

Will, Living Trust, Pour Over Will or Living Will?

These estate planning documents have similar sounding names, but they do very different things.

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| Will | <p>A will lets you name whom you want to receive your assets after you die, whom you want to handle your final affairs and, if you have minor children, whom you want to be their guardian.</p> <p>All wills must go through a probate process in order to be validated as being authentic before ownership of your assets can be transferred to your heirs. Many people try to avoid probate because they do not like the costs, delays lack of privacy, and loss of control that come with the court system.</p> <p>A will cannot go into effect until after you die, so it does not provide any protection or instructions should you become incapacitated. A will can contain a testamentary trust for tax planning and protection of inheritances, but because it is part of a will, this trust cannot go into effect until after you die and the probate process is complete.</p> |
| Living Trust | <p>A living trust is a legal document that, to many of us, looks much like a will. It, too, includes your instructions for whom you want to receive your assets after you die and whom you want to handle your final affairs. But, unlike a will, a properly prepared and funded living trust will avoid probate at death <i>and</i> a court guardianship/conservatorship at incapacity. It can also include tax planning and protect inheritances for beneficiaries. For these reasons and more, most people prefer a living trust over a will as the foundation of their estate planning.</p> |
| Pour Over Will | <p>A pour over will is a very short will that acts as a safety net. It states that if an asset is discovered after you die that was inadvertently left out of your living trust, the asset is to go into your trust. The forgotten asset will probably have to go through probate first, but the pour over will catches it and sends it back (pours it over) into your living trust so it can be distributed, along with the rest of your assets, according to the instructions in your trust.</p> <p>A pour over will can also contain your choice of guardian for minor children. This keeps your living trust private, as only the pour over will would have to be admitted to the court when the guardian is appointed.</p> |
| Living Will | <p>While a living trust is for <i>financial</i> matters, a living will is for <i>medical</i> matters. It is a simple document that lets your physician know the kind of life support treatment you would want in case of terminal illness or injury. Because a living will is so limited and is not legally binding in a number of states, many people prefer an Advanced Directive for Health Care (also called a Health Care Proxy). This document lets you give legal authority to another person to make <i>any</i> health care decisions for you if you are unable to make them for yourself.</p> |

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