDS FOR ANY AMOUNT OF MEDICAL ASSISTANCE PAID FOR THE DESIGNATED BENEFICIARY.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2018.

**Approved by the Governor, May 8, 2018.**