



# Article Series

Brinkley Walser, PLLC

*Helping you stay current on today's legal topics*

## Caring for a Loved One with Special Needs

In recognition of October 2011 as special needs law month, the attorneys at Brinkley Walser wish to share this information with anyone who may be caring for a disabled child, parent, or who may be facing separation and divorce where one spouse is suffering from a disabling condition.

Based on U.S. Census figures from 2000, 19.3% of the country's population over 5 years of age exhibited some form of long-term disability.<sup>1</sup> The disabling conditions reported consisted of sensory disabilities, physical limitations, mental and emotional conditions. Census indicators show that an overall disability rate for young people aged 5 through 15 is approximately 5.75% or 1 out of every 17 children exhibiting at least one of these stated conditions. Statistics from a survey conducted by MetLife, Inc. showed that nearly 9% of parents reported of having a child (including adult children) with a "physical, developmental, cognitive, medical or emotional condition." According to this survey, the following information bears consideration:

- 49% are covered by some form of private insurance
- 41% are covered by Medicaid
- 8.5% of special needs children have no form of health insurance coverage
- Parents spend an average of \$326/month on non-covered medical expenses
- 60% of special needs children require some type of medical intervention or administration of meds on a daily basis
- On average, parents of special needs children spend 24 hours/week caring for their child, with 32% of such parents reporting they spend more than 40 hours/week providing such care

<sup>1</sup> Disability Status 2000, Census 2000 Brief, Issued March 2003, US Department of Commerce, Economics and Statistics Administration, US Census Bureau

<sup>2</sup> The Torn Security Blanket: Children with Special Needs and the Planning Gap, Executive Summary, April 2005, MetLife.



10 LSB Plaza • Lexington, NC 27292  
Mailing Address: PO Box 1657 • Lexington, NC 27293-1657 • Phone: 336.249.2101  
GREENSBORO: \_\_\_\_\_  
604 Green Valley Road, Suite 312 • Greensboro, NC 27408  
Phone: 336.235.2941 • [www.BrinkleyWalser.com](http://www.BrinkleyWalser.com)

- 84% of parents with special needs children have made no provisions for lifetime financial assistance for those children
- 88% of parents with special needs children have not established a special needs trust to maintain public benefits eligibility for their children upon their death

Death and disability of a parent is not the only factor in planning for maintenance of financial independence or public benefits eligibility. Spouses also fail at times to consider the effects of property settlements upon their divorce upon the eligibility of their children or disabled former spouse for public benefits. Special needs children and disabled former spouses bring unique custody, child support, alimony, and asset division questions to the table in a divorce/property settlement situation.

If you are caring for someone with special needs, making sure you and your dependent are protected under the law is imperative. If you have any questions or need assistance with guardianships, elder care or estate planning, contact the attorneys at Brinkley Walser today.

#### **About Brinkley Walser, PLLC**

Brinkley Walser prides itself on providing new and cutting edge legal counsel built on a foundation of knowledge and integrity 125 years in the making. The firm has offices at 10 LSB Plaza in Lexington and in the Green Valley Building, 604 Green Valley Road, Suite 312, in Greensboro. Visit Brinkley Walser on the web at [www.brinkleywalser.com](http://www.brinkleywalser.com) or call (336) 249-2101 for assistance.



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