

# Special Needs Trusts

*Elder Law of East Tennessee*

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**What is a Special Needs Trust (SNT)?** A trust is an arrangement where one person holds property or assets for the benefit of another person. A Special Needs Trust (SNT) is a type of trust established to set aside funds for a special needs individual while allowing him or her to meet the strict financial qualifications for public benefits programs. A third party SNT holds assets that belong to someone other than the person with a disability (the “beneficiary”). A first party SNT holds assets that belong to the person with a disability/beneficiary.

**Who needs an SNT?** Parents or others with a special needs loved one who wish to securely set aside funds for that individual can benefit from an SNT. If you are worried about how your special needs loved one will pay for care when you are gone, an SNT may be the right tool for you. Also, an individual with special needs who inherits from a loved one or receives a settlement may need a SNT.

**How does an SNT help my family?** An SNT allows you to set aside funds for your special needs loved one without risk of those funds disqualifying him or her for certain Social Security/Medicaid/TennCare benefits. The assets in the trust are not counted for purposes of financial qualification by public benefits programs. This allows the special needs individual to use SSI/Medicaid/TennCare benefits to pay for their most essential needs while paying for supplemental services, such as vacations, education, and other perks, out of the SNT.

**Who manages the SNT?** The SNT is managed by a “trustee,” who is in charge of deciding how to invest the assets in the trust and whether to pay for needed items or services from the trust. The trustee is legally obligated to follow the rules of the trust and cannot be forced by the beneficiary to distribute funds improperly. This makes SNTs a wonderful way to manage funds for a beneficiary who is not capable of handling money or someone who may be preyed upon by others.

**What happens when the SNT beneficiary dies?** When the beneficiary dies, the third party SNT can be used to pay for the beneficiary’s final expenses if these are not already secured. Then funds in the SNT are distributed according to the terms of the trust. Public benefits programs do not have a right of reimbursement from the third party SNT. The rules are different for a first party SNT. For those trusts, the public benefit program receives money from the trust in payback.

**Who can set up an SNT?** It depends on the type of trust that is being set up. Parents, grandparents, conservators and courts set up most first party trusts. Trust laws and public benefits rules are complicated, so you should not try to set up an SNT without proper advice. Contact a qualified and experienced attorney who is familiar with Special Needs Trusts and public benefits programs to learn if an SNT is right for your family.



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