

COMPARISON OF ESTATE PLANNING OPTIONS

	No Will	Will	Living Trust
If you become disabled	Court proceeding to appoint a Conservator who controls your finances and assets.	Same as if you had no Will because a Will has no legal effect until after your death.	Probate conservatorship is avoided. In the event of a disability, your agent and/or trustee will manage your financial affairs according to your instructions.
Cost	Considerable court costs and attorney fees		Limited to trustee fees outlined in your trust document, but if trustee is family, probably zero.
When you die	Probate court oversees the state statutes regarding intestate succession - to whom your assets are given (including your creditors). Documents must be filed with the court and the court opines on all details. Bond is usually required.	Probate court oversees the process of interpreting your Will and ensuring your debts are paid and your assets are distributed accordingly. Documents must be filed with the court.	If your trust is fully funded, then nothing goes through the Probate court. Your trustee may distribute your assets according to the terms of your trust without any delay. Assets left to your loved ones in trust (by the terms of your trust) are protected from creditors and predators.
Cost	Statutory fees for normal services, additional fees for any extraordinary services, such as litigation, settling disputes, etc.		No court costs. Minimal attorney fees to assist the trustee in understanding the trust and changing title to assets as required.
Flexibility and Control	No control or flexibility. When you die, your property is controlled by the court and distributed according to the California law of intestate succession regardless of your family circumstances.	Some control since your Will doesn't take effect till you die. During your life you can write new Wills to cover changing circumstances, but Wills are easily and often contested by disgruntled family members.	You are always in control of your assets and health care, unless you become disabled. But even when disabled, your hand picked agent and/or trustee will deal with your assets and health care as you have directed by the terms of your trust. The trustee has a fiduciary duty to abide by your trust. If you aren't disabled, you can change your living trust at any time, or even discontinue it. Trusts are difficult to contest.
Privacy	None. All probate records are open to the public - your neighbors, your creditors, creditors of your beneficiaries, and disgruntled family members. Also open to "scammers."		Your privacy is preserved. Trusts are not public documents.
Minors	Probate court takes control of the inheritance. A guardian will be appointed to care for minors - who must file annual reports and get court approval of all financial transactions. All residual funds must be distributed outright to the child at age 18. Its like rolling the dice - are you feeling lucky?		Your trustee will care for your minor children according to your guidance and instructions in the trust document. You can structure the trust to provide for all the children's needs yet protect their inheritance from creditors and predators. Further, you can empower your trustee to provide for any special needs that may arise in the future. The children will be raised according to guidelines you provide.
Cost	Court costs, attorney fees, and conservator fees can be enormous - spending a significant part of the children's inheritance on non-productive and often frivolous administration activity.		The only cost is the fee paid to your trustee - which may be minimal for a family member.
Asset Protection	There isn't any. Probate documents are public and available to all creditors and the court will distribute all money, after taxes, to creditors first. When minors turn 18, all money due will be distributed directly to them to spend as they please. Has anyone ever met a responsible 18 year old when it comes to money?		You can structure a trust to provide significant asset protection over a term of your choice. Besides normal creditors and predators, you can insure your children's inheritance against unexpected disasters, such as a law suit after an auto accident, divorce, incapacity due to illness, trouble with the law (e.g., DUI) or issues related to drug addiction. You, through your hand picked trustee, are in control.
Setup Cost	None. You rely on existing state statutes.	Minimal. You can do it yourself using a statutory form or go with Legal Zoom, etc.	Typically \$2 to \$7 thousand to create and fund a living trust and ancillary documents - Will, Power of Attorney, Advanced Healthcare Directive, and HIPAA Release for both spouses. The cost depends on many factors affecting the complexity of the estate plan.