



If you are going to a private attorney the first question you need to ask is what does he/she charge and what is his/her experience in setting up wills and trusts for people with special needs. Also, does he/she have experience in working on Medicaid issues?

QUESTIONS FOR LEGAL ASSISTANCE AND/OR AN ATTORNEY

1. What types of guardianship are available in this state?
2. What is a conservatorship or a method to assist my child handle finances only in this state?
3. What is the difference between a guardianship and a conservatorship in this state?
4. Would a power of attorney work for my child rather than a guardianship, or until we get the guardianship set up?
5. If my child is a minor, what type of power of attorney can I or should I have for his/her care when I am deployed or unavailable? For health treatment decisions? For financial decisions? For educational issues? For living arrangements?
6. Do I need a power of attorney for myself if I become incapacitated or very ill? What legal documents would I need for my child if I am incapacitated for a limited period or a long period?
7. What is the difference in this state between power of attorney and a durable power of attorney?
8. Do I need advance health directives for my medical treatment or if I am terminally ill?
9. Do I need to, or can I set advance health care directives up for my child, in the event they become very ill or are terminally ill and I am incapacitated?
10. What is a special needs trust and how does it work?
11. What are the pros and cons of having a special needs trust?

12. What happens to assets in a special needs trust after my child dies?
13. What will Medicaid or other public benefit sources have a right to take from the assets of a special needs trust when the beneficiary of the trust, my child with special needs, dies?
14. How can I create a special needs trust and have some of the proceeds go to my other children if my child with special needs dies first?
15. Can I leave my house to my child in a special needs trust in this state? Is there an issue with a house that is a homestead under this state's law (if homestead exists in the state where you reside)?
16. If I have other minor children, what does state law say about what I may leave to each child?
17. What are the pros and cons or risks if I leave all my assets to another person such as a sister or brother or cousin to manage for my child and leave nothing directly to my special needs child?

Note:

This question is very important. If your attorney cannot give you clear information on this, you may want to find a family support group that has considered this subject or knows of a resource who understands the issue.