

How Intestate Succession Can Derail Your Plans

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Think estate planning can wait? Here's the thing: putting off or delaying estate planning can leave your loved ones in a difficult position. Among the issues is passing away without a will, one of estate planning's basic elements.

If you pass away without a will in New Jersey, your assets must pass through a process called "intestate succession."

What is intestate succession?

Intestate succession is the process of determining how assets will be distributed when an individual passes away without a will.

Not all assets are subject to intestate succession rules – if something has a co-owner or named beneficiary or otherwise doesn't have to pass through probate, it isn't affected by intestate succession. A few examples include a jointly owned bank account with rights of survivorship, property held in trust, funds in an IRA, or real estate for which you have a transfer of death deed.

Who manages your estate if you pass without a will?

An administrator will need to be appointed by the court to handle the estate. This individual will likely be required to post a bond for a percentage of the value of the estate. This may be an unexpected cost and burden to your loved ones, which could have been avoided if you executed a last will in which you nominated someone to be your executor.

Who is a beneficiary under New Jersey intestate succession laws?

New Jersey's intestate succession laws have a fixed order of preference for how assets should be distributed. The estate will pass to the surviving spouse if all surviving descendants are also descendants of the surviving spouse. In other circumstances, the estate will pass to the decedent's children, parents or siblings or more distant relatives.

While it's common for these individuals to be included in an estate plan, it's far from universal. If the decedent has stepchildren, who aren't legally adopted, they may not receive a share of the estate.

What's more, intestate asset distribution won't reflect your specific wishes. For example, do you want to include close friends, charities, or other beneficiaries in your legacy? Your intentions will not be honored unless you put them in writing.

The risks of skipping a will

Not having a will creates confusion over how your assets should be distributed, but that's far from the only problem it creates. Consider some common issues skipping a will leads to:

- **Family disputes:** Without a will, family relationships could be strained or permanently damaged – especially in blended families or when family members have differing inheritance expectations.
- **High costs and delays:** Probate without a will can lead to lengthy court proceedings and high legal and administrative fees, creating financial and emotional stress for loved ones.
- **Unintended beneficiaries:** Assets may be allocated to distant or estranged relatives, while close friends, stepchildren, or unmarried partners could be excluded entirely.
- **Asset mismanagement:** Not setting parameters for inheritances can be risky when you have young or financially inexperienced beneficiaries.

And that's not the end of it. If you have minor children or loved ones with special needs, the court may make guardianship decisions on your behalf.

Safeguard your legacy

At Saiber, we understand that estate planning might seem daunting, but we're here to make the process straightforward and stress-free. Whether your estate is simple or complex, our team can help you create a plan tailored to your wishes and priorities.

[Contact our estate planning practice](#) to learn more.