

Comparative Analysis of Trust Jurisdictions

Where Does Your Trust Stand?



Top Trust jurisdictions like DE, NV, and SD have accommodating legislation that permits silent trusts, allows for divided responsibilities as the grantor sees fit, and has strong asset protection. Bottom-tier jurisdictions make drafting more challenging, and courts will also not honor asset asset-protecting spendthrift clauses for certain creditors.

The chart below reveals how well each State allows a trust to be created according to the trustor's wishes and how well their intent is respected throughout the trust's duration and unpredictability. The chart helps identify those factors.

	DE	NV	SD	CA	CT	NJ	NY
FLEXIBILITY IN DRAFTING							
Directed Trusts - Grant distributions/ investment power to someone other than trustee	Great	Good	Good	Fair	Fair	Fair	Poor
Privacy - Permit trustee not to notify beneficiaries of the trust; No required court filings	Great	Great	Great	Fair	Poor	Good	Poor
Dynasty Trusts - How long a trust can last before required termination	Great	Good	Great	Poor	Fair	Fair	Poor
Excluded Trustee - Co-trustees are not required to share all responsibilities	Great	Poor	Great	Poor	Poor	Poor	Poor
Self-Settled APT - You can create a trust for yourself and still be protected from creditors	Good	Great	Great	Poor	Good	Poor	Poor
ENSURE GRANTOR'S INTENT IS FOLLOWED							
Asset Protection - How strong is the spendthrift statute and how have courts historically ruled	Great	Great	Great	Poor	Poor	Good	Fair
Administrative flexibility - Many factors evaluated. Ex/ if fees erode a trust, can it end early	Great	Great	Great	Fair	Fair	Fair	Poor
Cutting Edge legislation - How up-to-date is the state trust code	Great	Great	Great	Poor	Fair	Poor	Fair
Trust Modifications - If circumstances change, how easy is it to update an irrevocable trust	Great	Great	Good	Fair	Poor	Poor	Fair
Predictable Court Decisions - surprising court rulings and quantity of meaningful case law	Great	Good	Good	Poor	Poor	Fair	Poor

Example cases: *Ventura County D.C.S.S. v. Brown.*, *Pratt v. Ferguson Ferguson*, and *Frealy v. Reynolds* 1/2/2025



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