Estate Planning Basics

A simple guide to the documents and trusts that make up an estate plan

The Basic Estate Plan

For most people, the starting point is three documents — one set for each spouse: **Will • Power of Attorney • Healthcare Representative Appointment**.

1. Will — What happens when you die

- Directs who receives property you own at death.
- Names an **executor** to handle probate, pay expenses, and transfer property.
- Can name guardians for minor children, make specific gifts to heirs, and create trusts for minors or special-needs beneficiaries.
- You should name backup beneficiaries and decide what happens if a beneficiary dies before you.
- **Probate:** A will generally requires a court process. Probate is public, takes time, and involves expense.

2. Power of Attorney — Who handles financial matters while you are living

- Authorizes someone you trust to act for you on financial matters such as banking, real estate, and insurance.
- Can be effective immediately or only if you become incapacitated.
- Ends at death. After death, authority shifts to the executor under the will.
- **Important:** A POA gives significant authority, so choose someone you completely trust.

3. Healthcare Representative — Who makes healthcare decisions

- Names someone to make healthcare decisions only when you cannot make them yourself.
- Can include authority concerning hospitals, nursing homes, and funeral arrangements.
- You remain in control of your own healthcare decisions as long as you are able.

Living Trust (Revocable) — The probate-avoidance option

- A living trust can avoid probate for assets owned by the trust or properly directed to it at death.
- **Trade-off:** A will is simpler now but requires probate later. A trust takes more work now because assets must be properly titled or coordinated with the trust, but administration later is much simpler than probate.
- The trust can generally be changed while you are living and competent.
- For married couples, the trust can also protect the children's inheritance after the first spouse dies.
- **Critical:** A trust only controls assets connected to it. Proper funding and beneficiary designations are essential.
- Retirement accounts generally remain in the owner's individual name.

Irrevocable Trust — Nursing home / Medicaid asset protection

- Used to protect selected assets from future nursing-home / Medicaid spend-down.
- You give up control: someone else serves as trustee.
- The 5-year Medicaid lookback makes advance planning important.
- Particularly well suited for farms, real estate, or significant assets.
- Often considered later in life (around age 70–75).

A Simple Way to Think About It

If your goal is…	Consider…
Basic plan	Will + Power of Attorney + Healthcare Representative
Avoid probate	Add a properly funded revocable living trust
Asset protection	Consider an irrevocable trust well before nursing-home care is needed

This guide provides general information only and is not legal advice. Every situation is different. For advice about your specific circumstances, please contact Williams Law Office, PC at 812-663-7601 to schedule an appointment.