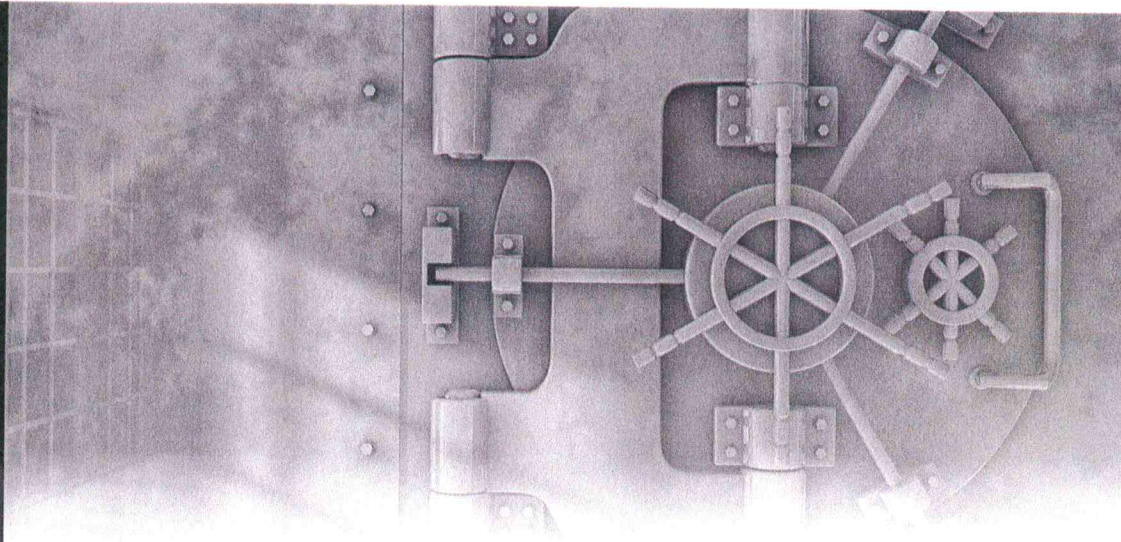




Protecting Assets of Special Needs Children

By Christine L. Matus, Esq.

Christine L. Matus has devoted a large portion of her practice to protect the assets of children with special needs, so they can have the lifestyle they deserve. As a mother of a child with Down syndrome, she understands the issues faced by the children and their families, both legally and emotionally. She has experience representing clients in guardianship matters and estate planning. She was named Ocean County Most Happening Lawyer for 2012 and 2013. For more information or to speak to Christine Matus, please visit www.matuslaw.com or call (732) 281-0060.



Once read that being a parent is one of the most difficult jobs in the world. Parenthood is a journey. And if your child has special needs, the journey may have more ups and downs than average. As a mother of two children, my youngest being born with Down syndrome, I have devoted a large part of my law practice to serving and protecting special needs children, so they can have the lifestyle they deserve.

Many people ask me how this can be achieved. There are several ways. One of the most important ways is to create a special needs trust. What is it? In short, a special needs trust is an investment tool to hold funds for the benefit of a disabled individual. It allows the funds to be used to improve the special needs individual's life without risking the loss of public benefits like Supplemental Security Income (SSI) and Medicaid.

Government entities have no access to these funds during or after the beneficiary's lifetime. Providing funds directly to a person with a disability will most certainly eliminate them from their eligibility for SSI and Medicaid. Special needs trusts are designed to supplement, not to replace, basic support provided by various government programs that are intended to provide food, clothing and shelter.

Questions have recently arisen if special needs trusts are necessary in light of the passing of the Affordable Care Act. The Affordable Care Act prohibits the denial of insurance coverage to persons with pre existing conditions. If a special needs trust is created solely as a way to maintain these public benefits, then a special needs trust may not be needed. But, care should be taken on a case-by-case basis.

There are other advantages to having a special needs trust other than preserving Supplemental Security Income or Medicaid. For instance, a special needs trust would be useful to protect funds from creditors and judgments because the trust funds are to be utilized only for the care of the disabled person. Also, it can be used to help individuals who cannot independently manage their own finances. Plus, the funds used to create the special needs trust are tax-deductible. A trust would allow you to name people to manage funds and advocate for the disabled person. It also protects predators who would take advantage of vulnerable persons.

While protecting benefits, the trust can be used to purchase a wide variety of goods and services for your loved one. Special needs trust funds are commonly used to pay for personal care attendants, vacations, home furnishings, out-of-pocket medical and dental expenses, education, recreation, vehicles and physical rehabilitation.

A well-written special needs trust should not only have the ability to preserve eligibility for benefits currently but it should allow for the purchase of private sector benefits if the public programs are not of suitable quality. An overly restrictive trust might be unavailable to pay for additions to the home of a sibling in which the beneficiary might someday reside, or to pay for a sibling's travel to visit the beneficiary. The trust should be flexible enough to be compatible with the governmental benefit systems of tomorrow.

A special needs trust is a valuable tool because it should not only provide the legal protections needed but also peace of mind from knowing that steps were taken to protect the loved one after you pass.