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*Special needs require special attorneys.*

## **Planning Essentials for Special Needs Families**

Children and adults with disabilities and the resulting special needs face plenty of tough challenges in life. **Failure to plan will lead to even greater problems** and financial hardship for the child with special needs in the future, but **proper planning now will create greater resources and opportunities** in the years to come.

**Plan For Future Care.** Children whose special needs will seriously limit their independence as adults may require assistance throughout their lives. Parents must consider and plan for where the child will live, who will care for the child and what that care will include. Parents should execute a **will or trust naming a future guardian** for the child, and they should provide clear information and instructions to such guardian about all the major areas of daily life for the disabled child. A **"letter of intent"** will explain the child's medical, educational, family, social, religious and recreational history, likes and dislikes. The letter of intent will assure a smoother transition from parental care to non-parental care for the child.

**Plan For Financial Support.** It is also crucial to access all financial resources available to provide for a child with a disability. The child's needs may be expensive, and they will generally be met from family resources (such as gifts or inheritance from parents, grandparents, etc.) and/or government entitlement programs (such as Medicaid and SSI). Medicaid assistance pays for medical services and SSI provides monthly payments for food and shelter expenses to disabled persons who meet certain financial criteria. These programs are generally ***not available*** to individuals who own ***more than \$2,000*** in money and other assets. Therefore, a gift or inheritance from a family member to a disabled child or his/her guardian will disqualify the child for these program benefits. **BUT** – a parent or other family member may establish a ***properly-drafted "special needs trust"*** for the child's benefit. Once the special needs trust is established, any family gifts and inheritances through wills or life insurance policies can be designated to go to the trust rather than the child, and the trustee (parent or grandparent) can hold, manage and spend such assets for the child's benefit while the ***child remains eligible*** to receive governmental assistance.

Every family, particularly those with a child or adult with special needs, should **ACT NOW** to create an estate plan that will avoid the problems and achieve the goals outlined above. With a will or living trust, special needs trust and letter of intent in place, you can provide for

your disabled child's **personal security** and the **financial resources** available to meet future needs as they arise.

## **Planning "DO's and DON'Ts" for Special Needs Children**

### **DO:**

1. Plan now for your child's (and family's) future security. (We're not promised tomorrow!)
2. Select a **guardian** and **trustee** for your special needs child.
3. Prepare a "**letter of intent**" describing your child's medical, social, recreational, educational, religious and family history and future needs. (**Contact us** for forms and help with this.)
4. Learn the requirements for eligibility of your child for Medicaid (medical assistance) and SSI (monthly support assistance). (Ask us for educational information about this.)
5. Consult with legal and financial professionals with **expertise in special needs planning**. (As the parent of an adult child with a disability, I have special emphasis in this type planning.)
6. Establish your will and a **special needs trust** to hold assets for your special needs family member without causing loss of Medicaid and SSI benefits.
7. Make provisions to fund the trust through your will, with financial assets or life insurance.
8. Communicate your plan to other family members so that gifts can be made to the Special Needs Trust instead of directly to your child.
9. **Maximize the resources** available to your special needs child through these positive actions.

### **DON'T**

1. Leave money or property to your special needs child directly in your will. Such assets will disqualify the child for government benefits.
2. Leave money or property to a Custodian for your child in a Uniform Transfers to Minors Act (UTMA) account. (Such funds automatically belong to the beneficiary at age 21.)
3. Leave the special needs child's share of property to another family member to "hold" for the child. (The property may be lost to creditors or through poor financial handling.)
4. Hold property or accounts in joint ownership with your special needs child. It will be considered the child's property or money for SSI and Medicaid.
5. Name your special needs child as a beneficiary of any life insurance policy or retirement account.
6. Leave property or money to a trust unless it is a Special Needs Trust **drafted by an expert**.

**Contact Richard Courtney at 601-987-3000 or 1-866-353-3752 today for help in planning for your child or adult family member with disabilities.**