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## The Basics of Special Needs Trusts in Virginia

### Special Needs Trusts

A thought that keeps many caregivers of family members with special needs up at night: What happens when I pass away? What will happen to them?

The first thing to remember is “do no harm.” An inheritance left to your family member with special needs may disqualify them from their government benefits or disability payments. So, consider taking action with a special needs trust that will ensure your loved one receives an inheritance from you that’s protected, so your bequest does not disrupt their benefit or disability payments.

A **special needs trust** can help provide for the long-term wellbeing of that person and give you peace of mind. In a nutshell, a special needs trust (SNT) is a legal bucket that holds your bequest, gift, or proceeds from a litigation award to a loved one with a disability, enabling them to benefit from the contents in a protected manner for their long-term benefit and security.

By setting up a special needs trust, you can avoid some common problems that may arise when you try to provide for the financial security and continuing care of your loved one.

#### **A special needs trust can:**

- **Make sure the beneficiary’s money is managed well.** A trust administrator can handle the investment and management of the funds, in addition to overseeing disbursements so they’re used for the beneficiary’s sole benefit.
- **Ensure the beneficiary continues receiving public benefits.** If your loved one is eligible for SSI or Medicaid benefits, a large monetary gift or inheritance could disqualify them from receiving these benefits. Money placed in a special needs trust, however, is not counted when determining an individual’s

SSI/Medicaid eligibility.

- **Protect money received from a settlement.** If an individual receives a settlement for injury or disability resulting from an accident or medical malpractice incident, for example, a special needs trust can be created to safeguard that settlement.

Money from a special needs trust isn't given directly to a beneficiary; instead, it can be spent on a wide variety of goods and services that ensure your loved one's wellbeing. Examples include medical expenses, education, personal care, assistive technology, vacations, and recreation, etc.

There are several approaches to setting up a special needs trust. It can be **self-funded**, meaning the money comes from the beneficiary, or **third-party**, in which a friend or relative contributes the funds. The trust can be administered by a single trustee, or it can be pooled with other trusts and managed by a nonprofit.

"Special-needs trusts can be complex, so it's essential to get expert advice from an attorney you trust," advises special needs trust attorney Van Smith of Smith Strong, PLC.

[Find more information about financial planning and money management for people with disabilities on DisabilityNavigator.org.](#)

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Smith Strong, PLC

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