The Needs of Families with Special Needs Children

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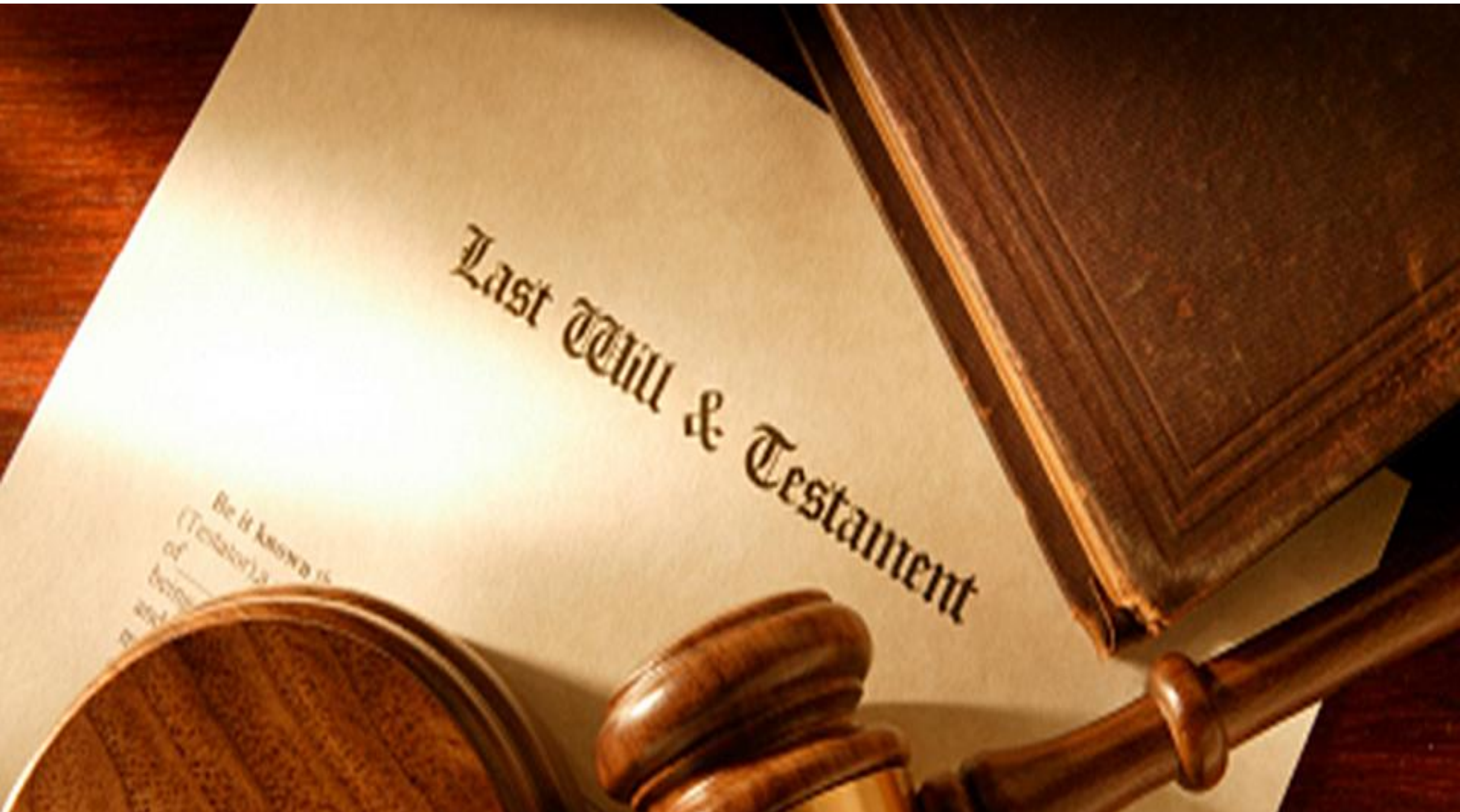

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Did you know that Autism affects one in fifty children? According to the National Center for Education Statistics, 3 percent of children between the ages of 3 and 21 have multiple disabilities. As parents, we want to ensure

our children have all of the advantages that will put them in the best place for success throughout their lives. For some parents, though, their concerns go past that. They worry about what will happen to their special needs child after they're gone.

PLANNING IS KEY FOR FAMILIES WITH SPECIAL NEEDS

It goes much farther than simply including a special needs child or other special needs family member in a will. The best way to ensure they're cared for is with a special needs trust. They're versatile and focused, meaning they will serve the narrow purpose you need them to serve. Unfortunately, many families with special needs children feel as though they're stuck. Many have been told by well-meaning friends and other family members that anything they do will jeopardize their loved one's future efforts of securing government assistance if it's ever needed. While it's true that there are specific guidelines for these types of programs, including SSI and Medicaid, there are ways that a special needs trust will protect them without putting future needs at risk.

The time to act, though, is always right now. According to a recent MetLife Survey, less than one quarter of parents with a special needs child has familiarized themselves with the process and only 38 percent have a will. Even fewer have in place housing security for their child's future needs. Perhaps most importantly, the survey showed that those numbers haven't changed for the past 10 years. In other words, the same concerns people had in 2004 are the same ones parents still have today, even as the number of special needs children have grown.

The reason is the generally the same: They're overwhelmed and scared to act because they don't know what their actions will mean years down the road. They know that one wrong move can actually work against their children as they move into adulthood. For them, the daily needs are easier, it's the long term plans that cause them sleepless nights.

That said, once those parents begin to explore long term options for their children, they begin to understand that not only do they have a lot of options, but the options actually protect their little ones once they go into adulthood. They see that today's planning will ensure safety, security and access to what their loved ones will need when they're no longer here to provide it.

Among other things that a special need trust provides, parents are able to select a guardian for their children should something happen to them before the child becomes an adult. After that, they can name a trustee (or more than one) to oversee the finances and finally, they can provide direction for decisions like education, housing, medical decisions and more. They're able to provide specifics, but without limiting what the future might hold.

Once they understand that the special needs trust serves as a safety mechanism that prevents obstacles in future qualification for benefits program, it becomes clear and easier to move forward. For instance, it stands to reason that we name our children as beneficiaries to life insurance policies, but for those families who have special needs members, it's worrisome because they've likely heard that it can actually work against them. Establishing the trust provides important protections and as some say, it prevents good intentions from becoming bad choices.

YOUR LEGAL ADVOCATE CAN HELP IN A NUMBER OF WAYS –

He can help determine the best trust for your family's needs. It may be a self-settled trust or a third party trust.

- Self-Settled Trusts: The trust is created using the disabled person's own funds (perhaps an insurance settlement). Note that with self-settled trusts, the government can often collect any assets that remain after the beneficiary dies if any benefits were paid during his lifetime.

- Third-Party Trusts: The parent or other third party funds the trust (life insurance payouts, for example)

He can help parents designate a trustee or trustees. Some parents prefer a close family member to oversee his daily needs while a professional or corporate trustee can help manage the logistics of the trust.

He can help parents and then establish funding for the trust.

He can provide insight as to why it's not a good idea (or why it is) to do certain things. For instance, it's likely not wise for a grandparent to leave cash for the disabled grandchild because it can affect any government benefits. They can leave the inheritance, of course, but choosing the proper vehicle to do so protects the child.

The goal is to lift the concerns and even fears in some families who feel as though anything they might be doing to protect their child could be held against the child years from now. Once you understand the process, it becomes much easier to take a proactive approach.

About the Author

Daniel A. DeBruyckere

Attorney DeBruyckere approaches each challenge not just with solid expertise, but also with a passion for helping others plan well for the future. As a husband with three children and two grandchildren, it's his own family experience that provides the motivation to ensure all of his clients are well protected. Besides his extensive background in the issues he specializes in, Dan's clients find that he genuinely cares about them, and that he pays attention to the details that matter to each person and their families.

EXPERIENCE

Attorney Daniel A. DeBruyckere has been practicing law in New Hampshire and Massachusetts since 1998, and has helped hundreds of clients with their estate planning and elder care issues. He is very well respected in the area of estate planning, probate, trust administration, elder law issues, and business planning.

Admitted in Massachusetts and New Hampshire, Attorney DeBruyckere is a former adjunct faculty member of the Massachusetts School of Law and is a member and past president of the Greater Salem Bar Association. He is also a member of the Essex County Bar Association, Massachusetts Bar Association, New Hampshire Bar Association, as well as a member of the National Association of Elder Law Attorneys.

EDUCATION

Attorney DeBruyckere is a graduate of Southern New Hampshire University, summa cum laude, and Massachusetts School of Law, cum laude. He served as editor of the Massachusetts School of Law's Law Review and was a regional finalist in the American Trial Lawyers' Association Trial Advocacy Competition.

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