

Question: What happens if I die without a will?

Answer: When a person dies without a will, her non-probate assets transfer automatically to the new owner. Non-probate assets include things such as joint accounts, assets with named beneficiaries such as an IRA or retirement plan, and assets held in trust.

All other assets, personal belongings, cars, boats, etc. are subject to probate and are distributed according to state “intestacy” laws. Most intestacy laws (the state or condition when a person dies without a valid will) rank heirs in this order:

- Spouse, children and other descendants
- Parents
- Siblings and children of deceased siblings
- Other kin
- The state

In most states, a surviving spouse inherits all property if neither spouse has children from another relationship. If either spouse does have children from another relationship, the decedent’s kids may be entitled to a share of the probate estate. Without a will, state law will determine who will be your administrator, usually giving preference to closely-related family or heirs. The courts will also play a role in appointing guardians for minors and children.

A will can leave property to someone who would not inherit under the state’s intestacy laws such as domestic partners, stepchildren, in-laws, friends, charities and pets. It can also prevent a person who would inherit under the state’s intestacy laws from inheriting. A will, however, does nothing to avoid probate.

Bill’s Bottom-line: Your will is a legal expression of what you want to happen to your property when you die. A will can be a simple, inexpensive way for you to ensure your property passes to your heirs or a charity according to your wishes. Contact an experienced estate planning attorney and update your will regularly to reflect changes in your life.



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