



Life Planning: “It’s More Than Just a Will and a Trust”

Most special needs parents do not prepare their estate documents (wills) because they feel uncomfortable with the typical estate plan (wills) process and associated documents. Typically they may choose to do nothing in preference to doing the wrong thing. In the state of Texas, this can usually result in the loss of important government programs.

An estimated 10 percent of the special needs parents know that doing a typical estate plan (wills) can also result in the loss of important government programs.

For the estimated 5 percent of the special needs parents who do prepare a proper estate plan (wills), here is a typical scenario we have seen. An attorney advised them to disregard their special needs children and leave some of the assets to a “supplementary special needs trust”. The attorney may spend hours working with the special needs parents and then have a legal assistant fill in the blanks on a boilerplate special needs document. The assets left to the “supplementary special needs trust” will be managed by a trustee, who may or may not know the parent’s desires for the special needs child. The tragedy we see is that the parents leave the attorney’s office thinking that they have done everything – their estate plan is done.

What you have really done is created pieces of paper that leave your assets, and in most cases your child’s future, to a person. But do you really know how they will be taken care of? Most special needs parents don’t feel they have covered all the bases.

We believe one of the greatest illusions in the estate planning field today is that the average family can guarantee a bright future for the person with special needs, by simply preparing a “will” and a “special needs trust”.

We believe the truth is that the “will” and “special needs trust” rarely carry out the wishes of the family as intended **unless** the parents build a strong planning foundation by first developing a comprehensive and flexible LIFE PLAN for the person with the special needs. In fact, if completed properly, the estate plan (will) is not efficient if not completed post the life planning process.

The Life Planning approach calls upon the parents to take necessary steps to ensure their hopes, dreams, and desires are fulfilled, when they are no longer able to properly care for their children. Many people assume this occurs at death, when many parents just wear out due to the long term care effects.

The following steps should be taken by the parents.

- A. Decide what the parents want for their child’s transition steps in life.

1. Residential Placement
 2. Education
 3. Socialization
 4. Medical Care
 5. Vocational or Volunteer Programs
 6. Religion
- B. Put these hopes and desires into writing. This is known as a Letter of Intent.
- C. Decide on whether they need a Legal Guardian or Advocate

All of these decisions will affect the cost of the overall life plan. The parents should look at a combination of resources to finance the plan using a combination of government benefit programs and private resources. The government benefit programs you most likely need are Supplemental Security Income (SSI) and Medicaid. Remember, these programs are difficult to obtain and easy to lose. See your Life Planner for more details. The parents should look at resources like savings, investments, and insurance proceeds.

Ideally, the parents should work with the right professionals such as: estate and wealth planners, financial planners, or attorneys who specialize in special needs families and offer a complete Life Planning program which encompasses all phases of the Life Planning Process. These phases are:

- A. The Care Plan
- B. The Transition Plan
- C. The Special Needs Plan
- D. The Legal Plan
- E. The Benefit Plan
- F. The Communication Plan

The parents would say “This is what I want for my child. Help me implement it while maintaining my government benefits”. The planner would act as a team leader. They work to help the parents find the appropriate programs. They work to help mold the parents plan into a series of sound documents that aim to work within the boundaries of social services, society, and the legal system.

If families develop a sound LIFE PLAN and use a special needs trust as only one part of the planning process, then it does not matter if government rules change because the overall plan is still in place. The trust, if properly prepared, can serve other purposes so that the children with special needs enjoys a comfortable and meaningful life.

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