

**The Village of Arlington Heights  
Commission for Citizens with Disabilities  
Special Needs Legal & Future Planning**



**RUBIN 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."

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**HOW MUCH?  
& FROM  
WHERE?**

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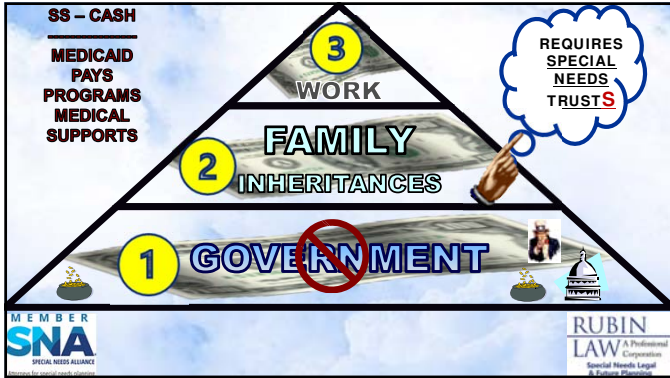
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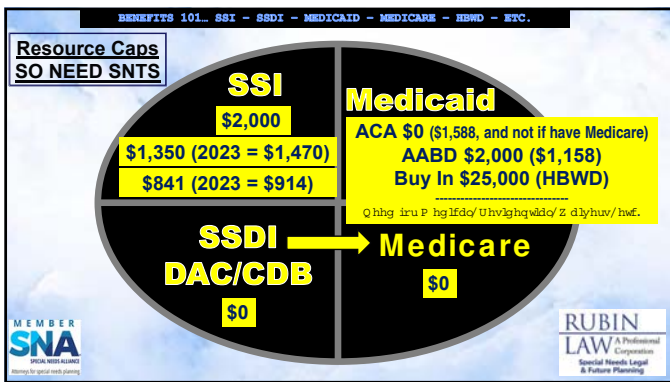
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**PARENTS' HEALTH INSURANCE!**

- ☞ 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 & dependent on his or her parents, or other care providers for lifetime care & supervision.**”

**Request  
Form  
# 4**

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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**

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

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9

## SNTs.. 2 Versions, both...

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



MEMBER SNA (Special Needs Alliance) President 2013-2018

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## 3<sup>RD</sup> PARTY TRUSTS

### ORIGINAL - GOOD

GIFTS INHERITANCES  
**NOT**  
 OWN  
 1<sup>st</sup> Party!

➔ by Court Decisions **1982**

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

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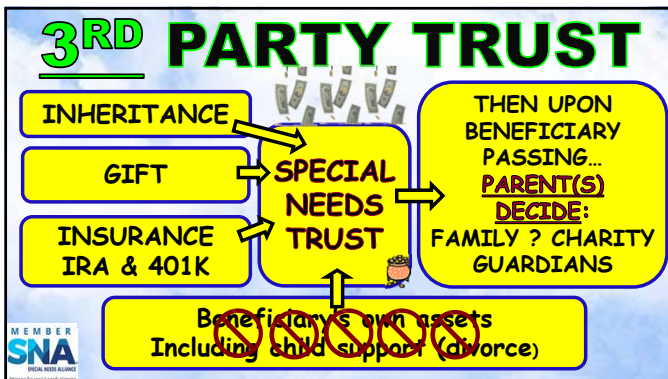
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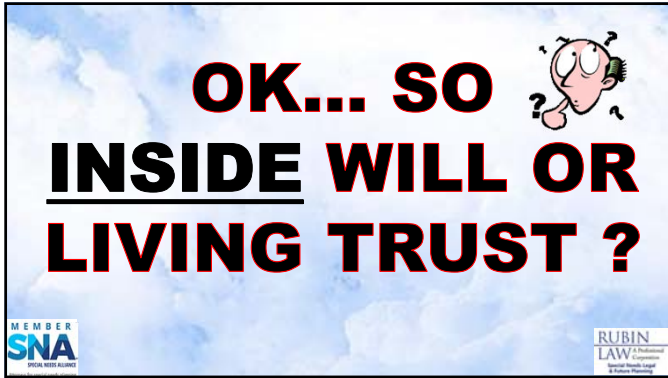
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#1 So **NO** "Piggy Backing"  
 #2 **NO** "Grand Fathering"  
 #3 **NO** Nursing Home  
 Impoverishment  
 #4 **NO** Place for gifts to go

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





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**Just what  
IS a Trust?**





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

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**3<sup>rd</sup> PARTY SPECIAL NEEDS TRUST**

**REMEMBER**

**3<sup>rd</sup> PARTY SPECIAL NEEDS TRUST**

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What **YOU**,

**AND** what "**OTHERS**", do, even

**UNintentionally, **IMPACTS****

**Government Benefits**

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**EXTENDED FAMILY & FRIENDS**

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



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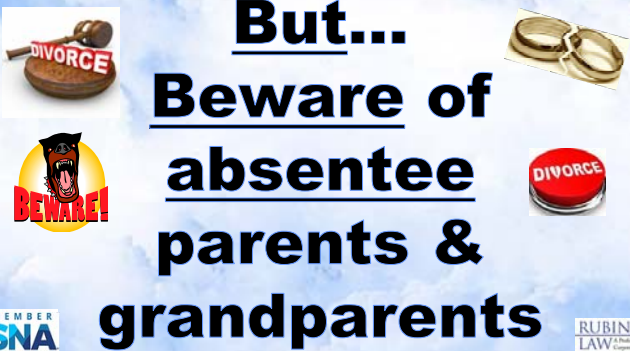
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**But... Beware of absentee parents & grandparents**



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**EX-SPOUSE LETTER**



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**So...**

- 1<sup>st</sup> **set up SNT**
- 2<sup>nd</sup> **reference in Wills/Trusts**
- 3<sup>rd</sup> **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 3<sup>rd</sup> Party SNT**

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**So far just**  
**3<sup>rd</sup> Party**  
**But what if...**

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**BENEFICIARY HAS ASSETS**

*Savings Bonds* **529? NOT!** *UTMA Accounts at 21* *Large Gift*

*IRA - 401k* *Excess SSI/SSDI* *Inheritance WILL/TRUST/BENEFICIARY* *Law Suit Settlement*

**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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# If "NOT that much"

**When to consider ABLE?**

1. Excess SSI/SSDI/Earnings to avoid \$2,000 issue?
  - But if SSD not SSI... & working, consider HBWD Ist!
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 3<sup>rd</sup> party trust
6. Small lawsuit settlements
7. Court ordered divorce child support not to exceed \$16,000 in a year (stay tuned)
8. 2018 - Convert traditional 529 Account... up to \$16,000 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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31

## ABLE SIDE NOTE

- Illinois Statutes - Not as advertised...
- "No Pay Back" is being "advertised"

**HOWEVER BEWARE REQUEST FORM # 11**

1. Per Feds (CMS) "No Pay Back" **doesn't apply** to all 9 Illinois states including DDD and DRS, and MICFDD, SODC, & HBSS.
2. Also, per Feds (CMS) the "No Pay Back" **doesn't apply** to any medical Medicaid post age 55.

- Tax Deduction... so what

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32

# Otherwise

## 1<sup>st</sup> Party Special Needs Trust

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

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33

## 1st Party SNT

Called... **“Self Settled”**... or

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



36

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**Spread the word...**

## **NURSING HOME EXCEPTION**

**BUT BEWARE...**

- **Power of Attorney/Living Trust**
  - **3<sup>rd</sup> party or 1<sup>st</sup> party SNT ?**

**ANOTHER REASON FOR SNT NOT INSIDE YOUR WILL OR YOUR LIVING TRUST!**

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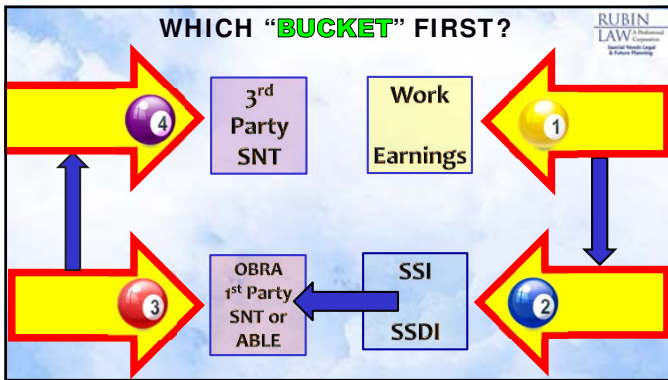
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- ★ You say you **already have** a special needs trust?
- ★ Does it **qualify**?
- ★ Was it **approved** by SSA & State Medicaid Agency
- ★ Will it be approved when it is submitted (It **must** be submitted to SSA & State)? – 10 day rule...

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42

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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 1<sup>st</sup> Party  
money in 3<sup>rd</sup>  
Party Trust!**

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**COMMON ATTORNEY MISTAKES!**

**NO requirement  
to use 1<sup>st</sup> Party  
Trust money or  
ABLE money prior  
to 3<sup>rd</sup> Party Trust  
money!**

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**COMMON ATTORNEY MISTAKES!**

**Not  
100%  
Discretionary**

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**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**

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**COMMON ATTORNEY MISTAKES!**

**No “Band Aid”  
or retro Language**



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**COMMON ATTORNEY MISTAKES!**

**No “Next Generation” Trustees...**

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**COMMON ATTORNEY MISTAKES!**

**No “Contribution” or Gift Language 3<sup>rd</sup> Party**

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53

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**COMMON ATTORNEY MISTAKES!**

**No Termination Provision...**

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**COMMON ATTORNEY MISTAKES!**

**No  
"Contingent"  
SNT for others**

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**COMMON ATTORNEY MISTAKES!**

**NO  
Nursing Home  
IMPOVERISHMENT  
PROVISION**

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**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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COMPLIMENTARY OF RUBIN LAW, A PROFESSIONAL CORPORATION  
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**#10**

Administering a Special Needs Trust  
A Handbook For Trustees (2022 Edition)

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63

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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**

64

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**OK...  
But we have other children?  
Cutting up the pie...**

**Head vs. Heart**






Formula?

2<sup>nd</sup> to Die/Survivorship Life Insurance?

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**SECURE ACT**



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**When someone is an adult, 18 in Illinois, that person is presumed fully legally competent...**

**...and only IF a court (Judge) determines otherwise, is that person NOT deemed competent...**

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- Schools?
- Doctors/Hospitals
- Insurance Claims?
- Signing documents/Contracts
- Dealing with SSA /State
- Residential/Living arrangements
- Employment/Day Programs
- Agencies
- Marriage
- Driving
- Arrests – DD/ID/MI is NOT Diplomatic Immunity...

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67

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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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68

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

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69

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**What are  
the  
ALTERNATIVES?**

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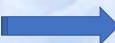
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**OPTION #1**  
**Do nothing?**  
**Actually...**  
**If NO "CAPACITY"**  
**FOR *MEDICAL DECISIONS*...**

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**THEN** 

71

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

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### Capacity For **Medical** Decisions:

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


(755 ILCS 40/5) Sec. 5. Legislative findings and purposes.

(b) Findings. The legislature recognizes that all persons have a fundamental right to make decisions relating to their own medical treatment, including the right to forgo life-sustaining treatment. Lack of decisional capacity, alone, should not prevent decisions to forgo life-sustaining treatment from being made on behalf of persons who lack decisional capacity and have no other means of making decisions for their health care. Legislative intent of this Act is to provide guidance to the courts and professionals in making decisions concerning medical treatment and to be consistent with the intent of the legislature. The legislature finds that the current law concerning the making of medical decisions concerning medical treatment and forgoing life-sustaining treatment is outdated and does not reflect the needs of the population. The legislature finds that the current law concerning the making of medical decisions concerning medical treatment and forgoing life-sustaining treatment is outdated and does not reflect the needs of the population. The legislature finds that the current law concerning the making of medical decisions concerning medical treatment and forgoing life-sustaining treatment is outdated and does not reflect the needs of the population.

**(755 ILCS 40/23) Sec. 23. Surrogate decision-making.**

**1. LACKS decisional capacity AND**  
**2. NO health care agent , THEN**  
**3. In order (a) Guardian of Person... (b) spouse... (c) any adult children... (d) any parent... (e) any sibling**

**But just MEDICAL/HEALTH!**



74

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## OPTION #2

### IF **DO HAVE**

### “Decisional Capacity”

then...



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# Supported Decision Making

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76

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Capacity for Supported Decision

Testamentary capacity is defined in Illinois as the mental **ability**:

1. to know and remember who are the **natural objects of one's bounty**;
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.**

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77

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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.
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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78

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**More information:**

**See:**

<https://www2.il...>

**SDM ?**

**Decision%20Making.aspx**

**OF THE**

**FORM**

**PDFS...**

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Buffalo Grove • Chicago • Oak Brook  
www.rubincorp.com • info@rubincorp.com  
847.279.7900 • Toll Free 866.763.6400

**DOCUMENTS TO BE SENT BY EMAIL (select all boxes below):**

- Special Needs Alliance "Special Needs Trust Handbook"
- Letters of Intent ("Guidance & Information Form" for "future need")
- Support on Income & Child Support on SSI & Medicaid
- Keeping your Child on YOUR Health Insurance (form 702)
- Guardianship & Alternatives (Power of Attorney, Supported Decision Making)
- Special Needs Trusts & Special Needs Future Planning
- ABLE Savings Groups & SSI: Step information for younger siblings
- Support of Guardianship on Grantor's License
- Taxes & Special Needs Trusts
- Taxes & ABAP/HBSS Waiver
- 529E Accounts
- Military Pension Benefits (SMP)
- Pre-Retirement Arrangements Rules
- Please add notes to your list to indicate your needs/notes by email

Check appropriate box and complete the needed information.

Do you need contact notes, just please send by email the information requested above.

Email address to:

- Please contact me back to schedule an "initial consultation".  
Day time phone number: (\_\_\_\_) \_\_\_\_\_ Email: \_\_\_\_\_  
Name: \_\_\_\_\_
- Please contact me back to schedule a presentation to a group, organization, school, or agency.  
Day time phone number: (\_\_\_\_) \_\_\_\_\_ Email: \_\_\_\_\_  
Name: \_\_\_\_\_

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79

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**OPTION #3**

**AGAIN, IF *DO HAVE***

**Decisional Capacity**

**then...** 

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80

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**PowerS of**

**Attorney**

**(IF decisional capacity)**

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81

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**ILLINOIS STATUTORY SHORT FORM  
POWERS OF ATTORNEY FOR PROPERTY**

1. I, \_\_\_\_\_ (Grant name and address) hereby authorize \_\_\_\_\_ (Agent name and address) as my attorney-in-fact for the purpose of executing the power herein granted to me and my heirs, assigns and assigns-in-fact in any and all my capacity to do any and all acts and things which I might lawfully do in person with respect to the following powers as defined in Section 2.4 of the Illinois Statutory Short Form Powers of Attorney for Property Law ("Provisions of Law") and to execute any and all instruments on or in addition to the specified powers contained in paragraph 2 or 3 below.

**NOTE:** This instrument may be signed on behalf of the principal by a representative of the principal who is not a member of the principal's family as defined in Section 2.4 of the Illinois Statutory Short Form Powers of Attorney for Property Law. If a representative is used to sign the instrument, the principal must be present at the signing of the instrument and must sign the instrument in the presence of the representative and a witness.

**NOTE:** The powers listed below shall not include the following powers or shall be modified or limited in the following particulars:

**NOTE:** Here you may provide any specific limitations you deem appropriate, such as a limitation on conditions on the date of particular visit or may relate to general rules on borrowing by the agent.

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# \$ FINANCIAL \$

## 1987

Print?  
Mark?  
Stamp?  
Direct others to sign?

82

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

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

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**NOTICE TO THE MEDICAL, DENIED THE CLAIM**  
EXERCISE YOUR RIGHTS TO A FAIR HEARING

**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?**

**STUDENT  
SIGN!**

**PARENT  
SIGNS**

### DELEGATION OF RIGHTS TO MAKE EDUCATIONAL DECISIONS Illinois Statute 105 ILCS 5/14-6.10

Rubin Law Corporation, 1100 River Court East, Schaumburg, Illinois 60196. Tel: 815.308.2200. Fax: 815.308.2201. E-mail: rubin@rubinlaw.com. Rubins Law Corporation is an Equal Opportunity Employer. Rubins Law Corporation is a member of the National Bar of the United States. Rubins Law Corporation is a member of the National Bar of the United States.

On this day of \_\_\_\_\_ 2007, I, \_\_\_\_\_, being an adult of sound mind, fully and voluntarily make this declaration for the purpose of delegating to \_\_\_\_\_ the authority to make educational decisions on my behalf and on behalf of my child, \_\_\_\_\_, as defined in Section 105 ILCS 5/14-6.10, Section 105 ILCS 5/14-6.11, and Section 105 ILCS 5/14-6.12.

I, \_\_\_\_\_, hereby delegate to \_\_\_\_\_, as my agent or attorney-in-fact, the authority to make educational decisions on my behalf and on behalf of my child, \_\_\_\_\_, as defined in Section 105 ILCS 5/14-6.10, Section 105 ILCS 5/14-6.11, and Section 105 ILCS 5/14-6.12. I understand that I may be incapable of giving or withholding informed consent for mental health treatment due to the symptoms of a diagnosed mental disorder. These symptoms may include:

PSYCHOTROPIC MEDICATIONS

If I become incapable of giving or withholding informed consent for mental health treatment, my wishes regarding psychotropic medications are as follows:

I consent to the administration of the following medications:

I do not consent to the administration of the following medications:

Conditions or limitations:

ELECTROCONVULSIVE TREATMENT

If I become incapable of giving or withholding informed consent for mental health treatment, my wishes regarding electroconvulsive treatment are as follows:

I consent to the administration of electroconvulsive treatment.

I do not consent to the administration of electroconvulsive treatment.

Conditions or limitations:

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85

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# MENTAL HEALTH

**Print?  
Mark?  
Stamp?**

**Direct others to sign?**

## 5 PAGE FORM

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86

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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?**

88

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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?

89

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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?

90

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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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91

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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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**The Guardianship Law!**  
**755 ILCS 5/11a**

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

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93

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**GUARDIANSHIP**

- Independence vs. Protection?
- Court... Law Suit... Venue
- Report – Illinois M.D., or IF I/DD 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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94

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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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95

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**GUARDIANSHIP**

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

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96

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**GUARDIANSHIP**

- ↘ When can do it ?
- ↘ Person vs. Estate ?
- ↘ Residential Placement ?
- ↘ Sterilization
- ↘ Annual Reports ? Depends on County... Now 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**  
Cook County?

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98

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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.

(Source: P. A. 90-250, eff. ...)

**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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100

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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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101

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**DMV does NOT follow the law!**

**REQUEST FORM # 8**

DRIVERS LICENSE # ADJUDGED TO 025-1126 8/16/2019 (Firm Ch...)

Sec. 6-103. What persons shall not be licensed...  
 5. To any person, not a driver, who has previously...  
 6. To any person who has been...  
 7. To any person who has a REAL ID compliant...  
 8. To any person who has a REAL ID compliant...  
 9. To any person who has a REAL ID compliant...  
 10. To any person who has a REAL ID compliant...

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102

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**Why/When Limited Guardianship?**

- ✓ Needs Guardian, **but** won't cooperate? Suggest "**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 <sup>good</sup> certificate of completion within one year, EXCEPT... "the court may, for god cause shown, exempt from this requirement..."
- However, only applies to 101 of the 102 Illinois counties... That is, **NOT** applicable to Cook UNTIL 1/1/23! Don't ask...

105

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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=116040>

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

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106

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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 3<sup>rd</sup> party?**

APPOINTMENT OF SHORT TERM GUARDIAN  
 In accordance with the Illinois Short Term Guardian Law...

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108

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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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110

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**Guardians are nominated in parents Wills!**

**CONSIDER even if don't think "ever"!**

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111

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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.)

112

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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?





113

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### Who will be Guardian?

Who is going to fill our shoes?

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





114

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115

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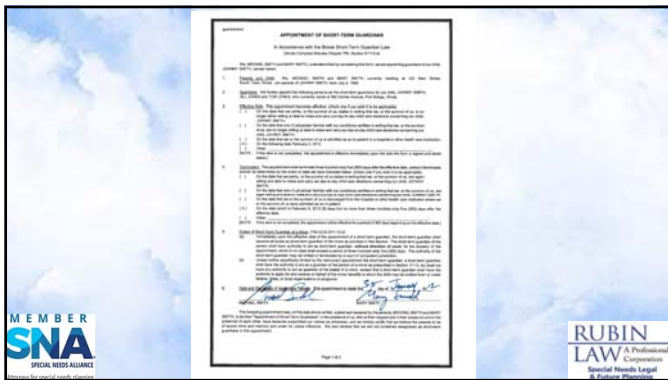
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116

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

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

118

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<b>In EP Magazine February 2011 Brian Rubin</b>	<b>In Parenting Special Needs Jan/Feb 2014 Brian Rubin</b>	<b>In Met Life Agent/Broker Newsletter Edition 4 2013 Brian Rubin</b>
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**Benji Rubin**

**President**  
**S.I.B.S.**  
Supporting **I**llinois **B**rothers & **S**isters  
Illinois Chapter of the national **S**ibling  
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 312.279.1000 • Fax 312.279.1001  
 www.rubinlaw.com

**SIBLING LEADERSHIP NETWORK**

**DOCUMENTS WILL BE SENT BY EMAIL (check all boxes below)**

1.  Special Needs Affidavit "Special Needs Trust Handbook"
2.  Letters of Intent "Checklist & Information Form" for "Future Needs"
3.  Support on Source & CHM Support on SSD & Medicaid
4.  Keeping your Child on YOUR Health Insurance (not RH)
5.  Guardianship & alternatives (Power of Attorney)
6.  Special Needs Trusts & Special Needs Future Planning
7.  ADAT Sibling Group & SR Shop information for younger siblings
8.  Special Needs Trusts
9.  Trusts & ADAT IRISA Waiver
10.  ABLE Accounts
11.  Military Pension Benefits (MSP)
12.  Pre-Paid Funeral Arrangements Rules
13.  Please add name to your list to receive your newsletters by email
14.  Please add name to your list to receive your newsletters by mail

**Check appropriate box and complete the needed information.**

I do not contact me, just please send by email the information requested above.  
 Email address to: \_\_\_\_\_

Please contact me (ask to schedule an "Initial Consultation").  
 Day time phone number: (\_\_\_\_) \_\_\_\_\_ Email: \_\_\_\_\_  
 Name: \_\_\_\_\_

Please contact me (ask to schedule a presentation to a group, organization, school, or agency).  
 Day time phone number: (\_\_\_\_) \_\_\_\_\_ Email: \_\_\_\_\_  
 Name: \_\_\_\_\_

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121

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