

## 2019 LEGISLATIVE WRAP UP REPORT

# HIGHLIGHTS FROM THE 2019 LEGISLATIVE SESSION



**Our Mission: The Arc Maryland works to create a world where children and adults with intellectual and development disabilities (I/DD) have and enjoy equal rights and opportunities.**

# LEGISLATIVE WRAP UP | 2019

The Maryland General Assembly completed its work for the 2019 Legislative Session and adjourned (Sine Die) on April 8<sup>th</sup>, 2019 at midnight.

The Arc Maryland's public policy team, Governmental Affairs Committee, and our coalition partners covered several bills that would have had varying degrees of impact on children and adults with intellectual and developmental disabilities, their families, and providers of community supports.

The Fight for \$15 (HB0166/SB280); a bill to raise the Maryland Minimum wage to \$15 per hour incrementally over the next several years, returned this year and much of our advocacy centered around working to ensure there would be adequate funding for Community Providers who support people with development disabilities. Organizations such as our state's 10 local chapters of The Arc, and thousands of people in Self-Directed Services (all funded by Medicaid) are impacted every time the state minimum wage has increased. Rates are set by the state and the costs of providing services cannot be passed onto the recipient of services. Some people with intellectual and developmental disabilities and their families expressed concerns about the effects of minimum wage increases on the employment rates of people with intellectual and developmental disabilities. In states that have enacted minimum wage legislation, there are conflicting reports on the effects of minimum wage increases on jobs for people with intellectual and developmental disabilities. This is an area that will require further study on both the state and national level. For more information on the "Fight for \$15," see page \_\_ of this report.

The bill known as the "End-of-Life Option Act" (HB0399/SB0311) met an unprecedented and emotional outcome this session. Narrowly passing in the House chamber, the bill failed in the Senate on a tie vote of 23-23 with one Senator abstaining from the vote. In previous years when the bill to legalize the practice was introduced, the bill did not make it past the House chamber.

The Governor's proposed budget for Developmental Disabilities Administration remained intact through the ups and downs of the budget review process and passed with a 3.5% increase for DDA providers along with funding for other important programs and services to support children and adults with intellectual and developmental disabilities.

Thank you to all who testified, contacted and met with legislators, wrote letters, came to Action and Advocacy events, attended Governmental Affairs committee meetings, and in general, all who provided such amazing support throughout the session! Your voices mattered!



# FY 2020 Budget

## **HB 100/SB 125: Budget Bill (Fiscal Year 2020)**

The FY20 budget for the **Developmental Disabilities Administration** passed intact with the following line items:

\$1,299,451,407 total to support children and adults with intellectual and developmental disabilities, including FY20 increases in the following categories.

- **Transitioning Youth - 590 Youth**
  - \$12,320,521 for young adults exiting high school
- **Emergency Placements - 31 People**
  - \$816,833 for Residential, Day, Personal Services, and Individual Support Services
- **Waiting List (Crisis Resolution) - 174 people**
  - \$5,103,521 for people in crisis to receive Residential, Day, Supported Employment, Self-Directed, Personal, and Individual Support Services
- **Waiting List Equity Fund - 38 people**
  - \$1,494,170 for support to people with the oldest caregivers on the waiting list
- **Department of Social Services (DSS) age-out placements - 40 people**
  - \$1,184,723 for people aging out of DSS
- **Low Intensity Support Services (LISS)**
  - \$5,138,169 for up to \$2,000 per randomly selected eligible applicants for equipment, camps, and other needs
- **Community Supports Waiver - 400 slots**
  - \$10,000,000 to provide continued funding for non-residential services in the community at a funding cap of \$25,000 per year per individual
- **Family Support Waiver - 400 slots**
  - \$4,800,000 to provide funding for children under 21 and their families to secure supplemental, wraparound services to those provided by the Maryland State Department of Education. This will fund at a cap of \$12,000 per year per individual.
- **Post-Secondary Education Program**
  - \$250,000 to develop post-secondary education programs for people with intellectual and developmental disabilities.
- **DD Community Services**
  - \$42,531,483 to fund a provider and Self-Directed Services rate increase of 3.5%



Both chambers of the legislature passed **budget language** requiring DDA to report on the following this year:

**Early Outreach for Community Services:** The budget committees are concerned that families with school-age children who may be eligible for community services through the DDA are not aware of the agency's services. Before October 1, 2019, the MSDE should work with DDA to submit a report that describes the methods currently used by both agencies to inform families of DDA services.

**Services for Transitioning Youth:** The budget committees are concerned that youth with developmental disabilities receiving services through the DRS under the SSDE or the DHS age out and do not always transition to similar adult services funded by DDA. Before November 1, 2019, DDA should work with DORS and DHS to submit a report regarding the transition process for these individuals.

**Job Coaching Opportunities for Individuals with Developmental Disabilities:** The budget committees are concerned that the availability of certain employment support services specifically ongoing job coaching currently funded by the DDA may be limited or changed. The DDA should submit a report by September 1, 2019 that provides the funding level and enrollment of each employment support service between FY18 and FY2020 YTD.

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

- Autism Waiver: There was an increase of slightly less than \$1 million in funding for the Autism Waiver to cover the increased cost of services. No new waiver slots will be added in FY 2020. 1,200 children with autism receive services through the Autism Waiver and there are more than 5,400 children on the Autism Waiver Registry.
- Pre-K: \$20 million is the amount of increase proposed by the Governor for public prekindergarten education. This was increased to \$31.7 Million through the budget process in the passage of SB 1030 (as amended).
- Infants and Toddlers: \$10.4 million for the Maryland Infants & Toddlers Program--the same funding level as FY 2019.
- BOOST: Although \$10 million was originally in the Governor's budget for the Broadening Options and Opportunities for Students Today (BOOST) Program the funding was reduced by 3.4 million as part of the Budget Reconciliation and Financing Act. BOOST provides scholarships to students to attend private schools. Most private schools do not have to comply with the Individuals with

Disabilities Education Act (IDEA) so even if a student with a disability enrolls, the private school does not have to provide the services and supports he or she needs.

In the House, the budget committee allayed some of the concerns expressed by The Arc Maryland and our coalition partners by including budget language “requiring that the BOOST Advisory Board shall review and certify the ranked list of applicants and shall determine the scholarship award amounts. The BOOST Advisory Board shall take into account the special needs of students with disabilities when determining scholarship award amounts.” Additionally, “MSDE shall make scholarship awards to eligible students as determined by the BOOST Advisory Board. Unless a student has special needs due to a disability, the amount of a scholarship award may not exceed the lesser of: (a) the statewide average per pupil expenditure by local education agencies, as calculated by MSDE; or (b) the tuition of the nonpublic school.”



- **Child Care Subsidy Program:** \$34 million was included to provide an increase in federal funding for the Child Care Subsidy Program, which funds free or reduced-priced child care for eligible families. In addition to funding, **HB 248 / SB181 passed this session (Education-Child Care Subsidies- Mandatory Funding levels)**. This bill, once signed into law, requires the Governor to appropriate funds in the annual state budget for child care subsidies in an amount sufficient to raise the program’s reimbursement rates for each region to not less than the 30<sup>th</sup> percentile of the most recent market rate survey in FY20, and not less than the 60<sup>th</sup> percentile in FY21 and each fiscal year thereafter!

**Education:** Under a conference committee’s budget plan, the state’s support for public schools totals a record \$7.0 billion for FY20. Direct aid to local school systems will increase an estimated \$435.2 million, or 7.5%. The budget plan dedicates at least \$255.0 million to support the fiscal 2020 recommendations of the Commission on Innovation and Excellence in Education (Kirwan Commission) that is contingent on a budget amendment that would now be required of the Governor to allow the release of some of the funds required for the implementation of the plan.

**Funding Restricted for The Blueprint for Maryland's Future (Kirwan Commission) in the Fiscal 2020 Budget and Budget Reconciliation and Financing Act of 2019**

| Contingent on Enactment of SB1030 - "The Blueprint for Maryland's Future" AND Release by the Governor (\$ in millions) |                |
|--|----------------|
| Full-day Prekindergarten for Four year olds  | \$31.7*        |
| Special Education Grants   | 65.5**         |
| Concentration of Poverty School Grants (Includes MSDE Coordinator Position)  | 54.6           |
| Teacher Salary Incentive Grants  | 75.0           |
| Transitional Supplemental Instruction Grants   | 23.0           |
| Mental Health Coordinators for Each Local School System  | 2.0            |
| Teacher Collaborative  | 2.5            |
| Outreach and Training  | 0.3            |
| MSDE IT System   | 0.5            |
| <b>Total</b>   | <b>\$255.0</b> |

| Fund Sources  | \$ in millions |
|---|----------------|
| Education Trust Fund                                    | \$116.5        |
| Kirwan Commission Special Fund                          | 134.5          |
| Repurposed Funds from TIRA (\$4.0 million General Fund) | 4.0            |
| <b>Total</b>  | <b>\$255.0</b> |

\* Budget language included a requirement that MSDE submit a report on the number of children enrolled with intellectual and developmental disabilities for future funding/planning purposes.

\*\* 65.5 million was included in the Blue Print for Maryland's Future (the bill) but only 11.2 million in special funds was included in the budget with an additional 34.5 million added by the conference committee. The 34.5 million addition is contingent on a Governor action to amend the budget and release the funds.

**Key**

HB: House Bill

IT: Information Technology

Kirwan Commission: Commission on Innovation and Excellence in Education

MSDE: Maryland State Department of Education

SB: Senate Bill

TIRA: Teacher Induction, Retention, and Advancement Pilot Program

# Developmental Disabilities Day *at the Legislature* 2019



Another year, another great DD Day at The Legislature!

More than 700 advocates came out for the day to hear from legislative leaders about the importance of their advocacy. The fact sheets provided in DD Day packets were explained by DD Coalition partners and highlighting the impacts of proposed legislation to include the Fight for \$15 bill, The Patient Bill of Rights, Children's bills, and the Governor's proposed budget among other session priorities.

This year we had a special celebration commemorating the 10-year anniversary of the closure of Rosewood Center. Retired Delegate and perpetual "hero" and advocate, Mr. James Hubbard gave his address to the room and was honored with a standing ovation. Mr. Hubbard was recognized for everything he has done to advance the rights of people with intellectual and developmental disabilities over the years. The event ended with participant visits with their legislators to share information and advocate for rights and quality of life for people with disabilities and their families.





# Grassroots Advocacy

Action Alerts, Advocacy Nights and other efforts in the “Fight for Our Lives” as we rallied to educate legislators on the needs of people with intellectual and developmental disabilities and their families, the Direct Support Professional workforce shortage, and potential impacts of a legislative action to raise the state minimum wage to \$15 per hour.

HB166/ Senate Bill 280, the “Fight for \$15” Bill was introduced early in session as a bill which would raise the statewide minimum wage gradually to \$15 an hour by FY25. While we were initially optimistic about the funding that was included in the bill for Developmental Disabilities Services, the House Economic Matters Committee amendment to the bill changed everything.

Our feelings went from optimism to confusion, to concern and finally to devastation as we saw that, as amended, there would not be enough of a Developmental Disabilities (DD) provider rate increase mandated through the bill to sustain DD Community Services in Maryland.

The amendments cut the yearly increases from what was once 7% and 5.5% in the bill to a mere 3% a year. With the changes, DD providers would not be able to attract and sustain a qualified workforce and many community providers would be forced to eventually close their doors. This would result in thousands of Marylanders with developmental disabilities without the services they require to live, learn, and work in the community, and leave thousands of parents without the needed supports to care for their adult children living at home.

The Developmental Disability Coalition quickly organized an Action night that was held on Monday, March 4 and attended by more than 400 people throughout the state. Attendees received briefings and then went to meet with the members of the Senate to urge the Senate to restore DD funding increases in the Fight for \$15 bill. The crowd chanted “A Cut to 3, Will Hurt Me” and “Fight for Me” as Senators went to evening session at 8 pm.

On March 7<sup>th</sup>, the Senate Finance Committee voted on SB280, amending the bill to restore funding increases to the bill at 5%, 5%, 4.5%, 4%, 4%, and 3% (with funding







percentage increases coinciding with each year of the minimum wage phase in.) The funding as amended by Finance remained unchanged in the bill as the bill passed the Second Reading in the Senate. Our jubilation around this was short lived however, as the House Chamber declined to accept the amendments of the Senate. A Conference Committee was then selected to develop a compromise report on the bill, and we heard rumblings that the DD increases in the bill would once again be decreased to 3% annually.

As before, the call for a large Grassroots response went out and the advocates responded! On March 18, with less than 48 hours of notice, more than 300 advocates came to Annapolis for another Action Night. Advocates lined the Lawyer's mall walkway and changed, "Start with 5. Keep DD Services Alive" as members of the House and Senate walked from the offices to session. Several advocates delivered information to members of the General Assembly as well, encouraging them to protect DD Community Services funding and ultimately people with intellectual and developmental disabilities.

**On March 20<sup>th</sup>, the Conference committee returned their report and the "Fight for \$15" Bill passed through both chambers with final bill changes, including a flat 4% increase to DD Services each year from FY21 to FY26 as the minimum wage increases in Maryland from \$10.10 an hour to \$15.**



This cannot be overstated. These funding levels are not at the levels required to maintain our footing as the minimum wage goes up in Maryland and we are deeply disappointed in this outcome. That said, it is important to note that the figures represent a funding amount that is a better scenario than either a decision of the Conference Committee to revert to the House percentages (3% each year) or a true compromise between the House and Senate versions of the bill which would have put DD percentages at 4%, 4%, 3.75%, 3.5%, 3.5%, and 3%.





We believe that the percentages in the final bill passed are better than what we would have received, had it not been for the incredible action of the self-advocates, families, provider staff, and others who came to testify, called, wrote emails and letters and mobilized for action nights with little more than a couple of days of notice. It is important to recognize that we also had incredible advocates in both the House and the Senate who worked tirelessly to get our funding restored and were successful in part as our funding in the House bill went from 3 to 4% across the board.

We will now begin the work of using this result as a base from which to build our relationships with lawmakers and other partners, as we continue our education and advocacy after the session and beyond to ensure people with disabilities and their families have the quality supports they need to live, learn and work.



# World Down Syndrome Day

The Arc Maryland, in partnership with The Maryland Catholic Conference and Maryland Department of Disabilities celebrated the lives of people with Down Syndrome and their families during World Down Syndrome Day at the State House on March 21<sup>st</sup>, 2019!

World Down Syndrome Day is recognized every year worldwide on March 21<sup>st</sup>. This year's theme was "Leave No One Behind," and featured First Lady Yumi Hogan!

The Maryland General Assembly and the Hogan Administration recognized people with Down syndrome, their families, and the community organizations that support them. The Senate, the House of Delegates, and the Governor's Office each issued resolutions and a proclamation to once again celebrate people with Down syndrome and their families and declared March 21<sup>st</sup>, Down Syndrome Day in Maryland.





The Arc Maryland tracked several bills throughout the 2019 Legislative Session. We are highlighting some of our priorities, our positions and outcomes of the session. They are listed in this section of the report under the topics of Community Living and Working, Education and Childcare, Healthcare, and Justice & Civil Rights.

## Community Living

**HB0228/SB0134 State Board of Nursing - Criminal History Record Checks - Revised Statement**

**Oppose (in its original form before subsequent revision of the bill)**

Returned Passed

The bill in its original form would have required Direct Support Professionals to submit to a CJIS check at their expense, with a Rap Back in order to become medication technician certified. For a variety of reasons, the way in which the bill was written would have created serious issues for Community providers of Developmental Disabilities services. The bill was amended prior to passage to remove Certified Medication Technicians and to allow for more time and study to determine how CMT backgrounds may be efficiently conducted while ensuring timeliness of results, considering costs to providers, and ensuring continuity of care and safety of individuals receiving supports.

Of note, Community Providers of DD Services are already required to conduct background checks on staff prior to allowing them to work with individuals with intellectual and developmental disabilities.

**HB0251/SB0279 Department of Aging - Grants for Aging-in-Place Programs (Nonprofits for our Aging Neighbors Act - "NANA")**

**Support**

Returned Passed

This bill creates grants for non-profit organizations to expand and establish aging-in-place programs for seniors, to included funding for affordable transportation and in-home modifications to improve safety, mobility, and accessibility.

People with intellectual and developmental disabilities are living longer and need community-based options for housing and day-time/retirement activities that allow them to age-in-place. This grant will be open to non-profit organizations who seek to modify homes, vehicles and programs to better meet the needs of an aging population.

## **HB0397/SB0339 Public Safety - 9-1-1 Emergency Telephone System (Carl Henn's Law)**

**Support**

Passed Enrolled

This bill improves the state's 911 calling system (by county to create Next Gen 911, improving accessibility to EMS for people with intellectual and development disabilities. This bill requires the Emergency Number Systems Board to establish certain minimum standards and alters the purposes of the 9-1-1 Trust Fund beginning on a certain date for the use of technology and training to implement a more robust EMS.

Based on recommendations from the Commission to advance Next Generation 9-1-1 across Maryland, changes to the law would seek to improve the state's 911 calling system (by county) to adopting Next Gen 911 technology to ultimately improve accessibility to EMS for people with Intellectual and Developmental Disabilities.

## **HB0415 Medical Assistance Employment Initiative Pilot Program**

**Oppose**

Withdrawn

The bill would have established a Medical Assistance Employment Initiative Pilot Program with the goal of "reducing the number of able-bodied individuals depending on social programs."

In states that have imposed "Medicaid Work Requirements," people with disabilities have lost their Medicaid benefits due to an inability to comply with additional administrative burdens to prove "inability to work". Most people with intellectual and developmental disabilities want to work and already experience barriers to obtaining jobs including a lack of appropriate supports, and transportation. People with disabilities are involuntarily unemployed or underemployed but this is not due to a lack of interest in working. Therefore, it seems that a state campaign to encourage the employment of people with disabilities that is targeted toward employers would do more for the state than imposing additional "proof of inability" requirements on people with disabilities.

Although the bill was ultimately withdrawn by the sponsor, there is budget language in the Department of Health budget to allow for this pilot to take place. We will monitor this carefully.

## **HB0451/SB0812 Fair Housing Opportunities Act of 2019**

**Support**

Withdrawn

This bill (FKA the Home Act, introduced in previous sessions) would have prohibited source-of-income discrimination. These prohibitions have been adopted by several

Maryland counties and we are interested in a statewide solution that would increase the access to affordable housing for people with intellectual/developmental disabilities.

### **HB0923/SB0642 Task Force to Study Transportation Access**

**Support**

Passed Enrolled

This bill establishes a task force to examine our area's coordinated transportation system. The bill names a local provider organization, Maryland Nonprofits, and The Arc Maryland to serve and provide input to a report of current system and recommendations to increase access for people. This initiative would last 3 years starting July 1, 2019. Our focus would be on increasing access for people with intellectual/developmental disabilities to work and access their communities.

### **HB1189/SB0425 Home Energy Assistance - Critical Medical Needs Program**

**Support**

Returned Passed

This will provide energy subsidies for people with medical conditions with need for electronic equipment (ventilator for example) that consume higher than average levels of energy. This bill establishes the Critical Medical Needs Program in the Office of Home Energy Programs of the Family Investment Administration within the Department of Human Services in recognition of the additional challenges with energy bills for individuals with critical medical needs and limited financial resources.

### **HB1197 Task Force on Adults with Autism Spectrum**

**Support**

Did not advance

The bill would have established a Task Force on Adults with Autism Spectrum Disorder (ASD), requiring the Task Force to study certain matters and to report its findings to the Governor, the Developmental Disabilities Administration, and certain committees of the General Assembly on or before December 1, 2019.

We are disappointed this bill did not make it out of committee this year and we hope it comes back next year. There is so much more to be done to study the supports we have in place in Maryland for children and Adults with Autism and what is needed to ensure full access to education and community life for adults. There have been task forces in the past but recommendations were either not fully implemented or unfunded and are now out of date. We must develop a plan for the growing numbers of people with ASD in Maryland to ensure equal rights and access for all.

Names several advocacy organizations to speak of needs for the community of people with Autism, Disability Rights Maryland, and MACS to provide input from the perspective of providers of community services.



### **SB0330 Public Buildings- Diaper Changing Facilities**

#### **Support with Amendments**

Passed Enrolled

This bill requires that a diaper changing station be installed in public buildings unless the costs of renovations to install were estimated to be more than \$30,000. A friendly amendment was requested to include incentives to those creating changing stations for older children and adults but that amendment was not accepted. We still feel that the recognition that changing stations should be provided is a step in the right direction.

### **HB1420 Maryland Department of Health - Services for Individuals with Developmental Disabilities - Fee-for-Service Payment Pilot Program**

#### **Support with Amendments**

Returned Passed

This bill was submitted by DDA to create the mechanism for DDA to conduct a pilot to test LTSS and movement from a prospective payment system to a fee for service payment system. The Developmental Disabilities Coalition provided several amendments to definitions contained in the bill. All amendments were accepted and the bill passed as amended.

## **Education & Children's Services**

### **HB0031 Baltimore City - Weapons on School Property - School Resource Officer**

#### **Oppose**

Withdrawn

The purpose of this bill was to stipulate that the prohibition on carrying or possessing a firearm, knife, or deadly weapon of any kind on public school property would not apply to a school resource officer who is assigned to a public school in Baltimore City and is on public school property in Baltimore City.

The Arc Maryland signed on to letters with the Coalition to Reform School Discipline communicating our concerns with the bill. Children of color and children with disabilities are disproportionately punished, restrained, secluded, and arrested in our state. In Baltimore City (according to the most recent school arrest data (2015-16), 40% of the students arrested that year had IEPs, and in most of these cases, charges were eventually dropped. We were very concerned that children would be at risk of unintended harm if this bill went forward. This bill was eventually withdrawn due to an unfavorable report by the Judiciary but then pressure mounted to revisit the bill after there was an incident involving a visitor to a school in Baltimore who had a gun. Again, the coalition worked to defeat the effort to bring the bill back.

## **HB110 Public Schools Students - Daily Physical Activity (Student Health and Fitness Act)**

### **Support**

The bill did not advance

The bill called for mandatory physical activity and physical education time for elementary students each week, taking into consideration a student's IEP, with the purpose of developing the good health physical fitness levels of students while improving fine motor coordination and physical skills. The Arc Maryland signed on to a letter of support with our Education and Advocacy Coalition partners to communicating our support for the bill.

## **HB0181/SB103 - Criminal Law - Electronic Harassment and Bullying (Grace's Law 2.0)**

### **Support**

Returned Passed

The bill amends existing anti-bullying law to extend electronic bullying definitions to include the dissemination of sexual information about a minor, posing as another with the intent to harass, and other activities that are intended to harass, imposes increased fines, and other penalties. Statistics show that one-third of children worldwide have experienced some degree of cyber bullying and almost 20% of those that have considered suicide. Children with autism are twice as likely to be bullied and consider suicide. This action combined with increased training and awareness trainings in school would be considered to be a strong step in the right direction.

## **HB0248 Education - Child Care Subsidies - Mandatory Funding Level**

### **Support**

Returned Passed

This bill once signed into law, requires the Governor to appropriate funds in the annual state budget for child care subsidies in an amount sufficient to raise the program's reimbursement rates for each region to not less than the 30<sup>th</sup> percentile of the most recent market rate survey in FY20, and not less than the 60<sup>th</sup> percentile in FY21 and each fiscal year thereafter

## **HB0256/SB0223 - State Department of Education Guidelines on Trauma-Informed Approach**

### **Support**

This bill did not advance

The Arc Maryland supports trauma-informed approaches as part of a comprehensive restorative practice in schools. This bill was one of many presented this session to advance restorative practice use in schools.

## **HB0295/SB0848 Nonpublic Elementary and Secondary Schools - Discrimination - Prohibition**

### **Support**

The bill did not advance

The bill in its original form would have prohibited private schools from discriminating against children during the application process on the basis that they fall into a protected class that public schools acknowledge. While the bill did not advance all the way through the process, there is budget language to prevent discrimination in order for nonpublic schools to receive BOOST funds, however “basis of disability” was not included as a protected group. Instead, prohibition of LGBTQ discrimination DID remain in the language along with a requirement that nonpublic schools report on number of students with disabilities and be eligible for additional BOOST funds for children with special education needs.

## **HB0381 Baltimore County Public Schools - Student Misconduct - Penalty for Parent or Guardian - RENAMED THROUGH AMENDMENT to a Task Force to study Bullying and discipline related to bullying**

### **Oppose**

The bill did not advance

This bill was renamed: **Baltimore County Anti-Bullying Task Force - Alterations**

Children with certain disabilities may find it challenging to understand the nature of social relationships with other children or adults. For example, some children may stand too close to other children or follow other children around school in an effort to make friends. These actions are sometimes perceived as harassment under the student code. Additionally, some students have difficulty with tone or volume of voice, and this could be perceived by some as intimidating. This bill would set up a situation by which not only would a student be punished for behaviors that may very well be a direct manifestation of a certain disability, but it would allow for their parents to be fined for the child's disability-related behavior.

The bill was amended and basically gutted from its original form. Instead, the bill now creates a task force to study bullying in Baltimore County Public Schools and discipline practices in response to findings of bullying. Amendments removed references to penalties for parents of guardians. The Arc Maryland opposed the original version of the bill.

## **HB0439 Public Schools - School Resource Officers - Prohibited Conduct**

### **Support**

The bill did not advance



This bill would have prevented School Resource Officers from getting involved in disciplinary matters at school. In systems where SROs are involved in discipline, the student was more likely to also have involvement with law enforcement, thus contributing to the school-to-prison pipeline.

The bill was amended to allow School Security employees, when needed, to respond to incidents in school. School Resource Officers were still prohibited, in this bill, from engaging in discipline practices involving students.

#### **HB0611 - Special Education - IEP - Timeline for Independent Evaluations**

**Support**

Returned Passed

This bill authorizes a parent who requests an independent educational evaluation at public expense to receive a written response to the request within a certain time period. A local school system will be required to issue a written response approving or denying a parent's request within 30 days. Upon approving the parent's request, the school system must advise the parent of the process for arranging the evaluation, which requires the local school system. Upon denying the parent's request, the school system will advise the parent on the right to file a certain due process complaint within 30 days.

The Individuals with Disabilities Education Act (also known as IDEA) permits parents who disagree with the evaluations completed by a school system to request an independent evaluation at public expense. If a parent makes a request for an independent evaluation, the bill would require the school system "without undue delay" to either file for a due process hearing to show that its evaluation is appropriate or ensure that an independent educational evaluation is provided at public expense.

Parents have experienced many occasions where the school system either does not respond in a timely manner or does not respond at all. This puts parents in a position of having to request a due process hearing to try to get the independent evaluation to which they are entitled. An additional complication in our current system is that the party requesting the hearing bears the burden of proof, so the school system's failure to respond to the parent shifts all of the responsibility of securing independent educational evaluations to the parent.

Prior to this bill there was not a definition of "undue delay" in the law and families had not been able to enforce their independent educational evaluation rights effectively.

#### **SB0734 - Education - Students with Reading Difficulties - Screenings and Interventions**

**Support**

Passed Enrolled

This bill supports the principal that all children should receive appropriate screenings to mediate any underlying medical conditions that may interfere with access to an appropriate education. This bill would be in effect starting with the 2020-2021 school year to ensure that each student is screened to identify the at risk student for reading difficulties. The county board would, under certain circumstances, conduct an informal diagnostic assessment and provide supplemental reading instruction, progress monitoring, and reports to the parent/guardian. The bill contained a fiscal note and it is not clear if the funding required is included in the education budget but it does not appear that was added for FY20.

#### **HB1186/SB0465 - Nonpublic Schools - Fire Drill Requirements - State Fire Prevention Code**

**Support**

Returned Passed.

This bill requires each nonpublic school in the state to hold fire drills in accordance with the State Fire Prevention Code, keep records of the fire drills, and send copies of the records to the State Board of Education. This is important because it will give private schools the mandated opportunity to observe how students with disabilities and teachers respond to fire drills and identify any issues prior to actual fire emergencies. This bill closes a loophole and requires that nonpublic schools complete and document fire and emergency evacuation drills to ensure, as well as account for, the needs of students with disabilities.

#### **HB 725: Public Schools- Student Discipline- Restorative Practices**

**Support**

Passed Enrolled

This bill was significantly amended to create regulations that incorporate the use of restorative practices in school discipline, but it is a start to implementation of the Commission to Reform School Discipline's recommendations.

#### **HB 1208: Board of Restorative Practices in Schools- Establishment**

**Support**

This bill did not advance

This bill has been amended at The Arc Maryland's request to include a parent of a child with intellectual and developmental disabilities to serve on the Board of Restorative Practices in Schools.

#### **HB 1229: Restorative Schools Fund and Grants- Establishment**

**Support**

This bill did not advance

This bill would have established a Restorative Schools Fund and Grant Program. It had been unfortunately amended to remove the mandate for the Governor to fund the grant program. We will work to bring this back next session or something similar.

### **HB1233 - Environment - Reduction of Lead Risk in Housing - Elevating Blood Lead Levels and Environmental Investigations (Maryland Health Children Act)**

**Support**

Returned Passed

The bill requires that regulations be adopted for the monitoring of lead and that included in those regulations are the requirement that an environmental investigation be completed upon the results of a blood test for children under the age of 6 years old and pregnant women with elevated blood lead levels equal to or greater than the level referenced in law. The Arc Maryland with our coalition partners provided a letter of information on the danger of lead poisoning and effect on children and developing fetuses as a contributing cause of disabilities.

## **Health Care & Supports**

### **HB0145/SB0301 Hospitals - Patient's Bill of Rights**

**Support**

Passed Enrolled

The bill creates a standardized Patient Bill of Rights, requirements for timely information about testing and treatment, risks and responsibilities, and requirements that information be provided in alternative formats. The bill also mandates initial and periodic training for hospital personnel so they are have knowledge of rights that shall be upheld for all patients regardless of disability status.

People with intellectual and developmental disabilities have the right to have full and timely access to information about their health and to informed consent for medical procedures and treatments. This bill will improve access to information in appropriate formats and hold hospitals accountable for providing proper training to their personnel and accountability for the assurance of patient rights.

The Maryland Hospital Association had previously submitted requests for several amendments. Requested amendments included removal of requirements for hospitals to inform patients of their rights to access hospital records with the argument that HIPAA already provides assurances. Unfortunately, it is not well known to many that a person may request their hospital records at any time, and requests must be honored. Keeping this provision in the bill provides clarification. In addition, the MHA recommended the deletion of right #14 from the Bill of Rights; the right to have pain managed. They recommend substituted language to include a right to discuss appropriate treatment and plans for pain management. Unfortunately, we know that

discussing pain management is not the same as receiving proper pain management, therefore, we recommended that "management of pain" be kept in the Bill of Rights. The final language to address pain in the bill was a compromise.

Other amendment recommendations from MHA but not adopted included the addition of a Patient Responsibilities section. While we recognized and supported that patients also have responsibilities in their care and treatment, we believe that "responsibilities" should be discussed and developed separate from a Patient's Bill of Rights.

#### **SB0220 - Maryland Medical Assistance Program - Coverage of Dental Services - Repeal of Contingency**

**Support**

Returned Passed

This bill removes a requirement for a report-finding as a contingency to providing expanded dental services to people with disabilities at 300% below the poverty level while expanding accessibility. Through this bill, the Maryland Medical Assistance Program would provide dental services to certain adults contingent on the Maryland Dental Action Coalition making certain determinations.

#### **HB0226/SB0550 - Food Stamp Program - Minimum Benefit for Disabled Individuals - State Supplement**

**Support**

Withdrawn

This bill would have increased the amount of food stamps available to a person with disabilities to a minimum of \$30. The Arc Maryland's Executive Director, Ande Kolp, testified on 2/5 in support of increasing the minimum benefit threshold to \$30. Unfortunately, this bill was withdrawn due to an unfavorable report by Appropriations.

#### **HB0332/SB0158 - Maryland Department of Health - Community Dental Clinics Grant Program**

**Support**

Passed Enrolled

This bill creates a community Dental Clinics Grant Program to increase the availability of quality, safe and affordable dental care in more neighborhoods in Maryland. The bill remained largely intact as it advanced with technical amendments to clarify the source of the Grant funds.

#### **HB 0341/SB0500 - Labor and Employment - Family and Medical Leave Insurance Program - Establishment (Time to Care Act of 2019)**



## Support with Amendments

This bill did not advance

The bill would have established the Family and Medical Leave Insurance Program through which employees may take up to 12 weeks of paid leave from their jobs to care for new children, other family members with serious health conditions or disabilities, or themselves.

Employees who are the primary caregivers of children and adults with significant disabilities, chronic health conditions, or elderly family members much navigate and advocate within a complex system of health care, disability and other government benefits, and education services on behalf of their loved ones. The time involved in caring for a loved one with complex needs makes it exceedingly difficult to hold down a job, and succeed in the workforce. This leave insurance program would allow parents to take intermittent leave, on a paid basis, while ensuring their jobs were not threatened by the taking of that necessary leave.

While this benefit is one that The Arc would support, there were some concerns with the way in which the bill was currently written with implications for DD Community Providers who provide community-based supports individuals with I/DD in Maryland, and whose funding rates are set by the state.

Without an increase in state funding to support the employer contributions to this insurance initiative, the program would amount to another unfunded mandate to providers, placing additional strain on our systems.

Additional concerns relate to definitions of terms such as: "covered employee", "employer"- (means a person who employs at least one individual). "Family member"- the definition would have extended consideration as family to individuals related by "affinity" whose close association with the employee is equivalent to a family relationship. This seemed to be too broad to manage. Finally, "Qualifying exigency"- extended allowable uses of leave to family members or service members to attend military events "and related activities". This seemed to broad to manage.

## HB0768/SB0759 - Health - Prescription Drug Affordability Board

### Support

Passed Enrolled

HB 768 (SB 759) was passed by votes of 96-37 in the House and 37-8 in the Senate and will create the first Prescription Drug Affordability Board in the nation. This Board which will work to make high cost prescription drugs more affordable for all Marylanders including people with intellectual and developmental disabilities.

HB 768 as amended does not include everything that the "Healthcare For All" coalition wanted, but the essential components of the bill remained intact as it proceeded. The bill authorizes the creation of a system that will, for the first time,

make drug corporations justify the prices they charge for many traditionally high cost drugs.

Additionally, the Board, with the approval of the Legislative Policy Committee, will have the authority to set upper payment limits on what state and local governments pay for high cost drugs, which could help governments pay for other needed services. HB 768 also sets up a process by which the Board may go to the General Assembly to obtain the authority to set upper payment limits for high cost drugs for all drug purchasers in Maryland.

## Justice and Civil Rights

### **HB0140 - Special Education - Administrative Proceedings and Judicial Actions - Attorney's and Expert Witness Fees and Related Costs**

#### **Support**

This bill did not advance.

The bill would have allowed an administrative law judge to award reasonable attorney's fees and related costs to a prevailing party who is the parent of a child with a disability under certain circumstances. The court would be prohibited from awarding attorney's fees and related costs to a parent. This was a great bill and would have leveled the field for families who currently bear the financial burden of representation in administrative and judicial proceedings, despite the outcome of those proceedings.

### **HB0399/SB0311 - End-of-Life Option Act (Richard E. Israel and Roger "Pip" Moyer Act)**

#### **Oppose**

This bill failed in the Senate

The End-Of-Life Options Act would have created an option of choosing death by lethal ingestion, available to those individuals who had a terminal illness and 6 months or less to live. On March 27, The Senate Floor held a vote on second reader of SB311, the End-of-Life Options Act, as amended by the Senate Judicial Proceedings committee. The bill failed to pass, with voting split evenly at 23-23. Of note, the House had passed the companion bill after a close vote.

One Senator declined to cast a vote after the Senate debate, noting that he was conflicted on the matter.

The "End of Life Options" bill, as amended, included some requested safeguards to add additional protections for those who may be vulnerable to certain components of the bill. Amendments would have required a mental health evaluation of those seeking to end their lives, and included requirements that the physician witnesses required through bill language not be related financially to one another. This would

apply to doctors of the same practice for example. Other amendments included a change in the definition of "terminal" to ensure a doctor is making a prognosis that a person's life will end in 6 months "to a reasonable degree of medical certainty", the requirement that doctor's provide patients with information about alternatives to death (including available medical and treatment options), and the removal of civil immunities for doctors and family members. A total of 8 total amendments were made to the bill in the Senate Judicial Proceedings committee.

The amendments did not go far enough to allay deep concerns about the foundation of the bill.

It is The Arc Maryland's position that people with intellectual and developmental disabilities must have their rights and interests protected. Unfortunately, even in this day and age, ignorance, prejudice, and discrimination against people with intellectual and developmental disabilities persists. There is documented history of denial of basic rights and medical care. Because some members of our society incorrectly perceive that people with intellectual and developmental disabilities have a poor quality of life, individuals with disabilities are particularly vulnerable to suggestions their lives be ended. This places them at an extraordinary risk with regard to "medical aid in dying" policies. For these reasons The Arc opposed the bill and advocated for an unfavorable report.

#### **HB0561 Criminal Law - Abuse or Neglect of a Vulnerable Adult - Psychological Abuse**

##### **Support with Amendment**

This bill did not advance

The bill would have altered the law that currently protects adults with intellectual/development disabilities from abuse and neglect by proposing the addition of "psychological abuse" to the definition of "abuse." This new definition would apply to the prohibitions on causing certain types of abuse or neglect to a vulnerable adult and impose certain punishments and penalties.

People with intellectual and developmental disabilities have the right to be free from abuse and neglect. The intention of the sponsor was to create penalties for those who inflict psychological abuse on a person with disabilities. Unfortunately, the original language was so broad that common disagreements and past traumas experienced by a person could have influence on a person's reaction to current conflict may have been caught under the definition of psychological abuse. The sponsor amended the bill substantially but the bill ultimately failed to advance.

#### **HB0565/SB0363 - Election Law - Voting Systems - Accessibility for Voters with Disabilities**

##### **Support**

This bill did not advance

This bill would have standardized all ballots to an accessible format to ensure privacy. Ballots cast by people with disabilities would not be identifiable from ballots cast by people without disabilities.

The Arc Maryland, along with our partners at Disability Rights Maryland and the Maryland Developmental Disabilities Council, supported this bill but the bill did not come out of committee.

#### **HB0775 Correctional Services - Maryland Correctional Institution for Women - Reforms**

**Support**

Unfavorable Report

The bill would have required reforms at the Maryland Correctional Institution for Women and would have prohibited the use segregation of/ for individuals with serious disabilities and pregnant women, unless medically necessary. The Corrections lobby had very strong concerns about changes to the policy and this matter will be studied further for future action.

#### **HB0864/SB0675 Duties of a Guardian of the Person - Petition for Visitation**

**Oppose**

Withdrawn

This bill would have required a person, including a person with a guardian, to be compelled to go through a court to decline visitation from a family member or other interested persons. This bill was withdrawn due to an unfavorable report in the Judiciary. It will be moved to summer study.

#### **HB0992 Election Law - Qualification of Voters - Proof of Identity**

**Oppose**

Unfavorable Report

This bill would have discriminated against people with limited means, and people with disabilities who may have difficulty producing the forms of identification required under this bill. We felt this would affect voter access. The bill received an unfavorable report in House Ways & Means.

#### **HB1001/SB0774 Correctional Services - Restrictive Housing - Reporting by Correctional Units and Requirements Relating to Minors**

**Support**

Passed Enrolled



This bill will update policies around the placement of minors placed in restrictive housing units at state correctional facilities.

The final bill says that juveniles must have access to recreation, education, and programming while in restrictive housing to the extent possible, unless that access would pose a risk of physical harm to the minor or another. Conferees struck a House amendment that would have created a cause of action in the courts if a child is placed in restrictive housing did not receive access and the bill's provisions were found to have been violated.

This bill is important to The Arc due to the number of juveniles in correctional facilities who have intellectual and developmental disabilities, and findings of a study conducted by Disability Rights Maryland. That study found that people with intellectual and other disabilities were more likely to be placed in secluded housing than the general population, and that reforms to the Maryland Corrections system are necessary for ensuring equal rights and protections.

#### **HB1029 Correctional Services - Restrictive Housing - Limitations**

##### **Support**

This bill did not advance

The bill would have limited the length of time someone with disabilities could be placed in segregated housing to 15 days with exceptions. We know that people with intellectual/development disabilities have been disproportionately segregated in corrections in Maryland; some for the most minor administrative infractions that may have happened related to a person's disability. For example, the "failure to follow instructions" might serve as justification for administrative placement in restricted housing. (source: Disability Rights Maryland: Beyond Incarceration: Lock Down for Persons with Disabilities.)

#### **SB1027 Criminal Law - Abuse and Neglect of Vulnerable - Notice of Report**

##### **Oppose**

This bill did not advance

This bill would have required a report of alleged abuse or neglect of a vulnerable adult to be provided to the individual alleged to have committed the abuse or neglect. The Arc Maryland and our partners opposed this change of law as we felt the requirement would place alleged victims at risk of coercion, and continued abuse.

#### **SB1034 Civil Actions - Family Caregiver Reimbursement**

##### **Oppose**

This bill did not advance

The bill would have authorized a family caregiver to bring a civil action against a family member for reimbursement of expenses incurred to provide care and support

to the family member in need. While The Arc Maryland, and our coalition partners, understands that families of people with developmental disabilities have significant responsibilities that may differ from typical care-giving responsibilities, we felt that allowing family caregivers to bring a civil action for reimbursement of expenses incurred to provide the care people need, including people with developmental disabilities, would fundamentally be wrong and ripe for abuse.

**HB0436/SB0077 - Estate and Trusts - Protection of Minors and Disabled Persons - Guardianship**

**Letter of Information**

Withdrawn

Friendly amendments were previously made to the bill to clarify notifications and venue of cases. Ultimately, the matter was referred to the estates and trusts section of the Maryland Bar for summer study.

## The Arc Maryland 2019 Public Policy Team:

*Ande Kolp, Executive Director*

*Bea Rodgers, Governmental Affairs Committee Chair*

*Laura Carr, Board President and Governmental Affairs Liaison*

*Grace Williams, Assistant Director of Public Policy and Advocacy*

*Edward Willard, Policy Analyst*

*Lori Scott, Liaison to the Education Advocacy Coalition*



### 2019 LEGISLATIVE SESSION: BY THE NUMBERS

439<sup>TH</sup> SESSION MARYLAND  
GENERAL ASSEMBLY

47 SENATORS  
(32 DEMOCRAT; 15 REPUBLICAN)  
141 DELEGATES  
(99 DEMOCRAT; 42 REPUBLICAN)



1,051 NUMBER OF SENATE BILLS  
1,430 NUMBER OF HOUSE BILLS

NUMBER OF BILLS TRACKED: 202

112 POSITIONS TAKEN

23 MONITORED

67 EARLY MONITORING AND LATER RELEASE



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