

What would happen if you died without a will in Ontario?

Kevin Dolan, September 2024

On a regular basis, I meet people who have not prepared a Will for various reasons. For a modest cost, everyone 18 years and older should have a Will prepared by a lawyer.

It is important to know that if someone gets married after preparing a Will, the Will may be invalid, and a new Will should be prepared. In addition, if the person who died had divorced after they wrote their Will, parts of the Will may be invalidated.

If someone dies without a Will or "Intestate", the Ontario government has provided for inheritances in the Succession Law Reform Act (SLRA).

Take note that the SLRA does not recognize common-law couples. Under the Family Law Reform Act (FLA), if two people live in a common-law relationship for three years or lived in a permanent relationship and have a child together, they'll be considered as spouses. Also, under the FLA, a spouse of a deceased person can claim half of the "Net Family" Property" as if they had been divorced on the day of death.

According to the SLRA, unless someone who is financially dependent on the deceased person makes a claim, the first \$200,000 is given to the deceased person's spouse if he/she makes a claim.

Anything over \$200,000 is shared between the spouse and the descendants (children, grandchildren) according to specific rules. Only blood relatives, including children born outside of marriage or legally adopted children, are entitled to an inheritance.

If there is no spouse, the deceased person's children will inherit the estate. If any of the children have died, that child's descendants will inherit their share. If there is no spouse or children or grandchildren, the deceased person's parents will inherit the estate equally.

If there are no surviving parents, the deceased person's brothers and sisters inherit the estate. If any of the siblings have died, that sibling's children (the deceased person's nieces and nephews) inherit their share.

If there are no surviving brothers and sisters, the deceased person's nieces and nephews inherit the estate equally. However, if a niece or nephew has died, their share does not pass to their children. When only more distant relatives survive (cousins, etc.), the rules are even more complex.

To save your family from the stresses of sorting out your estate during the time of your passing, have a valid Will in place.

P.S. May you live a long and healthy life!

Source: <https://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/heirclaim.php>

