TRANSCENDERS, FAMILY LIBRARY

Divorce and Disability Parent Guide

What happens to support, benefits, and custody when your child has a disability, and what to settle before you sign anything: the questions to ask, the care costs to name, and the benefit checks to run.

From the guide at transcenders.app/divorced-with-a-special-needs-child/
Free for families. Print it and bring it to your lawyer or mediator.

Why this divorce carries more

Divorce is hard on any family. When a child has a disability, or a parent does, the divorce has to carry more than the usual questions, because support, custody, care, and public benefits all move at the same time, and a decision made for one of them can quietly undo another.

This guide pulls the pieces into one printable place: what can continue past 18, what needs protecting before anything is signed, and the rights disabled parents hold in the process. It is written to help you walk into a lawyer's office or a mediator's room already knowing which questions matter.

Questions to ask before anything is signed

Most parents are told child support ends at adulthood, full stop. For a child who cannot earn a living because of a disability, that is not always the end of the story. In California, a parent's duty to support can continue for an adult child who is incapacitated and without sufficient means, and other states have their own versions of the same idea. Whether support continues, and how it is structured, depends on the child's actual capacity to earn, which is a functional question, not a diagnosis question.

Raise these while the orders are being written, not after they are final:

- ☐ If our child cannot earn a living because of a disability, can support continue past 18, and how should that support be structured?
- ☐ How will support be paid, and could the way it is paid reduce or interrupt our child's SSI or Medicaid?
- ☐ Does a special needs trust belong in our settlement?
- ☐ How will college savings, ABLE accounts, and inheritances from either side of the family be handled?
- ☐ Which of us carries the disability care costs, and are those costs named in the orders?
- ☐ Have we had one meeting with an attorney who knows special needs planning before anything is final?

Worksheet: the care costs to name

Disability adds real line items to a family's budget: therapy copays, specialized childcare, transportation to appointments, respite, equipment, tutoring. Divorce paperwork that pretends otherwise leaves one parent carrying costs the orders never counted. Judges and mediators can only divide what has been named, so list them, cost them, and put them in the conversation explicitly. Fill in a row for every cost your family carries, and add rows of your own.

Care cost	What it covers	Cost per month	Paid by / shared how
Therapy copays			
Specialized childcare			
Transportation to appointments			
Respite care			
Equipment and supplies			
Tutoring and learning support			

Benefit protection checks

Support, settlements, and savings interact with SSI and Medicaid in ways that surprise almost everyone. Money paid or held the wrong way can reduce or interrupt benefits your child depends on, and the fix after the fact is slower and more expensive than the planning before it. Run these checks before the divorce is final:

- ☐ A benefits-aware review has covered how support will be paid, before the orders are signed.
- ☐ The settlement has been checked for whether a special needs trust belongs in it.
- ☐ College savings, ABLE accounts, and inheritances from either side have a written plan that accounts for benefits.
- ☐ The review happened before the divorce is final, not after, because several protections only work if they are in place first.

> **Go deeper on the tools:** Transcenders' plain language guide to special needs trusts and ABLE accounts explains how each one protects benefits, at **transcenders.app/special-needs-trusts/**

Custody and care: build the plan on the child's real life

Custody schedules for a child with a disability have to be built around care, not just calendars: medications, therapies, equipment, school meetings, and the routines that keep this particular child steady.

- **Two households, one picture:** both homes are now part of the child's support system, and both parents need the same picture of the child's needs.
- **Records live in both homes:** records, meeting notes, and care instructions need to be kept in each home, not carried back and forth.
- **The child is never the messenger:** communication about schedules, money, and disagreements goes parent to parent, never through the child.

A plan that ignores the care reality will be back in front of a judge. A plan built on it gives the child consistency in the middle of a change they did not choose.

If you are a disabled parent: your rights in the process

A disability is not evidence of unfitness

Parents with disabilities face custody questions that other parents never hear, sometimes from the other parent and sometimes from the system itself. The standard in a custody case is the child's best interest and the parent's actual ability to care for the child, with support, equipment, and services counted as part of real parenting, the way they are for every family. A diagnosis, a label, or the mere fact of receiving disability benefits is not proof that a parent cannot parent. If your fitness is being challenged on the basis of disability rather than on evidence about your child's care, that distinction matters, and it is worth having an advocate who will insist on it.

Ask for an evaluation that measures parenting, not labels

When evaluations enter a custody case, the quality of the evaluation decides a great deal. An evaluator should look at what you do as a parent: the care you provide, the supports you have built, the child's bond and wellbeing in your home. Evaluations that stop at a diagnosis or test scores that were never designed to measure parenting can mislead a court. You can ask who the evaluator is, what they are qualified to assess, and whether their methods account for disability fairly. Those are reasonable questions, and asking them is part of protecting your family.

Accommodations apply to the process, too

Courtrooms, mediation, and co-parenting classes are processes you have a right to access. If you need an accommodation to participate fully, such as interpreters, accessible formats, extra processing time, or a support person where the rules allow, ask for it, in writing, as early as you can. Participation is not a favor. It is how the record gets made, and the record is what decisions rest on.

A note on getting advice

This guide is general information, not legal advice, and it is not a substitute for an attorney or mediator who knows your state and your family. Rules on support, custody, and benefits vary by state and turn on your child's actual circumstances. Use this guide to know which questions matter, and bring it to the professionals handling your case.

Not sure which of this applies to your family?

Divorce touches the same systems the Family Navigator maps: benefits, school, services, and the paperwork that holds them together. The free Family Navigator walks you through those pieces step by step and builds a checklist for your family. Start at transcenders.app/family-navigator/

Read the companion guide online: Divorced With a Special Needs Child? at transcenders.app/divorced-with-a-special-needs-child/

Transcenders Inc is a nonprofit. This guide is free, and you are welcome to print and share it with other families.



Scan for the latest version and live links
transcenders.app/divorced-with-a-special-needs-child/