

COMPARISON OF ESTATE PLANNING OPTIONS

	No Will or POA	Will	Living Trust
If you become disabled	Probate court has to appoint a guardian who reports to court on an annual basis. You have little say in who is appointed. POA lets you select who will handle your decisions.	Same as if you had no Will because a Will does not have any legal effect until you die.	Probate guardianship is avoided. The trustee you picked for just such an event as your disability will manage your financial affairs according to your instructions for as long as necessary. Revocable Living Trusts do not protect assets from nursing home costs or your creditors.
Cost	Court costs and attorney fees.		Trustee fees, if the trustee (often your family) decides to accept them.
At Death	State Statutes control to whom your assets are distributed. Probate court oversees the process, but no ability to name your personal representative. Numerous documents must be filed with the court.	Probate court oversees the process. Your assets are distributed according to your Will and you name your desired personal representative. Numerous documents must be filed with the court.	If your trust is fully funded, only one document goes through Probate (the pour-over Will). This simple document tells the court that your trustee is overseeing the process. Your trustee may distribute your assets according to the terms of your trust without delay. Furthermore, assets left to your loved ones in trust (by the terms of your own trust) are protected from their creditors. A trust is the only way to leave this gift.
Cost	Court costs and attorney fees (in Wisconsin, the average fee is 3% to 5% of your assets).		Minimal court costs and attorney fees to help trustee understand the trust and change the titles of your assets.
Flexibility and Control	No control or flexibility. When you die, your property is controlled and distributed by state law, regardless of the circumstances.	Some control, since your Will doesn't take effect until you die. You can write a new Wills. Wills are more easily contested.	You are always in control of your assets and health, unless you become disabled. At that time, the people you hand picked will deal with your assets and health the way you have instructed within the terms of your trust. The trustee has a legal fiduciary obligation to abide by your trust. If you aren't disabled, you can change your trust or even discontinue it. Trusts are more difficult to contest.
Privacy	None. All probate records are open to the public (your neighbors, creditors of your beneficiaries, and disgruntled family members).		Your privacy is preserved. Trusts are not public documents. A Trust Certification can be used to provide evidence of the Trust and Trustee powers, so full terms of trust can be kept private.
Minor Beneficiary	Probate court takes control of the inheritance. A guardian is appointed and must file annual reports and get court approval of all financial transactions. All funds must be distributed outright to the child at age 18.		Probate court must approve the guardian, but cannot overrule your choice of trustee, nor has any control over the child's inheritance. Your appointed trustee manages the child's assets according to the terms of your trust. Usually the trustee provides funds for medical care, education, maintenance, or any special item you may decide, but does not distribute principal until the ages or circumstances that you have dictated.