

# When a Loved One Dies Without a Will

The death of a beloved family member is never easy, especially if it's a parent or spouse. The pain of such a loss is compounded when that person dies without a will or estate plan. The legal term for dying without a will is dying intestate.

After the immediate grief of the loss, and the activity of a funeral or memorial begins the painful task of dealing with what the deceased left behind. There is no question that having an estate plan makes this so much easier on both a legal and an interpersonal level. The difference between [estate administration with a will](#) and without one is significant.

## How Estate Property is Distributed Without a Will in Michigan

A last will and testament is a legal document that dictates the disposition of a person's property when they die. A will names the personal representative who will administer the deceased's estate. If the deceased had minor children, the will may also state whom the decedent wished to serve as their children's guardians.

If a person dies intestate in Michigan, the state's intestacy laws dictate the distribution of property. These laws are designed to approximate what most people would have done with their property had they had a will.

To this end, the spouse of a person who dies intestate will inherit the whole estate if there are no surviving parents, children, or grandchildren. If any of those people have survived the deceased, the surviving spouse will receive the first \$150,000 of the estate. If there are surviving children or grandchildren, the surviving spouse will then receive one half of whatever remains. If there are no surviving children or grandchildren, but there is a surviving parent, the surviving spouse will get three-quarters of whatever remains, with the parent or parents taking one-quarter of the remainder of the estate.

If there is no surviving spouse, the entire estate will go to the deceased's children, if there are any. Under Michigan intestacy law, the estate must be divided equally among the children, even if one cared for the deceased daily, and the other had been estranged from the deceased for 20 years.

If the deceased died without a surviving spouse and without surviving children, any grandchildren will divide up what would have been their parent's share of the estate. Thus, if the deceased had two

children who predeceased him, and one of those had an only child, while the other had four children, one grandchild would receive half of the estate, while the other four would receive one eighth apiece.

If the deceased had neither a spouse nor children, the estate would go to the deceased person's parents, if they are alive. If there is no surviving parent, the siblings of the deceased would each take an equal share of the estate.

In addition to laws regarding who gets what, Michigan also has laws about who should be appointed a minor child's guardian if there is not a parent available—typically a grandparent or parent's sibling. While this is what many people would prefer, it would be disastrous in some families. In any case, why leave something as important as your children's future to the whims of the court when you could easily make the arrangements that are best for your children?

## Personal Consequences of Dying Without a Will in Michigan

Chances are, as you read the paragraphs above, you imagined them applying in your own life or that of someone you love. If the thought of a one-size-fits-all law dictating the future of your children and the disposition of your assets troubles you, you need to have an estate plan—now.

The consequences of not having a will extend well beyond legal details. Without a will, your family may try to abide by your wishes, but they might not know what they are, and may fight bitterly to establish the result they believe is right. If you have adult children from a first marriage, failing to have a will means most or all of your estate (depending on its size) could go to a subsequent spouse, leaving your kids out in the cold. There are a number of scenarios in which relationships between people can be damaged or destroyed by fighting over a loved one's intestate estate.

If you're worried about a loved one dying without a will in Michigan, show him or her this article and encourage them to call an experienced [Oakland County estate planning attorney](#) to learn more about how to ensure their wishes are known and honored. Bloomfield Hills attorney [Jim Hubbert](#) has helped numerous Michigan clients achieve peace of mind through estate planning. If you are dealing with a situation in which a loved one has already passed away without a will, Jim Hubbert has extensive experience in the probate courts of Southeast Michigan, and can help you minimize the stress of estate administration.