

# What is a Special Needs Trust?



**BY MARGARET HEISER FULTON**

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**C**hances are that you have heard of a Special Needs Trust. But, what is a Special Needs Trust and why is it necessary? You may have also heard about the ABLÉ Act. Both the ABLÉ Act and special needs trusts are important tools in planning for the future of your special needs child.

Parents of a child with special needs, or other family members, can leave that child's inheritance to the special needs trust instead of directly to the child. If your child will not be able to work or live independently, he or she may need to remain eligible for "means-based"

public benefits, such as Supplemental Security Income (SSI) or Medi-Cal. The receipt of an inheritance by your disabled child might cause the child to lose eligibility for these vital benefits. A properly drafted special needs trust can hold assets for the benefit of a disabled person without those assets counting as the property of the disabled person. The assets of the special needs trust will supplement the public benefits the disabled person may be eligible to receive and will make it possible for the disabled person to have the same quality of life in the future.

Another new option for parents and special needs persons is to open an

ABLE Account. The Achieving a Better Life Experience (ABLE) Act of 2014 allows people who have disabilities, that began before they turned 26 years old, to keep money in a special tax-advantaged account. The first \$100,000 in an ABLE account does not count against the \$2,000 SSI resource limit, and none of the money in an ABLE account is counted for determining Medi-Cal eligibility. Each state is authorized to open its own ABLE account program and California recently passed legislation to establish an ABLE program. However, the California program is not available yet and may not be ready for some time. The federal legislation does provide that you can open an ABLE account in another state. Ohio is the first state to establish this program and Tennessee has just opened an ABLE program. Both states allow contributions from residents of all states.

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