

"Your Estate Matters" Legal-ease

By Ronda M. Gabb, NP, JD, RFC



WHO'S
YOUR

Daddy?

In the last few months we have heard several stories of folks getting "punched in the gut" when they found out to whom their recently deceased loved one's assets were to go. I know I have done articles in the past on intestacy (dying without a valid Last Will and Testament) but want to dig a little deeper and share some of these stories.

When someone dies "intestate," the laws of the State of Louisiana will direct where your assets devolve. The "heirs" via intestacy will always be the people who are your closest relatives by blood, adoption, and only the surviving spouse by marriage. The "heirs" will never be friends, partners, charities, or stepchildren. There can never be any specific bequests, such as a specific dollar amount or any other particular asset (like a car or a home).

Now let's discuss who your "heirs" might be. If you are married and have no children, then all your assets that are "community property" (assets obtained during the marriage) will go to your surviving spouse. If you have children, then all your community

property assets will go equally to your children, subject to a usufruct in favor of your spouse (which will terminate upon the earlier of your spouse's death or remarriage). If your assets are "separate property" (assets acquired prior to marriage or during through gift or inheritance), the surviving spouse gets nothing (not even a usufruct) if you have children, siblings, parents, or nephews/nieces.

Taking the above further, maybe this article should really be called "Who's your daddy's OTHER children?," because, yes...HALF-siblings are still just that, siblings! These days it is more common than ever that one (or both) of our parents have more children from other marriages/relationships. (Don't even get me started on what the "23andMe" and other DNA companies bring to the "intestacy" table!) While a "full-blood" sibling (shares the same mother and father) will inherit a greater share from the decedent, a "half-blood" sibling (shares only one parent) inherits too, just a lesser amount. So if you have no children (and separate property) then ALL of your siblings, full-blood

and half-blood (and then to their children if they are deceased), will be your intestate heirs, subject to the usufruct of any surviving parents. If you have no siblings (or nephews/nieces), then full ownership vests in your parents; if none, then finally to your surviving spouse.

And one more intestacy "surprise"... if you have had (fathered or birthed) any children you have given up for adoption, they are unequivocally still your intestate heirs! This not only affects your assets (as the biological parent), but it can also affect your other children as this adopted child would be a legal "sibling" to them. Adoption severs the inheritance from the adopted child TO you, not FROM you.

If any of this is not what you want, you have no choice but to get a Last Will and Testament in place ASAP, because I've said it before: "Intestacy is Incontestable". Visit my website to read prior articles on these topics and many others (including how to write your own olographic will). Remember: **"People Don't Plan to Fail, They Simply Fail to Plan."**



See other articles and issues of interest!

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