

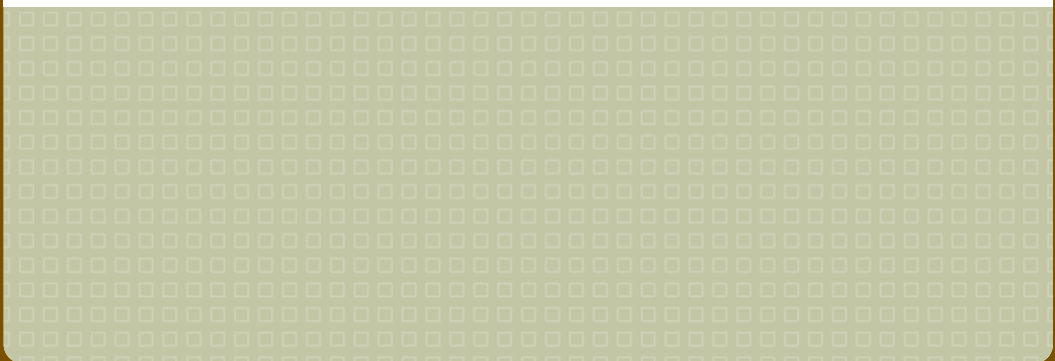


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Estate Planning & Administration

Life is a journey that begins and ends with family



Comprehensive strategies. Personalized planning. Peace of mind.



In a world full of uncertainties, we can help give you peace of mind. Whether it's protecting your assets or setting up a special needs trust, the attorneys of Burns White's Estate Planning & Administration Group will work with you to ensure your legacy endures the test of time.

No matter the estate size, our group offers comprehensive, value-driven services personalized to meet each client's unique objectives. After gaining a better understanding of your specific needs, our team will provide strategic counsel to assist you in looking to the future, anticipating unexpected possibilities and evaluating various approaches.

As circumstances in your life change, so should your plan. We'll be there to guide you in making any necessary adjustments to support optimal outcomes. After all, we're invested in helping you protect your most valued asset — your family.

Key offerings:

- Simple and complex wills
- Simple and complex trusts
- Estate tax planning
- Special needs trusts
- Business succession planning
- Asset protection
- Guardianships
- Estate administration
- Advanced health care directives
- Powers of attorney



Special Needs Trusts—Planning for a Child with Special Needs

It's never too early—and almost never too late—to start planning for the care of a child with special needs. Even caregivers with the best of intentions oftentimes don't realize that direct gifts and inheritances may cause their beneficiaries to lose critical government assistance. Current law only permits an individual with special needs to have \$2,000 in controllable assets and still qualify for benefits. With an intimate knowledge and unique understanding of special needs planning, our team of attorneys will work with you to create a plan that meets your child's best interests.

Why a Trust?

An integral part of special needs planning, special needs trusts are discretionary spendthrift trusts that are created to protect assets, while preserving an individual with special needs' government benefits. A special needs trust can be used to fund services or equipment not covered by Medicaid such as special wheelchairs, personal assistants, therapy, phone bills, educational expenses, recreational activities, entertainment and more.

Diverse, flexible and confidential, trusts are a form of property ownership—whether real estate or investments—between the person creating the trust (the Grantor), the person or company managing it (the Trustee), and the person who is entitled to its benefits (the Beneficiary). Upon creation, the Grantor places property in the trust, essentially transferring ownership to the Trustee, who then manages the property as a fiduciary according to the provisions specified by the Grantor.

Types of Trusts

There are two general types of special needs trusts: first-party special needs trusts and third-party trusts. First-party trusts are created by the parent or legal guardian with the beneficiary's own money—typically obtained in an inheritance, or personal injury or medical malpractice settlement. These types of trusts require that funds leftover after the beneficiary's death be paid back to the government for benefits used. Also initiated by the parent or guardian, third-party trusts are created with the Grantor's and other third-party assets for the benefit of another individual, with no government payback provisions required.

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Choosing a Trustee

One of the most challenging aspects of special needs planning is choosing an appropriate trustee. The trustee of a special needs trust requires a long-term commitment, a keen sensitivity to the individual's disabilities, involvement in monitoring the individual's services, advocacy for medical and financial entitlements, and the investment and distribution of funds. The trustee also has to have knowledge of and comply with several complex laws, including Supplemental Security Income (SSI) and Medicaid.

Given the many roles the trustee must fulfill, parents often choose to appoint co-trustees consisting of a professional (e.g. a bank or law firm) and a family member to provide the appropriate experience and resources for their loved one. This option is ideal for larger-sized trusts, but with smaller-sized trusts this practice may be cost prohibitive. Accordingly, parents may either opt to direct a family member trustee to hire any attorneys, accountants and investment advisors as needed to assist in the trust's administration or select a pooled trust, where many beneficiaries' resources are pooled together and managed by a non-profit entity. In the instance where no appropriate family member is available to be named as a co-trustee, a professional trustee may be instructed to consult with a care or advisory committee of individuals who know and care for the person with special needs.

Letter of Intent

Although not legally binding, a letter of intent is a critical document in telling your child's story. Typically addressed to trustees or caregivers, these letters describe one's medical history, daily care needs, housing, treatments and therapies, hobbies, as well as any future hopes and expectations as they relate to the child's future.

Funding a Special Needs Trust

As a parent or guardian, one of the biggest stresses you'll likely face is making sure your trust remains financially secure long after you are gone. An experienced attorney or financial planner can work with you to assist with evaluating your child's needs versus the availability of resources to fulfill those needs in the long term. Typical sources of funds for special needs trusts are:

- Gifts from family, friends and relatives.
- Proceeds of personal injury settlements.
- Proceeds of a life insurance policy (single life or second to die).
- Funds or other assets from an inheritance.
- IRAs and retirement accounts.



In addition to special needs planning, the Burns White Estate Planning & Administration Group offers comprehensive, value-driven services personalized to meet each client's unique objectives, including simple and complex wills, simple and complex trusts, estate tax planning, business succession planning, estate administration and more. No matter the estate size, you can rely on our team to provide strategic counsel to assist you in looking to the future, anticipating unexpected possibilities and evaluating various strategies.

A Few Things to Keep in Mind as You Begin the Planning Process ...

1. Disinheriting your child can cause more harm than good.

To avoid being disqualified from SSI, Medicaid or other public assistance, you may be advised to entirely disinherit your child with special needs—the child who needs your help the most. These benefits alone are generally just enough to cover basic necessities like food and housing.

2. The trust should be customized to meet your child's specific needs.

The set up and distribution of generic trusts may render your child ineligible to receive public assistance. Special needs trusts are tailored to meet a variety of unique needs including medical and dental expenses, independent evaluations and testing, equipment, training and education, insurance, transportation and personal assistance.

3. Consider inviting external contributions to fund the trust.

One of the many benefits of starting a trust while a child is very young is that it provides greater opportunity for other family members to make gifts to the trust, include the trust in their own estate plans or name the trust as a beneficiary of their life insurance policies.

4. Creating a trust can lessen the caretaking burden on any siblings.

Special needs trusts facilitate easy record keeping and provide clear instructions on how funds should be managed and used, lessening the burden on all of your children and fostering a loving relationship among them.

5. Once a trust is created, it must be properly funded and maintained.

Any kind of trust-based estate plan requires the update of how assets are titled and that beneficiary designations are filled out appropriately. An attorney can help you direct asset placements and transfers.

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