



INTESTATE SUCCESSION

If you die without a will in Missouri, your assets will go to your closest relatives under state “intestate succession” laws. Here are some details about how intestate succession works in Missouri.

Which Assets Pass by Intestate Succession?

Only assets that would have passed through your will are affected by intestate succession laws. Usually, that includes only assets that you own alone, in your own name.

Many valuable assets don’t go through your will and aren’t affected by intestate succession laws. Here are some examples:

- property you’ve transferred to a living trust
- life insurance proceeds
- funds in an IRA, 401(k), or other retirement account
- securities held in a transfer-on-death account
- payable-on-death bank accounts
- vehicles held by transfer-on-death registration
- real estate held by transfer-on-death or beneficiary deed, or
- property you own with someone else in joint tenancy or tenancy by the entirety.

These assets will pass to the surviving co-owner or to the beneficiary you named, whether or not you have a will.

Who Gets What in Missouri?

Under intestate succession, who gets what depends on whether or not you have living children, parents, or other close relatives when you die. Here’s a quick overview:

If you die with:	here’s what happens:
<ul style="list-style-type: none"> • children but no spouse 	<ul style="list-style-type: none"> • children inherit everything
<ul style="list-style-type: none"> • spouse but no descendants 	<ul style="list-style-type: none"> • spouse inherits everything
<ul style="list-style-type: none"> • spouse and descendants from you and that spouse 	<ul style="list-style-type: none"> • spouse inherits first \$20,000 of your intestate property, plus 1/2 of the balance • descendants inherit everything else



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If you die with:	here's what happens:
<ul style="list-style-type: none"> • spouse and descendants from you and someone other than that spouse 	<ul style="list-style-type: none"> • spouse inherits 1/2 of your intestate property • descendants inherit everything else
<ul style="list-style-type: none"> • parents and siblings but no spouse or descendants 	<ul style="list-style-type: none"> • parents and siblings inherit your intestate property in equal shares
<ul style="list-style-type: none"> • parents but no spouse, descendants, or siblings 	<ul style="list-style-type: none"> • parents inherit everything
<ul style="list-style-type: none"> • siblings but no spouse, descendants, or parents 	<ul style="list-style-type: none"> • siblings inherit everything

What is the Spouse's share in Missouri?

In Missouri, if you are married and you die without a will, what your spouse gets depends on whether or not you have living descendants -- children, grandchildren, or great-grandchildren. If you don't, then your spouse inherits all of your intestate property. If you do, they and your spouse will share your intestate property as follows:

If you die with children or other descendants from you and the surviving spouse. Your surviving spouse inherits the first \$20,000 of your intestate property, plus 1/2 of the balance.

Example: Bill is married to Karen, and they have two grown children. Bill and Karen own a large bank account in joint tenancy, and Bill took out a life insurance policy naming Karen as the beneficiary. When Bill dies, Karen receives the life insurance policy proceeds and inherits the bank account outright – those things aren't intestate property. Bill also owns \$260,000 in property that would have passed under a will, so Karen inherits \$140,000 worth of that property – that is, \$20,000 plus \$120,000 of the balance. The two children split the remaining \$120,000 worth of Bill's property.

If you die with children or other descendants who are not the descendants of your surviving spouse. Your surviving spouse inherits 1/2 of your intestate property.

Example: Barrett is married to Jed and also has a 12-year-old daughter from a previous marriage. Barrett owns a house in joint tenancy with Jed, plus \$200,000 worth of additional, separate property that would have passed under a will if Barrett had made one. When Barrett dies, Jed inherits the house outright and 1/2 of Barrett's intestate property -- that is, \$100,000 worth. Barrett's daughter inherits the remaining \$100,000 share of Barrett's property.



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Children's Shares in Missouri

If you die without a will in Missouri, your children will receive an “intestate share” of your property. The size of each child’s share depends on how many children you have, whether or not you are married, and whether your spouse is also their parent. (See the table above.)

For children to inherit from you under the laws of intestacy, the state of Missouri must consider them your children, legally. For many families, this is not a confusing issue. But it’s not always clear. Here are some things to keep in mind.

- **Adopted children.** Children you legally adopted will receive an intestate share, just as your biological children do. Mo. Rev. Stat. § 474.060.
- **Foster children and stepchildren.** Foster children and stepchildren you never legally adopted will not automatically receive a share.
- **Children placed for adoption.** Children you placed for adoption and who were legally adopted by another family will not receive a share. However, if your biological children were adopted by your spouse, that won’t affect their intestate inheritance. Mo. Rev. Stat. § 474.060.
- **Posthumous children.** Children conceived by you but not born before your death will receive a share. Mo. Rev. Stat. § 474.050.
- **Children born outside of marriage.** If you were not married to your children’s mother when she gave birth to them, they will receive a share of your estate if (1) you participated in marriage ceremony that later turned out to be void, (2) marry the mother after their birth and acknowledge they are your children, or (3) your paternity has been established by a court before or after your death. Mo. Rev. Stat. § § 474.080, 474.070 and 474.060.
- **Children born during your marriage.** Any child born to your wife during your marriage is assumed to be your child and will receive a share of your estate.
- **Grandchildren.** A grandchild will receive a share only if that grandchild’s parent (your son or daughter) is not alive to receive his or her share. Mo. Rev. Stat. § 474.020.

If you want to read the law, Missouri Statutes § 474.050 to 474.080 cover parent-child relationships.

Will the State Get Your Property?

If you die without a will and don’t have any family, your property will “escheat” into the state’s coffers. However, this very rarely happens because the laws are designed to get your property to anyone who was even remotely related to you. For example, your property won’t go to the state if you leave a spouse, children, siblings, parents, grandparents, aunts or uncles, great uncles or aunts, great-grandparents, nieces or nephews, cousins of any degree, any relative to the ninth degree, or the children, parents, or siblings of a spouse who dies before you do.



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Other Missouri Intestate Succession Rules

Here are a few other things to know about Missouri intestacy laws.

- **Survivorship period.** To inherit under Missouri's intestate succession statutes, a person must outlive you by 120 hours. So, if you and your brother are in a car accident and he dies a few hours after you do, his estate would not receive any of your property. Mo. Rev. Stat. § 474.015.
- **Half-relatives.** In Missouri, your "half" relatives receive half of the amount of share as your "whole" relatives. For example, Debra had two sisters who had the same parents as her, Anita and Becky. She also had a brother Calvin who had the same father but a different mother. When she dies, Anita and Becky inherit 2/5 each and Calvin inherits 1/5 of the intestate property. Mo. Rev. Stat. § 474.040.
- **Posthumous relatives.** Relatives conceived before -- but born after -- you die inherit as if they had been born while you were alive, as long as they survive at least 120 hours after birth. Mo. Rev. Stat. § 474.050.
- **Immigration status.** Relatives entitled to an intestate share of your property will inherit whether or not they are citizens or legally in the United States. Mo. Rev. Stat. § 474.100.
- **Advancements.** If you gave a relative property during your lifetime, the value of this property is subtracted from your relative's share only if you put this in writing at the time you made the gift or if your relative states this in writing at any time. Mo. Rev. Stat. § 474.090.
- **Spousal misconduct.** If you cheat on your spouse or abandon your spouse and live separate for at least one year before your death and don't reconcile, you will not have the right to inherit from your spouse. Mo. Rev. Stat. § 474.140.