

# A Special Needs Trust Provides Help For Individuals Without Sacrificing Benefits

Hellen Keller once wrote that, "although the world is full of suffering, it is also full of the overcoming of it." For people with special needs, this quote resonates interminably.

Overcoming a disability or medical condition can be difficult, and accomplishing daily living tasks with special needs can be especially daunting. Still, individuals with special needs can live full, rewarding lives with the help of loved ones, caregivers and specialized medical facilities. Unfortunately, this help can sometimes come with a hefty price tag.

## A "Special Needs Trust" Can Help

Legal help is available for people who want to add quality of life to loved ones with special needs, while still allowing them to retain government benefits, such as Social Security and Medicaid, both of which provide for basic needs such as food, shelter and clothing.

**Special Needs Trusts**, also known as "Supplemental Needs Trusts," allow a disabled individual access to funds that provide extra care above and beyond what the government provides. These funds could be used for travel, education, or recreational activities.

However, while these funds can add to the quality of life of a person with special needs, they cannot be gifted directly to the disabled person; otherwise Medicaid or Supplemental Security Income benefits might be lost. Instead, family members have the option to "gift" or "bequeath" funds to the Special Needs Trust. This keeps the assets out of the name of the disabled individual, who would otherwise lose benefits if she has assets in excess of \$2000 (with some exceptions).

## When Should a Special Needs Trust Be Considered?

A special needs trust can be a useful legal tool in a variety of situations. To name a few:

- **If parents are worried about how a child with a disability will live once they are gone.** In this situation, the parents can set up an estate plan that leaves money in a "Special Needs Trust."
- **If a person becomes disabled because of a car accident and receives a resulting legal settlement.** In this case, a self-settled "Special Needs Trust" can allow that person to retain Social Security Disability benefits while using the lawsuit funds to pay for extra expenses.
- **If parents of a child of special needs divorce, and one parent will pay child support indefinitely.** In this case, the non-custodial parent can make child support payments to a "Special Needs Trust," ensuring that public benefits are retained and that the parents need not pay for the entire cost of care once the child becomes an adult.

A Special Needs Trust must be drafted carefully and according to the individual circumstances of the family and that of the individual with special needs. Texas residents looking to benefit from a Special Needs Trust should contact an experienced "Elder Law" and "Estate Planning" attorney to discuss their needs and legal options.

