

## Protect Your Loved Ones With a Spendthrift Trust

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Providing for someone you care about can be one of life's great challenges. You may have a spouse or partner who depends on you financially. Or a relative with money problems who sometimes turns to you for help. Perhaps you are fortunate enough to have children and want to give them every possible advantage in life. Whoever you care for, your life's work may well focus on supporting them.

If someone does rely on you, one of the hardest questions to consider is what they would do without you. You might be able to provide for the person financially by leaving them an inheritance under your will or making them the beneficiary of your life insurance. But money can be squandered, and it may need to be protected from bill collectors, unscrupulous "friends," and possibly even the loved one himself.

One of the most effective ways to avoid these hazards is to create a "spendthrift trust." Whether you are leaving cash, securities, real estate, or the proceeds of an insurance policy, the assets will be managed by one person, called the "trustee," for the benefit of your loved one, the "beneficiary." The trust can be set up to disburse money in a controlled manner, ensuring that your loved one is well provided for.

The "spendthrift" provisions protect the trust by preventing a creditor from "attaching" the assets — essentially, placing a lien on the trust to satisfy an unpaid debt. Once a distribution is made to the beneficiary, however, the money does become vulnerable to the claims of creditors. The best approach, then, is often to give the trustee the discretion to make or withhold payments as appropriate to help the beneficiary while protecting the trust principal.

For a child, you might allow expenses related to health care, education, and general support to be payable in the trustee's discretion. These could include the cost of health insurance, braces, a private tutor, tuition, the down payment on a house, or the cost of a wedding. You could also include mandatory distributions, such as regular disbursements of any income the trust generates, as well as payments of principal when the beneficiary reaches certain life milestones, such as completing college or reaching a particular age.

Under a trust you establish for an irresponsible relative, the trustee might need broader discretion. In this case, perhaps only those expenses the trustee considered to be in the relative's best interest could be paid for from the trust assets. The trustee could also be required to take into account other resources that might be available to the beneficiary. For example, if the beneficiary makes a reasonable income, the trustee could withhold any distributions, preserving the trust's assets for things like a financial emergency or eventual retirement. The assets that continued to be held in trust would then lie beyond the reach of most creditors.

Another benefit of a spendthrift trust is that it can protect the beneficiary from himself. Most spendthrift clauses prevent the

beneficiary from using the trust as collateral for a loan or assigning his interest in the trust to another person. In addition, the trustee can make distributions by paying the beneficiary's tuition, medical bills, or other expenses directly to the provider, rather than having the money deposited into the beneficiary's personal bank account. By circumventing the beneficiary himself, these distributions will also generally not be susceptible to creditor claims.

The commitment to take care of someone you love doesn't end when you're gone. Talk to an experienced estates and trusts attorney to find out whether a spendthrift trust should be part of your estate plan.