

## Dying Without a Will (Dying Intestate)

Dying intestate can result in a number of practical disadvantages for the deceased's estate and for the survivors, over and above the problem of determining the exact details of the estate distribution.

Contrary to popular belief, provincial intestate distribution rules do not result in the surviving spouse automatically receiving the entire estate. In fact, the estate distribution will most likely result in an outcome not intended by the deceased.

Some of the issues of intestacy are as follows:

1. Intestacy delays the distribution of bequests and disrupts post mortem planning strategies.
2. In the common law provinces (all except Quebec), a minor beneficiary cannot inherit assets or income on those assets until they reach the age of 18. Until then, the inheritance and the income earned is held by the courts.
3. When the courts hold assets for a minor beneficiary until age 18, the surviving spouse does not have access to those assets. This constraint may result in the spouse and/or children not having sufficient resources to meet basic expenses. The only method to access those funds is to pursue a potentially lengthy court application.
4. If the money does stay in trust for the minor child, they will receive the full balance of the account at age 18, whether or not they are ready to handle the financial responsibility.
5. Children from a spouse's former marriage may be left out entirely.
6. Common-law spouses are not protected under provincial estate legislation.
7. A court-appointed individual administers your estate.
8. Assets may be passed to beneficiaries never intended by the deceased.

