

If you do not have a will, your state has one for you

Wills determine who gets your property, who raises your children, and more. Most people don't have one. Do you?

Prince died in April without a will, and he left the disposition of his several-hundred-million-dollar estate up to the laws of intestacy in Minnesota.

Last month, a 39-year-old inmate in federal prison in Colorado claimed that he is the son of the music legend, and therefore the sole heir who is entitled to Prince's entire estate.

When he died without a will, Prince was in good company. Most of those who die in our country each year also do so without a will.

If you do not have a will, your state has one for you. It might or might not be what you would want. The Vermont Legislature has enacted intestacy statutes that it believed reflect most people's wishes.

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IN VERMONT, as in most states, if you die without a will, your estate will pass to your closest living relatives. If you die without a will and your surviving spouse is not the parent of all of your children, your spouse and children will each receive one-half of your estate.

Some mistakenly believe if you die without a will, your estate will pass to the state in which you reside. In Vermont, if you die without a will and leave no relatives, your estate will pass to the town where you lived, to be used for its schools.

Anyone with minor children should have a will, if for no other reason than to name a guardian for their minor children. Without that direction, the probate court must decide who will care for your children and their property.

If you die and your children are younger than 18, your estate will pass outright to them when they reach that age.

Parents who provide for their children through their wills often establish trusts to provide for the education of their children and postpone distribution to those children until they are old enough to handle substantial sums.

When you make a will, you appoint an executor to settle your estate. Again, when you die without a will, the probate court must decide who will administer your estate following inflexible statutory guidelines.

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YOUR WILL DOES NOT distribute all of your assets. Some property does not usually pass under the terms of your will: if it's owned jointly, if it is Transfer or Pay on Death, if it is held in trust, and if it passes by beneficiary designation, such as with retirement accounts and life insurance policies.

As we save for retirement through retirement accounts, more and more property is passing outside of probate. It is important to review beneficiary designations of retirement accounts and life insurance policies periodically. This is often overlooked following a marriage, divorce, death, or simply the passage of time.

With the proliferation of online documents and software, many individuals draft their estate planning documents without an attorney.

Unfortunately, self-prepared wills can result in hard feelings, confusion, delays, and litigation.

The practice of law is becoming increasingly specialized. In his recent column and [blog](#), financial consultant Bill Schmick said, “No one likes to pay lawyer’s fees, but in this case, I suggest you hire an attorney to help draft your will[...]. I would also look for a lawyer familiar with estate planning rather than real estate or some other area.”