

What Happens If You Die Without a Will in New York?

A Client Guide from the Law Offices of Jason G. Krantz, PC

No one likes to think about what happens after they're gone — and it's easy to tell yourself there's still time to write a will. But when someone passes away in New York without one, state law steps in and makes the decisions they never got to make themselves: who inherits, who raises their children, and who's put in charge of settling their affairs. Here's what that actually looks like, and why it catches so many families off guard.

You Don't Get to Decide — New York Law Does

When someone dies without a will, they've died "intestate," and New York's intestacy statute (EPTL 4-1.1) takes over. It applies one rigid formula to every estate, regardless of your actual wishes, your family's circumstances, or who you were closest to. It doesn't matter if you meant to leave more to the child who cared for you, or if you simply never got around to updating your plan after a divorce or new marriage — the formula is the formula.

Who Inherits When There's No Will?

1	Spouse + Children Survive	Spouse: first \$50,000 + half the rest • Children: divide the remainder
	↓ if none	
2	Spouse Only	Spouse inherits the entire estate
	↓ if none	
3	Children Only	Children divide the estate equally
	↓ if none	
4	Parents	Parents inherit equally
	↓ if none	
5	Siblings	Siblings inherit equally (half-siblings included)
	↓ if none	
6	No Qualifying Relatives Found	Estate passes to New York State

The table below shows the same order of priority in full detail, including exact shares.

Who Survives You	Who Inherits
Spouse and children	Spouse receives the first \$50,000 plus half of what remains; children divide the rest equally
Spouse, no children	Spouse inherits the entire estate
Children, no spouse	Children divide the estate equally (a deceased child's share passes to their own descendants)
No spouse or children, parents survive	Parents inherit the estate equally
No spouse, children, or parents, siblings survive	Siblings inherit equally (half-siblings share equally with full siblings)
No qualifying relatives can be found	The estate passes to New York State

Who Doesn't Inherit — A Painful Surprise for Many Families

Perhaps the hardest part of New York's intestacy law is who it leaves out entirely.

- **Unmarried and life partners inherit nothing.** New York does not recognize inheritance rights for an unmarried partner through intestacy alone — even after decades of sharing a home, finances, and a life together.
- **Friends, chosen family, and charities receive nothing.** Intestacy only recognizes blood relatives, a spouse, and legally adopted children — anyone outside that circle is excluded, no matter your relationship.

For many blended families and long-term unmarried couples, this is where a will stops being a "someday" project and becomes urgent.

Someone Else Chooses Who's in Charge

Instead of the executor you would have chosen, the Surrogate's Court appoints an "administrator" to manage your estate — typically a spouse or relative who qualifies and petitions for the role. If more than one family member wants the job, or disagrees about who should have it, that disagreement plays out in court, adding time, legal fees, and friction to an already difficult moment.

The Court Decides Who Raises Your Children

A will is the primary way parents put their wishes for guardianship in writing. Without one, the court decides based on its own view of your children's best interests — which may or may not match who you would have chosen. Any inheritance passing to minor children is also placed under court-supervised guardianship until they turn 18, complete with additional filings, oversight, and restrictions on how that money can be used along the way.

The Bottom Line

None of this is inevitable — it's simply what fills the gap when there's no will in place. A straightforward, properly executed will lets you decide who inherits, who's excluded, who's in charge, and who raises your children — instead of leaving those decisions to a formula in the state's statute books.

Don't Leave It Up to the State

A will puts you back in control — of who inherits, who raises your children, and who settles your affairs. Schedule a consultation with the Law Offices of Jason G. Krantz, PC, and let's get a plan in place.

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