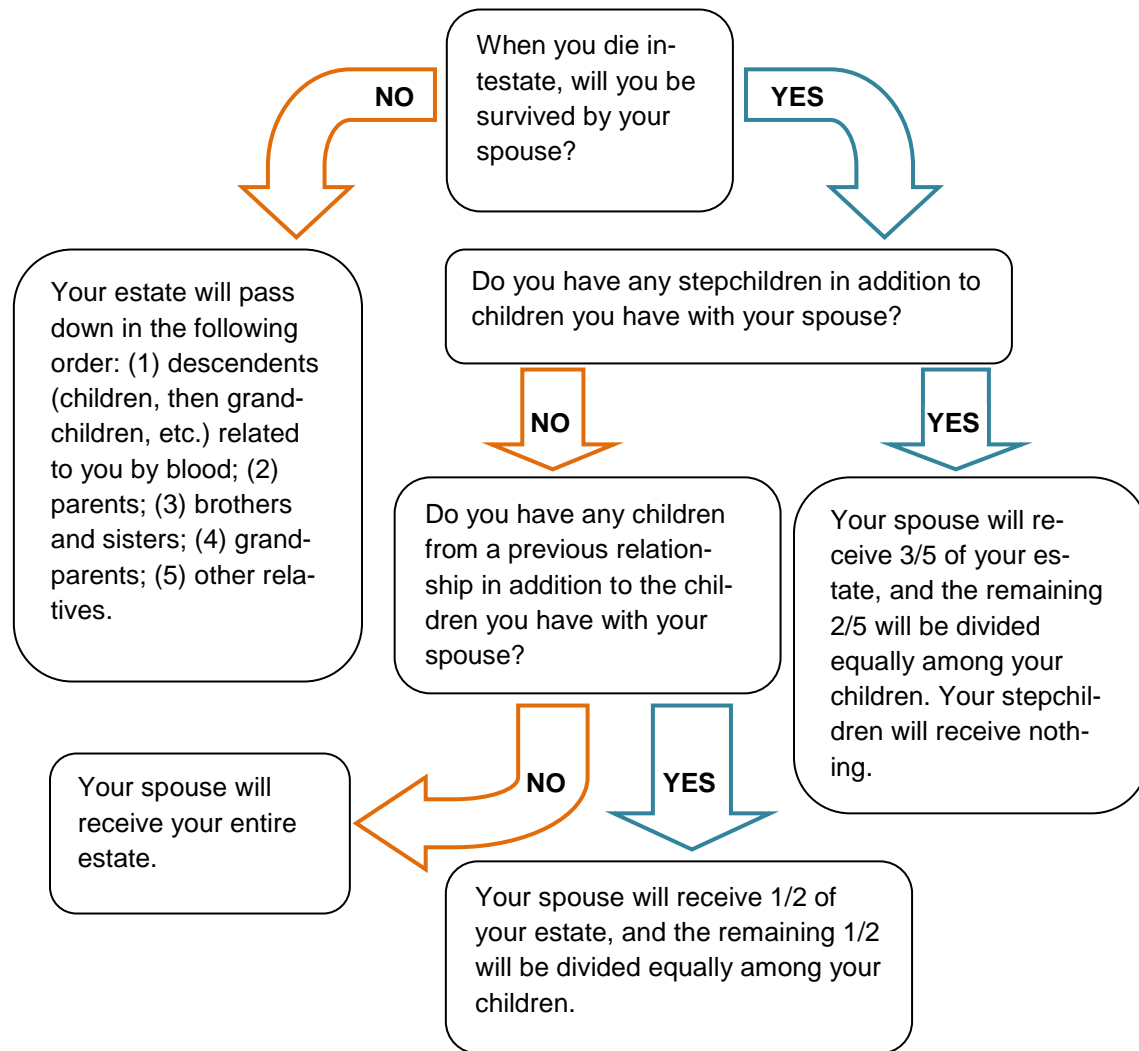


## INTESTATE SUCCESSION FLOW CHART



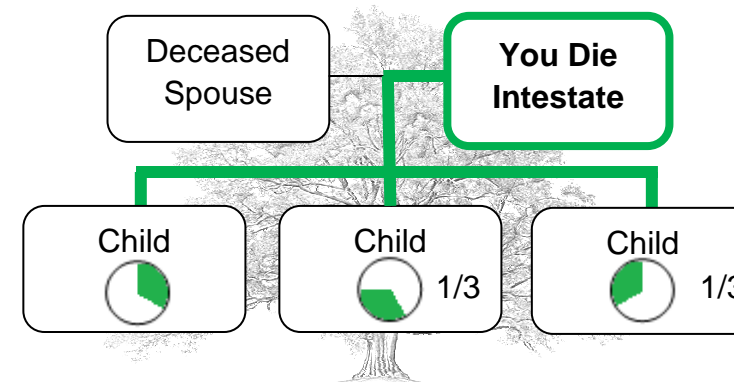
## WHAT WILL HAPPEN TO MY ESTATE IF I DIE WITHOUT A WILL?

**MYTH:** The government will seize all of my estate (my land and personal property) if I die intestate (without a will).

**FACT:** If you die intestate, West Virginia statutory law ensures that your estate passes to your spouse and/or other relatives. The law determines who the recipients of your property are, and the amount the recipients receive depends on whether you are survived by a spouse, and if you have a spouse, the relation of any children you may have to your spouse.

### IF YOU ARE NOT SURVIVED BY A SPOUSE. . .

If you die intestate and are not survived by a spouse, your estate will pass down in the following order: (1) descendants (children, then grandchildren, etc.) related to you by blood; (2) parents; (3) brothers and sisters; (4) grandparents; (5) other relatives.



For example, if your spouse is deceased when you die intestate, but you are survived by children, each child will receive an equal share of your estate.



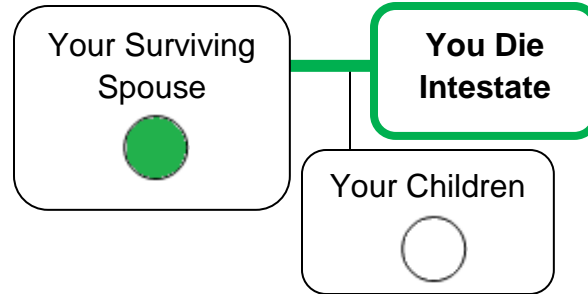
West Virginia Senior Legal Aid, Inc. phone: 1-800-229-5068  
235 High Street #519 fax: 1-304-296-2746  
Morgantown, WV 26505 email: seniorlegalaids@yahoo.com



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## **IF YOU ARE SURVIVED BY A SPOUSE. . .**

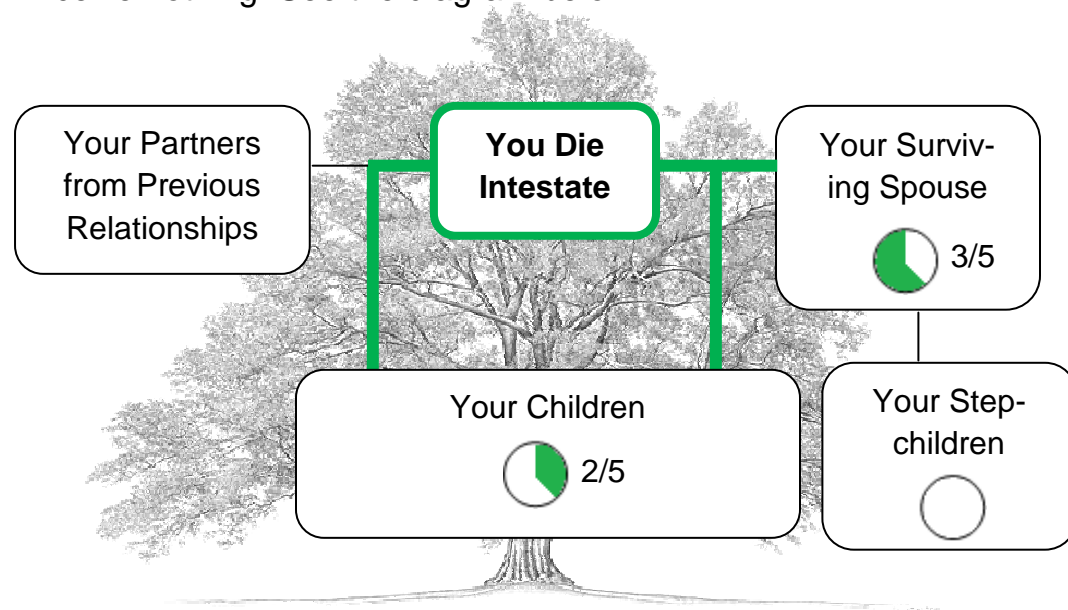
If you die intestate with a surviving spouse, in most circumstances, your surviving spouse will receive your entire estate.



**HOWEVER**, if either you or your spouse has children from another relationship *and* you and your spouse have children, your spouse will receive less than the entire estate.

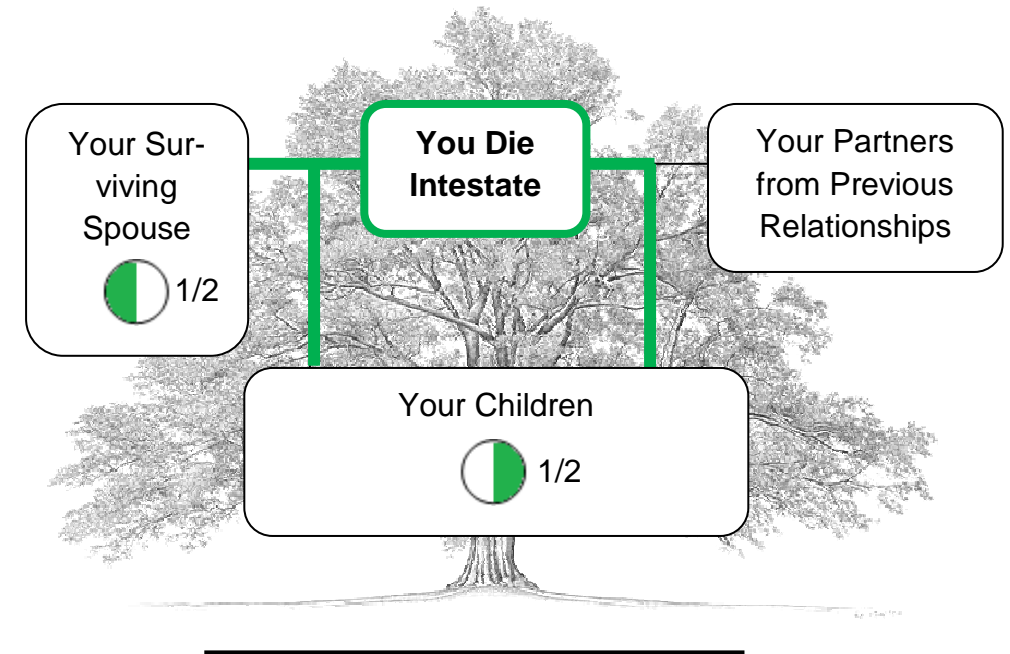
### **❖ If you have children *and* stepchildren. . .**

When the surviving spouse has children from another relationship in addition to the children your spouse has with you, if you die intestate, your surviving spouse will receive 3/5 of your estate. The remaining 2/5 is divided equally among your children. Note that stepchildren receive nothing. See the diagram below.



### **❖ If you have children from your current marriage *and* from a previous relationship. . .**

When you have children from a previous relationship in addition to the children you have with your spouse, if you die intestate, your spouse will receive 1/2 of your estate. The remaining 1/2 will be divided equally among your children. See the diagram below.



If you do not yet have a will and are unsatisfied with how your estate will be distributed if you die intestate, you are strongly encouraged to consult an attorney about making a will. Residents of West Virginia who are 60 years old or older may call West Virginia Senior Legal Aid, Inc. toll free at 1-800-229-5068 with questions about wills, intestacy, and other civil legal issues.

The law regarding intestate succession can be found in the West Virginia code. See W. VA. CODE § 42-1-1 et seq. (2010).