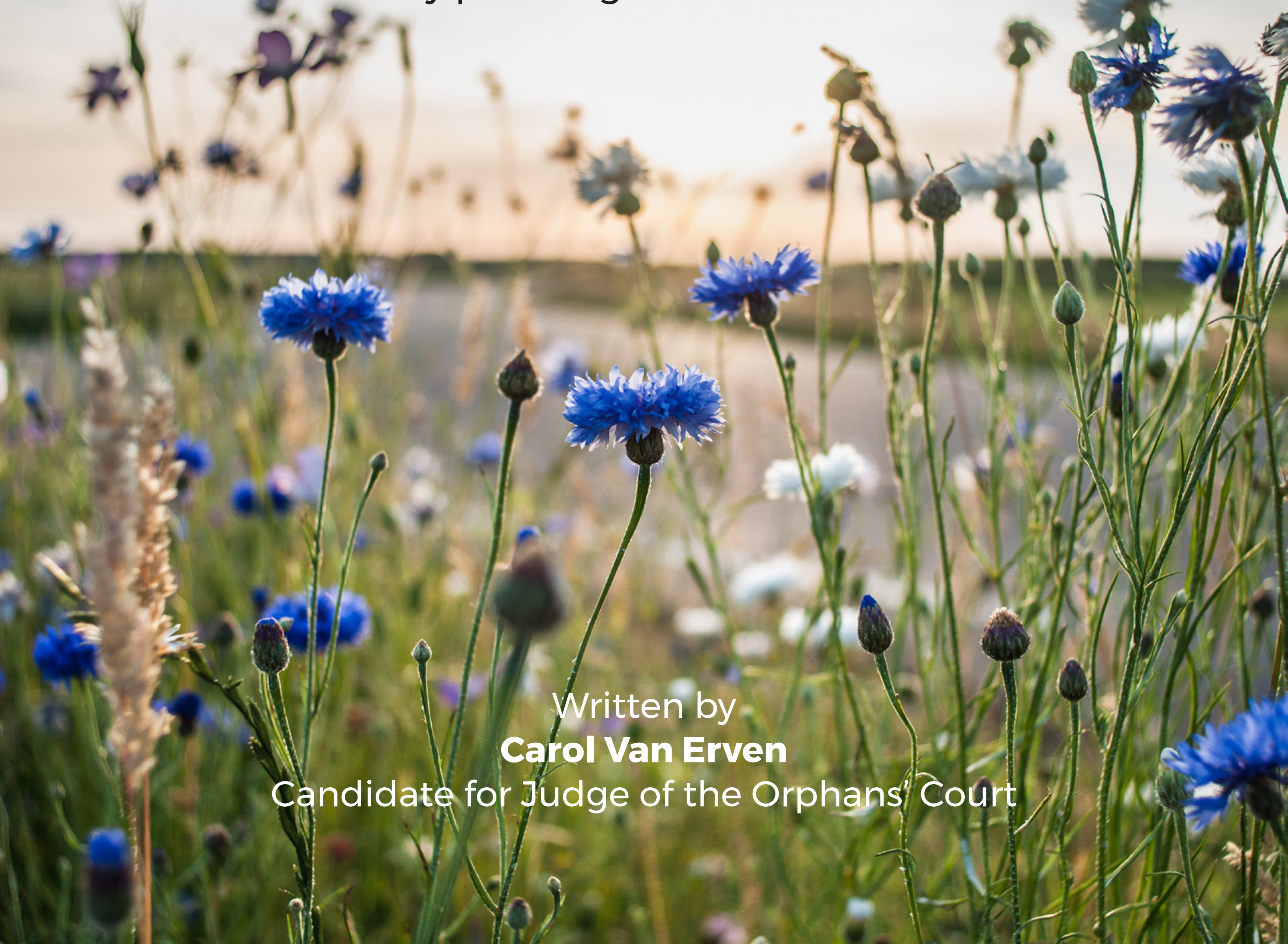
GUIDE
5

What Happens if There Isn’t a Will?

Many people believe a will is only necessary if they have substantial assets. In reality, a will allows you—not Maryland law—to decide who receives your property. This guide explains what happens when there isn’t a valid will and why planning ahead matters.



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Build Your Family Library

This guide is part of a growing series designed to help Maryland families understand estate planning, probate, and important decisions—one topic at a time.

- [ ] Understanding the Orphans' Court
- [ ] Your Family Information Organizer
- [ ] The First Week After the Loss of a Loved One
- [ ] Planning for Illness and Incapacity
- [x] What Happens If There Isn't a Will?
- [ ] Maryland Estate Planning Resources & Glossary

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IMPORTANT NOTE

This guide is provided for educational purposes only and is not legal advice. Maryland law may change, and every family's circumstances are unique. Please consult an attorney or other qualified professional regarding your specific situation.

Most Families Don't Think About a Will Until They Need One

Most people know they should have a will. Many intend to prepare one someday.

When someone dies without a valid will, loved ones may face important decisions during an already difficult time.

This guide explains what happens when there is no will, what a will can—and cannot—do, and why preparing ahead can help protect the people you love.

What Does It Mean to Die Without a Will?

Dying without a valid will is legally called dying intestate. In plain English, it means there is no valid will directing how the person's probate property should be distributed.

Maryland law then determines who has priority to serve as Personal Representative and who receives the probate property.

Why a Will Matters

Planning ahead is one of the greatest gifts you can give your family. A will is one important way to express that care.

A valid will can provide a roadmap for the people you love. It can help you:

- Choose a Personal Representative to administer your estate.
- Direct how your probate property should be distributed.
- Make gifts to friends, relatives, or charitable organizations.
- Nominate a guardian for minor children.
- Create certain trusts or other instructions with professional guidance.

Who Handles the Estate?

The Register of Wills or the Orphans' Court appoints a Personal Representative to administer the estate.

If there is a valid will, the person nominated in the will generally has first priority. If there is no valid will, Maryland law establishes an order of priority for appointment.

A Personal Representative is a fiduciary. Responsibilities may include identifying estate assets, addressing valid debts and expenses, completing required filings, and distributing the remaining property according to the will or Maryland law.

Who Receives Probate Property?

When there is a valid will, probate property is generally distributed according to the person's written instructions.

When there is no valid will, Maryland law determines who inherits. The result depends on the person's family circumstances.

Because those laws can change—and may not reflect your personal wishes—families should consult current Maryland information or a qualified attorney.

Probate Property vs. Non-Probate Property

A will generally controls probate property: property owned in the person's name alone or as a tenant in common.

Some assets may pass outside probate because of the way they are owned or because a beneficiary has been named.

Examples may include:

- Property owned jointly with a right of survivorship.
- Life insurance with a named beneficiary.
- Retirement accounts with a named beneficiary.
- Payable-on-death or transfer-on-death accounts.
- Assets held in certain trusts.

Did You Know?

A will does not necessarily control every asset you own. Beneficiary designations, account titles, ownership arrangements, and trust terms can affect how property transfers after death.

That is why reviewing the entire plan—not only the will—is important.

Marriage and Unmarried Partners

Maryland does not allow a couple to create a new common-law marriage simply by living together.

Living together by itself does not automatically create inheritance rights. Maryland does allow unmarried couples to formally register as domestic partners with a Register of Wills, which provides certain estate rights.

A valid estate plan can help clarify your wishes and protect people who might not otherwise inherit as you intend.

Common Myths About Dying Without a Will

Myth: Everything automatically goes to my spouse.

Fact: Not always. Maryland law determines who receives probate property based on the person's family circumstances. Some jointly owned property and accounts with named beneficiaries pass outside probate.

Myth: The State automatically takes everything.

Fact: In most cases, probate property passes to heirs under Maryland's intestacy laws. Only in the rare situation where no heirs can be identified may property pass to the State.

Myth: My family knows what I wanted.

Fact: Verbal wishes generally do not replace a valid will.

Myth: I do not own enough to need a will.

Fact: A will can provide guidance, nominate a Personal Representative, address personal belongings, and nominate a guardian for minor children—not merely distribute high-value property.

Questions Families Often Ask

Do I need a will if I do not own a home?

A will may still provide direction about probate property, personal belongings, and who should administer your estate.

Can my spouse and I create one shared will?

No. Each spouse should have an individual will.

Does my will control everything I own?

No. Some assets pass outside probate through ownership arrangements, trusts, or beneficiary designations.

Can I provide for someone who is not a relative?

A valid will may be used to make gifts to friends, partners, charities, and others who are important to you.

Your Will Planning Checklist

- [ ] I know whether I have a valid, current will.
- [ ] I have considered whom I would like to nominate as Personal Representative and successor.
- [ ] I have considered whom I would like to receive my probate property.
- [ ] I have considered whether I should nominate a guardian for minor children.
- [ ] I understand that some assets pass outside a will.
- [ ] I have reviewed beneficiary designations and account ownership.
- [ ] I have told a trusted person where my original will can be found.
- [ ] I know when to seek advice from a qualified estate planning attorney.

Keep Your Plan Current

Creating a will is an important first step, but it should not be the last.

Review your will and related planning documents whenever your family or personal circumstances change.

Consider a review after:

- Marriage or divorce.
- The birth or adoption of a child or grandchild.
- The death of a spouse, beneficiary, or person named in your documents.
- A significant change in your health or the health of a loved one.
- A move to another state.
- A substantial change in your financial circumstances.
- A change in family relationships or in the people you trust to carry out your wishes.

Even if nothing major has changed, consider reviewing your estate plan periodically with a qualified professional. Laws, assets, beneficiary designations, and personal wishes can change over time.

Where Should the Original Will Be Kept?

Keep the original in a secure place protected from loss, fire, or water, and make sure a trusted person knows where it can be found.

The Talbot County Register of Wills accepts original wills for safekeeping during a person's lifetime. The document remains confidential while the person is living. Contact the Talbot County Register of Wills for current procedures and fees.

Next Steps

Creating or reviewing a will is one step toward protecting the people you love.

Begin by locating your current documents, reviewing your beneficiary designations, and listing the questions you want to discuss with a qualified Maryland estate planning attorney.

Resource Page

Maryland Register of Wills – Facts About Wills

Website: registers.maryland.gov/main/wills.html

Official information about valid wills, intestate succession, probate property, and filing a will for safekeeping.

Talbot County Register of Wills

Website: registers.maryland.gov/main/talbot.html

Local office information, hours, address, and telephone numbers for Talbot County residents.

Maryland Courts – Wills & Estates

Website: mdcourts.gov/legalhelp/willsestates

Plain-language information about wills, opening an estate, probate, and estate administration.

Maryland Courts – Orphans' Court

Website: mdcourts.gov/orphanscourt

Information about Maryland's Orphans' Courts, probate responsibilities, and frequently asked questions.

Maryland State Bar Association – For the Public

Website: msba.org/for-the-public

Public information about finding legal help and lawyer-referral resources.

When Professional Advice May Be Helpful

Consider consulting a qualified Maryland estate planning or elder law attorney if your circumstances involve a blended family, minor children, an unmarried partner, a registered domestic partnership, a family member with a disability, property in another state, a business, trusts, tax concerns, or possible family disagreement.

This guide provides general educational information and is not a substitute for advice about your individual circumstances.

REMEMBER

A will is more than a legal document. It is a way to provide direction, reduce uncertainty, and care for the people you love.

You do not have to complete every decision at once. Taking one thoughtful step today can make a difficult time easier for your family tomorrow.

How to Become Better Prepared

Explore the Complete Family Guide Library

The Family Guide Series provides practical, easy-to-use guidance to help Maryland families prepare, stay organized, and make informed decisions before information is urgently needed.

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Educational Disclaimer

This guide is provided for educational purposes only and should not be considered legal, financial, medical, or tax advice. Maryland law may change, and every family's circumstances are unique. Please consult an appropriate qualified professional regarding your specific situation.