

## Child support Trusts in PA

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There are many reasons for someone to put their property in trust for the benefit of another. One of the most common reasons is to protect the trust assets from creditors. This is accomplished by the inclusion of discretionary provisions and spendthrift clauses within the trust terms.

Discretionary provisions can give the trustee (e.g., the person who makes disbursements of the trust property to the beneficiary) complete discretion over how much of the trust assets to distribute to the beneficiary, and how often the distributions should be made. In other words, it gives the trustee the ability to decide how much money to distribute to the beneficiary and how often the money should be distributed.

A spendthrift clause prevents the beneficiary from transferring his interest in the property to a third-party, and prevents creditors from attaching themselves to the trust. This makes it very difficult for a creditor to get its money back through the trust funds. The trustee can choose not to make distributions to the beneficiary, and the creditor cannot do anything about it. The creditor will not be able to collect money from the trust unless it has been distributed to the beneficiary, so it becomes a cat-and-mouse game.

While this seems fair when the creditor is a bank, which can surely afford to carry on in the interim, it becomes questionable when we consider it in light of unpaid child support obligations. Should we really let someone neglect payments that go toward the support and maintenance of a child, when that person has a trust full of funds to make those payments? Furthermore, the state has to foot the bill when the parent fails to make those payments. For these reasons and others, Pennsylvania law provides an exception to the general rule that a trustee can withhold trust funds from a beneficiary's creditor.

In certain circumstances, the court can order the trustee to make a distribution from the trust, to the extent of the beneficiary's interest, in order to satisfy a judgment entered against the beneficiary for child support. The court will order that the trustee distribute an amount that is equitable under the circumstances, which cannot be more than the trustee would have been required to distribute if he had complied with the standard or did not abuse discretion. Failure to pay child support can result in several civil, and sometimes criminal, consequences. Beyond that, it is crucial to see to it that your child is getting all of the money necessary for his or her support, care and maintenance. If you have any questions about enforcing child support obligations or defending yourself in a child support matter, contact the experienced attorneys at Notaro & Associates today. (Blog by: Kim Seskin)