

# When You Don't Have a Will



The share of an intestate estate passing to his or her descendants (which is all of it if there is no surviving spouse) goes to the closest descendant first — children, then grandchildren, then great-grandchildren. If there are no direct descendants, the share goes to parents, then brothers and sisters, then nieces and nephews. If there is no surviving descendant in the decedent's parents' line, then it passes to grandparents, then aunts and uncles, then first cousins, then second cousins, and so on. If no family, no matter how distant, can be found, the decedent's property is paid to the state, and if not claimed within five years, it is paid to the public school permanent endowment fund.

## Utah Law

In Utah, the surviving spouse gets the entire intestate estate if all of the decedent's surviving descendants are also descendants of the surviving spouse. If the decedent left a surviving spouse and also left descendants who are not descendants of the surviving spouse (such as children from a prior marriage), the surviving spouse gets the first \$75,000 and half of the rest. The other half goes to the decedent's descendants in much the same way as it does in Idaho.

Utah made an important change to its intestacy laws this year to provide that if the decedent has no surviving spouse or blood relatives, the entire intestate estate will go to the decedent's stepchildren, if any, and down the stepchildren's descendants' lines if any stepchildren have predeceased the decedent. So if you don't have a will and have no surviving family, your estate will go to your stepchildren. If an intestate decedent has no family and no stepchildren or descendants of stepchildren, then and only then does the decedent's assets go to the state for the benefit of the state school fund.

## Need a Will or Not?

State legislatures have tried to write intestacy laws to make sure the property of someone who dies without a will goes to the people most of us would want to have it. However, if you want your property to go somewhere other than where state laws provide, you need to get a will — now. ☺

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## Do You Lose Everything?

Most people have no idea what will happen to their assets if they die without a will. Yet most studies estimate that between 55 and 70 percent of all adult Americans don't have one. If you are one of those, what happens to your assets when you die? Will your family lose everything?

Dying without a will is called dying "intestate." Each state in the nation, including Utah and Idaho, has laws outlining who gets what if someone dies intestate. Most of these laws are well thought out.

By Laurie S. Hart

### Idaho Law

In Idaho, with respect to separate property, the surviving spouse gets the entire estate if the decedent had no surviving descendants or parents. If the decedent left surviving descendants, the spouse gets one-half of the intestate estate and the decedent's descendants receive the other half. If there are no surviving descendants but at least one surviving parent, the spouse gets one-half of the intestate estate and the parent or parents get one-half. With respect to the decedent's community property, the decedent's half passes to the surviving spouse.