

Planning for the Future for Children and Adults with Intellectual and/or Developmental Disabilities

Virtual Webinar Series



Wednesday, May 17, 2023
1:00 p.m. – 4:30 p.m.

- 1:00 – 3:00 pm “Special Needs Estate & Future Planning”
Presented by Brian & Benjamin Rubin
- 3:00 – 3:15 Break
- 3:15 – 4:30 pm “PUNS/Home Based Services”
Presented by Shirley Perez

Planning for the Future for Children and Adults with Intellectual and/or Developmental Disabilities

Virtual Webinar Series



“Special Needs Estate & Future Planning”

presented by:

Brian Rubin JD (Attorney & Parent)

Benjamin Rubin JD LLM (Attorney & Sibling)

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LAW A Professional
Corporation
Special Needs Legal & Future Planning

www.rubinlaw.com - email@rubinlaw.com - 866.to.rubin



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LAW

A Professional Corporation

**Special Needs Legal
& Future Planning**

WWW.RUBINLAW.COM


EMAIL@RUBINLAW.COM

866.TO.RUBIN

“Legal and future planning for our fellow families of individuals with special needs, including intellectual disabilities, developmental disabilities, and/or mental illness, is not one thing we do, it’s the only thing we do; it’s not one area of our practice, it’s our only area of practice.”

Growing up as a "Sibling"...

- Helps put things in perspective in life
- Different than parents...
- Vacations...
- Trips to the Store...
- Understanding our future responsibilities



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Benji Rubin

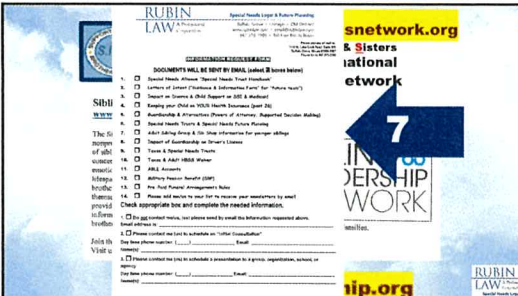
President

S.I.B.S.

Supporting Illinois Brothers & Sisters
Illinois Chapter of the national Sibling
Leadership Network




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DOCUMENTS TO BE SENT BY EMAIL (attach to e-mail)

- 1. Social Security Number (Special Report Form Available)
- 2. Letters of Consent (Parental & Adult/Minor Consent Form for "Minor" Siblings)
- 3. Consent to Release & Waiver to SIBS (if needed)
- 4. Copying your (Child or Youth) Health Insurance (Form 20)
- 5. Membership & Informational Packet (if already a member, dependent Section Available)
- 6. Social Health Team's & Special Health Policy Planning
- 7. Adult Sibling Group & Other Information for program planning
- 8. Consent of Guardianship or Trust's Consent
- 9. Team & Special Health Team
- 10. Team & Adult SIBS Partner
- 11. ABAK Account
- 12. Sibling Health Record (SIBS)
- 13. Any Final Parent, Arrangement's Note
- 14. Please send email to benji@rubinlaw.com with documents to be e-mailed

Check appropriate box and complete the needed information.

If you get contact notes, but please send by email the information requested above.

Send e-mail to: benji@rubinlaw.com

If Parent contact not to be included on "Letter of Introduction"

See how you can help: www.sibs.org Email: benji@rubinlaw.com

Join the SIBS network


If Parent contact not to be included on "Letter of Introduction"

See how you can help: www.sibs.org Email: benji@rubinlaw.com

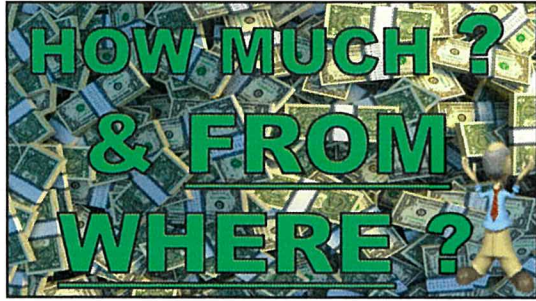
Visit us: www.sibs.org

snetwork.org & sistersinternationalnetwork.org

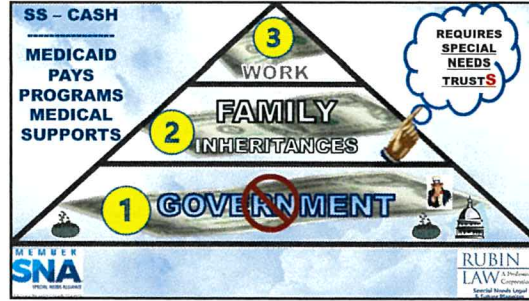
sibs.org



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PARENTS' HEALTH INSURANCE!

- Dependent children **NOT** subject to "limiting age" provisions!
- Even if living "residentially"!
- Even if can't claim as dependent for IRS Income Tax purposes!
- since 1969, amended 1997 & 2007.

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"the attainment of the **limiting age** does not operate to terminate the hospital and medical coverage of a person who, because of a condition that occurred before the attainment of the limiting age, is **incapable of sustaining employment** or is **dependent on his or her parents, or other care providers for lifetime care & supervision.**"

Request Form # 4

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Which Door ?

State of Illinois Department of Human Services

#1 DDD #2 DMH #3 DRS

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STATE OF ILLINOIS DHS DDD DEFINITION OF DD FOR WAIVER

KLR0010 2015 009 009.10 Reformation of Stability Part 1 of 8PPA-1

1. Eligibility Criteria

Individuals who are not currently receiving services under the DHS DDD program and who are not currently receiving services under the DHS DDD program and who are not currently receiving services under the DHS DDD program.

2. Waiver Categories

Individuals who are not currently receiving services under the DHS DDD program and who are not currently receiving services under the DHS DDD program and who are not currently receiving services under the DHS DDD program.

NOT SAME AS SSA

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ADULTS - if not "DD"
(or can "try" even if...)

DHS - DRS HOME SERVICES WAIVER

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PUNS for DDD

PRIORITIZATION OF URGENCY OF NEED FOR SERVICES

REQUIRED

Children (2½ - 17) & adults (18+) with I/DD, since February 2008.

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PUNS + Medicaid

Required for:

- ▶ All Medicaid Waiver Programs... For DD
- ▶ Children's Waiver
- ▶ Adult Waiver
 - CILA - Group Homes
 - HBSS
 - In-Home CILA
 - Supported Employment Services
 - Community Day Services (DT)
 - Regular Work (Workshop)

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CHILDREN'S DD WAIVER(S)
 > HBSS - 2 X \$914 (51/week & Medicaid)
 > Residential

ADULT DD WAIVER(S)
 > HBSS
 > 18-21 - Same as Children's Waiver
 > 22+ - 1 X \$914 (51/week & Medicaid) or \$2,904 (1 year...)
 > Residential
 > Supported Employment
 > Sheltered Employment
 > Day Program (Sheltered Employment by Day, Supported Employment "Work")

Parents assets & income do not count!

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WHERE DO YOU BEGIN?

- The ISC (Independent Service Coordination) Agents (*used to be "Pre-Admission Screening" Agents, name change, but same organizations*) are

THE point of ENTRY

to access state & federally funded services for persons with developmental disabilities, over the age of three, & their families.

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Illinois Department of Human Services • Division of Developmental Disabilities
Independent Service Coordination Agency (ISC) Effective July 1, 2017

ISC AGENT PHONE NUMBERS

Illinois Department of Human Services Division of Developmental Disabilities	• ASB - Access Services of Northern Illinois	815-282-8824
Area	• CBA - Central Illinois Service Areas	217-728-4751
Area	• CCRC - Champaign County Regional Planning Commission	217-205-2813

**Shirley Perez
after break...**

Area 1	• AA - Access Services, Inc.	708-905-5155
Area 2	• WCSC - West Central Service Coordination	217-285-8227
Area 3	• WBS - Western Illinois Service Coordination	309-833-1621

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**FOR DRS, NOT PUNS – RATHER
DETERMINATION OF NEED - “DON” SCORE**
LOCAL DRS OFFICE or call 1-800-843-6154

- Personal Assistant
- Homemaker Services
- Home Health Services
- Electronic Home Response
- Home Delivered Meals
- Adult Day Care
- Assistive Equipment
- Environmental Modifications
- Respite Services
- Brain Injury (Behavior; Habilitation;
Pre-Vocational; Supported Employment)
- Community Reintegration

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**DHS DDD or DHS DRS
Both Require Medicaid!**

IS A DDG ADULT DD WAIVER PROGRAMS EMPHASIS ON ELIGIBILITY AND SUPPORTS?

IS MEDICAID WAIVER OR DDG MEDICAID WAIVER? YOU CAN ONLY HAVE ONE!

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WRONG WAY  **WRONG WAY**

- **“Directly”**
- **No Will**
- **“Disinherit” & leave to others (“moral Obligation”)**
- **“Traditional Trust”**

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Special Needs Trusts

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Special Needs Trusts


- ➔ **3rd Party**
- ➔ **Self Settled aka, OBRA, 1st Party, Pay Back...**

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SNTs.. 2 Versions, both...

- ✓ Reserve
- ✓ Supplemental Fund
- ✓ Over & Above Government Benefits
- ✓ No \$ limit
- ✓ Federal
- ✓ State



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3RD PARTY TRUSTS
ORIGINAL - GOOD

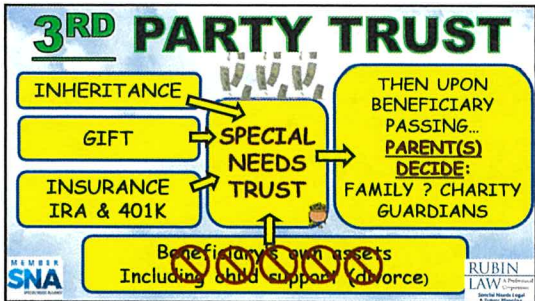
GIFTS INHERITANCES
NOT OWN 1st Party!

by Court Decisions **1992**

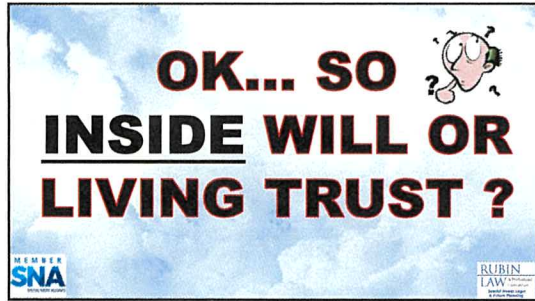
by Statute 760 ILCS 3/509 (1/1/20)
Original statute 760 ILCS 5/15.1 **1991**

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**Won't
exist
until...**



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#1 So NO "Piggy Backing"
#2 NO "Grand Fathering"
**#3 NO Nursing Home
Impoverishment**
#4 NO Place for gifts to go



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**BUT I STILL
DON'T GET IT ?**



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**Just what
IS a Trust?**



JAMES SNA
SPECIAL NEEDS ATTORNEYS

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**Just another way of
holding "title" to, or
"ownership" of, assets,
investments or
accounts...**

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**3rd PARTY
SPECIAL NEEDS TRUST**

REMEMBER

**3rd PARTY
SPECIAL NEEDS TRUST**

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What **YOU**,
AND what "**OTHERS**", do, even
UNintentionally, IMPACTS
Government Benefits

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How to put \$
in the Trust?
From your
& others'
Wills & Trusts

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EXTENDED FAMILY & FRIENDS

- **Instruction letter**
- **Form Codicil**
- **Form Trust Amendment**
- **Trust Certification**

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But...
Beware of
absentee
parents &
grandparents

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EX-SPOUSE
LETTER

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So...
1st set up SNT
2nd reference in Wills/Trusts
3rd extended family too




But... But...

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Change Beneficiaries

- ✓ Life Insurance
- ✓ IRA
- ✓ 401k
- ✓ Profit Sharing
- ✓ Etc.

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WHAT ABOUT GIFTS ?

- ✗ **NOT** Directly
- ✗ **NOT** ABLE (stay tuned!)
- ✗ **NOT** UTMA

YES 3rd Party SNT





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So far just 3rd Party

But what if...




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BENEFICIARY HAS ASSETS

Savings Bonds

529? *UTMA Accounts at 21*

NOT!

IRA - 401k *Large Gift*

Excess SSI/SSDI *Inheritance* *Law Suit Settlement*

WILL/TRUST/BENEFICIARY

CHILD SUPPORT - DIVORCE

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If "NOT that much"

...consider spending it down on allowed expenditures, such as:

- ✓ **COMPUTER, TV, DVD PLAYER...**
- ✓ **VACATION**
- ✓ **PRE-PAID FUNERAL**
- ✓ **PAY OFF DEBTS... EVEN TO PARENTS...**
- ✓ **CLOTHES**
- ✓ **BUT MUST BE FOR HIS/HER**
- ✓ **SOLE BENEFIT...**

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When to consider ABLE?

1. Excess SSI/SSDI/Earnings to avoid \$2,000 issue?
 - *But if SSD not SSI... & working, consider HBWD let!*
2. Short term savings
3. For beneficiary to be in control of "some" spending money
4. Avoid 1/3 reduction for housing if on SSI
5. Small inheritances not correctly left to 3rd party trust
6. Small lawsuit settlements
7. Court ordered divorce child support not to exceed \$17,000 in a calendar year (2023)... *(MAYBE beware?)*
8. 2018 - Convert traditional 529 Account... up to \$17,000 limit...
9. 2018 - Additional contribution by BENEFICIARY of the lesser of earned income from employment for year & federal poverty level amount, if no contribution by or for to an employer retirement saving plan. However, the earned income will still be counted for purposes of eligibility.

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Heard About ABLE Accounts?

#11 on Request Form

ABLE accounts are a new way to help pay for the special needs of children with disabilities. They are tax-advantaged accounts that can be used for a wide range of expenses related to the disability. They are subject to a 10% penalty for early withdrawal, but not for withdrawals used for qualified expenses. They are also subject to the same rules as other tax-advantaged accounts, such as the contribution limits and the requirement that the account be for the benefit of a person with a disability.

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Otherwise
1st Party
Special
Needs
Trust

Federal Law 8/10/93
Illinois Law 1/1/96

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1st Party SNT

Called... **“Self Settled”**... or

- “OBRA 93 Trust”**...
- “(d)(4)(A) or (C) Trust”**
- “PAY BACK Trust”** (like an ABLE account...)
- because...**

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1st Party SNT... "NOT" SO GOOD...

- ❏ Only if **NOT 65**
- ❏ Only by Parents, grandparents, Courts, guardians & **self, NOT others, so not siblings...**
- ❏ **SSA Position...**
- ❏ **Courts often require...**
- ❏ **Pay Back to day 1...**

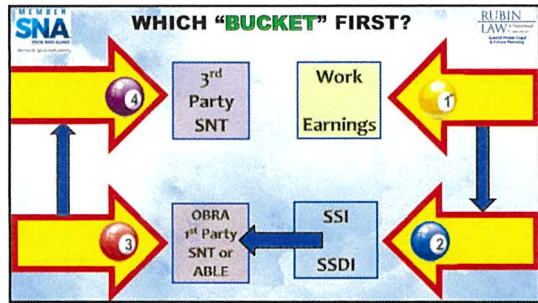
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1ST PARTY SNTS ARE THE VERSIONS REQUIRED FOR CHILD SUPPORT NOT 3RD PARTY SNTS! & NOT ABLE IF OVER ANNUAL LIMIT!

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- ★ You say you **already have** a special needs trust?
- ★ Does it **qualify**?
- ★ Was it **approved** by SSA & State Medicaid Agency
- ★ Will it be approved when it is submitted (It **must** be submitted to SSA & State)? – 10 day rule...

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COMMON ATTORNEY MISTAKES!

**Calling it an
SNT doesn't
make it an SNT!**



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COMMON ATTORNEY MISTAKES!

**No Grand-
Fathering
Required
Language!**



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COMMON ATTORNEY MISTAKES!

**NO prohibition
of 1st Party
money in 3rd
Party Trust!**



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COMMON ATTORNEY MISTAKES!



NO requirement to use 1st Party Trust money or ABLE money prior to 3rd Party Trust money!



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COMMON ATTORNEY MISTAKES!



Not 100% Discretionary



77

COMMON ATTORNEY MISTAKES!

**Permitting Pay TO...
{So... SHOULD provide ability to distribute to ABLE!}**



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COMMON ATTORNEY MISTAKES!



**Over
Restrictive
Language...**



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COMMON ATTORNEY MISTAKES!

**“No Trustee powers
to correct” or terms
not “broad” enough**



80

COMMON ATTORNEY MISTAKES!

**No “Band Aid”
or retro Language**



81

COMMON ATTORNEY MISTAKES!



No “Next Generation” Trustees...



82

COMMON ATTORNEY MISTAKES!

**No “Contribution”
or
Gift Language
3rd Party**



83

COMMON ATTORNEY MISTAKES!

**No
Termination
Provision...**



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COMMON ATTORNEY MISTAKES!

**No
"Contingent"
SNT for others**



85

COMMON ATTORNEY MISTAKES!

**NO
Nursing Home
IMPOVERISHMENT
PROVISION**



86

COMMON ATTORNEY MISTAKES!

**NO
TRS/SURS/Military
& other "public"
Pensions Sub Trust**



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COMMON ATTORNEY MISTAKES!

**NO Trustee(s)
or Guardian
Power to change
corporate trustee...**



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COMMON ATTORNEY MISTAKES!

**NO Change
of State
Provision...**



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COMMON ATTORNEY MISTAKES!

**1/1/2020
Trust Code
BEWARE!**



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COMMON ATTORNEY MISTAKES!

Other Documents


- **Wills need special language!**
- **Living Trusts too**
- **Insurance Trusts too**
- **Powers of Attorney too**
- **Beneficiary Designations too**



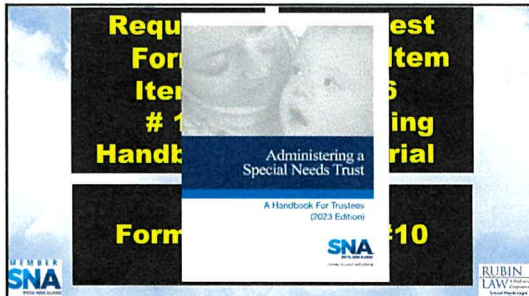
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COMMON ATTORNEY MISTAKES!

...and these are just a few of the attorney mistakes that we see...



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Require...
Form...
Item...
1...
Handb...
Form...

Best Item...
ing...
rial...
10...

Administering a Special Needs Trust
A Handbook For Trustees (2023 Edition)
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OK...
But we have other children?
Cutting up the pie...
Head vs. Heart






Formula?

2nd to Die/Survivorship Life Insurance?

%S

SECURE ACT

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**Guardians
are
nominated
in parents
Wills!**



CONSIDER even if don't think "ever"!






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(755 ILCS 5/11a-16)
Testamentary guardian

A parent of a disabled person may designate by will a person, corporation or public agency qualified to act... to be appointed as... successor guardian of the person or of the estate or both of that person...

If the court finds that the appointment of the one so designated will serve the best interests and welfare of the ward, it shall appoint the one so designated...

(Source: P. A. 81-795.)

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Who will be Guardian?

- Who will make all of the necessary decisions?
 - Medical?
- Government Benefits?
 - School Issues?
- Recreation & Social?
 - Employment?
 - Day Programs?
- Residential?

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Who will be Guardian?

- Can they understand?
- Job will outlast them!
- Other Children? Siblings? Grandparents? Friends?
- School District of Guardian?
- Married Couples?
- Same as Trustees?

Who is going to fill our shoes?

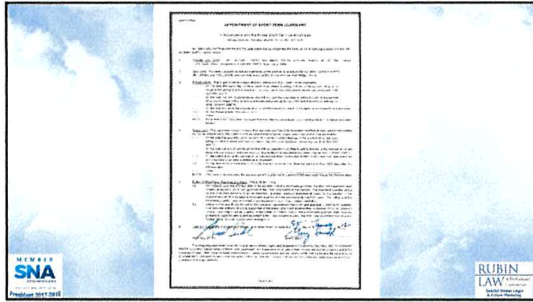
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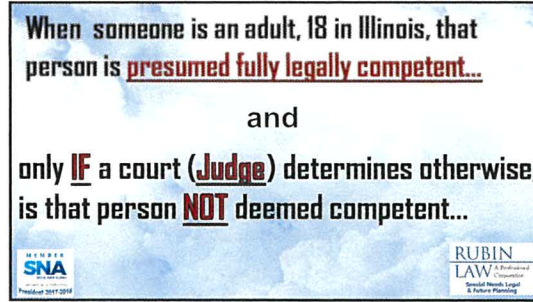
Short Term Guardian Declaration?

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SO... the questions to ask...

- Can he/she **fully manage** his/her personal, medical, education & financial **decisions**?

Even **IF** can...

- Could he/she be **vulnerable** to, or be **taken advantage** of by others?

IF SO, THEN...



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Before considering "Guardianship", **ALWAYS** first consider the **ALTERNATIVES**



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What are the ALTERNATIVES?



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OPTION #1
 Do nothing?
 Actually...
 IF NO "CAPACITY"
 FOR *MEDICAL DECISIONS...*
 THEN →

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**Illinois
 Health Care
 Surrogate Act**
 (IF **NO** decisional capacity)

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Capacity For Medical Decisions:
 Decisional capacity for **MEDICAL/HEALTH** means:
 1. the **ability to understand and appreciate** the nature and consequences of a decision regarding medical treatment or forgoing life-sustaining treatment **and**
 2. The **ability to reach and communicate an informed decision** in the matter **as determined by the attending physician.**

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(755 ILCS 40) Health Care Surrogate Act.
 (755 ILCS 40) Sec. 1. Short title. This Act may be cited as the Health Care Surrogate Act. (Source: P.A. 87-749)

Sec. 1.5. The legislative intent of this Act is to provide a constitutional right to make decisions relating to one's own medical treatment, including the right to refuse life-sustaining treatment. The legislative intent of this Act is to provide a constitutional right to make decisions relating to one's own medical treatment, including the right to refuse life-sustaining treatment. The legislative intent of this Act is to provide a constitutional right to make decisions relating to one's own medical treatment, including the right to refuse life-sustaining treatment.

(755 ILCS 40/2) Sec. 2. Definitions. (a) "Adult" means any individual who is 18 years of age or older. (b) "Child" means any individual who is under 18 years of age. (c) "Spouse" means the individual to whom a person is lawfully married. (d) "Parent" means any individual who is a biological parent of a person. (e) "Sibling" means any individual who is a biological sibling of a person.

**1. LACKS decisional capacity for MEDICAL/HEALTH, AND
 2. NO health care agent (i.e. No Health Care DPA), THEN
 3. In order (1) Guardian of Person... (2) spouse... (3) any adult children... (4) any parent... (5) any sibling.**

But just MEDICAL/HEALTH!

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OPTION #2
IF DO HAVE
"Decisional Capacity"
 then... →

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Supported
Decision
Making

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SUPPORTED DECISION MAKING?
ILLINOIS PUBLIC ACT 102-0614 - EFFECTIVE 2/27/2022

1. Authorizes the creation of supported decision-making agreements
2. Allows a "supporter" to assist a "principal" with an intellectual or developmental disability, **WHO HAS DECISIONAL CAPACITY**, "in accessing, collecting, or obtaining information that is relevant to a decision authorized under the supported decision-making agreement." *I know, "CLEAR AS MUD!"*
3. Provides a form.
4. Principal may revoke at any time.
5. **CANNOT MAKE DECISIONS** for principal.
6. If **NO** decisional capacity then **Guardianship is what is needed.**

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OPTION #3
AGAIN, IF *DO HAVE*
Decisional Capacity
 then... 

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PowerS of Attorney
(IF decisional capacity)

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Capacity for "FINANCIAL" Decisions

Capacity for financial decisions, for an **Illinois Durable Power of Attorney for Property**, is the same as capacity to sign a Will, defined in Illinois as the **mental ability**:

1. to know and remember who are the **natural objects of one's bounty**; AND
2. to comprehend the kind and character of one's property; AND
3. to make **disposition of the property according to some plan formed in one's mind.**

I know, again, "CLEAR AS MUD!"
To know what they are signing & why...

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ILLINOIS DURABLE POWER OF ATTORNEY FOR PROPERTY

\$ FINANCIAL \$

1987

**Print?
Mark?
Stamp?**

Direct others to sign?

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Example **additional** Powers, when appropriate... 1987 to 2021

- IRS
- Residential
- Employment matters
- Funding/establishing self settled (d4A/C) SNTs & ABL Accounts
- HIPAA release
- UID/PW
- Copies
- **AND MUCH MORE...**

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Rx 1987, 2011 & several revisions thereafter...

HEALTH CARE

Print?
Mark?
Stamp?
Direct others to sign?

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EDUCATION

SPECIAL ED -2007

Print?
Mark?
Stamp?
Direct others to sign?

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BEHAVIORAL/MENTAL HEALTH TREATMENT

MENTAL HEALTH

Print?
Mark?
Stamp?
Direct others to sign?

5 PAGE FORM

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SSA
REQUIRES THEIR OWN FORM
Print?
Mark?
Stamp?
Direct others to sign?

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**THE STATE
DHS/HFS
REQUIRES THEIR OWN FORM**
Print?
Mark?
Stamp?
Direct others to sign?

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More in IM & DPAs

DOCUMENTS WILL BE SENT BY EMAIL (linked to boxes below)

- Social Health History - Social Health - Final Worksheet
- Letter of Intent (Purpose & Information Form) - "No Future Plans"
- Report on Status & Risk Report on SSI Worksheet
- Drafting your OAH or WVA Health Insurance (part 2)
- Qualification & Informational Process of Attorney - Supplemental Section 504
- Social Health, Trusts & Special Needs Future Planning
- Adult Living Trusts & 509 State Information for program eligibility
- Statement of Assets/Income as "parent's income"
- Trusts & Special Needs Trusts
- Estate & Elder ABLE Account
- ABLE Accounts
- Drafting Trusts (2017)
- The Trust Powers Assignment Rules
- Please add notes to your list to include your assumptions for each

Check appropriate box and complete the attached information.

If you cannot locate, list please send by email the information requested above.
Email address: _____
 Please contact me (or) to schedule an "office consultation"!
 Date this plan number: _____ Email: _____
 Name: _____
 Agency: _____
 My phone number: _____ Email: _____
 Name: _____

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What if he/she:

- **DOES HAVE CAPACITY** to "sign" **BUT** refuses to "sign"?
- **DOESN'T HAVE CAPACITY** to "sign"?
- **HAS CAPACITY, HOWEVER**, just can't help **getting himself/herself into trouble**; maybe legal, maybe criminal, maybe financial, maybe personal, maybe medical/health related?
- **HAS CAPACITY, HOWEVER**, is a danger to himself/herself or others?

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AND WHAT IF he/she **DOES HAVE CAPACITY** to "sign" **BUT**

- **He/She** terminates/voids the PA as soon as... when...?
- **AND...**
 - Doesn't **prohibit** him/her from...
 - Remains vulnerable?

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That is, will Powers be enough?

- What if he/she is on computer buying things with mom's credit card.
- What if he/she refuses to have parents at IEP/504/ISP meeting, or is "tricked".
- What if he/she is being asked to sign ___ ?

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If he/she can't, or won't" sign" DPAs...
AND/OR if you determined that SDM, DPAs, or HCSA,
 are simply **NOT ENOUGH** to assist and/or protect
 him/her...
THEN, MAYBE... JUST MAYBE, "some form" of
GUARDIANSHIP would be appropriate to help, and to
 protect him/her, from himself/herself, and from
 others...

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OPTION # 4

Guardianship...



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The Guardianship Law!
755 ILCS 5/11a


Going to court to take away
someone's rights...

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GUARDIANSHIP

- ↳ Independence vs. Protection?
- ↳ Court... Law Suit... Venue
- ↳ Report – Illinois M.D., or ***IF IDD can be a clinical psychologist licensed under the Clinical Psychologist Licensing Act.***
- ↳ Summons (14 days)
- ↳ Who can be appointed (U.S. Resident)
- ↳ Required notices



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755 ILCS 5/11a GUARDIANS FOR ADULTS WITH DISABILITIES

- 755 ILCS 5/11a-5 **Who may act as guardian.**
- (a)
 - (1) has attained the age of 18 years;
 - (2) is a legal **resident** of the **United States**; *(that is not need be Illinois)*
 - (3) is not of unsound mind;
 - (4) is not an adjudged person with a disability
 - (5) has not been convicted of a felony, **unless** the court finds...
- (b) Any public agency, or **not-for-profit corporation** found capable by the court
- (c) Any corporation qualified to accept and execute trusts in this State may be appointed guardian of the estate of a person with a disability



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GUARDIANSHIP

- ✓ **Guardian ad Litem**
(Depends on County)
- ✓ **Parents as “Co”**
- ✓ **Siblings, others, as “Co”**
- ✓ **Agencies’ positions**



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GUARDIANSHIP

- ↘ When can do it ?
- ↘ Person vs. Estate ?
- ↘ Residential Placement ?
- ↘ Sterilization
- ↘ Annual Reports ? Depends on County... On Line... E-File!

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NO MORE MAILING ANNUAL REPORTS
or even hand delivering!

MUST NOW E-FILE AS OF 1/1/18

EXCEPT Cook County ☒

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(755 ILCS 5/11a-14.1)
Residential placement

No guardian appointed under this Article, except for duly appointed Public Guardians and the Office of State Guardian, shall have the power, unless specified by court order, to place his ward in a residential facility.

The guardian shall have a duty to investigate the availability of reasonable residential alternatives. The guardian shall monitor the placement of the ward on an on-going basis to ensure its continued appropriateness, and shall pursue appropriate alternatives as needed.

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Back to Court For "residential" placement!

Need to educate agencies!

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GUARDIANSHIP



- Move out of State
- Move out of County? ✓ *(Depends on County)*
- Why some parents/siblings decline due to possible liability or?
- Then what?
- State Guardian/Private?

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GUARDIANSHIP

- Health Care Surrogate Act – Guardian #1
- Make medical treatment decisions including decisions to forgo or withdraw life-sustaining treatment.

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NO DRIVER'S LICENSE IF PLENARY GUARDIANSHIP

Illinois State Law (755 ILCS 5/11a-25) requires the probate court to notify the Secretary of State when a person is adjudged to be incompetent. If a plenary guardian is appointed, no driver's license can be issued or renewed.



When the Secretary of State receives notification from the probate court, 5/6-103, specifically 5/6-103, Secretary of State's license driver, who has been suspended from any mental illness.

REQUEST FORM # 8

Beware, the law!

Even if DMV, with M.D. letter, allows, **DON'T!** (Liability – Insurance)

NOT IF PLENARY for sure... Limited needed!

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Why/When **Limited Guardianship**?

- ✓ Needs Guardian, **but** won't cooperate? Consider "**limited**" ...
- ✓ Liability concerns of Guardian candidates? Consider "**limited**" ...
- ✓ He/she will be "driving"? **MUST** only have "**limited**", **NOT** plenary!

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Limited Guardianship

Appointment of a **Limited Guardian DOES NOT** constitute a finding of legal incompetence!

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REQUIRED TRAINING!

NEW ILLINOIS LAW - Public Act 100-483
Effective September 8, 2018

REQUIRED TRAINING FOR GUARDIANS... even for parents

- Required Training
 - outlines the duties and responsibilities of guardians...
 - outlines the rights of a person with a disability...
 - at no cost, and shall
- File with court a certificate of completion within one year; EXCEPT... "the court may, for **good** cause shown, exempt from this requirement..."

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GAC - Office of State Guardian
Guardianship Training

Click here to take the Guardianship training that will provide you with a certificate that you can file with the court; to obtain the certificate and take the training you will need to register with an email address: <https://onenet.illinois.gov/guardianship>

Click here if you would like to view the training without registering; you will not be provided a certificate: <https://onenet.illinois.gov/page.aspx?item=115288&review=1>

Click here for a list of disability related resources: <https://onenet.illinois.gov/page.aspx?item=116940>

Guardianship Training Link:
<https://www2.illinois.gov/sites/gac/OSG/Pages/Guardianship-Training.aspx>



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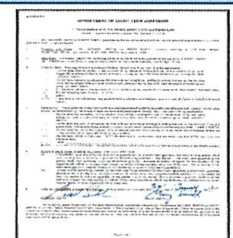

Co-Guardians ?

- Law ?
- Agencies ?
- M.D.s/Hospitals?



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Use Short Term Guardian Declaration to delegate to Co... or Cos to a 3rd party?

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(755 ILCS 5/11a-18.3)
Duties of short-term Guardian of a disabled person

(a) ...The short-term guardian of the person shall have authority to act... without direction of the court... **in no case shall exceed a cumulative total of 60 days in any 12 month period for all short-term guardians appointed by the guardian.**

(b) ... **not have any authority to act as guardian of the estate** ...

(Source: P.A. 90-796, eff. 12-15-98.)

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BUT, EVEN IF A PLENARY GUARDIAN IS APPOINTED... THE WARD CAN STILL VOTE... FOR THIS IS ILLINOIS!

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DOCUMENTS WILL BE SENT BY EMAIL (Check 8 boxes below)

- Special Health Affidavit (Special Needs Trust Affidavit)
- Letters of Intent (Education & Instruction Form for "Future Needs")
- Request for Letter & Will (Request for Will & Request)
- Request your child or child's health insurance (Form 20)
- Affidavit of Appointment (Form of Attorney, Appointed (Successor, Attorney))
- Special Health Trust & Special Needs Future Planning
- ADA (Ability Group & ID) (Request for Information for program eligibility)
- Request of Guardianship or Order's Consent
- Trust & Special Needs Trust
- Trust & ADA (ADA) Form
- ADA Affidavit
- Address (Special Needs) (SNA)
- Pre-Need Power Arrangement Rules
- Please call needs to meet for the service area requested by email

Check appropriate box and complete the needed information.

Do you consent to this? (If you do not consent, please email the Special Needs Trust Affidavit.)

Special Address: _____

Please contact me (or my child) by telephone on "After Hours" (Optional)


Daytime phone number: (_____) _____ Fax: _____

Please contact me (or my child) by e-mail at _____

Daytime e-mail address: (_____) _____ Email: _____

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You need to write it ALL down!
Guidance & Instructions For
Future Guardians,
Trustees, & Care Providers



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**Request
Form
Item # 2
Fillable PDF Form
& Articles on Topic**

ALSO ON RUBIN LAW WEB SITE:
<https://www.rubinlaw.com/wp-content/uploads/2018/10/Letter-of-Intent.pdf>

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In EP Magazine February 2011
Brian Rubin

In Parenting Special Needs Jan/Feb 2014
Brian Rubin

In Met Life Agent/Broker Newsletter Edition 4 2013
Brian Rubin



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FROM A FELLOW PARENT OF A CHILD WITH SPECIAL NEEDS

Someone I Love

- Someone I love relies on me in ways you will never understand.
- Someone I love endures pain and challenges that break my heart and renew my spirit at the same time. Someone I love is unable to advocate for themselves for things that most of us take for granted.
- Someone I love will never have the opportunities that every child should have.
- Someone I love will need unconditional love and support after I am gone - this frightens me to the core.
- Someone I love encounters pity, stereotyping responses, and prejudice at every turn, because they look, act, and/or learn differently than others.
- Someone I love has needs that require me to allow "outsiders" to have power and input in areas that should be mine alone to meet.
- Someone I love will continue to look to me for everything in life long after other children are able to assume a place as part of the world.
- Someone I love has needs that require more time and energy than I have to give.
- Someone I love has needs that mean I am not able to meet basic needs of my own.
- Someone I love has needs that have become the driving force behind major decisions my family makes.
- Someone I love has changed me in ways I will never be able to describe.
- Someone I love has taught me about love and about the really important things in life...
- And still others don't understand what it is to be me.. they aren't living in my skin.

Brian Rubin

NO TRAVEL NEEDED
Virtual

Initial Consultations &
Document Signings
Available

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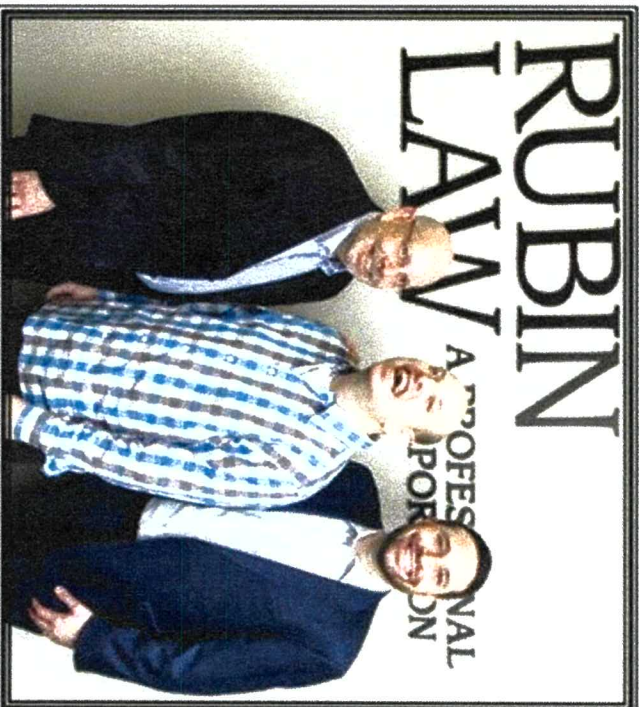
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Brian Rubin — Mitchell Rubin — Benjamin Rubin

“Legal and future planning for our fellow Illinois families of individuals with special needs, including intellectual disabilities, developmental disabilities, physical disabilities, and/or mental illness, is not one thing we do, it's the only thing we do; it's not one area of our practice, it's our only area of practice.”

*Brian N. Rubin, Attorney & Parent
Benjamin A. Rubin, Attorney & Sibling*