

Michigan Probate Guide

What You Need to Know About Probate and Dying Without a Will in Michigan

Prepared for Michigan Residents

Understanding Michigan Probate

What Is Probate in Michigan?

Probate is the legal process used to settle a person's estate after they die. In Michigan, this means proving whether the person had a valid will, identifying their property, paying any debts or taxes, and then distributing what's left to the rightful heirs or beneficiaries.

When Is Probate Required?

In Michigan, probate is generally required when:

- The person owned property in their name only (not jointly or in a trust),
- The estate's value is over \$25,000 (as of 2024) and does not qualify as a "small estate", and
- There are assets that don't automatically transfer (like through joint ownership, beneficiary designations, or a trust).

Key Steps in the Michigan Probate Process:

1. Filing a Petition: A request is filed with the probate court to open the estate.
2. Appointing a Personal Representative: The court appoints someone to be in charge-called the Personal Representative.
3. Inventorying Assets: The Personal Representative lists all the deceased person's property and its value.
4. Paying Debts and Taxes: The estate's money is used to pay off any debts, taxes, and administration costs.
5. Distributing Assets: Remaining assets are given to rightful heirs or those named in the will.
6. Closing the Estate: A final report is filed and the estate is closed.

Types of Probate in Michigan:

- Informal Probate: Simpler, fewer hearings, for uncontested estates.
- Formal Probate: More court involvement, used if there are disputes.

- Small Estate Affidavit: For very small estates-can often skip probate.
- Supervised Probate: The court oversees every step-used in complex or contentious cases.

Can Probate Be Avoided?

Yes, by planning ahead. Common probate-avoidance tools in Michigan include:

- Revocable living trusts
- Joint ownership with rights of survivorship
- Transfer-on-death (TOD) or payable-on-death (POD) designations
- Lady Bird deeds for real estate

What Happens If You Die Without a Will in Michigan?

Overview

If you die without a will in Michigan, you are said to have died "intestate." This means Michigan law decides who gets your property-not you. The probate court will follow Michigan's intestacy laws to distribute your estate.

Who Gets Your Property?

1. If you're married with no kids or parents living:
 - Your spouse gets everything.
2. If you're married with kids (only with your spouse):
 - Your spouse gets the first \$250,000, and the rest is split with your kids.
3. If you have kids from another relationship:
 - Your spouse gets the first \$150,000, and the rest is split with your kids.
4. If you're single with children:
 - Your children inherit everything equally.
5. If you have no spouse or children:
 - Your parents inherit. If none, your siblings do. If none, it goes to more distant relatives.

What About the Court Process?

The court will:

- Appoint a Personal Representative (executor)
- Pay off your debts and taxes
- Distribute remaining property according to state law

Important Notes

- The State of Michigan only gets your property if you have no living relatives at all.
- Without a will, you lose control over who inherits your property or who takes care of your children.