

## Summary of State Wrongful Death and Intestacy Statutes

State	Wrongful Death	Intestacy	
	Economic Portion of the Presumed Award	Priority Under Intestate Laws	When there are Children of Different Generations (ie. grandchildren)
Virginia	<p>Damages are distributed to the class of people described below, in proportion to pecuniary loss.</p> <p>Pecuniary loss is defined by the Virginia Wrongful Death statute and cases interpreting the statute.</p> <p>Distributions are first made to the spouse and children (or to the descendants of children who died before the victim) based on pecuniary loss. If there is no spouse or children, the next class of beneficiaries are the parents, brothers and sisters of the victim. If the victim left behind a spouse and parents, but no children or grandchildren, the award is distributed to the parents and the spouse.</p> <p>Any other relative who was primarily dependent on the victim for support and was a member of the same household may recover.</p> <p>See Va. Code Ann. § 8.01-53 (Michie 2002).</p>	<ol style="list-style-type: none"> <li>1. A spouse and no children-- the whole to the spouse.</li> <li>2. Spouse and children – spouse takes all, unless the victim is survived by children who are not descendants of the surviving spouse. In those cases, 2/3 of the estate passes to the victim’s children and the remainder passes to the spouse. Children divide shares equally as long as they are in the same generation.</li> <li>3. Children, no spouse -- the victim’s children take all in equal shares as long as they are in the same generation.</li> <li>4. Parents, no spouse or children -- the surviving parents take all.</li> <li>5. No parents, children, or spouse – brothers and sisters and their descendants take all in equal shares if they are in the same generation.</li> </ol> <p>See Va. Code § 64.1-1 (Michie 2002).</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>

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.