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7 Reasons to Establish a Special Needs Trust (SNT)

Special needs trusts can play an important role in helping families plan for children with special needs. Here are some of the most compelling reasons to establishing an SNT.

1. Preserve public benefits while enhancing your child's lifestyle. As adults, many individuals with significant special needs obtain basic support from Supplemental Security Income (SSI), which also is the gateway to Medicaid and other critical programs. Because the monthly SSI benefit is very small, most parents want to supplement their child's lifestyle. However, SSI imposes limits on income and assets, providing funds to the child directly can jeopardize benefits eligibility. Generally, the best solution is placing funds in an SNT. The Social Security Administration (SSA) does not count assets in an SNT as income for determining benefits eligibility because the assets are owned by the trust rather than the child beneficiary.
2. Ensure assets will be used as intended. With an SNT, distribution of assets is directed by trust documents as well as SSA and IRS guidelines. By comparison, if you leave assets to an "able-bodied" child and ask that some of the funds be used for the sibling with special needs, the child may fail to honor your request, lose the assets to creditors, divorce or die prematurely leaving the funds to his or her spouse, children or anyone they chose.
3. Allow others to contribute. If you establish the trust during your lifetime, grandparents and others interested in helping your child can make gifts to the SNT. Anyone interested in leaving your child money at death should be advised to direct bequests to the SNT.
4. Fund the SNT as you wish. SNTs can be funded with cash, securities or other resources. Often, a second-to-die life insurance policy offers the most affordable option, enabling a family to fund an SNT without depleting assets required for other household needs. If assets in an Individual Retirement Account (IRA) will represent a large portion of your estate, it's important to speak with an attorney about the most tax-efficient way to transfer those assets to an SNT.
5. Identify appropriate distributions. If you establish and fund an SNT while your child is young, you can use the trust like a checking account to pay the child's expenses. A future trustee can then refer to a record of these payments as a guide in determining necessary and appropriate distributions.
6. Maximize the benefits of a personal injury settlement. If your child wins a sizable settlement, having the payout (often a lump sum plus a structured settlement) directed to a self-settled SNT offers several benefits. Your child will still qualify for public benefits, can use settlement funds for supplemental needs not covered by government benefits and

may enjoy the financial security of receiving regular payments for life.

7. Enhance matrimonial settlements. If an adult child who receives SSI and Medicaid divorces, having a self-settled SNT drafted through the divorce decree will allow any alimony or lump-sum payment from your child's ex-spouse to be paid to the trust. With public benefits intact, it's possible your child may need less from the ex-spouse. That could help ease matrimonial negotiations while still providing your child with ample resources.

The Law Offices of Hoyt & Bryan assists families in the protection of their loved ones by focusing their practice in the areas of Estate Planning, Probate and Trust Administration, Elder Law including Medicaid and VA Planning and Special Needs Planning, Pet Planning, Business Succession Planning and Real Estate. The founders, Peggy Hoyt and Randy Bryan, are both dual board certified by the Florida Bar in Wills, Trusts and Estates as well as Elder Law. Hoyt & Bryan is the only law firm in Florida with the distinction of two attorneys with these certifications. We offer many complimentary educational workshops each week in our Learning Center at The Law Offices of Hoyt & Bryan and monthly workshops in the Auditorium of One Senior Place in Altamonte Springs. For more information please contact our office at 407-977-8080 or visit our website HoytBryan.com.