

# 2022 Legislative Wrap Up



*The Arc*®

*Maryland*



# Legislative Wrap Up 2022

The Maryland General Assembly completed its work for the 2022 Legislative Session and adjourned on April 11, 2022, at midnight (Sine Die).



The unusual session, held in a hybrid fashion, with the House entirely virtual for the public, and the Senate holding hearings and voting sessions in person mid-session, was a sign of next-to-normalcy we haven't experienced in almost two years in Maryland. The last "normal" Sine Die was in 2019 after the 2020 session was cut short with just two weeks to go. Many priority bills of ours that had momentum up to the pandemic's surge dropped out of existence as the General Assembly pivoted to pass only those bills deemed most crucial before the state went into a lock-down.

The 2021 session was entirely virtual, punctuated by pandemic-related bills, a historic windfall of federal relief funding, and the appointment of new leadership in both the House and Senate Chambers. Still, with Federal Pandemic assistance for Maryland, we had a successful session. This, however, was nothing compared to what we saw in this session; the wins we experienced and the myriad of bills that passed to advance the rights of people with IDD, increase funding rates for DD Community Services, unlock the waiting lists and registries for people with disabilities, support the recovery of childcare centers, and commit resources to examine the workforce shortages in healthcare.

As the night came to a close on Monday, April 11<sup>th</sup>, the return of the midnight confetti drop was sweet and well-deserved. Our champions in the legislature and our Governor came forward with many wins for us through key legislation and the budget. These wins were necessary as we continue to pull ourselves out of where the pandemic left us: with a historic workforce crisis, rate and funding concerns, the slow transition to LTSS, and both opportunities and challenges in our new existence.

The Arc Maryland's Public Policy Team, Governmental Affairs Committee, and Coalition partnerships covered several bills in the session. Our advocacy strategy, which included grassroots mobilization campaigns, social media posts, print media, and in-person and virtual story-telling, were all critical to our successes. We relied heavily on our relationships with legislators and our many partners.

Through it all, we are incredibly proud of the results and the impact our collective work will have on children and adults with intellectual and developmental disabilities (IDD), their families, and providers of community supports, now and in the years to come.

Highlights of the 90-day session between January and April include the historic \$60 billion state Operating Budget for FY23, the Time to Care Act, which creates the first mandatory paid family leave insurance program in the state, legislation to put an end to the practice of seclusion in schools (and limit restraint), several childcare-recovery bills, school discipline reforms, education, access, and anti-discrimination bills, the creation of commissions to examine the healthcare workforce and DORS among other important charges, the creation of a new legally recognized alternative to guardianship known as Supported Decision Making, a commitment to require seizure action plans and training for teachers who support students with seizure disorders in schools, a commitment to “end the wait” for people with disabilities on the state’s Medicaid community services waiting lists, and several human rights bills.

The Arc Maryland took positions on 95 House and Senate bills that had implications for people with IDD and their families, and we monitored 46 others, to prepare in the event action was needed.

The Governor’s budget for the Developmental Disabilities Administration, as presented, was highly favorable for people with intellectual and developmental disabilities, initially including a 4% rate increase and funding for emergencies, transitioning youth, youth aging into adult services, LISS, funding for people on the waiting list with the oldest caregivers, and funding for the Maryland Inclusive Housing Corporation. At around the same time as the budget was released, the DD Community received the final rate charts and a plan from the Department for fully funding the rates over a multi-year glide path. The average funded percentage of the rates would be set at 86%. This news, combined with updated data showing average provider vacancy rates hovering over 30% and provider difficulty with fully reopening services due to staff vacancy rates, led to the decision to launch a campaign calling for enhanced provider funding; the goal being to bring the funded rate closer to what is considered the full rate.

Advocates from around the state called, emailed, and tagged their representatives on social media with their messages- asking the General Assembly and the Governor to put additional funds for DD Community Services in the FY23 budget. The Advocacy worked with the Budget and Appropriations Committees initially fencing off funds for a rate increase and including additional funds to serve people on Medicaid community services waiting lists and registries. The Governor followed with supplemental budgets which provided additional needed support for the funds to be included in the FY23 operating budget (see budget highlights in this report)!

There were 2,498 bills introduced for consideration this session, and although this was an intense session with many moving parts, our General Assembly was incredibly productive, passing 834 of them.

All 188 legislative seats will be on the ballot this November, and some districts will have new boundary lines. More than two dozen sitting lawmakers are retiring or leaving to run for other offices. Fasten your seatbelts, as the next session should be a fantastic ride.

# Developmental Disabilities Administration (DDA) FY23 Budget

*From SB290 - The Budget Bill, pages 99 and 100*

## Developmental Disabilities Administration

### Budget Highlights for M00M01.01 Program Direction

General Fund Appropriation, provided that \$1,000,000 of this appropriation made for the purpose of administration may not be expended until the Maryland Department of Health (MDH) submits a report each quarter to the budget committees regarding the ongoing transition to a fee-for-service (FFS) reimbursement system and spending forecasts for the Developmental Disabilities Administration (DDA) Community Services program transitions.

The report shall include:

- (1) A timeline for forecasting general fund spending in the Community Services program based on actual utilization and reimbursement billed through the Long Term Services and Supports (LTSS) system following the transition to an FFS model, including a discussion of how the spending will be forecast during the transition period;
- (2) if available, MDH spending forecasts by year;
- (3) a timeline for finalizing rates and the fiscal impact analysis of the new rates;
- (4) upon finalization, the finalized rates and the fiscal impact analysis of the new rates;
- (5) the number of individuals receiving DDA-funded services and providers transitioned to the LTSS system, including the timing of the transition including those transitioned in fiscal 2023 to date;
- (6) a cost analysis of the rates paid to providers that were transitioned to the LTSS system as part of the LTSS pilot program and how DDA's reimbursements compare to estimated payments that would have been made under the prospective payment model; and
- (7) an updated timeline for transition of individuals and providers to the LTSS system.

The reports shall be submitted quarterly, and \$250,000 may be available to be released following the submission of each report, and the budget committees shall have 45 days from receipt of each report to review and comment. Funds restricted pending receipt of these reports may not be transferred by budget amendment or

otherwise to any other purpose and shall revert to the General Fund if the report is not submitted to the budget committees ..... \$6,168,545

Federal Fund Appropriation ..... \$4,806,641

Total: \$10,975,186

### Budget Highlights for M00M01.02 Community Services

All appropriations provided for program M00M01.02 Community Services are to be used only for the purposes herein appropriated, and there shall be no budgetary transfer to any other program or purpose.

General Fund Appropriation ..... \$839,297,324

Special Fund Appropriation ..... \$6,450,203

Federal Fund Appropriation ..... \$691,781,570

Total: \$1,537,529,097

## Narrative Highlights

### Rates/Wages for Community Services – 8%

Note that this represents an increase in total funding for community services and the individual service rate increases may vary slightly, primarily due to numbers of people by service (volume).



### Transitioning Youth

**Includes funding to support 566 Individuals** who are exiting the school system in fiscal year 21 or who were delayed in exiting in 19 and 20 due to the pandemic but who are eligible for DDA employment and other day supports in FY22. (General + Federal Funds)

## Emergencies

**Funding is included to support an estimated 32 Individuals** to access community supports and services; for individuals in emergency situations (average 6 months actual) (General + Federal Funds).

## Waiting List – Crisis Resolution and Prevention

**The initial budget as presented by the Governor included funding to support 214 Individuals on the waiting list, but there was additional funding added to the final approved budget to fund the “End the Wait” bill, so this number is likely higher.** This funding is for community supports and services for people in the highest priority categories on the DDA Waiting list, including people in Crisis Resolution and Crisis Prevention categories (average 6 months actual) (General + Federal Funds).

## Waiting List Equity Fund

**Includes funding to support 36 Individuals** on the DDA waiting list – priority is given to people with the oldest caregiver (Special Funds).

## DSS Aging Out Placements

### Funding for 20 Young Adults

DDA-funded community supports for individuals aging out of Department of Social Services programs (General + Federal Funds).

## Low Intensity Support Services (LISS)

### Funding to support 2854 Individuals and families

Short term, low-cost services that support children and adults who aren't receiving other DDA services (General Funds- No matching Federal Funds).

## Housing and Housing Resources (MIH)

**\$150,000** in funding for Maryland Inclusive Housing (501c3) to serve as a catalyst for the development and identification of affordable and accessible housing and housing resources for people with IDD.

## Additional Highlights Include but Are Not Limited To:

\$30 million in funding to expand the **Autism Waiver** to serve an additional 1,350 Children on the Waiting List (Conference Committee Report on SB290, Page 5).

\$8.9 million in additional **Child Care funding**, including Stabilization Grants, Increased Rates for Providers of Therapeutic Child Care, and Scholarship Program Enhancements (Conference Committee Report on SB290, Page 5).

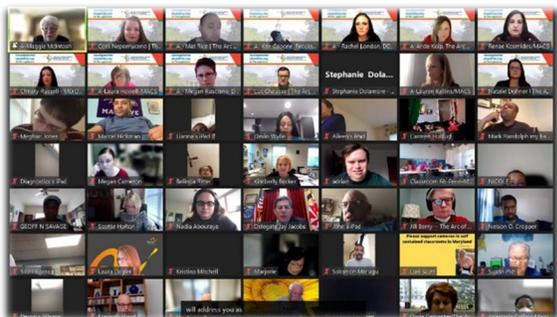
# Legislative Calendar Day



One of our biggest annual advocacy events, **Legislative Calendar Day**, was held on the second day of the legislative session: a tradition of The Arc Maryland! As both the House and the Senate were conducting business virtually or through pro forma sessions, a small group of volunteers descended upon Lawyers Mall in Annapolis to hand out coffee and deliver calendars to grateful recipients. Chapter members of The Arc held meetings with their delegations throughout the week to share our legislative priorities, challenges, and successes.



In conjunction with Legislative Calendar Day, The Arc Maryland hosted **Taking Your Advocacy to the Next Level** training events to keep advocates at the top of their game. Through the trainings, participants received tips gathered from state legislators on “making your case” and were informed on legislative priorities by The Arc Maryland's Governmental Affairs Committee. We also stepped advocates through changes made to support the hybrid nature of the session, including hearing witness procedures, testimony submission, floor session protocols, communications, visits with legislators, and more.



# DD Day at the Legislature

On 2/22/22, people with IDD, their families, Direct Support Professionals, provider organization employees, and legislators across the state celebrated Developmental

Disabilities Days at the Legislature! The annual day of grassroots advocacy supported by the coalition began in earnest and extended throughout the week with advocacy events, meetings, and visits to Annapolis. 830 unique attendees joined us for the zoom event to hear about priorities during Maryland's 2022 Legislative Session, and several hundred more tuning into a Livestream.

Throughout the morning, advocates heard from the Governor and First Lady Hogan, Members of our Senate and House leadership, the Maryland Department of Disabilities, the Developmental Disabilities Administration, and the Maryland State Department of Education. We also highlighted the ***Together We're Better Art*** Contest and honored students whose works of art, depicting inclusion, were selected for awards!

**Senate Bill 559/House Bill 529: Estates and Trusts - Supported Decision-Making**

**WHAT does this bill do?**

- It recognizes supported decision-making as an alternative to guardianship.
- It does not replace guardianship or a power of attorney. It creates another tool that people can use to make their own decisions. It also creates another option so families do not feel their only choice is guardianship.
- It reinforces that everyone, with or without a disability, can and should make their own decisions. People just may need some support or accommodations to do that.
- It lets a person to choose one or more supporters to help them understand, make, and communicate their own decisions. A person can choose exactly what support they want and the types of decisions they want that support with.
- It gives people an option of using a supported decision-making agreement that describes their relationship with their supporter(s) so that other people (like doctors, attorneys, and others) recognize their decisions.
- It allows people under guardianship to use supported decision-making to increase their decision-making ability and self-determination skills and can be a tool to change or get rid of guardianship.
- In 2015, the Maryland legislature passed a bill recognizing supported decision-making in organ transplant decisions. This bill expands that recognition of supported decision-making to all types of decisions.



All speakers expressed their gratitude for the advocacy of Marylanders with IDD and their strength during the pandemic. Our champions in the legislature renewed commitments to our community and highlighted legislative priorities including the FY23 budget and other initiatives to

protect and advance the rights of people with IDD.

The fact sheets for DD Day, provided online and through the mail, included options for modified formats and in Spanish. During the event, DD Coalition partners highlighted some of the coalition's priorities, including supplemental funding to address our workforce crisis, bills impacting supports to children and families, Supported Decision Making, and the legislation to "End The Wait" for people languishing on DDA and MSDE Wait Lists for community services.

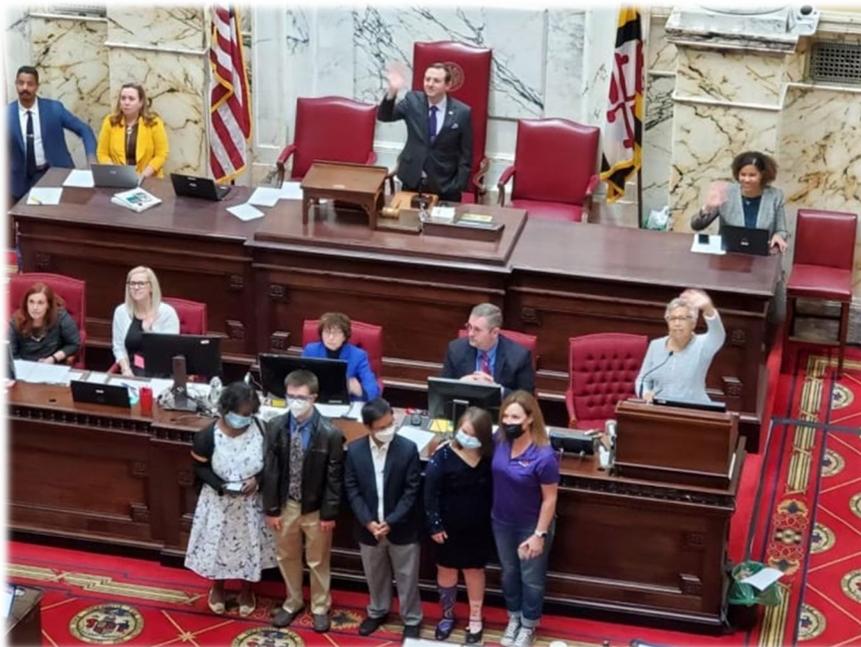
# World Down Syndrome Day

The Arc Maryland and our partners gathered for an in-person World Down Syndrome Day (WSD) celebration and dance party on Monday, March 21st. Advocates with Down syndrome and their family members joined us to share their stories of joy and success living with Down syndrome. Maryland First Lady Yumi Hogan, a long-time supporter of the event, provided a heartfelt address to attendees, and Carol Beatty, Secretary of the Department of Disabilities, shared a proclamation from the Governor. Several legislators also attended to present citations and provide messages of hope and solidarity.



After a fun Dance Party, several attendees headed to the State House to receive a proclamation on the floor from Senator Craig Zucker, which was met with a standing ovation from the Senate.

The day was capped off with spectacles of light on some iconic Maryland architecture, including sports stadiums and the Governor's Mansion, which shined blue and yellow to celebrate Marylanders with Down Syndrome and their families on WSD 2022!





# Legislation



**The Arc Maryland tracked several high-stakes bills throughout the 2022 Legislative Session.**

In this section, you will find highlighted bills that passed, along with bills that did not pass that could come back up in future sessions. Included in each bill update is the position we took and its outcome during session. Please note that, in many cases, the Governor has not yet taken action to sign or veto bills. By law, the Governor has up to 30 days after the bill presentation to take any action he intends on the legislation. Bills passed by the General Assembly that are not signed or vetoed by the Governor will automatically become law upon the expiration of this timeline.

## Tracked Legislation That Passed

### **Maryland Medical Assistance Program – Dental Coverage for Adults**

#### **SB0150/HB0006 | Support | Returned Passed**

This legislation requires the Maryland Medical Assistance Program, beginning January 1, 2023, and subject to certain limitations, to provide comprehensive dental care for adults whose annual household income is at or below 133% of the federal poverty level. This law takes the place of the previous pilot program to provide limited dental coverage to adult recipients under the Program. Of note, one of the budget amendments made possible by the General Assembly and through one of the Governor's supplemental budgets ensured funding for this Medicaid service expansion.

### **Discrimination in Employment – Reasonable Accommodations for Applicants with Disabilities**

#### **HB0078 | Support | Returned Passed**

The bill prohibits an employer from failing or refusing to make certain accommodations for a known disability of an applicant for employment. It requires an employer to reasonably accommodate an employee's religion or disability, unless the accommodation would cause undue hardship on the conduct of the employer's business. Further, it requires that an employer may not refuse to make a reasonable accommodation for the known disability of an employee or applicant for employment.

Those parts are current federal law, but this bill was important to create state code from which applicants or employees may refer to assert their rights as employees and/or applicants for employment, or to file a claim if they believe their rights as either an employee or applicant have been violated.

## **State Department of Education – Child Care Stabilization Grants**

### **HB0089/SB0440 | Support | Passed Enrolled**

This will require the State Department of Education to administer stabilization grants to child care providers in Fiscal Year 2023 and set eligibility and prioritization standards for grant awards.

In fiscal year 2023, the State Department of Education shall administer child care stabilization grants to provide financial support to child care providers that have faced a financial hardship or suffered an operational burden during the COVID–19 pandemic. In awarding grants, the State Department of Education shall give preference to childcare providers that have a demonstrated financial hardship that poses significant risk of the provider’s business closing within the next 12 months. Meeting this standard, prioritization and preference for grant awards will be given to (a) providers that have not received a stabilization grant in a prior application cycle; (b) providers that participate in the Child Care Scholarship Program; (c) providers located in areas designated by the State Department of Education as lacking child care slots; (d) providers that serve primarily low–income populations in areas of high poverty; (e) providers that serve children with special needs; and (f) providers that serve children 2 years old and under. The State Department of Education shall award a total of \$50,000,000 in grants in FY23.

## **Public Schools – Student Attendance – Excused Absences for Mental Health Needs**

### **HB0118 | Support with Amendments (EAC) | Passed Enrolled**

This legislation creates a lawful absence designation for schools for a student’s absence due to the student’s mental health needs. It requires that if a student is a minor and absent due to the student’s mental health needs, the student shall obtain permission from the parent or guardian for the absence and prevents the school from requiring a physician’s note to excuse the absence for this reason. Furthermore, a student who is absent in accordance with this section shall be informed of the opportunity to meet with a school mental health specialist within an appropriate period of time upon return to school, as determined by the county school board, where the student will have the opportunity to discuss their mental health needs if they desire.

## Education – Public and Nonpublic Schools – Seizure Action Plans (Brynleigh's Act)

HB0136/SB0299 | Support | Passed Enrolled



This bill was signed into law on April 12 and will create a standard requirement for students with seizure conditions to receive a “seizure action plan”; a written individualized health plan designed to acknowledge and prepare for the healthcare needs of the student. Also, beginning in the 2023-2024 school year, a county board shall require each public school to designate at least two personnel in the school to be trained who are either school nurses or individuals designated by a school nurse, to complete a paid professional development training, administered on-line or in-person in (1) recognizing the signs and symptoms of a seizure (2) appropriate steps for administering first aid for a seizure, and (3) subject to certain agreements and documentation, administering or assisting with the self-administration of a seizure

rescue medication prescribed to treat seizure disorder symptoms approved by the FDA and Manual Vagus Nerve Stimulation. Further, the law requires that every two years, all school personnel with direct contact and supervision of students shall receive an abridged version of the seizure safety training.

There are approximately 7,900 children living with epilepsy in Maryland. This amounts to a ratio of roughly 913 students for every 1 school nurse. Education, information, and training on seizure recognition would ensure school personnel are prepared and can recognize and respond appropriately and efficiently to a student experiencing a seizure, thus creating a safer environment for every student in Maryland’s public schools. Parents, as critical partners in education, would be actively involved in collaboration with school personnel to create a seizure action plan for their student with a seizure condition.

Twelve states already passed seizure safe legislation as of October 2021 including our neighbor states Virginia and New Jersey.

## **Education – Reportable Offenses and Student Discipline – Children With Disabilities and Reporting**

### **HB0146 | Support | Passed Enrolled**

This bill requires that on or before December 30th each year, the Maryland State Department of Education, in accordance with state and federal privacy laws, shall submit to the governor and the general assembly, a report that includes the following information about reportable offenses and student discipline, including but not limited to the nature of the reportable offense, the action taken by the local school and county board after being notified of the reportable offense, the race ethnicity, gender, and disability status of the student adjudicated delinquent or convicted of the reportable offense, and whether the students' regular school program was removed or altered as a result of the reportable offense.

The report shall include data on the discipline of a child with a disability, including the suspension, expulsion, or interim alternative placement of the child for disciplinary reasons, or removal or exclusion of the child from the child's regular school program for more than ten consecutive school days for a reportable offense, and shall ensure disciplinary removal or exclusion shall be conducted in conformance with the requirements of the Individuals with Disabilities Education Act of the United States Code, including the requirements related to a manifestation determination.

## **Commission on the Establishment of a Family and Medical Leave Insurance Program**

### **HB0496 | Support with Amendments | Passed Enrolled**

This bill creates a Commission to study and make recommendations for establishing a Family Medical Leave and Insurance Program in the State; providing that the intent of the General Assembly is to establish a certain statutory framework for a Family Medical Leave and Insurance Program in the State that is effective not later than a certain date; and generally related to the establishment of a Family Medical Leave and insurance Program.

The Commission shall study and make recommendations on (1) when employers and employees should begin making contributions to fund the Program so that benefits under the Program are able to begin being paid not later than January 1, 2024; (2) the appropriate cost sharing formula between employers and employees for making contributions to fund the Program, including various formulas that range between a cost share of: (i) 75% paid by employers; and 25% paid by employees; and (ii) 25% paid by employers; and 75% paid by employees; and develop other rules, communications, and marketing documents related to plan.

## **Health Facilities – Residential Service Agencies – Reporting Requirement Returned Passed**

### **HB0544 | Monitored for changes to include DD Residential Providers (as passed – does not include) | Returned Passed**

This legislation requires residential service agencies receiving Medicaid reimbursement for the provision of home care or similar services by personal care aides to report by October 1 each year to the Maryland Department of Health information as to the personal care aides hourly pay rate, and whether the aides are classified as employees or independent contractors, whether the aides have health insurance and are covered by worker's compensation through the agency, and whether the aides have earned sick and safe leave provided by the agency.

## **Behavioral Health Crisis Response Services – 9-8-8 Trust Fund**

### **SB0241 | Support | Returned Passed**

This bill establishes the 9-8-8 Trust Fund as a special, nonlapsing fund to provide reimbursement for costs associated with designating and maintaining 9-8-8 as the universal telephone number for a national suicide prevention and mental health crisis hotline; requires the Maryland Department of Health to designate 9-8-8 as the primary phone number for the State's behavioral health crisis hotline; and requires the Department by December 1 each year to report on the expenditure of funds and additional services provided by the funding.

## **Commission to Study the Health Care Workforce Crisis in Maryland – Establishment**

### **SB0440/HB0625 | Support | Passed Enrolled**

This bill creates a commission to study and make recommendations on the Healthcare Workforce sustainability and recovery. The Commission shall: (1) determine the extent of the health care workforce shortage in the State, including the extent of shortages in:

(i) different settings including in-home care, hospitals, private practice, nursing homes and other long-term care settings, primary and secondary schools, community health centers, community-based behavioral health treatment programs, and hospice care including an examination of the status of healthcare related to;

(ii) different regions of the State;

- (iii) care provided in different languages spoken in the State;
- (iv) environmental services in hospitals and nursing homes; and
- (v) different levels of care for health occupations including entry level direct care positions, direct support professionals, professional extenders, primary care providers, and specialists;

(2) examine turnover rates and average length of tenure for the shortages identified in item (1) of this subsection and identify strategies to reduce turnover in the professions that are experiencing shortages, including wage increases and opportunities for career advancement;

(3) examine short-term solutions to address immediate needs for the shortages identified in item (1) of this subsection while ensuring the safety of Maryland patients. The Commission is required to report its findings and recommendations to certain committees of the General Assembly by December 31 each year it is in place.

### **Commission to Study the Division of Rehabilitation Services (also known as DORS) (Student Job Training Reformation Act)**

#### **HB0660 | Support with Friendly Amendments | Passed Enrolled**

This creates a commission to study DORS and make recommendations for improvement of services. Commission membership includes one representative of the Maryland Developmental Disabilities Council; one representative of Arc Maryland; one representative of Disability Rights Maryland who is an attorney and has experience working with the Division of Rehabilitative Services. The Senate added another member of the commission to be the Maryland Department of Disabilities, but the current bill uploaded does not contain this member. We presume this error to be an uploading issue.

### **Career Pathways for Health Care Workers Program**

#### **SB0518 | Support | Returned Passed**

This legislation establishes the Career Pathways for Health Care Workers Program in the Maryland Department of Labor for the purpose of providing grants to eligible employers for training programs attended by health care workers, including individuals employed by an eligible employer who provides personal care, assistance, or treatment.

## **Advisory Stakeholder Group on Autism-Related Needs, Interagency Disabilities Board, and the State Coordinator for Autism Strategy - Membership, Staffing, and Appointment**

### **HB0662 | Monitoring (Support) | Passed Enrolled**

This bill affirms there is a State Coordinator for Autism Strategy in the Governor's Office of Community Initiatives and adds that with the advice and consent of the Senate, the Governor shall appoint the state coordinator for autism strategy.

For fiscal year 2023 and each fiscal year thereafter, the Governor shall include in the annual budget bill an appropriation to fund the position of State Coordinator for Autism Strategy and the Advisory Stakeholder Group on Autism-Related Needs and for Fiscal Year 2024 and for each fiscal year thereafter, the Governor shall include in the annual budget bill an appropriation in an amount sufficient to fund one support staff position for the state coordinator for autism strategy.

## **Child Care Programs – Maryland Infants and Toddlers Program – Information and Assistance**

### **HB0664 | Support | Returned Passed**

Beginning on July 1, 2023, at least once each calendar year, a childcare program shall make the following information available to the parent or guardian of each child under the age of 3 years:

- (i) Information about the Maryland infants and toddlers program; and
- (ii) Contact information for the local lead agency responsible for the administration of the Maryland infants and toddlers program.

On request of a parent or guardian, a childcare program shall assist the parent or guardian with scheduling a time and convenient location for the local lead agency responsible for administering the Maryland Infants and Toddlers Program to provide an appropriate screening.

## **Children – Therapeutic Child Care Grant Program – Establishment**

### **HB0725/SB0506 | Support | Passed Enrolled**

This establishes the Therapeutic Child Care Program to provide funding to educators, early intervention providers, mental health providers, and health care providers to provide specialized child care and early education to children under the age of 6 years

who have delays in development, physical disabilities, or delays in social, emotional, or behavioral functioning; requiring the Governor, in fiscal year 2024 and each fiscal year thereafter, to include in the annual budget bill an appropriation of \$3,750,000 to the Program.

## **Schools, Prekindergarten Programs, and County Boards of Education – Discrimination**

### **HB0850 | Support | Passed Enrolled**

Pursuant to House Bill 850, an elementary or secondary school that receives state funds would be unable to refuse enrollment, expel, withhold privileges from or discriminate against any student or prospective student because of the individual's race, ethnicity, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, or disability. For students with disabilities, this provision ensures that if families choose to enroll their child with a disability in a private school that is not required to comply with Section 504 of the Rehabilitation Act, 20 U.S.C. §794, because it does not receive federal funds, or with the Americans with Disabilities Act, 42 U.S.C. §12101 et. seq. because it is run by a religious organization, their children will be protected against disability-based discrimination.

## **Howard County – Department of Housing and Community Development – Housing Opportunities Trust Fund Ho. Co. 05-22**

### **HB0878 | Support | Returned Passed**

This will create more affordable housing in Howard County by establishing the Housing Opportunities Trust Fund. *This is a model bill for state legislation.*

## **Early Childhood Development – Child Care Scholarship Program – Alterations**

### **HB0995 | Support | Passed Enrolled**

The bill creates presumptive eligibility for parents to receive subsidies under the program and introduces a process to accelerate access to childcare, pending the outcome of application for subsidies.

## Developmental Disabilities Administration – Self-Directed Services (Self-Direction Act of 2022)

### HB1020/SB0728 | Letter of Information | Returned Passed

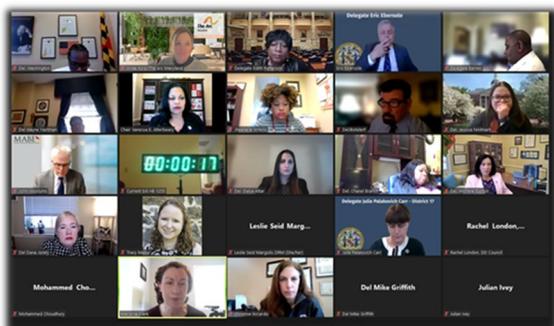
This legislation restores many of the flexibilities previously included in the Self-Direction option that were lost upon waiver amendments. Changes restore expanded duties to Support Brokers, and redefine that support broker hours may be obtained up to 30 hours a week with an assessed need.



Further, the Act requires that people who have a need for awake overnight supports shall be able to self-direct these supports and not have to receive supports for awake overnight services from a traditional provider.

Individual and Family Directed Goods and Services may be provided for approved services and supports in an amount within the limits of the person's approved annual budget.

The Act prohibits the Department from requiring individuals undergo competency testing before they may exercise their right to self-direct services, requires that people who choose to self-direct have a choice of FMS vendors from at least 3 options. The bill also requires that CCSs annually provide information on both traditional services and the self-direction option, and requires reimbursement for transportation under certain circumstances.



### Education – Physical Restraint and Seclusion – Limitations, Reporting, and Training

### HB1255/SB0705 | Support | Enacted under Article II, Section 17(b) of the Maryland Constitution – Chapter 31

This bill requires that a public agency may not use seclusion as a behavioral health intervention for a student and stipulates that neither a public agency nor a non-public school may use physical restraint on a student as a behavioral health intervention unless the restraint is necessary to protect the student or another from imminent serious

physical harm and other less intrusive, nonphysical interventions have failed or have been demonstrated to be inappropriate for the student.

The bill also includes extensive data reporting requirements in a disaggregated format to monitor restraint and seclusion, and to track and intervene with schools who report high numbers.

Lastly, the bill requires that teachers receive training and assistance to utilize less intrusive techniques and to deliver trauma-informed care.

## **Education – Home and Hospital Teaching Program for Students – Report**

### **HB1327 | Support | Passed Enrolled**

This legislation requires the State Department of Education to study and make recommendations regarding the Home and Hospital Teaching Program for Students and instructional services, and transition plans for students in the program.

## **Maryland Department of Health – Waiver Programs – Waitlist and Registry Reduction (End the Wait Act)**

### **HB1403/SB0636 | Support | Returned Passed**

This legislation requires the Department to develop plans to reduce registries and wait lists by 50% in FY24. It includes requirements for the Department of Health to include a review and analysis of current provider capacity and sufficiency of rates to support expansions of services.



## **Facilities – Disabilities, Juveniles, Behavioral Health, and Health Care – Plans**

### **SB0003 | Support with Amendment | Passed Enrolled (Safety Plans)**

The legislation requires that each state residential center shall establish and implement a safety plan for the individuals served within the centers and that the plans shall be reviewed and revised no less often than every five years. There was an amendment

included in the bill to signify that residential agencies meet the requirements of this bill if they already have emergency plans in place that were created for another purpose.

## **Equity in Transportation Sector – Guidelines and Analyses**

### **SB0023/HB0141 | Support | Returned Passed**

This legislation requires that equity be considered when State transportation plans, reports, and goals are developed; alters the membership of the advisory committee on State transportation goals; establishes the Commission on Transportation Equity to assist in developing policies and performance measures to ensure the State transportation system is equitable. It also requires the Department of Transportation to conduct transit equity analyses and consult with certain communities, including the disability community, before announcing or proposing service changes; etc.

## **Home- and Community-Based Services Waiver – Participation and Applications**

### **SB0028 | Support | Returned Passed**

Referring to the Community Options Waiver, this bill requires the department's waiver shall include the following:

- (1) A cap on waiver participation of not fewer than 7,500 individuals;
- (2) A plan for waiver participation of not fewer than 7,500 individuals.

If the department maintains a waiting list or registry, each month, the department shall send a waiver application to certain numbers of people on the waiting list (depending on the length of the waiting list).

## **Juvenile Law – Child Interrogation Protection Act**

### **SB0053 | Support | Gubernatorial Veto Override (Legislative date: 4/8/2022) – Chapter 50**

This bill will provide needed protections to children with IDD by codifying that juveniles may not be interrogated without parental notification. Often, children who become entangled in the legal justice system are questioned by law enforcement without a parent or attorney present. As a result, they face criminal charges, prosecution, and incarceration often without the basic due process rights to which adults are entitled. Without consideration for the due process rights of children, and supports to ensure

those rights are upheld, our current system presents dangers for all children, and particularly children with IDD, who may lack awareness or an appreciation for the severity of their situation.

Some children with disabilities may experience dysregulation of their emotions or have adverse reactions to their environment, causing them to become disruptive or even aggressive. In these situations, trauma-informed and restorative practices to include positive behavioral interventions are critical to safe and effective incident resolution. Unfortunately, these practices are not uniformly employed in our schools. Students with disabilities, therefore, remain vulnerable to disciplinary responses from schools, and police involvement in incidents.

According to the Maryland Public Schools Arrest Data School Year 2018-2019, students with disabilities were referred to law enforcement 16% more often than students without disabilities. Also, in 2018-2019, Maryland students with disabilities made up 12% of the student population, but received 23% of school-related arrests.

## **Tax Credits – Employment of Individuals with Disabilities**

### **SB0093 | Support | Returned Passed**

This bill increases the amounts employers can claim for a deduction for employing certain individuals with disabilities. For each taxable year, for the wages paid to each qualified employee with a disability, a credit is allowed in an amount equal to 30% of up to the first \$15,000 of the wages paid to the qualified employee with a disability during each of the first 2 years of employment. (threshold was previously \$9,000)

For each taxable year, for child care provided or paid for by a business entity for the children of a qualified employee with a disability, or transportation expenses that are incurred by a business entity to enable a qualified employee with a disability to travel to and from work, a credit is allowed in an amount equal to or up to \$1,500 of the qualified child care or transportation expenses incurred for each qualified employee with a disability during each of the first 2 years of employment (previous limit was \$900).

## **Labor and Employment – Family and Medical Leave Insurance Program – Establishment (Time to Care Act of 2022)**

### **SB0275 | Support with Amendments | Gubernatorial Veto Override (Legislative date: 4/8/2022) – Chapter 48**

This bill will establish a Family and Medical Leave Insurance Program in the state.

Highlights include:

- Employees will be eligible to take leave after having worked 680 hours.
- The amount to be contributed by the employer versus the employee to the insurance program shall be set by a commission established under HB496 for the first two years of the program and reevaluated for possible changes every two years.
- An employer under the plan is defined as a person who employs one or more employees in the state. (Sole proprietors/sole owner-employees may opt-in to the program but are not required to participate. The contributions to the plan are only required however from employers of 15 or more employees.)
- To the extent the need for leave is foreseeable, employees must give employers a 30-day notice of intent to take leave. If an employee is taking intermittent leave, intermittent leave may not be taken in leave increments of less than 4 hours.
- Employees may not take covered leave of greater than 12 weeks in a year with one exception. Pregnant women may take leave for themselves (up to 12 weeks) and then take another 12 weeks to care for a newborn and that leave may run concurrently.
- The Department of Labor is responsible for relaying information and marketing materials, policy decisions etc. and determining (with the IRS) whether or not the paid leave benefits are subject to Federal income tax.
- The employee taking leave must be restored to an equivalent position within the organization upon return from leave. This section does not apply to people who self-direct their services who are employers of record. Employees of self-directing individuals do not have the right to restoration to equivalent position.
- The employer shall provide upon hire- and then annually- notice to an employee of their rights to take leave under this program.
- The bill states that it is the intent of the General Assembly that the State pay the required contribution under § 8.3–601 of the Labor and Employment Article for employers that are community providers that are community–based agencies or programs funded by the Behavioral Health Administration, the Developmental Disabilities Administration, or the Medical Care Programs Administration to serve individuals with mental disorders, substance–related disorders, or a combination of those disorders or developmental disabilities.

## **Budget Bill (Fiscal Year 2023)**

### **SB0290 | Support | Passed Enrolled**

See DDA budget highlights on page 4 and 5 report.

**Creation of a State Debt – Maryland Consolidated Capital Bond Loan of 2022, and the Maryland Consolidated Capital Bond Loans of 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, and 2021**

**SB0291 | Support | Passed Enrolled**

Two chapters of The Arc have approved bond initiatives included in this enrolled bill:

The Arc of the Central Chesapeake Region – Eastern Shore Headquarters. Provide a grant to the Board of Directors of The Arc of the Central Chesapeake Region, Inc. for the acquisition, planning, design, construction, repair, renovation, reconstruction, and capital equipping of the Eastern Shore Headquarters (Regional)  
..... \$1,000,000

The Arc Baltimore. Provide a grant to the Board of Directors of The Arc Baltimore, Inc. for the acquisition, planning, design, construction, repair, renovation, reconstruction, site improvement, and capital equipping of The Arc Baltimore facilities (Baltimore County)  
..... \$75,000

**Adult Protective Services – Workgroup to Study Best Practices for a Vulnerable Adult Registry in Maryland**

**SB0357 | Monitored | Passed Enrolled**

This bill will create a workgroup to study best practices for establishing a vulnerable adult registry in Maryland, however the focus is not on DDA-related services.

**Estates and Trusts – Supported Decision Making**

**SB0559 | Support | Returned Passed**

This authorizes the use of supported decision making to assist an adult through the provision of certain support for the adult in making, communicating, or effectuating certain decisions and preventing the need for the appointment of certain substitute decision makers for the adult. The bill recognizes the right of an adult to enter into a supported decision-making agreement with one or more supporters



under certain circumstances and provides immunity from civil or criminal liability for supporters under certain circumstances.

### **Local School Systems – Equivalent Access Standards – Digital Tools (Equivalent and Nonvisual Access Accountability Act for K-12 Education)**

#### **SB0617 | Support with Amendments (with EAC) | Passed Enrolled**

Instead of just addressing non-visual access needs of students, the bill was expanded to require equivalent access accommodations. Equivalent Access means the ability to receive, use, and manipulate information and operate controls necessary to access and use information technology, including by nonvisual means so that a student with disabilities can access the same services as a student without disabilities with substantially equivalent ease of use.

### **Maryland Health Benefit Exchange – Small Business and Nonprofit Health Insurance Subsidies Program – Workgroup**

#### **SB0632 | Support | Returned Passed**

This bill will create a workgroup to analyze and make recommendations for increased affordable access to healthcare plans for small nonprofit organizations (The Arc Maryland falls into this category).

### **Transportation – Elderly and Handicapped Transportation Service – County Funding**

#### **SB0838 | Support | Returned Passed**

Requires the Secretary of Transportation to identify separately within the Department of Transportation's annual budget at least \$4,305,908 of funding in fiscal year 2024 and a certain amount of funding in all subsequent fiscal years to be used for county elderly and handicapped transportation service; and requires, on or before December 1 each year, the Secretary to report to certain committees of the General Assembly on the amount of funding distributed to each county and municipality under the Act.

## Tracked Legislation That Did Not Pass

### Transportation of Persons with Disabilities – Transportation Network Companies – Employee Requirements

#### SB0625/HB0726 | Support | Did Not Pass

This bill would have exempted certain employees of transportation network companies that provide transit service to persons with disabilities under contract with the Maryland Transit Administration from certain requirements relating to a certain criminal history records check and completion of a certain course; and would have required transportation network companies that provide transit service to persons with disabilities under contract with the Administration to run certain annual background checks on certain employees.

This would have helped to alleviate the lack of transportation options for people with IDD and other disabilities and it is legislation that was supported as a temporary measure by the Cross Disability Rights Coalition.

### Driver's Licenses, Identification Cards, and Registration Plates – Notation for Autism Spectrum

#### HB1121 | Moved Position to Support with Amendment | Did Not Pass

This bill would have required the Motor Vehicle Administration to ensure that the driver's license, identification card, or registration plate of an applicant who indicates on a certain application that the applicant is on the autism spectrum includes a notation specifying that the applicant is on the autism spectrum; and would have required an application for a driver's license, an identification card, or a vehicle registration allow an applicant to indicate that the applicant is on the autism spectrum. Unintended consequences would have arisen from the bill as written as revealed by the MVA and MDOT. We are hopeful we can work with the sponsor and a diverse group of stakeholders over the summer to try to develop legislation that will address the concerns of parents and advocates with autism who wish to have greater protections from harmful police interactions during traffic stops or other encounters.



## State and Local Parks – Playground Accessibility – Communication Boards

### SB0680/HB1332 | Support | Did Not Pass

The bill would have required the Department of Natural Resources and local governing bodies to construct a communication board in each public playground by October 1, 2027. Communication boards have already been constructed in several parks and are very helpful to break down barriers between children with and without disabilities as they facilitate

communication in play.

## Public Schools – Self-Contained Special Education Classroom Video Recording Pilot Program

### HB0226/SB0577 | Support | Did Not Pass

The bill would have required county boards of education to install a video recording device in 10 self-contained special education classrooms in the state, report data on the costs of installation and maintenance, and report data on the effectiveness of the devices both as a deterrent and as a tool to investigate abuse and neglect claims. Unfortunately, and despite passing the House, the bill stalled in the EHEA committee.



## School Discipline – Data Collection and School Resource Officers

### HB0023 | Support | Did Not Pass

This bill would have required the State Department of Education to disaggregate certain discipline-related data in an electronic spreadsheet format for the Department's website, make the data available to the public, and report certain discipline-related information each year; requiring the Department to lower a risk ratio used to identify a school's disproportional disciplinary practices and report disproportionality data for high-suspending schools; and prohibiting a school resource officer from unilaterally enforcing student discipline.

Data shows disproportionate application of discipline on black and brown students and students with disabilities, but the data is not helpful for holding school systems accountable to change as it is rolled up onto lump totals, not disaggregated. We need

the data disaggregated so we can identify and address the problems where they are. The bill also addresses a concern with the overreach of the SROs becoming involved in incidents, potentially leading to escalations, and police involvement. These functions should be handled by supportive staff in the school, trained in trauma informed care, and in the communication, behavioral, and sensory needs of the student.

### **Public Schools – School Resource Officers – Firearms Required**

#### **SB0973 | Oppose | Did Not Pass**

This would have required a Baltimore City school police officer and a school resource officer to carry a firearm while present on the premises of the school to which the officer is assigned. As suspension and expulsion and restraint and seclusion are already performed in Maryland at disproportionately higher rates for black and brown students and students with disabilities, we cannot support any legislation which we believe would pose a clear risk to these student groups who would likely have greater than typical interaction with SROs as data currently indicates.

### **Alternative Education Options – Right to Learn and Broadening Options and Opportunities for Students Today Programs (Right to Learn Act of 2022)**

#### **HB0737 | Oppose (with EAC) | Did Not Pass**

This bill would have required, on or before January 1 each year, and based on certain star ratings, each county board of education to provide the parents or legal guardians of students who attend a failing school notice that the school is failing and a list of alternative school options; establishing the Right to Learn Program to provide students who attend a failing school and choose to pursue an alternative education option with certain scholarships; establishing the Broadening Options and Opportunities for Students Today (BOOST) Program; etc.

The issue with BOOST funding is that there is no requirement that recipient schools must follow IDEA and provide students with disabilities with needed support to access their education programs. That must be addressed in any legislation to expand BOOST.

## **Education – Student Behavior – Parent Notice and Required Counseling (Parent Accountability Act)**

### **HB1145 | Oppose (with EAC) | Did Not Pass**

This would have established that it is unlawful for a parent or guardian of a student in a public school to fail to seek and participate in counseling with their child after receiving notice of violent and disruptive behavior; and would have required a public school principal to provide written notice to the parent or guardian of a student who engages in two or more number of incidents of violent and disruptive behavior in a public school during the school year.

Parents of students with disabilities who have behavioral incidents at school should not have to undergo counseling associated with any incident.

## **Election Law – Absentee Ballots – Signature Requirements and Verification**

### **HB0099 | Oppose | Did Not Pass**

This would have prohibited a local board of elections from removing an absentee ballot from a return envelope or ballot/return envelope or counting the ballot unless the return envelope or ballot/return envelope is signed by the voter and, except under certain circumstances, a witness, and the local board verifies the voter's signature. We opposed because we believe a change in law would create barriers to exercise the right to vote for people with disabilities.

## **Elections – In-Person Voting – Proof of Identity**

### **HB0113 | Oppose | Did Not Pass**

This would have required individuals seeking to vote in person at a polling place or early voting center to prove their identity by presenting certain identification to an election judge; and would have provided that individuals who do not prove identity as required must be issued and may cast a provisional ballot. We opposed because people with disabilities disproportionately have difficulty obtaining IDs for a variety of reasons, and this would create unnecessary barriers to exercise of voting rights for people with disabilities.

## **Education – American Studies and Social Equity Standards Advisory Board – Academic Standards and Model Policy**

### **HB0352/SB0888 | Support | Did Not Pass**

This bill would have established the American Studies and Social Equity Standards Advisory Board; requiring that at least 80% of the Board's members reflect the geographic diversity of the State and have a background in advocacy for certain ethnic and social groups to include people with disabilities. Further, it would have required the Advisory Board to review academic standards for American studies and develop a model policy on ethnic and social equity in public schools and required each county board of education to implement a curriculum for American studies before the 2025-2026 school year; etc.

The charge of the board would be to advise curriculum on American Studies to ensure the histories of influential contributors to American History were equitably included. This would have included the contributions of people with disabilities throughout history who have shaped our history and nation today.

## **Labor and Employment – State Minimum Wage Rate – Increase**

### **HB0698/SB0721 | Support with Amendment | Did Not Pass**

This would have increased the State minimum wage rates in effect for certain periods of time and repealed the authority of the Board of Public Works to temporarily suspend an increase to the State minimum wage rate. The minimum wage rate would have increased to \$15 per hour by July 1, 2022. The bill did not include any mandated appropriation to increase Medicaid provider rates and as such, it would have been extremely problematic for us. The bill did not advance after initial hearings.

## **Public Schools – Standardized Behavioral Health Screenings for Students – Development and Implementation**

### **HB0657 | Monitored | Did Not Pass**

This would have required the Maryland Consortium on Coordinated Community Supports to develop, in consultation with certain stakeholders, guidelines for developing a standardized behavioral health screening to identify students with behavioral health services needs. Further, it would have required that the screening be given to the parent or guardian of each student when the student enrolls for school and every year

thereafter; and required each behavioral health services coordinator to develop and implement a certain standardized behavioral health screening.



# The Arc Maryland 2022 Public Policy Team

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Kim Tart, Board Secretary and Education Advocacy Co-Chair

Guy Stephens, Board Member with Session Focus on Ending Restraint and Seclusion Advocacy

## 2022 Legislative Session

### By the Numbers



**444<sup>th</sup> Session of the Maryland General Assembly**

**47 Senators (32 Democrat; 15 Republican)**

**141 Delegates (99 Democrat; 42 Republican)**



**1,011 Senate Bills**

**1,487 House Bills**

**141 Bills Tracked**

**95 Positions Taken**

**46 Bills Monitored**



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