You are ABLE
To **care** for Your **loved ones**

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You are retired and financially secure, but you worry about your child, grandchild, or family friend with a disability. How will they be taken care of after you are gone? How do you assist them now? Maybe you have set up a special needs trust, or maybe you haven't because of the costs associated with establishing and maintaining the trust. You want to ensure there is money for the loved one, and that the funds do not interfere with any public benefits they receive. What can you do to ease your mind?

ABLE Act

Congress passed the Achieving a Better Life Experience Act in 2014 commonly known as the ABLE Act. These are tax-advantaged savings accounts for individuals with disabilities and their families.

The beneficiary of the account is the account owner, and all contributions are made with after-tax dollars. In the state of Maine, contributions can be made by any person up to a total limit of $15,000 per year per beneficiary. In addition, a disabled individual may be able to contribute part or all of what they earn up to $12,140 (2019 poverty line amount) per year as a result of the Tax Cuts and Jobs Act, but only if they meet certain criteria. You do not have to wait for the state of Maine to establish an ABLE program; you can use any state's program that allows for nationwide enrollment.

The Tax Cut and Jobs Act also allows for a Saver's Credit of up to $2,000 that can be used to decrease the tax owed. A beneficiary can only have one ABLE account. Earned income grows tax-deferred and, if used for qualified expenses, is not taxable. Maine allows for contributions to an account up to a total value of $400,000. The account can grow beyond the $400,000, but once the threshold is met, contributions are not permitted. LD 1421 was signed into law on March 6, 2016.

Who is eligible? To be eligible for the ABLE Act, an individual's disability must be significant, and its onset must have been before the age of 26. The beneficiary can be older than 26 and still establish an account. There is discussion of raising this age of onset limit to 46. If the beneficiary meets the age criteria and is receiving benefits under SSI or SSDI, then they are automatically eligible to establish an account. If the beneficiary is not a recipient of SSI or SSDI, he or she can qualify if they meet the following:

- The age requirement,
- Social Security's definition of disability,
- Criteria regarding significant functional limitations and,
- Has a letter from a licensed physician.

If on SSI, the ABLE Act sets some limitations. The first $100,000 in an ABLE account is exempted from the $2,000 individual resource limit. If the ABLE account exceeds $100,000, the SSI beneficiary's cash benefit is suspended until the account falls back below $100,000. This does not affect the beneficiary's medical assistance through Medicaid. After the death of the ABLE account holder, the state may file a claim for all or a portion of the funds in the account through the "Medicaid Pay-Back" provision to recoup costs from the time the account was established.