

CAN I PROVIDE FOR MY CHILD FINANCIALLY?

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When each of our children were born my husband and I started planning for their futures, in particular, the college fund. When we realized that Lauren would probably not be able to go to college and that she would need assistance of some kind for the rest of her life, we realized that we could not place any assets in her name or leave anything to her in our wills. This was during the early 1980's. We were stymied. It seemed very unfair that we would be unable to provide her with the extras she would need in the future when we were no longer here.

Then in 1993 Congress passed Section 13611 of the U.S. Omnibus Budget Reconciliation Act which changed the law to enable families to provide for disabled family members. OBRA 1993, as the law is called, permits families, or any third party for that matter, to establish a trust called a special needs trust or supplemental needs trust. A parent, grandparent, sibling or any third party can put funds or other assets into a special needs or supplemental needs trust for the benefit of the disabled person. Although this discussion is geared to the special needs population, these trust can also be used for any disabled person who is receiving government assistance regardless of the disability or the individual's age.

Now we realized that we could start planning and providing for Lauren's future, as well as, that of her siblings without relying on anyone's good will to care for her. Under the law, the goal of a supplemental needs trust, special needs trust or SNT, is to enhance the quality of life of the beneficiary (the person who is receiving government benefits and who will receive the benefits of the trust.) The SNT may receive property from life insurance proceeds, designated beneficiary accounts (IRAs, Roth IRAs, etc.) other trusts, gifts and/or inheritances under the wills of third parties.

A trustee is named to administer the trust, that is, to invest the funds in the SNT and to use the funds to supplement any federal, state or other governmental benefits received by the beneficiary. The SNT, therefore, can provide the beneficiary with medical insurance, vacations, a computer, a television, a car, etc. In other words, those items that the government does not provide.

When the SNT is established by a third party, the grantor, with assets that do not belong to the beneficiary, the grantor can designate who will receive any assets remaining after the death of the beneficiary. So, I can designate that any of my children who outlive Lauren can, upon Lauren's death, receive a share of the assets remaining in her trust. An SNT can also be established in a will.

The ability to create an SNT is a great relief to parents who can now plan for the future of their special needs children as well as their "typical" children's future.