

Wills vs. Trusts – A Side-by Side Comparison

	With a Simple Will	With a Revocable Trust
Planning for Incapacity	X Probate Court has control. A Will is a death document and has no applicability when an individual is incapacitated. An individual must petition the Probate Court for authority to handle your financial affairs.	✓ You maintain control. Seamless transition upon incapacity. Your successor trustee manages your financial affairs according to your specific instructions without Probate Court intervention.
Probate (at death)	X A Will guarantees Probate. The Probate Court has total control and oversees the administration of your estate. A significant amount of documentation must be prepared and filed with the Probate Court.	✓ You have total control without Probate Court intervention. A properly drafted and funded Revocable Trust allows you to completely avoid probate.
Court Costs & Legal Fees	X Significant Probate Court costs and legal fees (approx. 3-5% of an estate's value).	✓ Typically, no court costs or legal fees. Legal fees only as attorney is needed to assist with Trust administration.
Privacy	X No privacy as Probate Court proceedings are public record. Family can be exposed to disgruntled heirs, unscrupulous solicitors, etc.	✓ Total privacy. Trusts are not public record. Your Trustee and family can take care of your financial affairs privately.
Time	X The Probate process can be lengthy and time-consuming (approximately 12-18 months).	✓ Typically, only a few weeks are involved. Larger estates may take longer for estate tax filing, division of assets into new trusts, etc.
Asset Protection	X Offers no asset protection. Wills only allow for outright distributions. Assets are exposed to your heirs' creditors, predators, lawsuit and even ex-spouses in the event of a future divorce.	✓ Assets can be held in the Trust past death, protecting your assets from your heirs' creditors, predators, lawsuits and ex-spouses in the event of a future divorce.
Estate Tax Planning	X Limited opportunities to eliminate or minimize Federal and Massachusetts Estate Taxes.	✓ A properly drafted Revocable Living Trust includes provisions to minimize or eliminate Federal and Massachusetts Estate Taxes.
Controlled Distribution of Assets	X Wills provide for outright distributions only.	✓ Revocable Living Trusts allow you to control the distribution of assets "to whom you want, the way you want and when you want."
Planning for Minor Children	X Probate Court controls child inheritance. A guardian must be appointed. All decisions and financial transactions require court approval. All assets are distributed outright to the child at age 18.	✓ You maintain control. Court approves guardian but has no control over child's inheritance. The trustee you select manages child's inheritance, provides funds for medical care, education, maintenance, or any special item you may decide, but does not distribute assets until the ages or circumstances specified in your Trust.
Flexibility & Control	X Very limited control as a Will doesn't take effect until you die. You can write new wills to cover new circumstances, but wills are easily contested.	✓ You maintain control of your assets and health, unless you become disabled. At that time, the people you hand-picked will handle your assets and health per your instructions in your Trust. If you aren't disabled, you can change your Trust or discontinue it at any time. Trusts are difficult to contest.