Securing Your Child's Legal Future

Planning for your child's future can feel overwhelming, especially for the parent of a child with a disability. Adulthood brings many new considerations, options and decisions, such as new legal clarifications, medical decisions, education rights, housing and employment opportunities. Early planning leads to peace of mind and empowerment for both parents and child transitioning into adulthood. Remember, you have the power to secure your child's legal future, starting today. No mater a disabled child's age, there are proactive legal steps that will ensure they are protected, supported, and empowered long into the future when a parent may no longer be available.

Things to consider:

Letter of Intent - This outlines a child's routines, preferences, medical history, and goals. While it's not a legal document, it's a critical guide and framework for all involved, including future caregivers and trustees.

Legal Guardianship (If Needed) - Once children turn 18, parents no longer have the legal authority to make decisions on their behalf, unless legal steps are taken. Depending on a child's level of independence, this may involve filing for guardianship, guardian advocacy (in Florida), or exploring supported decision-making options. It's essential to balance legal protection with respect for your child's autonomy and dignity.

A Special Needs Trust (SNT) - This allows parents to set aside money or assets for their child's future benefit. A properly drafted SNT ensures a child has access to supplemental care, education, transportation, and quality of life, without jeopardizing their eligibility for vital government programs like SSI or Medicaid. This can also be funded through life insurance, savings, or future inheritances.

Key Estate Planning Documents - Work with an attorney to ensure a parent's will or trust names the Special Needs Trust (SNT) as the beneficiary. Also, consider naming a trusted person to serve as trustee, and update powers of attorney and health care directives for yourself and your spouse. A direct inheritance often disqualifies a child from essential benefits and causes unnecessary complications.

Build a Team and Revisit Your Plan - Seek guidance from professionals who understand both the legal and emotional aspects of disability planning, including a certified attorney, financial advisor, care coordinator and healthcare providers. As life changes, the plan and the designated professionals should be advised of those changes.

Recent Updates to Be Aware of - 2024: Social Security Administration (SSA) unveiled sweeping changes to its Supplemental Security Income (SSI) program aimed at broadening eligibility and increasing monthly benefit amounts for millions of vulnerable Americans. These changes focus on two key areas: removal of food from list of in-kind support and maintenance (ISM) and the rental subsidy policy.

Food - Under the new rules, food will no longer be included in ISM calculations. Any help with groceries or meals, regardless of whether it comes from family members, charitable organizations, or a trust will no longer trigger a benefit reduction.

In-Kind Support and Maintenance - In-kind support refers to non-cash assistance such as food or shelter provided by friends, family, or other sources. The value of such assistance will no longer be counted as income, which reduces administrative record keeping and promotes food security among low-income individuals.

Rental Subsidy Exception - Under new rules, a rental subsidy exception is available to SSI recipients. As long as SSI recipients' required monthly rent equals or exceeds the Presumed Maximum Value (PMV), the housing assistance they receive under that arrangement will not count as in-kind support. As long a SSI recipient pays at least $343/month for rent, there should be no reduction.

These changes are expected to boost monthly benefits, streamline administrative processes, and ultimately help millions of Americans achieve a greater degree of financial stability and independence.