



Elizabeth Lazzara's
Family Law Insights
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Support for Children with Special Needs:

While nearly half of marriages in the United States end in divorce, divorce rates seem to increase exponentially for couples who have children with special needs. Divorce settlement agreements provide for the needs of minor children through specific child support and expense contribution orders, but what happens when dependent children with special needs reach adulthood? With special needs diagnoses increasing, more and more settlement agreements are incorporating Illinois divorce law provisions that allow for the extension of support to dependents over the age of 18 who may be "mentally or physically disabled or not otherwise emancipated" (750 ILCS 5/513).

Caution goes out to attorneys drafting these special needs provisions because unless worded carefully, continued support payments may have the unintended consequence of reducing or eliminating the dependent's Supplemental Security Income (SSI) and Medicaid eligibility. A settlement agreement can protect a dependent adult's government benefits by providing that continued child support payments be paid into a third-party Special Needs Trust. If drafted properly, the support payments that go into such a special needs trust will not displace SSI and Medicaid.

Therefore, for divorcing clients who have children with special needs, make certain that settlement agreements include necessary Special Needs Trust language that will protect the child's existing or future eligibility for SSI and Medicaid and will maximize the benefits of ongoing support for both the parties and the child. Call me at (312)755-3144 for more details.

Just a Thought...

"Labor to keep alive in your heart the little spark of celestial fire called conscience."

- George Washington

In The Courts...

An employee's future discretionary bonus is a speculative, expectancy interest, and is not marital property subject to division. ***In re the Marriage of Wendt***, 2013 IL App (1st) 123261 (August 16, 2013)

Adult children who are seeking funding for college expenses may not intervene in their parents' pending divorce case. ***In re the Marriage of Vondra***, 2013 IL App (1st) 123025 (June 28, 2013).

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