



# ESTATE PLANNING FOR SPECIAL NEEDS FAMILIES

Get Started



# BEYERS LAW

Who we are & What we do

- Specializing in estate planning, elder law and special needs planning
- A family owned practice in Northern Colorado

# What is Estate Planning?

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The process of planning for your eventual incapacity or demise

A photograph showing the silhouettes of a family of four (two adults and two children) walking along a beach at sunset. The sun is low on the horizon, creating a bright glow and reflecting on the wet sand. The family members are holding hands and walking away from the camera.

1. Who do you want involved?

2. Who's going to receive your property

# Components of An Estate Plan

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**Will or  
Trust**  
DEATH

**FPOA /  
HCPOA**  
INCAPACITATED

# A will has to go through probate

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- A woman with long brown hair, wearing a white long-sleeved shirt and blue jeans, is kneeling on a white shaggy rug. She is holding a baby in a striped shirt and grey pants. The background is a blurred indoor setting with a window.
- It just specifies who is involved and who gets what
  - In Northern Colorado, expect \$3K-\$10K in lawyer fees + 6 months of work.
  - Intestate vs Testate

# Trust

- A family "bucket"
- Trustee/maker can pull assets in/out
- No probate if funded correctly
- Irrevocable Vs Revocable





# Considerations for Trusts vs. Wills

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- **Family Dynamics**
  - Will everyone "play nice"
  - Concerning spouses
  - Loved ones with special needs?
- **Underage beneficiaries**
- **Distribution Scheme**
  - Outright vs cont. trusts
- **Privacy**

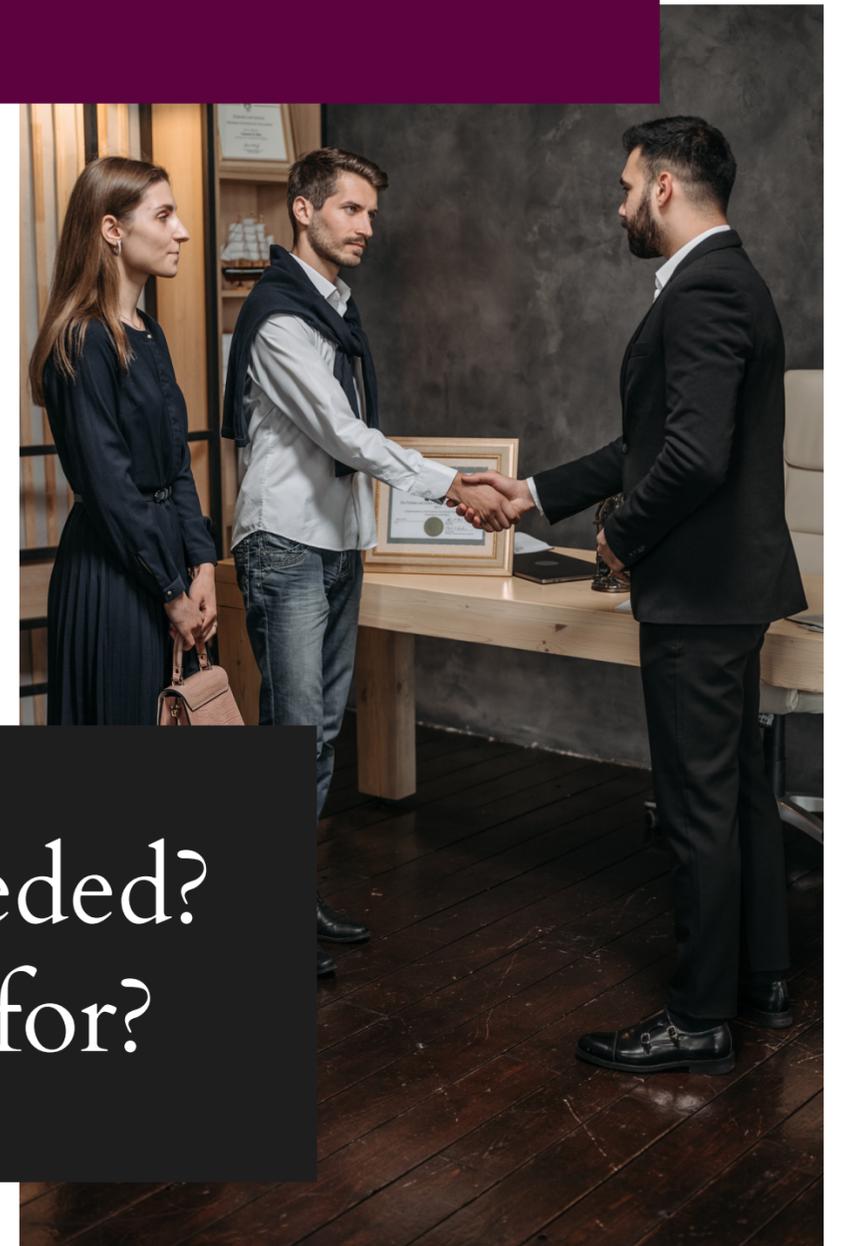
# Power of Attorney

- All estate plans should start here.
- Who steps into your shoes
  - Medical
  - Financial
- No POAs = Guardianship or conservatorship. Or both.



# Questions to consider when planning for special needs

Who will make decisions?  
Who will provide care?



What care will be needed?  
How will it be paid for?



# What is a special needs trust

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- A trust specifically drafted so the trust assets are not considered “available resources” in calculating the disabled person’s resources
- The funds in the trust may then be used to supplement the beneficiary’s needs not covered by public benefits without a reduction or elimination of SSI or Medicaid

# Types of Special Needs Trusts

## Self Settled

- funded with assets of beneficiary
- must have Medicaid payback provisions

## Third Party

- Established by someone other than the beneficiary
- Funds can go to anyone upon death of beneficiary

# Discretionary Trust

- The Social Security Administration describes a discretionary trust as a “a trust in which the trustee has full discretion as to the time, purpose and amount of all distributions.”
- If the beneficiary has no control over distributions, the trust is not counted for SSI eligibility.

# Stand Alone Third Party Trust

- In effect immediately
  - Trustees and successors get experience now.
  - Can work out kinks in plan
- Others can contribute to trust
- Can be amended if laws change
- The plan is in place if you become incapacitated



# Special Needs Trust

- Protects eligibility for government benefits
- Provides a higher quality of life
- Provides framework for care and management of assets
- Allows you to express your intent
- Protects assets from creditors and predators

# Special Needs Trust

- Avoids many costly mistakes people make when planning for a child with special needs such as:
  - Disinheriting a child
  - Relying on others to provide for your child
  - Failing to provide privacy for the child with special needs



# The Ideal Trustee

- Will use discretion in the best interest of the disabled beneficiary
- Must understand public benefits and keeps up with changes in the law
- Can wisely invest and conform to all statutory fiduciary requirements
- Understands taxes
- Keeps perfect books
- Provides advocacy and prevents abuse



# Trustee Protector

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- Oversees how the trust is managed
- Reviews accounting and assessments from the care manager
- Can be a professional, family or friends
- Can hire and fire the trustee or care manager without cause

Make things as easy as possible for your loved ones.



**THANK  
YOU**

**work with us**

