Probate Without a Will

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Overview

Guiding Families When There Is No Will

The death of a family member is difficult enough. When someone has died without a will in Massachusetts, the confusion compounds quickly. Who inherits the house? Who has the authority to access bank accounts? Can a surviving spouse make decisions immediately, or does everything require court approval? Massachusetts intestacy statutes answer these questions, but the answers frequently surprise families. The statutory distribution scheme does not account for promises made during a lifetime, informal family arrangements, or relationships that the law does not recognize. Domestic partners, stepchildren, and close friends inherit nothing under intestate succession, regardless of how close the relationship was. The estate is not permanently frozen, but no one has legal authority to act until the Probate and Family Court appoints an administrator. That appointment process has its own requirements, and delays in petitioning only extend the period during which bills go unpaid, property sits unmanaged, and family members cannot access accounts.

How We Help Families Navigate Intestate Succession

As an intestate probate attorney in Massachusetts and Rhode Island, Cohen Cleary represents families through every phase of intestate probate, from the initial petition for administration through final asset distribution. Our role begins with determining who has priority to serve as administrator under M.G.L. c. 190B. Massachusetts law establishes a statutory preference order for administrator appointments, and that order does not always align with family expectations. A surviving spouse generally has first priority, followed by other heirs, but contested appointments are common when families disagree about who should manage the estate.

We handle the full scope of intestate administration:

- Petitioning the Probate and Family Court for appointment and letters of administration
- Posting the administrator's surety bond required under Massachusetts law
- Conducting heir determination proceedings when the family tree is unclear or disputed
- Inventorying estate assets and providing court-required accountings
- Resolving creditor claims and managing estate debts in the correct statutory priority
- Distributing assets according to the intestate succession framework

We tell our clients that the administrator role carries real legal exposure. Distributing assets before creditor claims are resolved, or distributing in the wrong proportions, creates personal liability that no family member should face without counsel.

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Why Choose Cohen Cleary

At Cohen Cleary, our practice teams combine deep subject-matter experience with disciplined execution and responsive client service. We do not take a one-size-fits-all approach. Every matter is handled with careful preparation, clear communication, and a strategy tailored to the client's goals and the realities of the forum.

Clients choose Cohen Cleary because we deliver:

Practice-Focused Legal Experience

Our attorneys work in defined practice areas, allowing us to develop practical insight into the legal, procedural, and regulatory nuances that matter most in each case. This focus allows us to anticipate issues, avoid unnecessary delays, and position matters for efficient resolution.

Clear Guidance and Proactive Communication

We prioritize clarity at every stage. Clients receive straightforward explanations of their options, timely updates on developments, and practical advice grounded in real-world outcomes.

Strategic Advocacy with Trial Readiness

Whether a matter calls for negotiation, mediation, or litigation, our attorneys prepare every case with discipline and foresight. We pursue efficient resolution when possible and are fully prepared to advocate aggressively when necessary to protect our clients' interests.

Regional Knowledge and Local Presence

With offices throughout Massachusetts and experience across New England courts and agencies, we bring local insight and regional reach to every matter.

Client-Centered Service

We treat every matter with urgency and respect. Our clients rely on us for responsive service, sound judgment, and steady counsel through complex legal challenges.

In our Probate practice, this approach helps clients navigate intestate estate administration with clarity, efficiency, and confidence.

Our Approach to Heir Determination and Estate Distribution

Every intestate estate presents its own complications. An estate with a surviving spouse and children from a prior relationship triggers a different statutory split than one where a single parent leaves adult children. Massachusetts intestacy law under M.G.L. c. 190B, §§ 2-102 and 2-103 creates specific distribution tiers, and the administrator must apply them precisely. Our attorneys map the family structure to the statutory framework early in the process, identify potential disputes before they escalate, and build an administration timeline that accounts for creditor notice periods, tax obligations, and court filing requirements.

Intestate Probate Across Massachusetts, Rhode Island, and New England

Cohen Cleary handles intestate probate matters in Massachusetts and Rhode Island Probate

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Courts, including Bristol County, Plymouth County, and Norfolk County, where our Taunton and Plymouth offices handle intestate probate filings and serve Norfolk County and the greater Boston area. Our intestacy lawyers regularly appear in Rhode Island Probate Court as well, where intestate administration follows a distinct procedural framework. Across New England, we bring the jurisdictional fluency that allows us to manage multi-state estates efficiently when a decedent owned property or held accounts in more than one state.

Contact a Massachusetts Intestate Probate Attorney

If a family member has died without a will, the decisions you make in the first weeks of administration set the course for the entire estate. Contact Cohen Cleary to speak with a no-will probate lawyer and an estate administrator attorney who can clarify your rights, explain the process, and help you avoid the missteps that create personal liability.

Frequently Asked Questions About Dying Without a Will

Who inherits when there is no will in Massachusetts?

Massachusetts intestate succession law (M.G.L. c. 190B, Article II) establishes a priority framework based on family relationships. If the deceased had a spouse and all children are also children of that spouse, the surviving spouse typically inherits the entire estate. When children from other relationships exist, the surviving spouse receives the first $100,000 plus half the remaining estate, with the balance divided among descendants. If there is no surviving spouse, children inherit equally. If there are no children, the estate passes to parents, then siblings, then more distant relatives in a defined statutory order. Understanding who inherits with no will requires careful application of these statutory tiers to the specific family structure.

Who can serve as administrator of an intestate estate?

Massachusetts law grants priority for administrator appointment to the surviving spouse, then to other heirs. The Probate and Family Court must approve the appointment, and the administrator is generally required to post a surety bond unless all interested parties consent to waive it. When multiple family members seek an appointment, the court will evaluate who is best positioned to serve.

How long does intestate probate take in Massachusetts?

Most intestate estates require twelve to eighteen months for complete administration, though contested matters or estates with complex assets can extend longer. The creditor notice period alone requires a minimum waiting period before distributions can safely begin. Estates involving real property, business interests, or disputed heir determinations often require additional court proceedings that extend the timeline.

What happens if family members disagree about the estate?

Disagreements are common in intestate estates because the deceased left no written instructions. Conflicts frequently arise over administrator selection, asset valuation, the validity of claimed debts, and whether certain property was jointly owned or belonged solely to the deceased. These disputes can be resolved through negotiation, mediation, or, when necessary, contested proceedings before the Probate and Family Court. Many of these conflicts could have been avoided entirely through even basic estate planning. A simple will gives a decedent control

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over who inherits and who administers the estate, replacing statutory defaults with deliberate choices.

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