

# DYING INTESTATE (WITHOUT A WILL) INTESTACY LAWS IN STATES OF AUSTRALIA

Ever wonder what happens if you die intestate? Leading Estate Planning experts at Topdocs Legal Pty Ltd, our preferred partner for tailored solutions for our valued client's Estate Planning needs, have prepared the following fact sheet.

The various State intestacy laws reflect what happens to a person's estate if **no valid Will** is in place. This may come as very unpleasant news to some people.

	Spouse			Children	
	1 <sup>st</sup> \$	% Remainder		% Remainder	
		Portion	\$	Portion	\$
QLD	\$150k	1/3	\$583k	2/3	\$1.167m
NSW	N/A	100%	\$1.9m	0	\$0
VIC	\$100k	1/3	\$600k	2/3	\$1.2m
TAS	N/A	100%	\$1.9m	0	\$0
SA	\$100k	1/2	\$900k	1/2	\$900k
WA	\$50k	1/3	\$617k	2/3	\$1.233m
ACT	\$200k	1/3	\$566k	2/3	\$1.133m
NT	\$350k	1/3	\$516k	2/3	\$1.034m

(Based upon Wife/Husband and 3 children (of the same deceased). Estate value (excluding chattels) \$1.9 million.

Note: Chattels automatically go to the remaining spouse as does the family home if owned in joint names)

Some people have been separated for many years and have never gotten around to getting a divorce. Imagine if that spouse had run off and abandoned their partner and children, had never paid any maintenance and then they ended up getting an inheritance that they probably didn't deserve.

Unfortunately, prolonged divorce proceedings can also extend exposure in the event of the death of one party to the marriage with no valid Will being in place.

What about couples who are "blended families"? Some people don't know that when a spouse dies, their children from a previous relationship are no longer legally considered "step children" of the remaining partner and may miss out on receiving anything at all under the intestacy laws, and that may not

have been the intention of the deceased.

For people who have interests in businesses (companies, partnerships or even sole traders) as you can imagine, the intestacy laws can have adverse impacts on the ownership of the interests, and in many cases, ultimately on the control of the business which effects not just the immediate family of the deceased but co-owners.

If a valid Will is in place at the time of the Will-makers death, an Executor is known and will manage the estate in accordance with the deceased's wishes. Dying intestate will generally see a Court appoint an administrator, and in most cases, appoint one of the various State Public Trustees, who will charge high fees and may not act as quickly as beneficiaries may wish.

So, without a valid Will in place, assets would be distributed in accordance with the various State and Territory Intestacy laws; some disillusioned beneficiaries who missed out on perceived benefits might just come looking for a "family provision" claim or other litigation against the estate, messy and expensive stuff, at the worst possible time.

As life circumstances change, it is essential that adults make a Will, or review and update their current one. This will ensure that their wishes as to who receives the benefit of their estate is their decision, and not the various State intestacy laws dictating who the beneficiaries are and what they will get paid.

### More information

Please contact Now Sorted on 02 9486 3600.

*Disclaimer: This table is for illustrative purposes only and readers should refer to the relevant State/Territory Intestacy laws. These laws vary and can be very complex in the case of blended families and ex-spouses (Tasmania and Northern Territory in particular)*