New Jersey Law for Special Needs Children
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Pooled Trusts vs. Special Needs Trusts

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Pooled trusts can be a good alternative to a special needs trust. However, pooled trusts are not appropriate for everyone. To understand why, let's take a step back and review some basics.

A pooled trust is a type of special needs trust. Special needs trusts are designed to protect the assets of a physically or mentally disabled person, while still allowing that individual to receive government benefits. To qualify for certain government benefits, such as Medicaid and Supplemental Security Income, an individual generally cannot own more than $2,000 of assets.

A special needs trust enables a physically or mentally disabled person to have an unlimited amount of assets set aside for their needs without being disqualified from government benefits. This is because the assets held in a properly drafted special needs trust are not counted as that individual's resources for purposes of qualifying for government benefits. Funds set aside in a special needs trust allow the disabled individual to pay for extra care beyond what the government provides.

Pooled trusts are a way to provide the benefits of a special needs trust without having to set up and administer a separate trust. As with special needs trusts, pooled trusts can be funded with assets from a third party or assets of the person with special needs. Pooled trusts are required to be run by non-profit companies. The non-profit develops a master trust agreement governing all participants. In most cases, the pooled trust is administrated by a professional administrator, and the funds transferred into the pooled trust are then pooled and invested by an investment manager. Because a pooled trust accepts contributions from many beneficiaries, in theory the pooled trust is able to make more stable investments and provide additional management services that another type of special needs trust might not be able to provide. Like a special needs trust, transfers into a pooled trust do not preclude a person with special needs from receiving government benefits.

There are several distinctions between a pooled trust and a special needs trust. For third-party assets, at the beneficiary's death, the pooled trust will usually keep a portion of the beneficiary's trust account to help fund other pooled trusts, while third-party special needs trusts allow 100% of the assets to pass to other family members of the beneficiary or anyone else chosen by the person who created the trust. A pooled trust is managed by the manager selected by the non-profit and not by a friend or family member that has a personal relationship with the beneficiary. In addition, with a pooled trust, the non-profit entity has control of the investments and disbursements. Once you surrender your money to the pooled trust you have no control over how it is spent or invested.

Despite these distinctions, pooled trusts can be a great option if the amount available to fund the trust is small or where there is no person able or willing to serve as trustee. You should consult an expert in this area to determine whether a pooled trust or classic special needs trust is more appropriate for your family.

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