**Understanding Intestacy: What Happens If You Die without an Estate Plan?**

Whether you are single, married, or have children, it is important to have a will that dictates what happens to your property and assets after you pass away regardless of the size of your estate.

But, what happens if you die without writing a will or establishing an estate plan? How do courts distribute property and assets among the deceased’s loved ones?

When a person fails to make an estate plan or a will and passes away, they are said to have “died intestate.” All states have intestacy laws that have statutory guidelines to determine who will inherit what part of the deceased’s estate in the absence of a valid last will.

However, in such a situation, it becomes difficult for loved ones to navigate through the probate process, resulting in higher costs and lengthy proceedings.

**How Estate is Distributed Under Ohio Intestacy Laws**

The method of distribution of property and assets vary greatly depending on whether you are single, married, or have children. According to [2105.06 Statute of Descent and Distribution](http://codes.ohio.gov/orc/2105.06):

* If there is a surviving spouse but no parents or descendants, the spouse gets everything.
* If there is a surviving spouse and children who are also children of the surviving spouse, the surviving spouse gets everything.
* If there are children but no surviving spouse, the children inherit all of the estate.
* If there is a surviving spouse and one child of the decedent but the surviving spouse is not the other parent of that child, the spouse receives the first $20,000 of the estate plus half of the balance, while the remaining goes to the child.
* If there is a surviving spouse and two or more children of the decedent, then:
  + The spouse inherits the first $20,000 of the estate plus one-third of the balance, if all the children are not the adoptive or natural children of the surviving spouse; or
  + The spouse inherits the first $60,000 of the estate plus one-third of the balance, if “one but not all” the children is the adoptive or natural child of the surviving spouse; and
  + The remaining estate is inherited by the decedent’s descendants
* If there are parents but no descendants or spouse, everything goes to the parents.
* If there are siblings but no descendants, spouse, or parents, the estate is divided among the siblings.
* If there are no descendants, spouse, parents or siblings, then to grandparents.
* If there are no descendants, spouse, parents, siblings, or grandparents, then to the descendants of grandparents; and if there is no one in this group, then to the decedent’s “next of kin.”
* If there are no next of kin, the estate goes to stepchildren or their descendants.
* If there are no stepchildren or their descendants, the estate assets escheat to the State of Ohio.

**What Estate Assets are Distributed through Intestate Succession**

Only assets that can are subject to probate administration (i.e., assets in the name of the decedent alone with no beneficiary designated) are affected by intestacy laws. Some examples of such assets include:

* Life insurance proceeds where no surviving beneficiary has been named
* Real estate in the decedent’s name alone
* Funds in retirement accounts, such as 401(k), IRA, and others where no surviving beneficiary has been named
* Vehicles where there is no surviving spouse and no TOD beneficiary named
* Decedent’s share of the property held as “tenants in common”
* Bank accounts (not joint with right of survivorship and no beneficiary)
* Securities (not joint with right of survivorship and no beneficiary)

Assets held in a trust, assets held in joint with right of survivorship ownership, and assets that have surviving beneficiaries named are not subject to probate administration.

Estate planning is essential to ensure your property and assets are divided among your beneficiaries according to your wishes after you pass away. If you want to make an estate plan, you should consider working with an [experienced estate planning attorney](http://johngrundy.com/estate-planning/) who can provide legal guidance based on your specific situation. [Contact](http://johngrundy.com/contact-us/) the Law Office of John C. Grundy at 330.637.9030 or online to schedule your consultation today.