

TAKE THE TIME TO CARE-
FULLY REVIEW YOUR WILL
AND ESTATE PLAN.

YOUR FAMILY, AND
PARTICULARLY YOUR
CHILDREN, ARE DEPENDING
ON YOU.



SOMETIMES IT TAKES
SPECIAL CARE
TO PLAN FOR THOSE
WITH SPECIAL NEEDS


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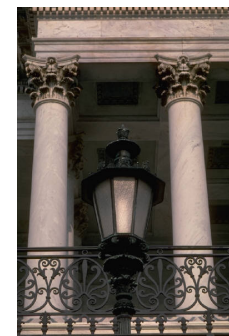
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WILLS, TRUSTS,
AND PLANNING
FOR THOSE WITH
SPECIAL NEEDS



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CARE FOR YOUR CHILDREN NOW, BUT PREPARE FOR THEIR FUTURE NEEDS



NOT HAVING AN EFFECTIVE ESTATE PLAN FOR YOUR CHILDREN, IS LIKE DRIVING WITHOUT A SEAT BELT

WHO NEEDS A WILL?

Anyone who is married, has children, and does not want their estate administered by the pre-set laws of the state. If you do not have a will, your assets will pass as dictated by law, which may not necessarily be how you want your estate administered. For example, if you are married and have children, without a will your spouse will *not* automatically inherit your entire estate; your spouse and children would share your assets, even if your children are minors.

PLANNING FOR THOSE WITH SPECIAL NEEDS...

If assets are left to a disabled beneficiary, the beneficiary could be disqualified from receiving state or federal benefits. To avoid this disqualification in the past, families would disinherit disabled family members and leave assets to someone else who agreed to "take care" of them. In 1993 Congress enacted laws that entitled disabled individuals to derive the same estate planning benefits as non-disabled individuals without affecting their eligibility for state or federal benefits. The law created Supplemental Needs Trusts, which enable you to leave any amount of money to a loved one who has special needs without affecting their eligibility for the state or federal benefits they receive. The law provides that trust proceeds must be used to provide "luxuries" which the disabled person would not otherwise receive from state and federal benefit programs. Luxuries can include trips, computers, power wheel chairs, or other comforts not generally provided by the government.

Supplemental (Special) Needs Trusts

Parents of special needs children face estate planning issues unlike those in other families. They are often frustrated because of their desire to provide for a child in their wills, but understand that any inheritance could cause their child to lose valuable government benefits.

A Solution ... A Supplemental Needs Trust is specifically authorized by New York law. As long as the Trust complies with the strict statutory requirements, assets from the Trust can be used to provide for the well-being of your disabled child without disqualifying him/her from receiving governmental benefits. A Supplemental Needs Trust for your special needs child can be created immediately, as a *stand alone* or living trust, and funded by your will.

What is a Trust? A trust is a contract between the Grantor (the person who creates the trust), the Trustee (the person who manages the trust) and the beneficiary (the person entitled to benefit from the trust). You, as Grantor, will determine how the trust will be administered by the Trustee, as well as how and when your child will benefit..

Are All Supplemental Needs Trusts the same?

No, there are two basic types of supplemental needs trusts. One type of Supplemental Needs Trust ("SNT") is referred to as a "Third Party" SNT. This is one which is created and funded by someone other than the beneficiary. The "Third Party" SNT is most commonly used when parents leave money in their wills to a disabled child. However, rather than the gift being distributed directly to such child, the will provides that it be distributed to the SNT for the child's



benefit. The trust must be created before the will is signed. Any funds remaining at the time the beneficiary dies may be given to whomever the creator of the trust desires. The other type of SNT is referred to as a "First Party" or a "Self - Settled" supplemental needs trust which is established with the funds of the disabled party themselves. In return for preventing the beneficiary from losing their government benefits, with this type of trust you must provide that any monies left in the trust at the time of the beneficiary's death must first be used to repay the State for the benefits that were received during the beneficiary's lifetime. If there is anything left after this repayment, it may then be distributed to whomever you wish, for example, a spouse, other children or heirs. There is also a restriction with a Self-Settled SNT which requires, in general, that it may only be utilized by those under age 65.

If you have any questions about planning your estate, or establishing a Supplemental Needs Trust for a family member with special needs, please call the office of Michael D. Weinstein for a free consultation.

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