



MEMBER



*Special needs require special attorneys.*

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*Providing appropriate legal and future planning, with  
compassion and understanding, for Brian Rubin's fellow  
Illinois families of children and adults with intellectual  
disabilities, developmental disabilities, and/or mental illness...*

PREEMINENT™



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## **DIVORCED?**

### **(CHILD SUPPORT FOR CHILD ON SSI OR MEDICAID)**

### **Illinois Statute 750 ILCS 5/513**

(a) The court may award sums of money out of the property and income of either or both parties or the estate of a deceased parent, as equity may require, for the support of the child or children of the parties who have attained majority in the following instances:

(1) When the child is mentally or physically disabled and not otherwise emancipated, an application for support may be made before or after the child has attained majority.

(2) The court may also make provision for the educational expenses of the child or children of the parties, whether of minor or majority age, and an application for educational expenses may be made before or after the child has attained majority, or after the death of either parent... The authority under this Section to make provision for educational expenses, except where the child is mentally or physically disabled and not otherwise emancipated, terminates when the child receives a baccalaureate degree.

(Source: P.A. 91-204, eff. 1-1-00; 92-876, eff. 6-1-03.)

The Court Order **must** separately state the portion of support that is to be paid for the benefit of the child who has a mental or physical disability. Further, the Court Order **must** require that all such payments of support be paid irrevocably, directly to the established "Self-Settled", "d4A", "1st Party", "OBRA 93", Irrevocable Discretionary Special Needs Trust, containing "pay back" provisions, for that child's sole benefit, in accordance with 760 ILCS 5/15.1, to be administered in accordance with, and subject to the express limitations, requirements, and provisions of such Trust. This is necessary in order for such support payments to supplement, and not supplant government benefits otherwise available to such child, such as Supplemental Security Income (SSI) and Medicaid.