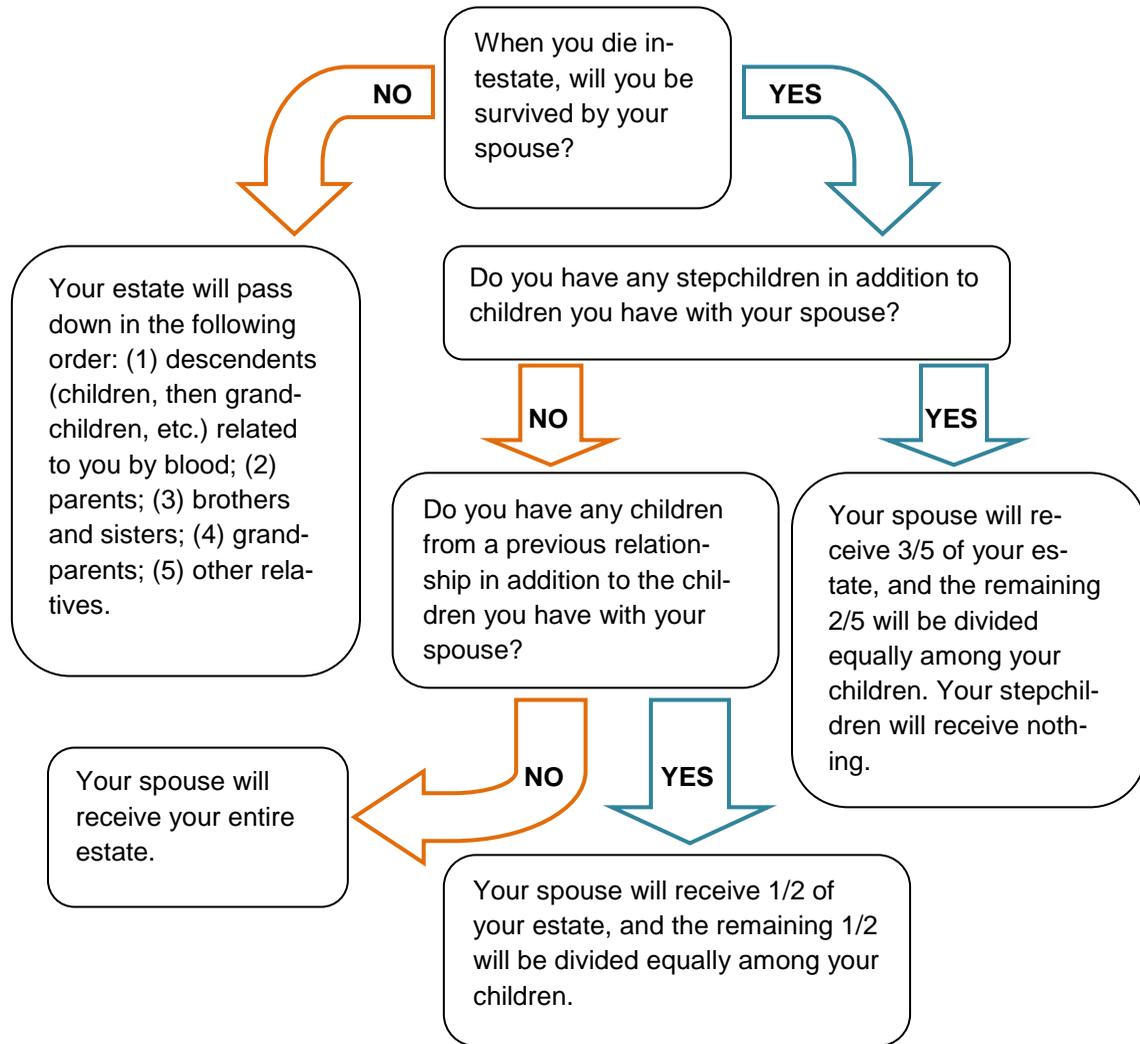


# INTESTATE SUCCESSION FLOW CHART



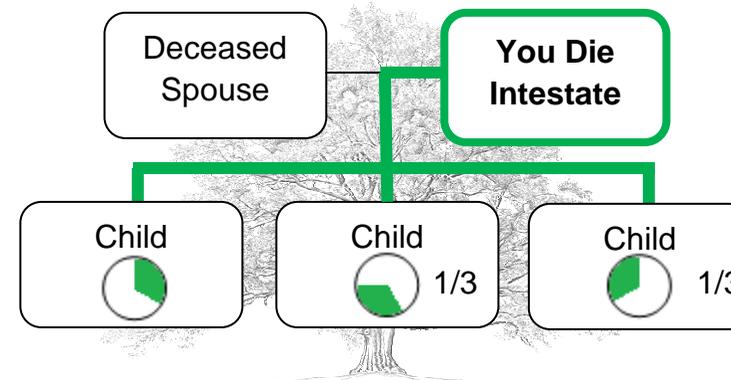
# WHAT WILL HAPPEN TO MY ESTATE IF I DIE WITHOUT A WILL?

**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.

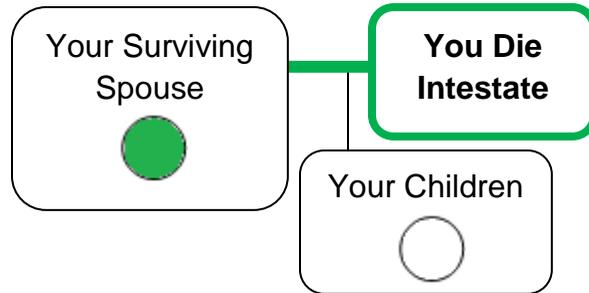


For example, if your spouse is deceased when you die intestate, but you are survived by children, each child will receive an equal share of your estate.



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

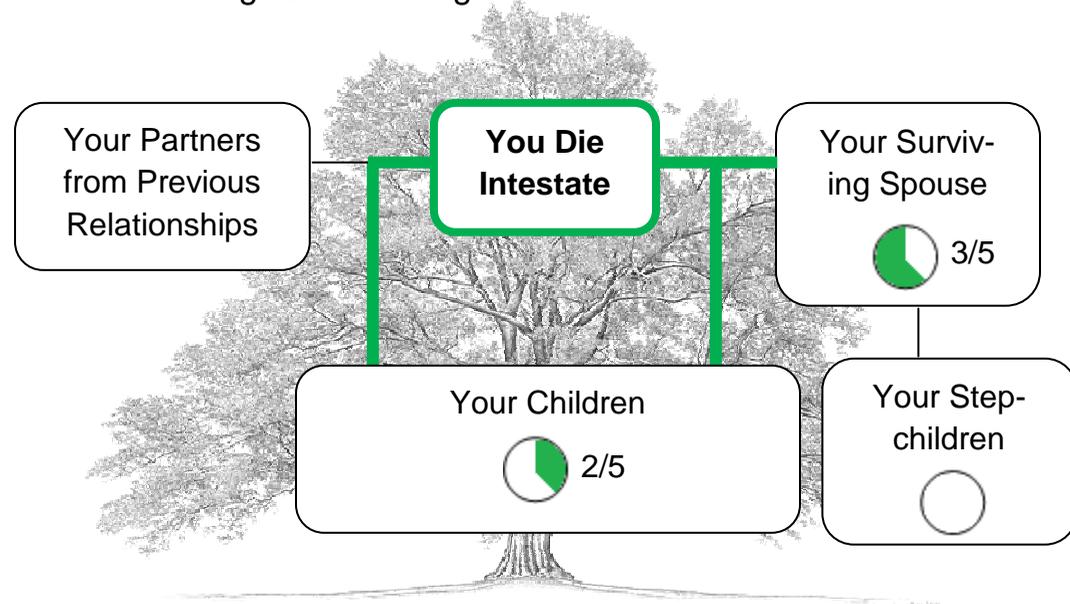
If you die intestate with a surviving spouse, in most circumstances, your surviving spouse will receive your entire estate.



**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.

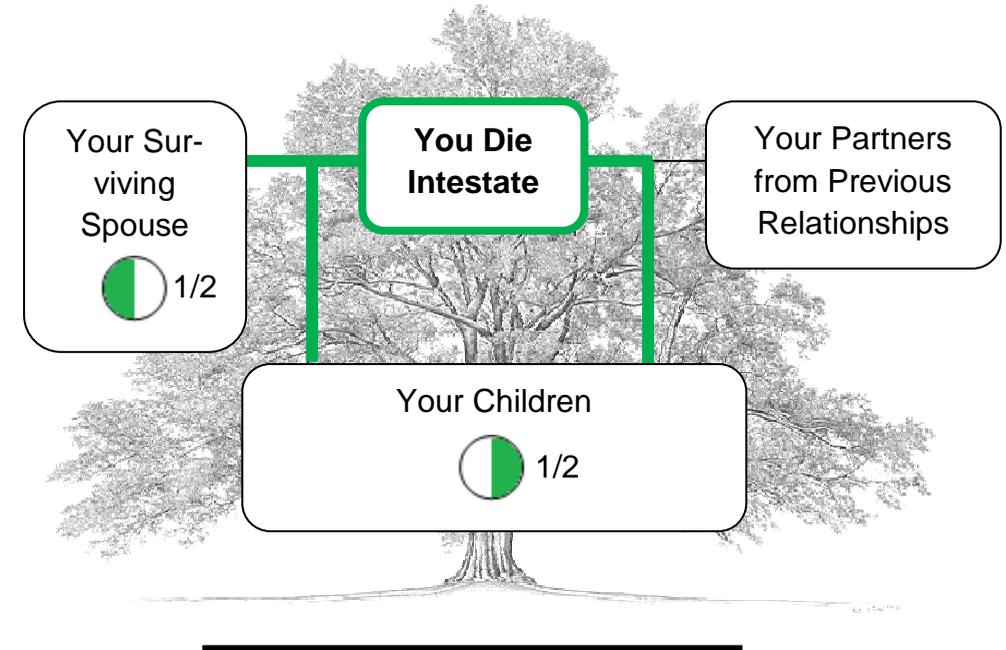
### ❖ **If you have children *and* stepchildren. . .**

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).