

Summary of State Wrongful Death and Intestacy Statutes

State	Wrongful Death Laws	Intestacy Laws	
	Economic Portion of the Presumed Award	Priority Under Intestate Laws	When there are Children of Different Generations (ie. grandchildren)
California	<p>Damages are distributed to the class of people described below, in proportion to pecuniary loss.</p> <p>(1) The surviving spouse, domestic partner, children and issue of deceased children, or if there are no surviving issue of the victim, persons who would be entitled to recover by intestate succession, including the surviving spouse.</p> <p>(2) Whether or not qualified above, the putative spouse,* children of the putative spouse, stepchildren or parents, as long as they were dependent on the victim for necessities -- such as shelter, clothing, food and medical treatment.</p> <p>(3) A minor, whether or not qualified above, if at the time of the victim's death, the minor resided for the previous 180 days in the victim's household and was dependent on the victim for ½ or more of the minor's support.</p> <p>Pecuniary loss is defined by the California Wrongful Death statute and cases defining that statute.</p> <p>See Cal. Civ. Proc. § 377.60 (2002).</p>	<p>Spouse automatically gets 1/2 of recovery to the estate, unless legally separated. The rest is divided as follows:</p> <ol style="list-style-type: none"> 1. Spouse and no children, parents, brothers, sisters or their descendants of a deceased brother or sister – spouse takes all. 2. Spouse and one child -- spouse takes 1/2 and the remainder goes to the child or the issue of a deceased child. 3. Spouse and two or more children – spouse takes 1/3 of the intestate, when the victim leaves more than one child, when the victim leaves one child and the issue of one or more deceased children, or if the victim leaves issue of two or more deceased children. The remaining portion goes to children of the victim equally, as long as they are in the same generation 4. Spouse and parents or brothers and sisters, but no children-- spouse takes half, the remaining portion goes to the victim's parents, and if there are no parents, to the children of the parents equally, as long as they are in the same generation. 5. Children and parents, no spouse – All shares go to children of the victim equally, as long as they are in the same generation. 6. Parents, no children or spouse -- victim's parents take all. If there are no parents, the children of the parents take equally, as long as they are in the same generation. <p>See Ca. Prob. Code §§ 6401, et. seq.</p>	<p>The estate is divided into as many shares as there are living members of the nearest generation of children, including deceased children in the same generation who left behind children. Each surviving heir in the nearest generation to the victim receives one share and the share of each deceased person in the same generation is divided among his or her descendants in the same manner.</p> <p>See Ca. Prob. Code §§ 6401, et. seq.</p>

* The “putative” spouse is the surviving spouse of a void marriage or voidable marriage who is found by the court to have believed in good faith that the marriage to the victim was valid.

This is a general summary. It is only meant to provide information to personal representatives regarding relevant state law in order to guide them in devising plans for distributions that are consistent with state law. It does not include distributions when none of the relatives set forth in these charts is alive. Calculation of the total award is determined by the Fund's regulations. This is not a substitute for state law, and to the extent state law varies with this chart, state law controls. For more information, an attorney familiar with state statutes and case law should be consulted.