

## **Probate Basics**

### **What happens if someone dies without a Will?**

A person who dies without a will dies “intestate.” When you die intestate, your probate estate will pass according to the state laws of descent and distribution. In Kentucky, this is Kentucky Revised Statutes Chapter 391. So, who gets the stuff?

#### **Spouse**

If there is a surviving spouse, no matter how long they have been married, that spouse is entitled to the first \$30,000 of the estate. The spouse has additional rights as well; they generally then receive one-half of the remaining estate.

(If the decedent has no children, no living parents, and no siblings, the spouse receives everything.)

#### **Children**

If the decedent had children, the remaining assets are split between them, per stirpes. This is true even if the spouse is the parent of the children or if there are minor children. If there was no spouse, all of the assets are split between the children.

#### **Others**

If the decedent had no children, the remaining assets go to the decedent’s parents or remaining living parent. If there is no spouse, everything goes to the parent or parents.

If there are no living parents, then to the siblings of the decedent. If the decedent has no children, no living parents, and no siblings, the spouse receives everything.

If there is no spouse, no children, no living parents, and no siblings, the estate becomes more complicated; it is divided in two and one half passes to the maternal relations and one to the paternal. For a visual representation, consult our intestacy flow chart on the resources page of our website.

Every person’s situation is different and there are exceptions to some of the intestacy rules. Please consult an experienced probate attorney if you have any questions.

**Example #1**

Matthew dies and at the time of his death, he is married to Caroline. They have two adult children. Matthew's assets that are owned in his name alone without beneficiary designations that are eligible to be probated have a value of \$100,000.

Caroline receives the first \$30,000 of the estate. There is now \$70,000 remaining.

Caroline	\$30,000
Child 1	\$0
Child 2	\$0

Caroline receives the 50% of the remaining \$70,000 in the estate (\$35,000). There is now \$35,000 remaining.

Caroline	\$30,000 + \$35,000 = \$65,000
Child 1	\$0
Child 2	\$0

The remaining 50% of the estate (totaling \$35,000) is divided between the two children.

Caroline	\$65,000
Child 1	\$17,500
Child 2	\$17,500

**Example #2**

Jane dies and at the time of her death, she is unmarried. She had two daughters, one of whom is now deceased. The deceased daughter had a child prior to her death. Jane's assets owned in her name along without beneficiary designations that are eligible to be probated have a value of \$60,000.

Since there is no surviving spouse, the estate passes to both of Jane's children, per stirpes. Since one of her daughters is now deceased, that daughter's share will pass to her children.

Surviving Daughter	\$30,000
Grandchild	\$30,000

*If you have questions regarding the administration of a probate estate, you should contact a qualified probate attorney for specific advice. The above is intended as general information and should not be construed as legal advice to any person or individual.*