



# Council Connection

Maryland Developmental Disabilities Council  
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## MD Developmental Disabilities Council Legislative Overview April 2016

***This overview highlights some of the many important budgets and bills that were critical to people with developmental disabilities and their families during the 2016 legislative session. Click [here for more detailed information on a particular bill](#). The Governor has not yet signed into law all of the bills that passed.***

### Legislative Priorities

#### **HB 420/SB 417: Individuals with Disabilities – Minimum Wage and Community Integration (**passed**) Bill sponsors/champions:**

Senator Delores Kelley & Delegate Jeff Waldstreicher  
(pictured)

Previously titled, "Labor and Employment-Minimum Wage

Individuals with Disabilities (Ken Capone Equal Employment Act)," this bill will phase out the use of "14c certificates" which allow organizations, under certain circumstances, to pay people with disabilities sub-

minimum wage. Use of 14c certificates began in 1938 and no longer have a place in our support system. This bill passed with amendments agreed upon by advocates (led by People on the Go), providers and state agencies. The amendments strengthen the bill and include provisions to develop a state plan to ensure successful implementation of the phase out over four years and report individualized planning around each person's needs.



The Council adopted this position statement in 2015 and supported HB 420/SB 417 to further this outcome: *"Maryland should phase out segregated facility-based day programs and sheltered workshops for people with developmental disabilities, including people with the most significant disabilities. Meaningful community-based alternatives that are more integrated and have adequate funding and staff support must be developed."* **The Council has committed funds to help provider agencies develop their capacity to help make this a reality. Watch for new opportunities in 2016.**

#### **HB 431/SB 355: Maryland Achieving a Better Life Experience (ABLE) Program (**passed**)**

##### **Bill sponsors/champions:**

Senator Brian Feldman, Senator Craig Zucker &  
Delegate Eric Bromwell (pictured left to right)

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**HB 431/SB 355 (continued)** Additional champions: Senator Guy Guzzone & Senator Andrew Serafini

***What if people could save for disability-related expenses the way many families save for college?*** Federal law enacted in December 2014 made it possible for states to establish a new type of tax-advantaged savings program (ABLE program) whereby eligible individuals with disabilities can open an account to build savings to pay for qualified disability expenses like medical and dental care, education, housing, transportation, obtaining and maintaining employment, assistive technology and community based supports.

As a first step, the MD legislature, in 2015, established the Maryland ABLE Task Force and charged it with developing recommendations for a Maryland ABLE Program. The Task Force's recommendations were incorporated into HB 431/SB 355 this session. As a result of the bill passing, the College Savings Plans of Maryland will become the "Maryland 529 Program" (named after the section of federal law that established College Savings Programs and ABLE) and will establish and administer the MD ABLE program, with the goal of having it operational by October 2017. Governor Hogan committed \$745,000 for the start-up and administration costs of the program, critical to it meeting this goal.

According to the MD ABLE Task Force, "It is estimated that between 31,500 and 53,600 Marylanders may take advantage of an ABLE Program. Demand for the program is strong." For more information:

- ♦ Review the [Maryland ABLE Task Force report](#);
- ♦ Listen to a recording of our [ABLE webinar](#) and review [related Q & A](#);
- ♦ Check out the [National ABLE Resource Center](#).

Stay tuned: The Council will sponsor another webinar on Maryland's ABLE program with up-to-date information.

**HB 1499/SB 413: Developmental Disabilities Administration - Crisis Resolution and Prevention Resolution Services - Funding and Reporting** (**failed - passed the Senate but no committee vote in the House**)

**Bill sponsors/champions:** Senator Guy Guzzone and Delegate Bonnie Collison (pictured)

This bill would have required that the Governor's proposed budget each year (beginning in fiscal 2018) include a general fund appropriation of at least \$3.5 million for people in Crisis Resolution which is the highest priority category on the Developmental Disabilities Administration's Waiting List.



The new funds would have been used to provide ongoing services to these individuals in most urgent need of help.

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### **HB 1499/SB 413 (continued):**

The Council supported this bill as a top priority because we don't believe that individuals with developmental disabilities and their families determined to meet the state's very stringent criteria for the highest priority category, Crisis Resolution, should wait for the support they need. As of January 2016, there were 94 people in Crisis Resolution, 1200 in Crisis Prevention, and 6600 in Current Request. Of these, over 1400 have a caregiver over age 60 and 238 have a caregiver over age 80. By ensuring crises are addressed each year, this bill would have helped broadened the conversation to other needs so the system isn't crisis-driven.

### **HB 778/SB 950: Education – Students with Disabilities – Study of Parental Consent in the Individualized Education Program Process (failed – House and Senate Amendments Differed; Conference Committee Appointed – no further action taken in the House)**

**Bill sponsors/champions:** Senator Joan Carter Conway & Delegate Mary Washington

This bill would have required parental consent before an individualized education program (IEP) team could take any of the following actions: enroll a child in an alternative education program that does not issue or provide credits towards a Maryland high school diploma; identify a child for the alternate assessment aligned with Maryland's alternate curriculum; use restraint or seclusion to correct a child's behavior; reduce or terminate the amount of instructional or related services a child receives; initiate a change in a child's educational placement.

It would have given parents the right to consent if they agree with what the IEP team proposes; the right to refuse to consent if they disagree with what the IEP team proposes; or, the right to choose to neither consent nor refuse to consent. This does not happen now. Parental Consent is required for the initial IEP only. The IEP team develops an initial IEP for each student and must obtain a parent signature in order for the student to begin to receive special education services in accordance with the IEP. Parental consent is not required for any following IEPs.

The Senate committee amended the bill to create a workgroup to review and make recommendations about parental consent and parental participation provisions of special education laws in other states and discuss the legal and policy ramifications for obtaining written parental consent before an IEP team may take any of the actions outlined above. The Senate committee amendments also would have required the workgroup to review and make recommendations on the feasibility and availability authorizing a student with disabilities to attend a different public school, including a school in another local school system; and using a scholarship to attend a private school that may address the student's needs.

The House committee amended the bill to create a workgroup to study parental consent in the IEP process and did not include any further study on the use of scholarships. A conference committee was appointed to work out the differences in the House and Senate versions. The Senate adopted the conference committee recommendations to study parental consent in the IEP process, remove the study on attending different schools and the use of scholarships, and include study on early intervention services instead. However, the House took no further action.

Although the bill did not pass, it is our understanding that MSDE, advocates and other stakeholders, including opponents to HB 778/SB 950 will come together during the summer to discuss next steps, address concerns about implementing a parent consent provision in Maryland and make recommendations.

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### **Developmental Disabilities Administration (DDA) Budget**

It was a good year for the DDA budget. Governor Hogan fully funded transitioning youth and included significantly more funding for Crisis Resolution and emergencies than recent years. Here are all the details:

<b><u>DDA FY2017 Budget Expansion*</u></b> <b>July 1, 2016 – June 30, 2017</b> <b>Includes General Funds, Special Funds &amp; Matching Federal Funds (est.)</b>		
<b>Fund</b>	<b>Increase in Funding</b> <b>* <i>Figures are rounded</i></b>	<b>Impact (est.)</b>
<b>TRANSITIONING YOUTH</b>	<b>\$8.9 million Total Funds</b> <i>(\$4.9m General Funds + \$3.9m in Federal Funds)</i>	Approximately 600 young adults with developmental disabilities leaving school will receive employment or other day services. DDA projects that 100% of transitioning youth will receive this support.
<b>EMERGENCIES</b>	<b>\$6.7 million Total Funds</b> <i>(\$3.6m General Funds + \$3m Federal Funds + \$77,000 Special Funds)</i>	Approximately 161 people in emergency situations will receive services. They may or may not be on DDA's waiting list.
<b>WAITING LIST – CRISIS RESOLUTION</b>	<b>\$5.5million Total Funds</b> <i>(\$2.9m General Funds + \$2.6.m Federal Funds)</i>	<i>An estimated 113 people in DDA's highest priority category, Crisis Resolution, will receive services.</i>
<b>WAITING LIST EQUITY FUND (WLEF)</b>	<b>\$728,000 Total Funds</b> <i>(\$383,000 Special Funds + \$345,000 in Federal Funds)</i>	Approximately 24 people on DDA's waiting list will receive community supports using funds from the WLEF, which prioritizes people with the oldest caregivers. The WLEF is a special dedicated fund that receives money from several sources.
<b>COURT- INVOLVED COMMUNITY SERVICES</b>	<b>\$296,000 Total Funds</b> <i>(\$172,000 General Funds + \$124,000 Federal Funds)</i>	These funds will be used to provide community supports to approximately 17 people with developmental disabilities involved in the court system. It will be used to either divert them from a facility or to get them out of one.
<b>RATE INCREASE FOR COMMUNITY SERVICES</b>	<b>3.5% rate increase —</b> <b>\$35.7 million Total Funds</b>	This will fully fund a mandated rate increase stipulated in the Minimum Wage Act of 2014. These funds will contribute to ensuring a sound, stable provider system.



## **Maryland State Department of Education (MSDE) Budget**

The FY 2017 budget includes the following funding among other things that will impact children with disabilities and their families:

- ♦ \$18.2 million for the Autism Waiver so that 1000 children with autism will continue to receive services. This is the same amount of funding as FY2016. *There over 10,000 students in Maryland identified as having autism, over 4000 children are on the Autism Waiver registry waiting for services and the Autism Waiver currently serves 1000 children.*
- ♦ \$10.4 million for the Maryland Infants & Toddlers Program--the same funding level as FY2016. *The Maryland Infants & Toddlers Program supports over 17,000 children and their families each year. Early intervention services play a critical role in a child's development.*
- ♦ The Geographic Cost of Education Index (GCEI) was fully funded this year, after being cut last year. The GCEI is a discretionary component of the State funding formula for education that has provided additional funding to 13 local school systems since 2009 to reflect regional differences in the cost of education that are due to factors outside the control of the local jurisdiction.

Budget language was also included that requires MSDE to report on funding spent to support pre-kindergarten children with disabilities, ages three through five. The report will also analyze how funds are targeted to support children with disabilities to learn and play alongside their peers without disabilities; access to the same early childhood curriculum as children without disabilities; and how both relate to better outcomes for children with disabilities.



In addition, the Division of Early Childhood Development's budget included \$4.3 million for pre-kindergarten education. This money was added to further expand prekindergarten and helps leverage \$15 million in federal grant funds to expand prekindergarten to an additional 3000 children. See HB 668/SB 584 below for more information.

## **Education**



### **HB 668/SB 584: Education –**

#### **Preschool Development Grants – Expansion Grants – Required State Funding (passed)**

This bill requires the Governor to include funding for prekindergarten education in the State FY2018 and FY2019 budgets in order to pull down remaining federal funds for prekindergarten expansion. In December 2014, Maryland was awarded a federal Preschool Development Grant which brings \$15 million per year for four years. The first two years of funding have already been secured; however, to pull down the remaining federal funds in the final two years of the grant, Maryland must allocate additional state matching funds beginning next year. *Combined federal and state funds are projected to benefit 3,800 four-year-olds per year in the final year of the grant.*

### **HB 668/SB 584 continued...**

The Council supported this bill because we support initiatives that increase access to early childhood education for all children, including children with disabilities.

### **HB 86/SB 421: Special Education – Translations of Individualized Education Programs or Individualized Family Service Plans – Native Language (passed)**

This bill requires local school systems to provide parents a child's individualized education program (IEP) or individualized family service plan (IFSP) in the parents' native language, if requested by the parent and if the language is spoken by more than 1% of the student population in the local school system.

MSDE will also have to report to the General Assembly how the needs of students whose parents speak a native language that is spoken by less than 1% of the student population in the local school system can be addressed. The Council supported this bill because with information in a parent's native language, he or she can be better prepared to meaningfully participate in the special education process for the child.



### **HB 85: Education – Students with Disabilities – Support Services – Parental Notification (passed)**

This bill requires school personnel to provide parents with written information about, and contact information for, the family support services staff members within the local school system. Family support services are staffed by an experienced parent of a child with a disability who has already been through the early intervention or special education process and can provide advice, guidance and support. The Council supported this bill because with information about resources to support them, parents will be able to be more meaningful participants in the special education process.

### **HB 551: Education – Students with Disabilities – Individualized Education Program Mediation (passed)**

This bill requires IEP teams to provide parents of children with disabilities with a written and oral explanation of the parent's right to request mediation, contact information to receive more information about the mediation process and information about free and low cost legal assistance and other related services available in the area. If a parent requests this information, it must be provided in the parent's native language (if spoken by more than 1% of the student population). It also requires MSDE to have staff to assist parents to understand the mediation process. The Council along with the Education Advocacy Coalition, successfully advocated for an amendment that added the additional requirement that parents be informed about other related services available in the area in order to increase the likelihood that parents are able to obtain assistance at mediation by non-lawyer advocates and others.

The Council supported this legislation because it will also help families be meaningful participants in the special education process for their child. Families should have the information, resources and assistance needed to make critical decisions about their child's education.

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#### **HB 1191: Task Force to Study an Online Program for Paraprofessionals Assisting Students with Autism (failed – no committee vote)**

The bill would have required MSDE to establish a Task Force to create a plan to provide online training to paraprofessionals who work with students with autism. Paraprofessionals are teacher aides or assistants who support the teacher and students with disabilities in the classroom. The MD DD Council worked with the sponsor on amendments that would have broadened the Task Force's scope in order to ensure all students with disabilities are supported by trained personnel that can support each student's individual needs. The Council supports initiatives that increase training opportunities for all school personnel so that they have the information needed to provide services and supports to all students with disabilities.

#### **HB 1204: Education: PARCC Testing – Exemption for Children with Disabilities (Ben's Rule) (failed – no committee vote)**

This bill would have exempted children with disabilities from taking standardized assessments. The Council opposed his bill because state and federal law requires all students to take State and district-wide assessments. Doing so promotes the same high expectations for all students, including students with disabilities.

#### **HB 781: Education – Assessments – Reporting of Aggregate Data (failed – no committee vote)**

This bill would have prohibited the Maryland State Department of Education from including the scores of students with disabilities and English language learners when reporting data on State-wide assessments. The Council opposed this bill because we support laws and policies that ensure students with disabilities receive the services and supports they need to receive a high-quality education. This bill does the opposite. Not including the scores of students with disabilities in reporting requirements for statewide assessments completely undercuts the accountability of school systems to the students they serve.

#### **HB 999/SB 905: Commission on Innovation and Excellence in Education (passed)**

This bill creates a commission to review the results of a study on the adequacy of funding for education in Maryland, assess current funding and accountability systems and determine how the State can better prepare students for college and careers. The study will be complete in December 2016 and was required to be completed approximately 10 years after the Bridget to Excellence in Public Schools Act established new funding formulas for education. Instead we seek to ensure that the needs of students with developmental disabilities and their families are addressed if this Commission is established and recommendations are made. The Council used this opportunity to educate the legislature on issues that need to be addressed for students with disabilities and their families, including:

- ♦ funding for children with disabilities in prekindergarten so that children with and without disabilities can learn and play together;
- ♦ preparing all students for postsecondary education, including students with intellectual disability. (Part of this is ensuring people with intellectual disability who want to attend college have a way to do so);
- ♦ addressing how students with disabilities will be prepared for the workforce.

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### **SB 1142: State Department of Education – McArdle Early Intervention Scholarship Program (failed – unfavorable committee report; withdrawn)**

This bill would have required authorizing the parent or guardian to (1) send the student with disabilities to a public school other than the public school to which the student is assigned (including a school in another local school system) or (2) use a scholarship awarded under the program to allow a student with disabilities to attend a private school for students with disabilities or with a specialized program for students with disabilities. The cost of a scholarship must be paid by the State and by the county in which the eligible student is domiciled in accordance with existing law for the shared cost of the education of children with disabilities. The Council, along with the Education Advocacy Coalition, provided a letter of information about the use of scholarships of this purpose. The state would be promoting more restrictive placements, a direct violation of the least restrictive environment provisions of the federal Individuals with Disabilities Education Act.

## Higher Education



### **SB 465: Community Colleges – Tuition Waiver for Disabled Individuals – Requirements (failed – no committee vote in the House)**

This bill would have removed the requirement that financial aid be used for tuition before a tuition waiver is given to a person with a disability attending community college. This would have helped people access to community college courses by allowing financial aid to pay for books and other fees instead of tuition.

The bill passed the Senate, but the House Committee never voted on the bill. The Council supported this bill because it would have created greater access to college courses for people with disabilities.

## Services & Supports

### **HB 539/SB 297: Health Insurance – Habilitative Services – Period of Time for Coverage (passed)**

This bill revises the current mandated health insurance benefit of habilitative services to be consistent with federal law by removing the restriction that a person to be born with “congenital or hereditary birth defect” in order to receive habilitative services; expanding the scope to include services *and devices*; and mandating coverage of habilitative services for children until at least the end of the month in which the child turns age 19. The changes apply to all

health insurance plans in Maryland. The Council supported this bill because it expands coverage for these critical services that help people keep, learn or improve skills and functioning for daily living. It also includes devices and is consistent with federal requirements.



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### **HB 715/SB 644: Early Identification of Autism Act (failed – no committee vote)**

This bill would have required pediatricians to screen for autism and then refer the child for further evaluation, early intervention services and an audiological exam if the child has a positive result in the initial screening. The Council supports initiatives that increase screening for all developmental disabilities and delays and increases access to early intervention services; however, this bill limited that requirement to one specific disability.

## Additional Issues & Topics

### **HB 22/SB 147: Ethan Saylor Alliance for Self-Advocates as Educators - Membership and Duties - Community Inclusion Training Oversight (passed)**

This bill requires the “Ethan Saylor Alliance for Self-Advocates as Educators” Steering Committee, which resides within the MD Department of Disabilities, to review the content and monitor the implementation of training objectives and curriculum that the Police Training Commission adopted for training law enforcement about people with disabilities. The review must be conducted at least every four years but may be conducted more frequently at the request of the Police Training Commission. The Council supported this bill.



Ethan Saylor

### **HB 368/SB 370: Board of Public Works Transparency Act of 2016 (passed)**

This bill requires the Dept. of Budget and Management (DBM) to notify the legislature and the public three business days before voting on proposals to reduce budget appropriations. The Board of Public Works, comprised of the Governor, Treasurer and Comptroller, has the authority to cut line items in the capital and operating budgets by up to 25% when the legislature is not in session. The notice required by this bill must include: 1) a brief summary of the impact of the proposed reduction on the state agency or program targeted; 2) the amount of the proposed reduction in dollars and percentage; 3) the fund source of the appropriation subject to the proposed reduction; and 4) any projected reductions in workforce as a result of the proposed reduction. The bill also requires DBM to provide written notice of a proposed reductions to certain committees of the General Assembly. The Council supported the bill as a means to ensure greater transparency and opportunities for public input and advocacy.

### **HB 404/SB 418: Richard E. Israel and Roger "Pip" Moyer End-of-Life Option Act (failed – unfavorable committee report in the Senate; withdrawn)**

This bill would have created a process, with specified conditions and protections, by which an individual could request and receive “aid in dying” from a physician. The bill defined a “qualified individual” as an adult who 1) has the capacity to make medical decisions; 2) is a resident of the State; 3) has a terminal illness with a prognosis of death within six months; and 4) has the ability to self-administer medications.

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### **HB 404/SB 418 (continued)**

The Council did not take a position on this bill; instead we submitted a Letter of Concern, in which we outlined some families' concerns and stated:

*"There are as many strong and diverse opinions on this issue among people with developmental disabilities and their families and allies as there are within the general community. In their most basic sense, these arguments range from the perspective that if aid in dying is to be available, it should also be available to people with developmental disabilities, to the deeply held belief that it is not possible to ensure adequate protections for people with significant disabilities who too often are devalued and vulnerable."*

### **HB 371/SB 819: Independent Living Tax Credit Act (failed – no committee vote)**

This bill would have allowed an individual or a corporation a credit (not to exceed \$5000) against their State income tax equal to 50% of the renovation or construction costs of accessibility and visibility features to a home. The Council supported this bill because accessibility and visit-ability are critical to a person's health, well-being and participation in their home and community. Costs for modifications can be high and a tax credit would make them more affordable and achievable. These are costs are over and above those faced by most homeowners.

### **HB 759: Home Act of 2016 (failed – no committee vote)**

This bill would have prohibited discriminatory practices in residential sales and rental transactions based on a person's source of income. The Council has supported a version of this bill for many years because many people rely on Supplemental Security Income (SSI) and should not be discriminated against if this is a source of income to help pay their rent. The very intent of SSI is to assist with the cost of food, clothing *and shelter*. This legislation would not have established an undue burden. In fact, three Maryland counties, 11 states and 35 localities in the country have already implemented laws prohibiting housing discrimination based on source of income, thereby demonstrating that this fair-minded protection can be implemented.

### **HB 928/SB 818: State Personnel – Individuals with Disabilities – Hiring Preferences (passed)**

The bill provides a hiring preference for state employment in the Executive Branch by allowing credit to be given if an applicant has certain disabilities. The Council supported this bill.

**Total number of Senate bills: 1,173**

**Total number of House bills: 1,644**

**Stay connected with the Maryland Developmental Disabilities Council! Contact info below:**

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