

For the Love of the Special Child:

*Estate Planning Issues for Parents & Relatives of
Children with Special Needs*

Presented by:

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Introduction

Person with Special Needs

- Child or other family member.
- With physical, mental, or emotional difficulty.
- May need professional care, sporadic supervision, or parenting for life.

Planning for Special Needs:

Hurdles to Proper Care

- Qualifying for Benefit Programs
- Legal and Financial Advisors
- Parents and Loved Ones

- **PROPER PLANNING IS A TOTAL TEAM EFFORT!**

Planning for Special Needs:

Hurdles to Proper Care - Advisors

- Advisors with inadequate experience.
- Failure to accommodate for changes in:
 - ❑ Benefit program financing or requirements.
 - ❑ The economy.
- Distracted by planning smokescreens.

Planning for Special Needs:

Hurdles to Proper Care – Clients?

- Failure to provide written instructions.
- Procrastination.
- Unrealistic expectations of:
 - ❑ The “Process”.
 - ❑ Remaining family members.
 - ❑ Continued service programs.

Planning for Special Needs:

Information to Provide The Attorney

- Professional info on the child's disability.
- Personal info on the child.
- Legal matters relating to the child.
- Personal info on parents/family.
- Parents' planning preferences.

Planning for Special Needs:

Dangers for Special Needs Families

- Changes in Your Child's Situation
- Changes in Federal Law
- Changes in State Law
- Changes in Your Situation
- Changes in Your Attorney's Knowledge

Planning for Special Needs:

Estate Planning Options

- Disinherit your Child
- Leave Assets Outright to Child
- Leave Assets to other family members
- Traditional “Support” Trust
- “Supplemental Needs” Trust

Options for Special Needs:

Disinherit the Child

- Done to allow qualification for need-based benefits.
- Often a result of lack of knowledge or bad advice.
- **Should be a last resort.**

Options for Special Needs:

Leave Assets Outright to the Child

- Will often occur if the parent has no estate plan.
- Disqualifies child from need-based benefits.
- **Never a good reason to do so!**

Options for Special Needs:

Gift/Bequest to Another Family Member

- BUT THE OTHER FAMILY MEMBER MAY...
- Spend it
- Refuse to Use for Special Needs Person
- Get Divorced & have Gift Split
- Get Sued or File for Bankruptcy
- Die first & leave to others (intentionally or not)
- Can be a burden on the family member and their loved ones.

Options for Special Needs:

Traditional “Support” Trust

- Requires trustee to provide for “education, health, welfare, and support”.
- Results in loss of government benefits.
- Works well for non-disabled beneficiaries.

Options for Special Needs:

“Discretionary” Trust

- Also known as “Supplemental Needs” Trust.
- Designed to supplement and not supplant public assistance benefits.

Options for Special Needs:

Who Acts as Trustee?

- Family members.
- Friends.
- Accountant.
- Bank Trust Department or Trust Company.
- Professional specialists.
- A combination of the above.

How Much Will My Child Need?

Enough to . . .

- Provide for the “little extras” the benefit programs won’t pay for.
- Act as a reserve in case government benefit programs decline or disappear.

What Next...

A Plan that will work for your Family includes:

- A “Counseling Oriented Attorney
- Establish and Maintain an Updating Program
- Assure Controlled Settlement Costs after your Death.

Thanks for Attending

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