

ADVANTAGES OF LIVING TRUST

- Inexpensive, simple to maintain.
- No attorney follow-up required.
- You have control as *trustee*.
- You appoint a back-up trustee who controls the Trust at your disability or death.
- Can be distributed to your beneficiaries within weeks after your death.
- Avoids the disadvantages of joint tenancy.
- Assets from other states can be included.
- Minor's assets are protected from *probate* and distributed at your chosen age (*e.g. age 21, 25, etc.*).
- Protects the assets of children from a prior marriage.
- Secures the inheritance of your grandchildren.
- Can provide prenuptial protection.
- No contest clause.

Tracy Hoover

Personnel Division City of Chicago

"Our employees consistently take advantage of this important service from Tuohy Law Offices for over 35 years."

Keith Ann Stiverson

Client

"Tuohy Law Offices is the best place to set up a Living Trust in Illinois. I have been thinking about it for a long time, and Tom is a lawyer who inspires confidence, is friendly, and puts you at ease. Shelly, who runs the office, is very efficient and helpful."



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TUOHY LAW OFFICES

Tuohy Law Offices is located in Oakbrook Terrace, Illinois. The firm has extensive experience in estate planning and has presented estate planning seminars for over 40 years. In addition, the firm represents owners of small businesses and clients who suffered injuries from negligence and malpractice.

Tom Tuohy graduated with honors from DePaul University. While attending DePaul Law School, Tom studied International Law at Cambridge University in England and returned to DePaul for his Juris Doctorate. He is a Kellogg School of Management of Northwestern University Executive Scholar and was awarded a Stanford University Graduate School Fellowship.

Upon graduation, Mr. Tuohy served as Special Assistant Attorney General of Illinois, and later opened Tuohy Law Offices.

He is the founder of the Illinois charitable organization, Dreams for Kids. In 2000, the Illinois Crime Commission selected him as its Citizen of the Year. Mr. Tuohy is rated as 10, "Superb," by AVVO and received the A/V rating, the highest honor by Martindale Hubbell, ranking him in the top 5% of U.S. attorneys.

**FOR MORE INFORMATION
PLEASE CONTACT**

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**ESTATE
PLANNING**

AND

**ASSET
PROTECTION**

YOUR GUIDE TO

LIVING TRUSTS

**POWER OF
ATTORNEY**

**TENANCY BY
THE ENTIRETY**

COMMON ESTATE PLANS

WILL

- At one time, the most common estate plan was a *last will and testament*.
- Every *will*, however, must be filed in *probate* within 30 days of death.
- *Wills* are subject to the expense and control of *probate*.
- Court matters are public record.
- A *will* can be contested easily.
- Even a “simple” will can be tied up in the Probate Court for over eighteen months.

POWER OF ATTORNEY

- This is an important document while you are alive, but it is revoked at death and is not an *estate plan*.

JOINT TENANCY

Jointly owned property passes to the surviving joint tenants(s). However, there are many potentially serious problems:

- Marital joint accounts and jointly held property must be probated at the death of the surviving spouse or joint tenants.
- Adding a joint tenant at any time after initial purchase can cause as much as a 20% tax liability.
- You are unable to fully control inheritance. Your heirs may be disinherited.
- Surviving joint tenants have control and your *will* has no effect on jointly held property.
- The civil liability of any joint tenant(s) subjects the jointly held property to possible loss from judgment or attachment proceedings.

LIVING TRUST

- A *living trust* is the most common and effective *estate plan* today.
- This plan gives you complete control of our assets while you are *living* and after your death, and avoids the Probate Court.

PROBATE

Probate is the court procedure that controls your assets if you die or become incapacitated. This legal process, originally designed to protect you, has become costly and time consuming.

PROBLEMS WITH PROBATE

COST

- The average cost of probate is 10-15% of the gross value of your Estate. *(see chart • estimates based on total costs and potential asset depreciation).*

TIME

- Illinois has tens of thousands of pending probate cases, with a limited number of judges handling them.
- The average estate takes 18 months to complete. A contested estate could spend years in the *probate* system.

INCONVENIENCE

- All matters controlled by the Probate Court are a public record, and no assets are released without a court order.
- Minor’s assets are held and controlled by the court until the minor reaches the age of 18.
- Assets held in other states are subject to *probate* proceedings in each state.
- All Illinois *estates* over \$100,000 are subject to *probate*.

CONSERVATORSHIP

- Anyone can petition the Probate Court to control assets held in your name.

AVERAGE PROBATE FEES IN THE UNITED STATES

ESTATE VALUE	ESTIMATED PROBATE COST
\$100,000	\$12,500
\$150,000	\$18,000
\$300,000	\$36,000
\$500,000	\$62,500
\$750,000	\$90,000
\$1,000,000	\$125,000

THE MYTHS & TRUTHS ABOUT LIVING TRUSTS

myth “I will lose control over my assets with a living trust.”

FACT You maintain total control over your assets during your lifetime. You are the trustee. You conduct your financial affairs in the same manner.

myth “Living trusts are too costly and complicated.”

FACT A *living trust* is not expensive, especially when you consider the cost of *probate*, which is required by your will. After an attorney drafts your documents, it is simple to maintain with no yearly fees or costs. You can change a living trust at any time.

myth “I am not rich enough for a living trust.”

FACT Anyone with assets and insurance benefits totaling more than \$100,000 should have a *living trust*.”

myth “Living trusts are too good to last. They must be a gimmick.”

FACT *Living trusts* have been used reliably and effectively for hundreds of years, even longer than wills. Only recently have living trusts become affordable.

YOUR ESTATE PLAN

You can avoid probate, save on estate taxes, control your assets, avoid conservatorship, and protect minors' inheritances by establishing this essential estate plan. Your estate plan contains the following documents:

THE LIVING TRUST

The most popular legal document today, which transfers assets from your name to the name of the *trust*. This document will allow you to completely avoid *probate* and provide complete control of all of your assets.

POWER OF ATTORNEY

This document allows you to appoint an agent to carry on your affairs if you become incapacitated. This person has the power to transfer any asset to your *trust*.

POWER OF ATTORNEY FOR HEALTHCARE

This document is approved by the *State of Illinois* and declares your wishes regarding life support decisions and other medical decisions.

POUR-OVER WILL

This document is designed to transfer, or *pour-over*, any assets left outside your trust at the time of your death so that all assets are distributed according to your *trust*.

TENANCY BY THE ENTIRETY

The deed of your marital home is changed to provide complete homestead protection. *Tenancy by the Entirety* protects the property from foreclosure due to civil judgments against one spouse.