

What happens when one dies without a will?

What happens when one dies without a will? A common misconception is that if one dies leaving no will, his property will pass to the state. Although it is certainly preferable to have a will, if one dies without a will (intestate), his property will pass to his closest family members. The only instance in which the state takes property of a decedent is in the rare case when one dies with no will and no living relatives. The state's laws of intestacy found in the Maine Probate Code determine which relatives take from a decedent dying intestate. If there is a surviving spouse and the decedent had no children or surviving parents, the spouse gets all. If the decedent has parents who survive him, then his spouse gets the first \$50,000 and the spouse and parents of the decedent split the rest, 50/50. If the decedent had children with the surviving spouse, the surviving spouse gets the first \$50,000 and the remainder is split 50/50 between the surviving spouse and the children. If the decedent has children from someone other than the surviving spouse, then everything is divided 50/50 between the surviving spouse and the decedent's children. These formulations are actually contrary to the typical "sweetheart will" in which one spouse leaves everything to the other spouse and underscore the importance of having a will.

From <http://www.elderlawmaine.com/articles/The%20Probate%20Process.pdf>