

## 1st Party Special Needs Trusts (SNT)

*A Parent Guide for Special Needs Divorce*

A **1<sup>st</sup> party Special Needs Trust** is a protected account used to hold money that legally belongs to your child. During divorce, certain payments are treated as the child's assets under federal benefit rules. If these funds land in your child's name, even briefly, they can disrupt SSI and Medicaid. This trust prevents that from happening.

### Why This Trust Exists in Divorce

Some payments in divorce — especially child support and back support — are automatically considered your child's money. Because SSI and Medicaid have strict financial limits, even small amount in your child's name can pause or end benefits.

A **1<sup>st</sup> party special needs trust** keeps these funds protected so your child's medical coverage, therapies, and support stay intact.

### What Must Go Into a 1<sup>st</sup> Party Special Need Trust

Any money legally belonging to your child must be routed into this trust. This includes:

- **Montly child support**
- **Back child support**
- **Misdirected payments** that should have gone to your child
- **Court awarded funds** assigned directly to your child

Routing these funds anywhere else — even by accident — can create immediate benefit problems.

### How a 1<sup>st</sup> Party Special Needs Trust Actually Works

This trust does **not** replace child support.

It simply changes how support is delivered so your child doesn't lose benefits.

Here's how it works in real life:

- Child support is **paid into the trust**, not to a parent.
- A **trustee** manages the funds and follows benefit rules.
- Parents request distributions for their child's needs.
- The trustee pays providers directly (therapies, programs, equipment) or reimburses parents when allowed.
- The money is **still for your child** — it's just handled in a way that keeps SSI and Medicaid active.
- Your child continues receiving **medical coverage, therapies, waiver services, and school support** without interruption.

This structure protects your child's benefits **while still providing for their needs**.

### How This Trust Protects Benefits

A **1<sup>st</sup> party special needs trust** allows your child to receive support without losing eligibility for:

- SSI monthly payments
- Medicaid medical coverage
- Waiver services
- Therapies and in-home supports
- School-based and community-based programs

The trust shields these funds so they do not count against strict asset limits.

### Why Mistakes Happen in Divorce Cases

Many families are told “any trust will work” or “the court will know what to do.”

In reality, common errors include:

- Routing child support into the wrong trust
- Labeling the trust incorrectly in the decree
- Assuming benefit issues can be fixed later
- Mixing **1<sup>st</sup> party** and **3<sup>rd</sup> party** rules

Benefit programs do not allow retroactive fixes. Correct routing must happen from the start.

### What This Means for Your Child

The trust protects the things your child depends on — their Medicaid coverage, therapies, school supports, and daily routines — even when the divorce process becomes complicated.

## IMPORTANT NOTES

### Benefit Rules

SSI and Medicaid have strict financial limits. These programs look at who legally owns money, not who manages it. Even small amounts in a child's name can pause or end benefits until the issue is corrected. The trust keeps your child safely under those limits.

### Eligibility Basics

All disability benefit programs review income and assets when determining eligibility. Child-owned funds count against these limits unless they are held in the correct trust. The **1<sup>st</sup> party special needs trust** prevents these funds from being counted so your child's benefits stay active.

### Support Routing

Child support is legally considered your child's asset. If it goes into a parent's account, it can be counted against SSI and Medicaid. Routing support into the trust protects eligibility while still ensuring the money is used for your child's needs.

### How Funds Are Used

The trustee can pay providers directly or reimburse parents for approved expenses. This keeps the money available for your child while staying within benefit rules. You still decide what your child needs — the trust simply protects their benefits while those needs are met.

### Limits on Spending

Some expenses — especially food or housing — may affect SSI if paid directly. The trustee will guide you so distributions are made in the safest way for your child's benefits, and so essential supports remain uninterrupted.

### Medicaid Payback

When money is still in the trust when your child passes away, Medicaid must be repaid for the medical costs it covered during your child's life. This repayment is made before any remaining funds can be distributed to family or other beneficiaries. This rule applies only after your child's lifetime and does not affect how the trust is used while they are alive.