

Dying without a will in California means you die **intestate**. That single word triggers a set of default inheritance rules written by the state, not by you. For families, the practical effect is rarely abstract. It affects who inherits the house, who has authority to deal with banks and title companies, whether a probate case is necessary, how long the process takes, and, in some households, whether relationships unravel under pressure.

People often assume intestacy works like a rough draft of what most people would have wanted anyway. Sometimes it does. Often it does not. California's rules are mechanical. They do not account for a long term unmarried partner, a stepchild you raised from age three, a sibling with special needs, or the son who already received substantial lifetime support while the daughter did not. The law can only sort heirs by legal category.

That is why the question, *what happens if I die without a will in California?*, is really a question about control. If you do not leave instructions, California supplies them for you.

## **The state decides who inherits**

California intestate succession laws determine who receives your property if you die without a valid will. The answer depends first on whether an asset was legally yours alone and second on your family structure at death.

Not everything passes through intestate succession. Assets with a named beneficiary, such as many life insurance policies and retirement accounts, usually pass directly to that beneficiary. Property held in a living trust passes according to the trust terms. Jointly owned property may pass automatically to the surviving joint owner, depending on how title was held. The intestacy rules mainly govern assets that are in your individual name with no beneficiary designation and no probate avoidance structure in place.

For married people in California, the analysis gets more layered because California is a community property state. Community property generally belongs equally to both spouses. Separate property usually includes assets owned before marriage, [thomasmckenzielaw.com](https://thomasmckenzielaw.com) [Orange County Estate Planning Attorney](#) gifts, inheritances, and certain individually maintained property. In real life, however, titles, refinances, commingled accounts, and decades of household finances can blur those lines. I have seen families assume a house was clearly separate property because one spouse bought it before marriage, only to discover later that refinancing and title changes complicated everything.

If you leave a surviving spouse, California law often gives that spouse all of the community property and a share or all of the separate property, depending on whether you also leave children, parents, siblings, or other close relatives. If you are unmarried and have children, your children usually inherit. If you have no spouse and no descendants, the law looks upward and sideways through parents, siblings, nieces, nephews, and more remote kin.

The important point is this: intestacy does not ask who was closest to you emotionally. It asks who fits the legal family tree.

## **A simple example, and why it often stops being simple**

A straightforward case might look easy on paper. Suppose a married Orange County resident dies owning a bank account in his sole name and some separate property investments. He leaves a wife and one child. The wife generally receives all community property and one half of his separate property. The child receives the other half of the separate property.

That sounds manageable until you add ordinary life facts. What if the child is from a prior relationship and is estranged from the surviving spouse? What if the family home was refinanced three times? What if the decedent

verbally promised the separate property account to a sibling who helped care for him? What if one account had a payable on death beneficiary and another did not? Those are the kinds of details that turn a “simple” probate into months of friction.

This is one reason people ask, *does a will avoid probate in California?* The answer is no, not by itself. A will directs who should receive probate assets, but those assets may still need to go through the probate court process. If your goal is to avoid probate in California, a revocable living trust is often the more effective tool, provided it is properly funded.

## Who gets what under California intestate succession

The broad inheritance pattern in California usually works like this:

- A surviving spouse or registered domestic partner has strong inheritance rights, especially as to community property.
- Children inherit if there is no surviving spouse, or they share in separate property if there is a spouse.
- If there is no spouse or child, parents may inherit.
- If there are no parents, siblings and then more remote relatives may inherit.
- Unmarried partners, close friends, stepchildren who were never legally adopted, and charities do not inherit under intestacy.

That last point surprises people more than almost anything else. A person can spend twenty years with a partner, buy furniture together, raise children in the same home, and still leave that partner with no inheritance rights under intestacy if the couple was not legally married or in a registered domestic partnership. The same problem appears with blended families. A stepchild may feel like your child in every meaningful sense, but if you never adopted that child and never created an estate plan, California intestacy law may leave them out entirely.

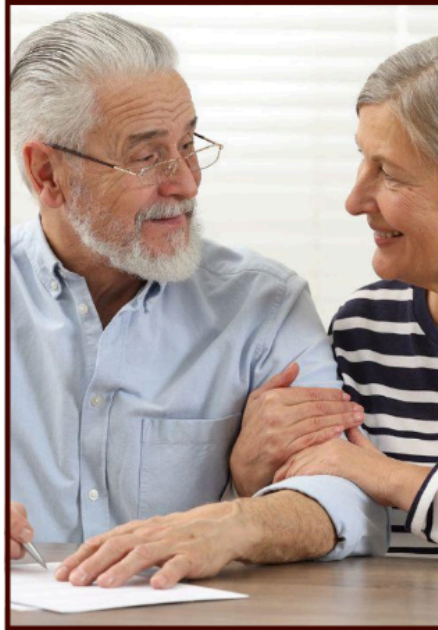
## Probate is often part of the story

When someone dies without a will, family members usually need to determine whether a probate filing is required. Probate is the court supervised process for transferring certain assets, paying debts, and appointing a personal representative. When there is no will, the court appoints an **administrator** instead of an executor.

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This is where practical questions quickly pile up. *How much does probate cost in Orange County?* It depends on the estate value, the complexity of the case, and whether disputes arise, but statutory attorney and personal representative fees in California can be substantial because they are based on the gross value of the probate estate, not net equity. A modest home in Orange County can push those fees higher than many families expect, especially if the property has appreciated over time.

That sticker shock is often what leads people to ask, *is it worth hiring a lawyer for estate planning in California?* In many cases, yes. A carefully prepared estate plan, especially one centered on a properly funded living trust, can save a family far more in probate costs, delay, and stress than the upfront legal fee.

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Probate also takes time. Even efficient, uncontested cases commonly run many months. If there are title issues, creditor claims, tax questions, or family conflict, it can take much longer. That delay matters when a surviving spouse needs access to funds, when children need clarity, or when a vacant house is sitting in limbo.

## Minor children create a different level of risk

If you have minor children and die without a will, you have not nominated a guardian in a formal legal document. That does not mean the court has no options, but it does mean you lost the chance to make your wishes clear in the cleanest and strongest way.

People sometimes ask, *how do I choose a guardian for my children in my estate plan?* The answer is deeply personal, but the legal point is simple. If you do not choose, the court may have to. Judges do their best, but they are deciding based on petitions, family testimony, and available evidence after a crisis has already happened.

I have seen families where two sets of [Orange County Estate Planning Attorney](#) grandparents both believed they were the obvious choice. No one had bad motives. Everyone loved the children. But once the question landed in court, old resentments surfaced and temporary arrangements became emotionally charged. A simple nomination in a will or comprehensive estate plan would not have solved every feeling in the room, but it would have provided a clear expression of parental intent.

## A will is useful, but it is not the whole plan

A lot of Californians ask some version of, *will vs trust in California, which do I need?* That is the right question, but it helps to start with what each document does.

A will names beneficiaries, nominates guardians for minor children, and identifies the person you want to serve as executor. It only controls assets that pass through probate. A revocable living trust can hold title to assets during your lifetime and direct how those assets pass after death, often without full probate. It also helps manage incapacity in a way a will cannot, because a will speaks at death, not during life.

*So, do I need a trust if I have a will in California?* Many homeowners do, especially in high value counties like Orange County where even a single residence may exceed probate thresholds. *Do I need a trust if I own a home in Orange County?* In many cases, it is worth serious consideration for that reason alone.

That does not mean every person needs the same plan. A young adult with minimal assets may need a simple will, powers of attorney, and healthcare directives more than a full trust package. A married couple with a home, children, and retirement accounts usually benefits from more structure. A business owner or a family with a child with disabilities may need a more customized plan.

## Why a DIY approach often breaks down

People understandably wonder, *can I do estate planning myself or do I need an attorney?* For very simple situations, some people use self help forms. The risk is not just drafting quality. It is usually diagnosis. Most legal problems in estate planning happen because people do not know which questions matter until it is too late.

For example, a person may create a trust online but never transfer the house into the trust. That leads directly to another common question: *what is funding a trust and do I have to do it?* Funding a trust means retitling assets so the trust actually owns them. Yes, you generally have to do it, or the trust may not control the very assets it was created to manage.

I have also seen homemade wills fail because they were not properly executed, beneficiary designations were never updated after divorce, or parents assumed a trust would automatically protect an 18 year old inheriting a large sum. Estate planning is not just paperwork. It is coordination among title, family circumstances, tax exposure, incapacity planning, and probate avoidance.

That is where people start asking, *what does an estate planning attorney do?* A good attorney does far more than draft documents. They identify risks, explain trade offs, help choose between a will and trust, coordinate asset ownership, and make sure the plan actually works in the real world.

## The difference between estate planning and probate work

There is frequent confusion around this point, especially after a death. *What is the difference between an estate planning attorney and a probate attorney?* Estate planning is proactive. Probate is reactive. An estate planning attorney helps you create documents and structures while you are alive. A probate attorney helps your family navigate court after death, whether or not you left a will.

Some lawyers handle both. Some focus more heavily on one side. If you are trying to prevent the burden your family just experienced in a relative's probate case, you are usually looking for planning counsel, not just someone who can administer an estate after the fact.

That leads to another practical concern for local families: *do I need an estate planning attorney in Orange County?* If you live in California and own meaningful assets, have children, are in a blended family, or own real estate, professional guidance is often well worth it. Orange County real estate values alone push many families into a range where probate avoidance planning makes economic sense.

# What a California estate plan usually includes

People often focus on wills and trusts, but a complete plan is broader. *What documents are included in a California estate plan?* The answer depends on the household, but these are the core pieces most adults should discuss:

- A will or revocable living trust
- A durable financial power of attorney
- An advance healthcare directive
- Trust funding documents, if a trust is used
- Beneficiary designation review and related asset coordination

Without these documents, incapacity can create nearly as much trouble as death. A strong plan addresses both.

## Costs, and why cheap planning can become expensive later

Many clients hesitate because they want to know, *how much does an estate planning attorney cost in Orange County?* Fees vary widely based on experience, complexity, and the scope of the plan. Some lawyers charge flat fees for standard planning packages. Others use hourly billing for complex work. So if you are asking, *do estate planning attorneys charge flat fees or hourly?* the real answer is both, depending on the matter.

People also ask, *how much does a will cost in California?* and *how much does a living trust cost in California?* A simple will is usually less expensive than a trust based plan. But the better comparison is not document price alone. It is cost now versus cost and hassle later. A basic will may be appropriate for some people, but if it leaves a family facing a full probate on an Orange County home, the lower upfront fee may prove to be a false economy.

## Choosing the right lawyer matters

If you decide you want help, the next challenge is fit. *How do I choose an estate planning attorney in Orange County?* Start with experience in California specific planning, not just generic document drafting. Local familiarity matters because probate procedures, real estate values, and common family planning issues are not the same in every market.

People also ask, *how do I find a certified estate planning specialist near me?* In California, certification can be a meaningful credential because it reflects demonstrated experience and testing in a specialty area. It is not the only sign of competence, but it is worth considering.

And before hiring anyone, ask direct questions. *What questions should I ask an estate planning attorney?* Ask how they handle trust funding, whether they review beneficiary designations, how they tailor plans for blended families or minor children, what happens after signing, and how often they recommend updates. If the answers are vague, that is useful information.

## Trusts, revocability, and common misunderstandings

Another point that gets muddled online is the difference between trust types. *What is the difference between a revocable and irrevocable trust?* A revocable trust can typically be changed or revoked during your lifetime while you have capacity. It is often used for probate avoidance and incapacity planning. An irrevocable trust is harder or impossible to change once created and is often used for asset protection, tax planning, special needs planning, or gifting strategies.

Most ordinary California families asking how to avoid probate in California are talking about revocable living trusts, not irrevocable trusts. Still, even the best revocable trust is ineffective if it is never funded. That is why *how do I set up a living trust in California?* is only half the question. The other half is making sure the home deed, financial accounts, and related assets are properly aligned with the trust.

## **Timing, updates, and the people who delay too long**

A surprising number of people put off planning because they assume it is a long, drawn out process. *How long does estate planning take in Orange County?* For a routine plan, the legal drafting portion may move quickly once the lawyer has the right information. The more variable part is client follow through, especially on funding and updates.

Estate plans also need maintenance. *How often should I update my estate plan?* A good rule of thumb is to review it after major life changes such as marriage, divorce, a birth, a death, a move, a significant asset increase, a business change, or changes in beneficiary relationships. Even without a major event, a review every few years is sensible.

People often ask, *who needs estate planning in California?* The practical answer is almost every adult, though the complexity differs. If you own real estate, have children, have a blended family, care for an aging parent, or simply want someone you trust making medical and financial decisions if you cannot, you need a plan.

## **The hardest part of intestacy is often what it cannot see**

California's intestacy statutes are not cruel. They are simply limited. They cannot see a grandchild you are quietly helping through college. They cannot weigh the needs of a beneficiary struggling with addiction. They cannot create staggered distributions for a young adult who should not receive a lump sum at 18. They cannot preserve privacy the way a trust often can. And they cannot tell your family who you trusted to step in during incapacity.

That is why the question, *at what asset level do I need a trust in California?*, has no single dollar answer. Asset value matters, especially with real estate, but family structure matters just as much. A modest estate with minor children and a blended family may need careful planning more urgently than a larger but simpler estate.

If you die without a will in California, the state provides a legal map. Sometimes that map gets property from point A to point B without much trouble. In many families, though, it leaves out the roads people actually travel. The cost is not just financial. It is measured in delay, uncertainty, avoidable court involvement, and loved ones trying to reconstruct your wishes after you are gone.

A clear estate plan does not require extravagance. It requires intention. And in California, that intention is often the difference between a manageable transition and a probate file that grows heavier with every passing month.

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