

Estate Planning as a Parent of a Child with Special Needs

What are your options as a parent of a child with special needs?

1. Give the estate to the rest of your children with the understanding that they will take care of the child with special needs. There are risks with this approach, but it can be appropriate when the potential inheritance is modest.
2. Leave an inheritance to the child with special needs. This is an uncommon choice because it often means the child's ability to receive publicly funded benefits will no longer be possible or greatly diminished. This could mean ineligibility for Social Security Income and Medicaid, and consequently assisted housing, supported employment, vocational rehabilitation, group housing, attendant personal care aides, etc.
3. Leave inheritance in a Special Needs Trust. This option allows the child to continue to qualify for public assistance programs and has an appointed trustee take care of the child's finances and manage how much money is available to the child at a time.
4. Disinherit the child. This is an option, but would not be one to consider when trying to provide the best possible care and life for your child.

What you will need for you and your child to make an estate plan:

- Important personal information
- Emergency Contacts
- Medical history and providers
- Financial information
- Legal Information and Documents
- Account passwords (i.e. online billing)
- Letter of intent

What is a Letter of Intent?

When creating a will/estate plan for parents of children with special needs, a letter of intent is a written document by the parent that lays out all of your knowledge regarding your child's needs so that future caregivers can provide the best possible care for your child. It is not a formal legal document, but extremely important regardless. The letter usually includes:

- Family history
- General overview
- Daily schedule
- Diet/food
- Medical care
- Education experiences
- Government benefits
- Employment
- Residential environment (living arrangements)
- Social environment
- Religious environment
- Behavior management
- Final arrangements for your child
- Any other information that could be helpful for future caregivers

What is a Special Needs Trust?

- A Special Needs Trust (SNT) is set up for an individual with special needs that supplements any government benefits such as Medicaid or Social Security Income. It can pay for things like education, recreation, counseling, and medical attention.
- A trust involves the donor, who provides the funds to the trust, a trustee, who agrees to manage and distribute the funds according to the donor's wishes, and the beneficiary, the individual who receives the funds.
- There are 3 types of Special Needs Trusts: a first-party trust, a third-party trust, and a pooled trust. Determine with a special needs planner/ attorney which one is right for you.
- A SNT can be created while alive- called a "living trust"- or incorporated into a will- called a "testamentary trust."

Important Steps to Take:

- Meet with a special needs attorney. They will:
 - Draft necessary documents about property, finances, health care, and care of your children.
- Help you set up financial strategies such as the Special Needs Trust.
 - Plan for your own disability or incapacity. This includes:
- Informal arrangements for finances. This would involve asking a trusted friend or relative, or hiring someone, to manage your finances/property.
 - Power of attorney
 - Considering health care arrangements.
- Identify who should succeed you in the role of your child's conservatorship or guardianship.
 - Consider possible guardians and make sure they understand the steps they will need to take.
 - Certain states have different procedures to follow in order to designate your preference.