



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 that 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? 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.