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Special Needs Planning

Special needs and disability planning is a comprehensive approach to assisting individuals with disabilities. Our attorneys will assist you in learning about community resources that may be available to you or your loved one, and developing a detailed care plan as well as a sound financial plan. We will provide you with the legal resources that will help you carry out your estate plan and obtain and preserve public benefits for you or your loved one.

Trusts

Trusts are a common method for providing for family members with disabilities. The most common types of trusts for this purpose are Support Trusts and Special Needs Trusts.

Support Trusts

Support Trusts require the trustee to make distributions for the beneficiary's support. This includes distributions for food and shelter. Beneficiaries of Support Trusts are not eligible to receive public benefits such as Supplemental Security Income (SSI) or Medicaid until the trust assets are spent. If your loved one is receiving SSI or Medicaid, or may require these benefits in the future, you should avoid using a Support Trust to provide for him or her.

A **Special Needs Trust**, also called a **Supplemental Needs Trust**, holds resources for the disabled individual while also maintaining his or her eligibility for public assistance benefits. There are two types of Special Needs Trusts: Third-Party and Self-Settled.

A **Third-Party Special Needs Trust** is created with assets that do not belong to the disabled individual, such as a parent's assets or spouse's assets. Third-Party Special Needs Trusts are typically done as part of an estate plan through a will or living trust. Third-Party Special Needs Trusts do not have to pay back the State after the beneficiary's death.

A **Self-Settled Special Needs Trust** is created by the disabled beneficiary, parent, grandparent, or legal guardian using the disabled individual's own assets to fund the trust. A Self-Settled Special Needs Trust is often used when a disabled individual is awarded a settlement from a personal injury or medical malpractice lawsuit. If there are any assets remaining in the trust after the beneficiary's death, those assets must first be used to pay back the State for the amount of any public assistance benefits the beneficiary received during life.