

# 8 Mistakes to Avoid when Planning for a Special Needs Child

1. **DOING NOTHING:** If you die without an estate plan, then the State's probate code does NOT consider an adult / child with special needs and the wrong person could be named to manage that loved one's care.
2. **DISINHERITING THE SPECIAL NEEDS PERSON:** If there are no assets set aside for the special needs person causes them to rely solely on public benefits that only provide for welfare-level care. A well drafted third-party special needs trust can provide protection for special needs person's the inheritance to be used to supplement those public benefits.
3. **CHOOSING A SIBLING AS SOLE TRUSTEE:** Although well intentioned leaving money to the other sibling to care for a special needs person is fraught with danger. Outside influences such as divorce or lawsuits or death will tap into the funds meant for the special needs person.
4. **A ONE SIZE FITS ALL SPECIAL NEEDS TRUST:** Off the shelf trusts are usually inflexible and generic, and may not be personal to the needs of the special needs person.
5. **CHOOSING THE WRONG MANAGEMENT TEAM:** When you can no longer manage the special needs trust, it is highly recommended to create a team which includes a professional as trustee, a family member as trust protector, and a professional care manager to manage the trust and special needs person's wellbeing.
6. **FAILING TO BUILD PROTECTION FROM PREDATORS:** A properly written trust will protect the assets meant for the care of the special needs person from predators because they have no access or control to the money directly.
7. **FAILURE TO FUND THE TRUST:** Without funds the trust is just an empty box and although you signed the documents the box is still empty until you fill it. Life insurance, inheritances from family, or existing assets are excellent source of funds for the trust.
8. **NOT USING A PROFESSIONAL SPECIAL NEEDS PLANNER:** Too many plans fail because the attorney setting up the plan does not understand the unique complexities of a special needs trusts, funding the trust, or public benefits. An attorney that understands special needs planning can save the family future money, time, effort, and heartache.



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Estate Planning | Special Needs Planning | Elder Law

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