

# SENATE BILL 550

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CF HB 782

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By: **Senators Zucker, Feldman, Ferguson, Guzzone, King, Middleton, Peters, Serafini, and Smith**

Introduced and read first time: January 31, 2018

Assigned to: Budget and Taxation

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 6, 2018

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

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

18 BY repealing and reenacting, without amendments,

19 Article – Education

20 Section 18–1903(a), 18–19A–01(a), 18–19A–02(a), 18–19B–01(a), 18–19B–02(a),  
21 18–19C–01(b), and 18–19C–02(b)

22 Annotated Code of Maryland

23 (2014 Replacement Volume and 2017 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~BY repealing~~  
 2 ~~Article – Education~~  
 3 ~~Section 18–19C–10~~  
 4 ~~Annotated Code of Maryland~~  
 5 ~~(2014 Replacement Volume and 2017 Supplement)~~

6 BY adding to  
 7 Article – Education  
 8 Section 18–1903(h) and (i), 18–1909(h), and 18–19C–10  
 9 Annotated Code of Maryland  
 10 (2014 Replacement Volume and 2017 Supplement)

11 BY repealing and reenacting, with amendments,  
 12 Article – Education  
 13 Section 18–1903(h) and (i), 18–1905.1(a), 18–1909(h), 18–19A–01(c), 18–19A–02(e),  
 14 18–19B–01(c), 18–19B–02(d), 18–19C–03(c), and 18–19C–09(b)  
 15 Annotated Code of Maryland  
 16 (2014 Replacement Volume and 2017 Supplement)

17 BY repealing  
 18 Article – Education  
 19 Section 18–19C–10  
 20 Annotated Code of Maryland  
 21 (2014 Replacement Volume and 2017 Supplement)

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

24 **Article – Education**

25 18–1903.

26 (a) There is a Maryland Prepaid College Trust.

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

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

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

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

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

9   18-1905.1.

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

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

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

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

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

23   18-1909.

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

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

31   18-19A-01.

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

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

3 18–19A–02.

4 (a) There is a Maryland College Investment Plan.

5 (e) The Board shall adopt procedures relating to:

6 (1) Application procedures for participation in the Plan;

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

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

11 (4) The State contribution program; [and]

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

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

18 18–19B–01.

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

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

22 18–19B–02.

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

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

25 (i) Enrollment procedures for participation in the Broker–Dealer  
26 Plan;

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

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

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

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

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

11 18–19C–01.

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

14 18–19C–02.

15           (b) The purpose of the Maryland ABLE Program is to:

16                   (1) Encourage and assist individuals and families in saving private funds  
17 to support individuals with disabilities to maintain health, independence, and quality of  
18 life; and

19                   (2) Provide secure funding for disability–related expenses on behalf of  
20 designated beneficiaries with disabilities that will supplement, not supplant, benefits  
21 provided through private insurance, the Medicaid program under Title XIX of the Social  
22 Security Act, the Supplemental Security Income program under Title XVI of the Social  
23 Security Act, the beneficiary’s employment, and any other source.

24 18–19C–03.

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

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

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

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

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

7 18-19C-09.

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

13 [18-19C-10.

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

18 **18-19C-10.**

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

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

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

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

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