



## ESTABLISHING A SPECIAL NEEDS TRUST

**Special Needs Trusts** provide a mechanism for using parents' or other assets as part of an estate plan to enable a dependent, held in Trust for his or her benefit, have access to assets, held in trust for his or her benefit, that are not considered countable assets for purposes of qualification for certain governmental benefits, including Supplemental Security Income, Medicaid, vocational rehabilitation, subsidized housing, and other benefits based upon need.

**A Special Needs Trust provides a dependent** supplemental and extra care over and above that which the government or other types of spendthrift or family trusts can provide by addressing the specific needs of the disabled beneficiary or his or her future lifestyle. Even in situations where a family may have significant resources to help their child, a Special Needs Trust should be established to address these issues and protect the child's interests. Additionally, trust funds are not subject to court judgments, creditors or seizure.

**You do not want to leave the money to others to care for a dependent** because disinheritance can cause serious problems, including putting the assets at risk. A friend or family member holding assets for the benefit of your child could be subject to liabilities, such as judgments from automobile accidents, a bankruptcy, or a divorce.

**You should create a Special Needs Trust early in your dependent's life** as a long-term means of holding assets to benefit, especially if you are a parent who wishes to leave funds for a child's benefit after the your death. As a part of such estate planning, the costs of the creation of the Special Needs Trust are tax deductible.

**If you are the sibling of a disabled person you can still set up a Special Needs Trust.** The law provides that a guardian may be appointed or a "guardian-in-fact," such as a concerned sibling. A sibling can be "an interested third party" who is permitted to establish a Special Needs Trust.

**You need a law firm experienced with special needs issues to establish a dependent's Special Need Trust** to ensure that the attorney is familiar with the benefits systems, the proper creation of the Trust, and ultimately the defense of the Trust in the event that it should be challenged by a court, the Social Security Administration, Medicaid, or the like. Not even every Estate Planning Attorney knows this area of the law.

**Johnson Law Group has more than twenty years of experience serving parents** and children under the Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act, and has served as counsel to the plaintiff class in *Petties et al. v. District of Columbia, et al.* We understand the myriad issues and choices facing parents of children with disabilities, and have the experience needed to help our clients navigate the special education system and resources in an effort to provide your child with the appropriate care and benefits.

As a service to our clients, we do not charge for initial consultations. Please contact our office at 202-544-1515 or [law@johnsonlawgroupintl.com](mailto:law@johnsonlawgroupintl.com) to arrange for an appointment.