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Can you please explain the difference between a *Will* and a *Living Trust*?

When someone passes away, both a Will and a Living Trust determine how all of the deceased's possessions (property, money, etc.) are distributed. If a person dies intestate (without a Will) or only has a Will; the Probate Court determines how the possessions of the deceased will, or should, be allocated based on the wishes and desires as outlined in the person's Will and current state and county probate laws. This can take up to two years or more before the heirs receive their inheritance. Meanwhile, fees are shrinking the estate size on a daily basis. Heirs, or people who believe they should be heirs, can contest the Will. This complicates the Court's management in honoring the deceased's wishes which could, and usually are, be denied or altered by the Court. The Probate Court also assumes financial and bodily management of incompetent or incapacitated persons and full custody of minor children. Also, a Will is public record. Anyone can go into a courthouse and read someone's Will. A Will does not protect your property from certain hefty taxes. This money, plus all court costs and attorney's fees, are accrued to settle the deceased's estate via the Will. Whatever is left over, if anything, the heirs according to the Courts directions will receive.

In contrast, the fully funded Living Trust not only honors the deceased's wishes; a properly drafted Living Trust can prohibit the estate from being contested as well as protect the estate from judgement creditors of the heirs. Unlike the lengthy time it takes the Probate Court to settle a Will or intestate estate, heirs can receive their inheritance anywhere from a week to six months at the worst. The Living Trust also takes advantage of the lifetime federal death tax exemption for both spouses, therefore doubling the exemption. A fully funded Living Trust eliminates Probate Court interference provided all the estate is inside the Trust. Assets left outside the Trust are picked up by the pour-over Will, go through an abbreviated form of probate and whatever is left pours over back into the Trust for distribution to the heirs. A fully funded Living Trust also upholds your wishes to who will have custody of your minor children and ensure that they receive their full inheritance. Also, if you become disabled or incompetent to manage your financial or personal affairs, a Living Trust allows you to appoint your conservators through a springing durable power of attorney made as part of the portfolio. This is very different from the cold, bureaucrats that the Probate Court would appoint. With a fully funded Living Trust, you can be assured what is important to you is managed the way you want, including your children. A fully funded Living Trust is also private, the public does not have access to it. In summary ~ a Living Trust protects your estate from being consumed by probate fees and Court directed decisions that can erode the estate, thus ensuring that your heirs receive what has taken you a lifetime to build.