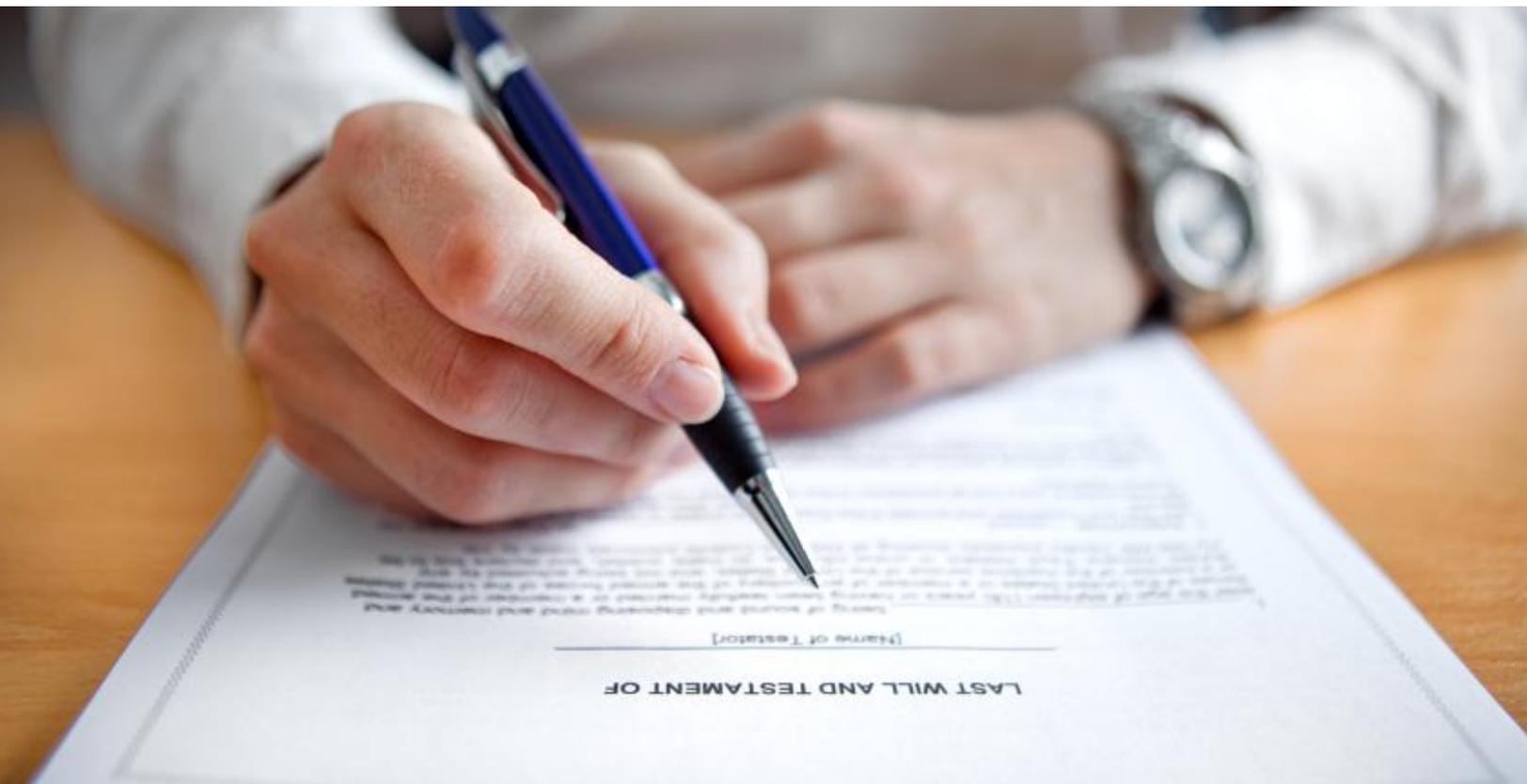


INTESTATE SUCCESSION IN ARKANSAS

*Understand What Happens to Your Estate
Should You Die Without a Will in Arkansas*



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If you die without a will, by law, your property will go to your closest living relatives. Each state has a set of laws that determine the priority of each relative. In Arkansas, your surviving children will divide your estate equally and the descendants of any of your children who died before you will divide their parents share. If there are no children, your surviving spouse will inherit, unless you were married for less than 3 years at the time of your death. In that case, your spouse will only receive half of the estate.

If you have no spouse or children, but your parents are still alive, they will share equally. Next, would be your siblings and any descendants of your siblings that died before you. The next in line would be grandparents, uncles and aunts, great-grandparents, etc. Only when there are no other surviving relatives, would your

estate go to the county. That is because the laws of intestate succession are intentionally designed to make sure your property goes to your relatives, regardless of how remote. So, unless you have no surviving family when you die, the county does not end up with your property.

NOT ALL PROPERTY IS INCLUDED IN INTESTATE SUCCESSION

Intestate succession does not apply to property that you owned jointly with someone else, because joint property is not considered a part of your estate. For instance, if you have a vehicle and both you and your daughter are named as owners on the title, the vehicle will only pass to your daughter when you die. Likewise,



retirement accounts, life insurance policies and other items that have specifically named beneficiaries are not included in intestate succession.

While Arkansas's Intestate Succession laws are pretty straightforward, there are certain requirements that must be met, depending on the situation. For example, a relative cannot inherit

unless they have outlived you by at least five days. A relative who was conceived before your death but not born until after your death, can inherit. In Arkansas, "half" siblings are treated the same as whole siblings.

HOW IS AN ESTATE PROBATED PURSUANT TO THE LAWS OF INTESTATE SUCCESSION?

The administration of your estate through the court system after your death is what is known as “probate.” If you have a will, your estate will be distributed as provided in the will, but it will still be subject to probate. If you do not have a will, or if your will only deals with a portion of your estate, those assets are distributed in compliance with the rules of intestate succession. The probate process involves paying your debts and transferring your assets to your heirs.

PERSONAL REPRESENTATIVE OF AN ESTATE

The court will first appoint someone to serve as the personal representative of your estate. That person will be given the authority to handle the affairs of your estate, after receiving a certified document, called “Letters of Administration” or “Letters Testamentary.” The personal representative must take an oath of office before being officially appointed. The first step your personal representative takes is initiating the probate process by filing a “Petition for Probate.”

NOTIFYING CREDITORS AND THE PUBLIC

Next, your personal representative will notify potential creditors of your death by publishing a death notice in the local newspaper. This will allow creditors who may claim an interest in



your estate to file a claim with the probate court. These claims must be filed within a certain time period specified by the probate court.

INVENTORYING YOUR PROPERTY

Your personal representative will also be required to conduct an inventory of your real and personal property, so that the value of your estate can be determined. This process also serves to ensure that all of your property is properly accounted for. If you do not have sufficient assets to pay all of your debts, as well as the distributions to your beneficiaries, then your estate may be subject to “abatement.” This means that your heirs may not receive anything at all.

DISTRIBUTING THE ESTATE

The final step in the probate process is distributing the assets in your estate. Creditors with valid claims will be paid first, along with estate administration costs, funeral expenses and taxes. Whatever remains in your estate is then distributed to your heirs, as determined by the intestate succession laws in Arkansas.

About the Author

Deborah K. Sexton



As the sole attorney in the Fayetteville law firm of Deborah Sexton Law Office, Deb oversees a practice devoted to providing clients with the best in estate planning.

Deborah Sexton, C.P.A., J.D., L.L.M., combines an extensive background in accounting with a wide range of legal experience to provide her clients with a uniquely practical perspective. An attorney since 1983, she now devotes her practice primarily to estate planning and elder law.

EXPERIENCE

After obtaining her undergraduate degree in accounting from Abilene Christian University in Abilene, Texas, she worked in Dallas in public accounting for several years, and then went to the University of Arkansas Law School in Fayetteville. Upon graduating from law school, she went on to obtain an L.L.M. degree in Taxation from New York University.

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