



Check List

for Child with a disability turning age 18

At the magic age of 18, your child is an adult in the eyes of the law, there are some things that may be helpful to do either shortly before or shortly after they turn 18. This list is an attempt to identify major issues, but it is not all of the issues you may face.

1. Determine if your child needs a guardian and/or conservator
 - a. If your child needs a guardian, you can file in most counties 6 months prior to the 18th birthday (though 3 months is probably better since it takes 8 to 12 weeks for the court to hold the hearing). We offer an evaluation which may be able to assist you in determining if guardianship is the right option for your child.
 - i. Is your child able to communicate reliably for themselves?
 - ii. Is your child easily influenced by other people?
 - iii. Can your child accurately assess threats to their personal safety?
 - iv. Can your child manage their medical care without any supervision?
 - v. Does your child trust everyone? Or no one?
 - vi. Can your child manage their own finances?
 - b. If possible, you do not want conservatorship, sometimes it is unavoidable, but since your child should not have any assets in their name (to qualify for SSI and Medicaid) you should not need conservatorship. Beware of UTMA accounts.
 - c. If your child does not need a guardian, then after the age of 18, it may be advantageous to have powers of attorney in place (it is important to understand these tools and their impact on your child and any future petitions for guardianship).

- d. For more information visit our website at www.nadlerbiernath.com and <http://gaprove.gov/content/videos>
- 2. Males over the age of 18 must register for the Selective Service, regardless of disability. Failing to register can impact that individual's access to Social Security and other government benefits.
<https://www.sss.gov/Home/Registration>
- 3. Apply for Supplemental Security Income (SSI) or some other Social Security program for which your child may be eligible.
<https://ssa.gov/disabilityssi/ssi.html>
 - a. SSI is the benefit many developmentally disabled individuals receive. The current maximum monthly benefit is \$750/mo (2018). An added benefit of SSI in Georgia is automatic Medicaid qualification! No more (KB)Deeming Waiver renewals every year!
 - b. If it is clear your child has a disability, you can apply for benefits yourself. Start the application the month after the month in which your child turned 18. Answer all questions as though your child is answering them. SSI applications are done in person at an SSA location, bring your child with you to the appointment.
 - c. Be prepared to charge your child rent (or room and board) to avoid the 1/3 reduction on SSI benefits because you are providing your child with In-Kind Support and Maintenance (ISM). You may need a room and board or rental agreement (If you are the guardian you can sign the agreement for your child). Be aware, there may be tax and insurance implications to you for charging and collecting rent on your residential property, please consult with a tax advisor (we are not tax advisors) and your insurance agent.
- 4. Identify other benefits your child may be eligible for.
 - a. SSDI based on the work record of a retired, disabled, or deceased parent.

- b. Any VA or military benefits
 - c. Any other Federal program such as Black Lung Disease, Federal Pension, etc.
 - d. Private pensions
 - e. Private health benefits
5. Apply for waiver programs for your child <https://dch.georgia.gov/waivers>
- a. There are numerous waiver programs for individuals with disabilities. They are often based on the nature of the disability, the severity of the disability, and the available supports the disabled individual has available. While there are waiting lists, the list is not first come first served, it is based on a priority ranking of the level of need.
 - b. Most (All) waivers require the individual to be Medicaid eligible (so maintaining that eligibility is crucial)
 - c. Waivers can provide community supports, nurse visits, respite care, job training, transportation, supplies, therapies etc. It all depends on the waiver program and the need of the individual.
 - d. Waivers can be difficult to get because the State legislature does not fully fund the level of need in the State. You may want to get involved in advocating with local groups to get the legislators to fully fund these necessary programs.

6. Review your estate planning.
- a. If you have done estate planning, this is a good time to review it.
 - i. Are the people you have identified in various roles still the right people for those jobs?
 - ii. Have there been subtle or major changes in the law which affect your estate planning?
 - iii. Have there been any changes to your family or life experience that would necessitate a change to your plans?
 - iv. Has your financial picture changed?
 - b. If you have not done any appropriate estate planning, this period of time is a reminder that life moves on and no one is getting any

younger. Take this time to meet with an attorney to review your family's needs, your financial picture, and your goals to help craft a plan that meets the needs of your loved ones.

- c. If you have a beneficiary with disabilities that must maintain eligibility for government benefits, your estate planning requires special care and consideration of all the variety of issues, work with someone who has experience in the State your child receives benefits. www.nadlerbiernath.com