

A Comparison At A Glance

	With No Will	With A Will	With A Living Trust
At Incapacity* (inability to handle your financial affairs)	<i>Court Control:</i> Court appointee oversees your care, must keep detailed records, reports to court, and usually must post bond (even if appointee is your spouse). Court oversees financial affairs, approves all expenses.	<i>Court Control:</i> Same as with no will.	<i>No Court Control:</i> Co-trustee or successor trustee manages your financial affairs according to instructions in your trust for as long as necessary. If you recover, you can resume control with no court interference.
<i>Court Costs & Legal Fees</i>	Impossible to estimate. Court and attorney usually involved until you recover or die.	Same as with no will.	No court costs. Minimal legal fees if attorney assistance is desired.
At Death	<i>Probate:</i> Court orders your debts paid and assets distributed according to state law.	<i>Probate:</i> Court orders debts paid and assets distributed according to your will (if valid and no successful contests).	<i>No probate:</i> Debts are paid and assets distributed to beneficiaries by successor trustee according to your trust's instructions.
<i>Court Costs & Legal Fees</i>	Your estate pays all court costs, legal, and executor fees (often estimated at 3-8% or more of an estate's value).	Same as with no will. Costs and fees can increase if will is contested.	Minimal or no court costs. Reduced legal fees (minimal for small estates; larger/complex estates require more). Trustee entitled to reasonable fee.
<i>Time</i>	Usually 9 months to 2 years before heirs can inherit.	Same as with no will.	Can be just weeks. Larger estates may take longer for estate tax filings.
Flexibility and Control	<i>None:</i> Court processes, not your family, have control at incapacity and death. When you die, assets are distributed according to state law (probably not what you would have wanted).	<i>Limited:</i> Same as no will, except assets are distributed when you die per your will (if valid and no contests are successful). Will can be changed until your incapacity.	<i>Maximum:</i> You can change/discontinue trust until incapacity. Assets stay under control of your trust, even at incapacity and after your death. More difficult to contest than a will.
Privacy	<i>None:</i> Court proceedings are public record. Family can be exposed to disgruntled heirs, unscrupulous solicitors.	<i>None:</i> Same as with no will.	<i>Maximum:</i> Living trusts are not public record. Your family can take care of your financial affairs privately.
Minor Child	<i>Court Control:</i> Court controls inheritance, appoints guardian. All decisions and financial transactions require court approval. Child receives full inheritance at legal age.	<i>Court Control:</i> Same as with no will. Children's trust in a will provides limited protection, but the will must be probated first and cannot go into effect at your incapacity.	<i>Minimal Court Control:</i> Trustee you select manages inheritance and provides funds for expenses until child reaches age(s) you specify. Court approves guardian, but cannot overrule your choice of trustee and has no control over inheritance.
<i>Court Costs & Legal Fees</i>	Impossible to estimate. Court and attorney usually involved until child reaches legal age. All costs paid from child's inheritance.	Same as with no will. Costs may be less with children's trust in will.	Minimal.

*Durable Power of Attorney for Health Care/Health Care Proxy can prevent court interference in medical decisions.

From the best-selling book, *Understanding Living Trusts®* by Vickie Schumacher
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