

Supplemental Needs Trusts, Pooled Trusts and ABLE accounts as Alternatives to Guardianship

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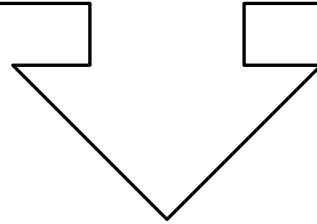
As Alternatives

Both the **MASTER POOLED TRUST** and **ABLE ACCOUNTS** can be great alternatives to guardianship of both the person and estate.

By utilizing Trusts or ABLE accounts, many individuals can maintain their independence without requiring guardianship. These resources may provide the appropriate safeguards and support without the need for guardianship.

A trust is

a **relationship** where property is held by one party (a person, organization, bank, group of people, etc.) for the benefit of someone else.



Every trust has a...

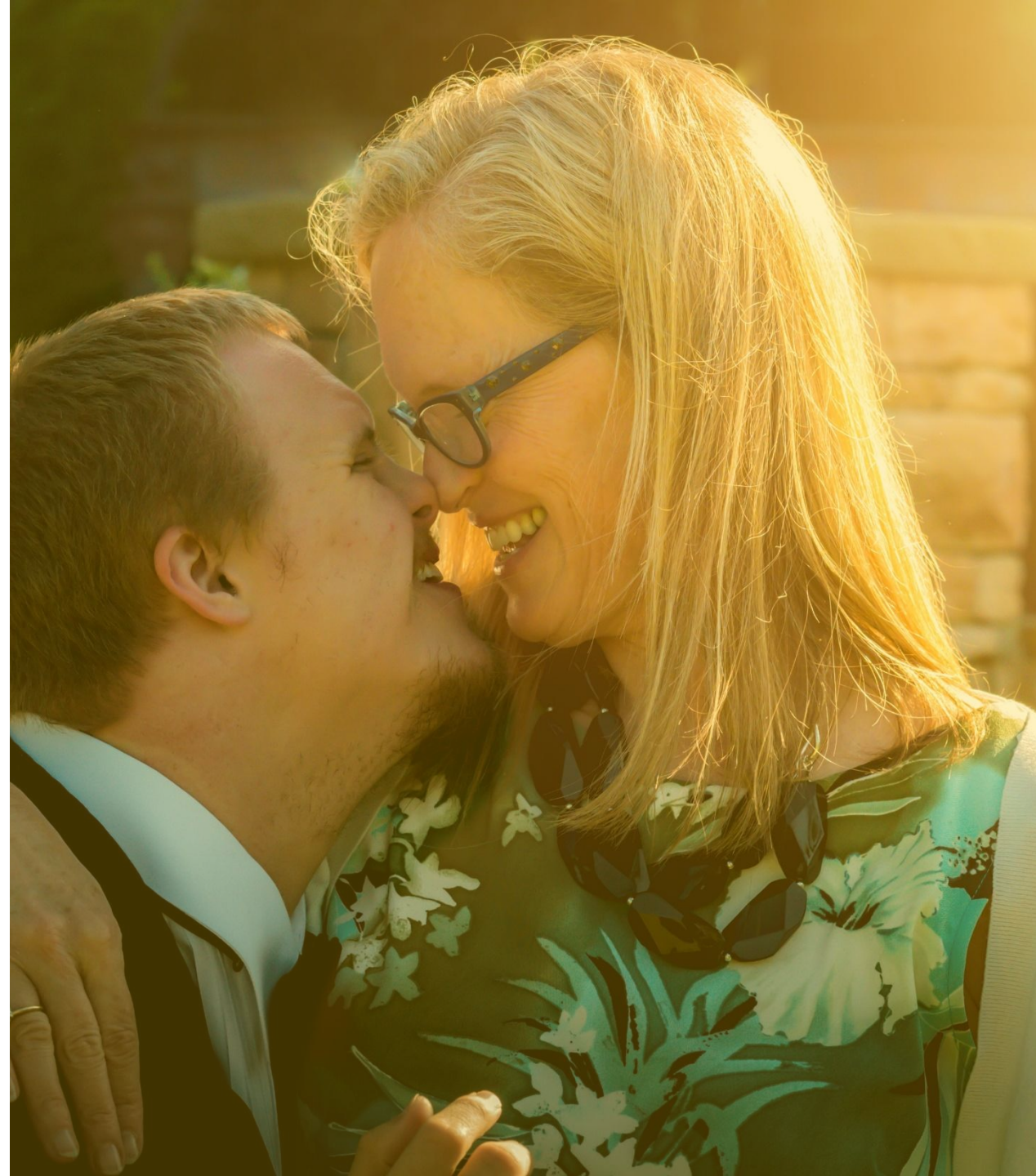
BENEFICIARY

person the trust is set up to support



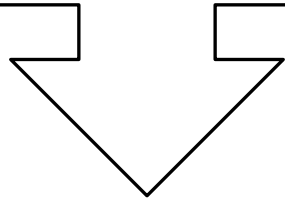
TRUSTEE

decision-maker about property held in the trust



A trust is

a **document** that states rules about what happens to property (money, land, home, etc.).



It answers questions like...

Is the money spent or saved?	How much can be spent?	What can it be used for?	Who can use the money?	What happens to the property?
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A Supplemental or Special Needs Trust (SNT)

A **specially drafted** trust that allows a person with a disability to retain assets while keeping their **means-tested benefits**.

Medicaid

HCS

CLASS

STAR+Plus

DBMD

STAR KIDS

TxHML

SSI

QMB

SLMB

QI

YES

Means-Tested Benefits

Generally, a person **cannot have more than \$2,000** in countable assets and remain eligible for many means-tested benefits like Medicaid and SSI.



A Special Needs Trust makes assets “invisible” for Medicaid or SSI purposes.



Trust Types

**SELF-SETTLED /
FIRST-PARTY
VS.
THIRD-PARTY**

**TRADITIONAL
VS.
POOLED**

Self-Settled / First-Party Trust

ESTABLISHED WITH BENEFICIARY'S OWN MONEY

Funded from lawsuits, settlements, inheritances, 401k, savings, etc.

REQUIRE A MEDICAID PAYBACK PROVISION

This provision protects a beneficiary's benefits. There is an option for remaining money in an account to go to the Master Pooled Trust before Medicaid is paid back.*

GUARDIANSHIP PROCEEDINGS

A court order may be required to establish a trust if guardianship proceedings have started.

**When the beneficiary passes away, money remaining in the trust must be used to pay back the state(s) for any Medicaid money spent on their behalf during their lifetime, unless remaining money is retained by the Master Pooled Trust.*

Third-Party Trust



ESTABLISHED WITH A THIRD PARTY'S MONEY

Funded on behalf of a person with a disability with money from someone other than the beneficiary.

This type of trust is used in Future Planning, including listing the trust as a beneficiary of a will, life insurance policy, ROTH IRA, or 401K.

Traditional vs. Pooled Trust

TRADITIONAL

- Established through an attorney
- An individual, bank or trust company serves as the trustee
- Individual Trust Document is created for your specific needs

POOLED

- Established with a nonprofit organization
- Nonprofit organization serves as the manager alongside a trustee
- Master Trust Documents already drafted
- Assets may be pooled for investment purposes

What is the Master Pooled Trust?

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A Pooled Trust

Assets from multiple people with disabilities are pooled together for investment purposes, but each person has a separate account within the trust. Pooled Special Needs Trusts (SNT) must be managed by a nonprofit organization.

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The Arc of Texas Master Pooled Trust (MPT) is a SNT that has served Texans with disabilities and their families for more than 25 years.

Our person-centered approach – compassionate and streamlined – provides a solution for managing funds while protecting eligibility for benefits, and empowering individuals to achieve their goals.

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Master Pooled Trust

Managing funds while preserving benefits eligibility for Texans with disabilities

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The Arc of Texas serves as the manager of the Master Pooled Trust and handles day-to-day operations.



The Master Pooled Trust is right for your situation if...

DISABILITY

- Beneficiary must meet the Social Security Administration's definition of a person with a disability

TEXAN

- Beneficiary must be a Texas resident at the time the trust is established

CASH ASSETS

- Only cash assets or items that can be changed into cash assets are accepted. **Assets such as stocks, real property, homes, mineral rights, physical possessions, etc. are NOT accepted.**



Age Limitations



Self-Settled / First-Party Trust

- **May** establish a self-settled trust **pooled** sub-account
- **May NOT** establish a **traditional** self-settled trust

A transfer penalty may be imposed on individuals over the age of 65 who transfer their own funds to a pooled trust sub-account.

Third-Party Trust

- **May** have any third-party trust established for them

Quick Facts

The Master Pooled Trust (MPT) has **four master trust agreements already drafted** to meet Social Security Administration and Medicaid requirements.

- All four help protect benefits. Trust III and IV are recommended.
- Individuals can join by completing our Joinder Agreement.

The MPT has **more than 2,000 active sub-accounts** which are **pooled** together for investment purposes.

- Pooling sub-accounts allows us to keep fees to a minimum.
- Sub-accounts do NOT have a minimum or maximum amount requirement.
- The MPT can only accept cash assets. ***Assets such as stocks, real property, homes, mineral rights, physical possessions, etc. are NOT accepted.***



I



II



III



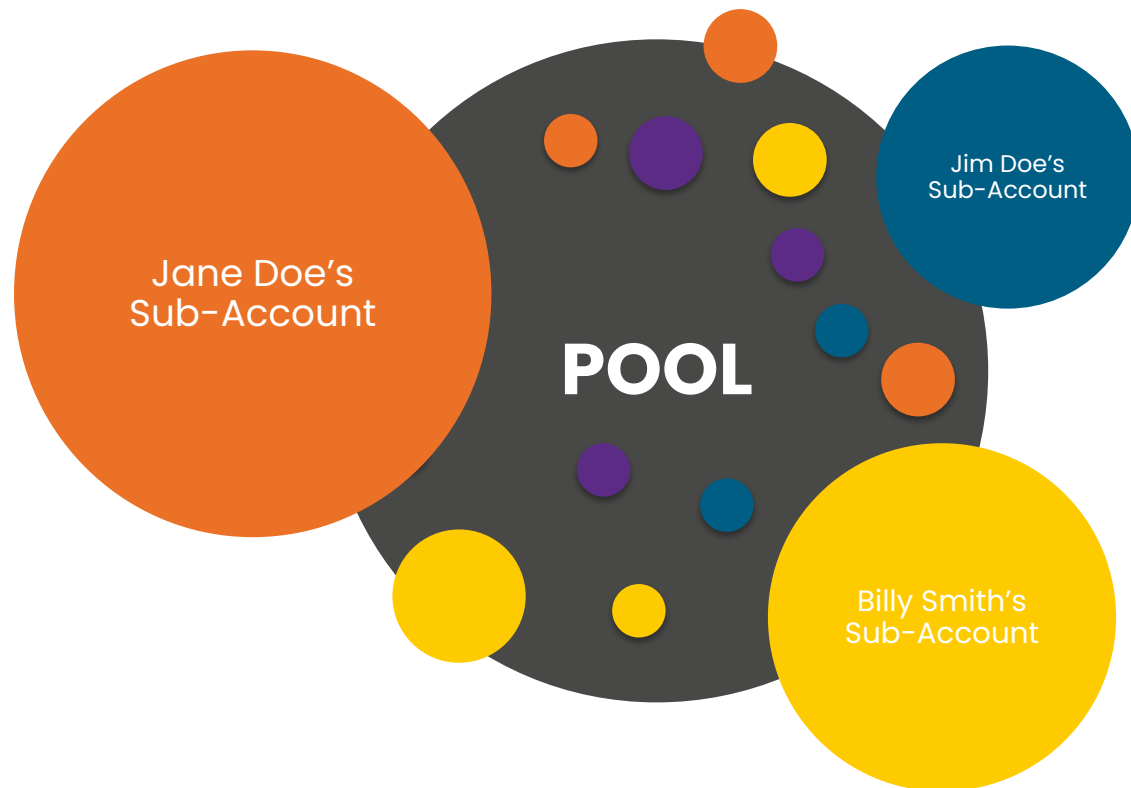
IV

How it Works

Each beneficiary has their own sub-account within the Master Pooled Trust.

Beneficiaries only have access to their own personal sub-account.

Funds from all sub-accounts are pooled and invested. Each beneficiary shares in the earnings or losses based on the balance of their sub-account.



EXAMPLE

Let's say MPT total assets are \$100,000,000.

If you have \$1,000,000 in your sub-account, your earnings equal 1% of pooled returns.



Fees

The Master Pooled Trust is **a low-cost alternative.**

- Enrollment fee is \$600 (non-refundable)
- Annual fees
 - Minimum: \$300
 - 1.75% on the first \$50,000
 - 1.25% for \$50,000–\$100,000
 - 1% for over \$100,000
- Annual fees are NOT required for unfunded sub-accounts.

See the Joinder Agreement for a complete list of fees.

Steps to Enroll

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1. Determine the appropriate trust (I, II, III or IV) for your situation.
2. Download the Trust Agreement and corresponding Joinder Agreement.
3. Complete the Joinder Agreement and Supplemental Information Form.
4. Sign and notarize the Joinder Agreement.
5. Mail the completed, notarized ORIGINALS and the enrollment fee to The Arc of Texas. The funding check or electronic deposit may be sent separately.
6. Allow 2-4 weeks for processing.



If applicable, send a copy of the court order with the Joinder Agreement.

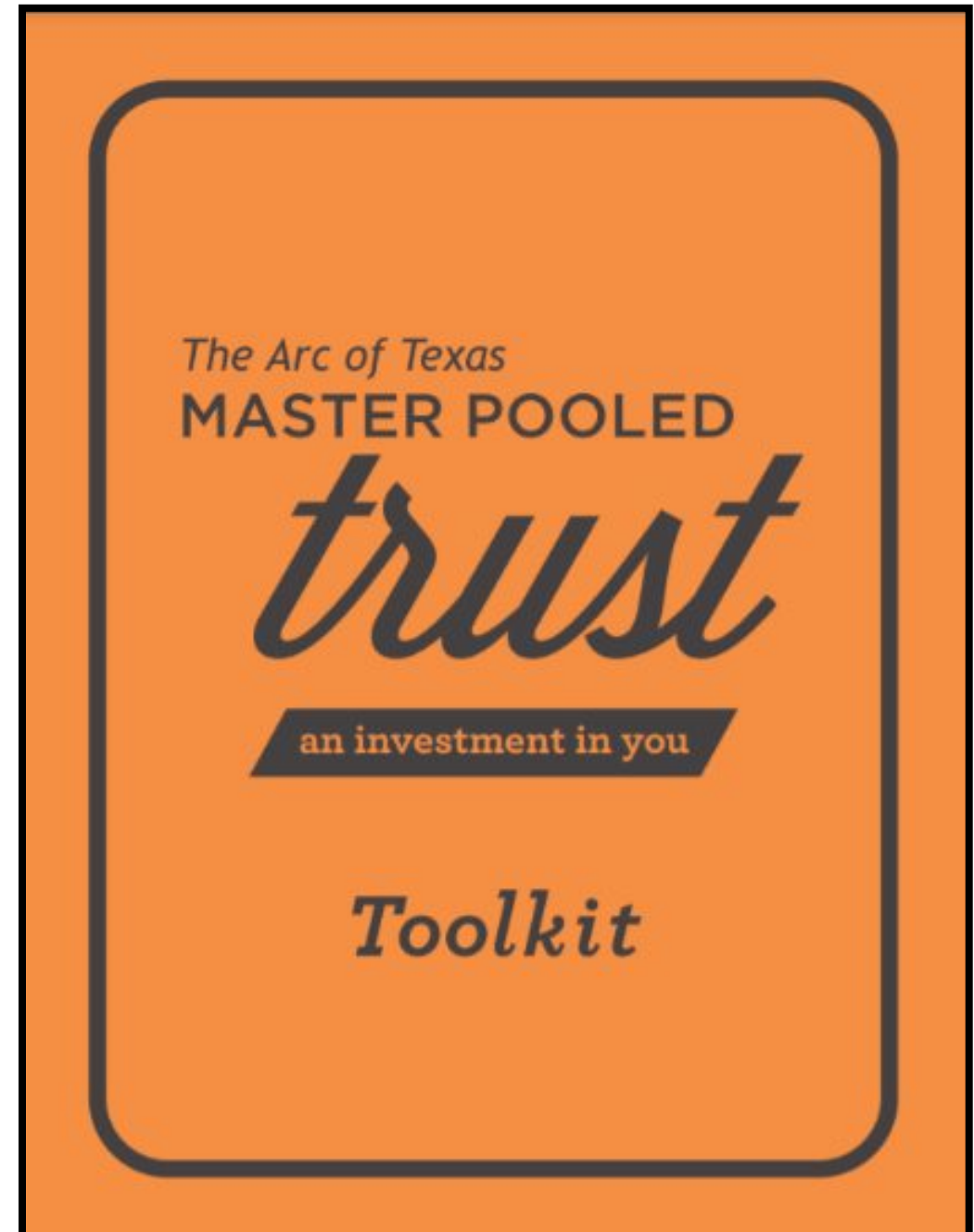
The court order should direct a person to complete the joinder agreement to establish the account.

Contact trust@thearcoftexas.org for sample court orders.



Everything You Need

- Each account receives a copy during enrollment and you can access The MPT Toolkit at thearcoftexas.org/trust-toolkit
- The toolkit exists to be of help to you. It contains everything you need to know!



Texas ABLE: A Savings Plan for Texans with Disabilities



What is an ABLE Account?



- Tax-advantaged investment account for eligible individuals with disabilities.
- Account funds intended to supplement, not supplant, benefits provided through Medicaid, Supplemental Security Income (SSI), and Social Security Disability Insurance (SSDI).
- The beneficiary owns the account.
- Only one ABLE account per beneficiary.

Eligibility Requirements

An eligible individual must have developed their disability before the age of 26, and must meet one of the following criteria:

Eligible to receive SSI or SSDI; or

Has a condition listed on SSA's List of [Compassionate Allowances](#), [Conditions](#),

Self certify - obtain a physician's diagnosis of a medically determinable physical or mental impairment*

*Results in marked and severe ~~or~~ limitations, which can either be expected to result in death, or has lasted or is expected to last at least 12 months.

ABLE Age Adjustment Act

Currently, only individuals who have a qualifying disability prior to age 26 are eligible to open an ABLE account.

Passage of the ABLE Age Adjustment Act in December 2022 expands ABLE eligibility to individuals whose disability occurred before age 46. The change goes into effect on **January 1, 2026**.

An estimated six million more Americans with disabilities – including an estimated one million veterans – will have the ability to save for the future with ABLE.

Starting an ABLE Account

- A person can have **one ABLE account**
- Can be established The beneficiary's:
 - agent under a Power of Attorney,
 - legal guardian or conservator, spouse, parent, brother or sister, grandparent, or a representative payee appointed by the SSA.
- Can be **funded by anyone** for a person with a disability



Qualified Disability Expenses



- May be used to pay for Qualified Disability Expenses (that relate to the individual's disability and are for the benefit of maintaining or improving his or her health, independence or quality of life.
- Includes basic living expenses and not limited to expenses for items for which there is a medical necessity.

Qualified Disability Expenses

What can an **ABLE Account** pay for?

There is a 10% penalty tax on funds NOT used for qualified disability expenses.

Education	Housing	Transportation	Employment training and support
Assistive technology and related services	Personal support services	Health	Prevention and wellness
Financial management and administrative services	Legal fees, oversight and monitoring	Funeral and burial	And MORE!



Withdrawals for Housing Expenses

Distributions for housing expenses are disregarded for means-tested benefits only if the withdrawal from the ABLE account and payment of the expense occur in the same month.

Qualified Disability Expenses for Housing include payments for:

Mortgage payments (including property insurance required by the mortgage holder)
Real property taxes
Rent
Heating fuel
Gas
Electricity
Water
Sewer
Garbage removal

Contribution Limits

Annual Limit		Lifetime Limit
Not Employed \$18,000 per year from all sources.	Employed* Up to \$31,590 per year. (\$18,000 from any source + beneficiary wages up to \$13,590.)	\$500,000 Maximum lifetime contribution limit in Texas.

*Federal law allows certain employed ABLE beneficiaries to make additional contributions above the annual limit ("Expanded Contribution Limit"). The designated beneficiary is responsible for ensuring eligibility and compliance with the Expanded Contribution Limit and maintaining records for this purpose.

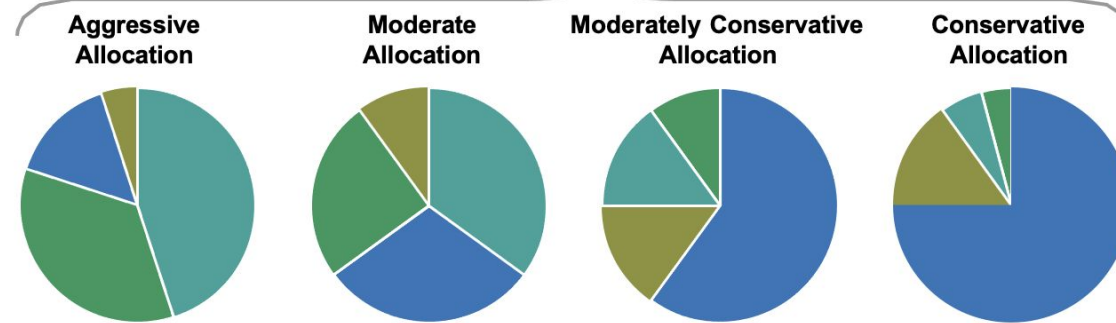
Texas ABLÉ Enrollment Process



1. Enroll at TexasABLE.org (20 mins).
2. Complete an online application
3. Select investment options during enrollment
4. Make \$50 min contribution

Choose from five investment options.

Managed Allocation Options



● Vanguard Total Stock Market Index

● Vanguard Total International Stock Market Index

● PIMCO Total Return Fund

● Eaton Vance Floating-Rate Fund

Bank Savings Option

FDIC Insured



Texas ABLE - Account Fees

Description	Amount
Monthly Account Maintenance Fee	\$3.5
Delivery of Program Documents: -Electronic Delivery -Paper Delivery	0 \$0 \$10
Check Processing Fee for Each Withdrawal by Check	\$5
ACH Processing Fee for Each Withdrawal in Excess of 2 per Month	\$1
There are no fees for Enrollment, Rollovers from another ABLE program or 529 college savings account, or Change of Beneficiary or ALR.	

Prepaid Debit Card U.S. Bank Focus Card

- Simple and fast way for Texas ABLE account owners to access funds to pay for qualified disability expenses on the go or online.
- Reloadable prepaid debit card funded by ACH withdrawals from the account.
- Can be used online or in stores anywhere that accepts Visa debit cards.
- View balance and transaction history via the U.S. Bank Mobile App or online.
- No enrollment fee.

TexasABLE.

org



Medicaid Payback Provision

Upon the death of the beneficiary, the federal ABLE Act allows states to recapture medical assistance paid by a state Medicaid program on behalf of the beneficiary during the period of time the ABLE account was open.



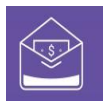
Limitations – Payback applies from date ABLE account was opened.



Deductions – Deduct any Medicaid buy-in premiums paid.

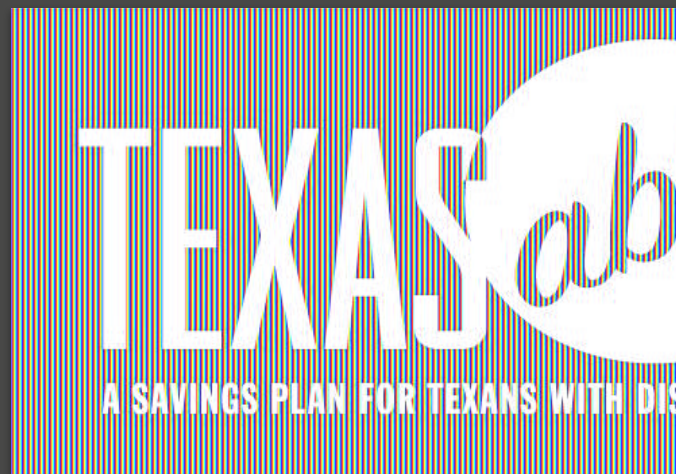


Outstanding Bills – Pay any outstanding bills for qualified disability expenses.



Funeral Expenses – Pay for funeral and burial expenses.

How does an ABLE Account compare to a Special Needs Trust?



Special Needs Trust (SNT / MPT) vs. ABLE Account



SNT / MPT

- More than one account allowed
- Any amount can be contributed each year
- SSI benefits are not suspended because of account balance
- Does not grow tax free



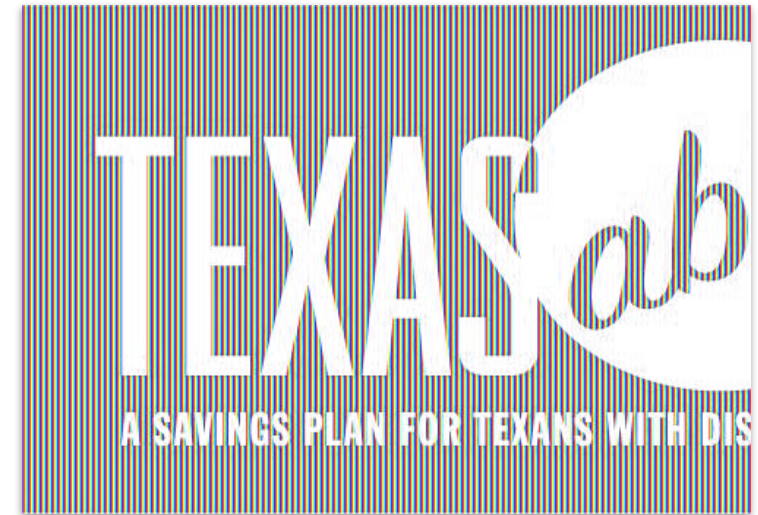
ABLE ACCOUNT

- Disability onset before age 26 (will rise to 46 years old in 2026)
- Only one account allowed
- Amounts up to the federal gift tax exemption amount each year (\$18,000 in 2024)
- A lifetime total of \$500,000 may be in account (in Texas; varies by state)
- SSI benefits are suspended when account has a \$100,001+ balance
- Grows tax free

Guardianship Alternatives

Things to consider when determining which is right as a guardianship alternative:

1. Have guardianship proceedings begun?
Does the court want oversight?
2. Who has authority to establish the account?
3. Who has the authority to transfer the funds/fund the account?
4. What is the amount that will be transferred?
5. Does the individual need support to use or access their account?
6. What are the costs associated with each account?



Using the **MPT** and **ABLE** Together

There are countless ways the Trusts and ABLE accounts can work together as alternatives to guardianship!

For example, housing!



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**TO LEARN MORE
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thearcoftexas.org/trust

EMAIL

trust@thearcoftexas.org

PHONE

512-454-6694
or 1-800-252-9729

FAX

512-454-4956



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CUSTOMER SERVICE TEAM

Customerservice@TexasABLE.org

844-489-2253 (844-4TX-ABLE)

Mon-Fri, 8AM-5PM CST

OUTREACH

For outreach opportunities including presentations and webinars contact

Texasable@cpa.Texas.gov

512-475-5331