

Who Gets What?

An outline of common estate distributions for domestic partners without a written estate plan

By *The Law Offices of Jeffrey G. Marsocci, PLLC*
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About the Author

Jeffrey G. Marsocci was born in Fort Worth, Texas but was raised in Lincoln, Rhode Island and graduated from Mount Saint Charles Academy High School. He graduated from Hofstra University with an undergraduate degree in Business, and two years later earned his law degree from the same school. He also earned a Certificate Degree in Non-Profit Management from Duke University in 2004, and has earned his Legal Master of Estate Preservation designation from the *Abts Institute for Estate Preservation*. Mr. Marsocci also serves as a member of the Legal Council for The Estate Plan, a nationally recognized estate preservation company headed by Henry Abts, trust guru and author of *The Living Trust*. He is also a founding member of The National Institute for Domestic Partner Estate Planning and participates in the approval and certification process for new attorneys and other advisors seeking membership. (www.NIDPestateplanning.com).

Jeff has been practicing law in his own firm in Raleigh since 1996, and his practice focuses on the areas of Wills, Trusts and Life & Estate Planning with a concentration in assisting domestic partners and other unmarried couples. He is also the founder and manager of Partners Practice Development Consulting, LLC, a consulting and publishing firm dedicated to helping domestic partners with their unique life and estate planning goals in North Carolina, and by assisting competent and experienced professionals do the same.

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Who Gets What for Domestic Partners?

Whenever someone passes on, their property has to go somewhere, and as the saying goes, “you can’t take it with you.” Many people assume that just because they have been with someone for years that they will automatically inherit their property and do not need to put their wishes in writing. Others assume that simply by telling someone else what they want done that somehow it will happen after they pass on. Neither is true. Still others assume that the state has provided an estate distribution plan that is in line with their wishes. The State of North Carolina has a distribution plan, but in many cases it is not what people want, and for domestic partners and other unmarried couples, the state’s plan can be devastating. In the following examples, property is divided among different classes of people depending on their familial relationship with the deceased person.

The information in this handout will outline some of the most common estate distribution situations for legally single individuals, whether or not they are in an otherwise committed relationship, when they pass on without a written estate plan. This information only applies to residents in the State of North Carolina. If you have specific questions about your situation, then please contact an attorney in your area for more information.

SITUATION ONE: *Committed domestic partners or other unmarried couple, no children or descendants, parent(s) alive, and one partner passes on.*

All real and personal property goes equally to the parents of the deceased partner. **The surviving partner gets nothing.**

SITUATION TWO: *Committed domestic partners or other unmarried couple, no children or descendants, no parent(s) alive, siblings are alive and one partner passes on.*

All real and personal property goes equally to any brothers or sisters (or if deceased among their descendants equally by representation). **The surviving partner gets nothing.**

SITUATION THREE: *Committed domestic partners or other unmarried couple, no children or descendants, no parent(s) alive, no siblings alive, but nieces and nephews are alive and one partner passes on.*

All real and personal property goes equally to any nieces and nephews (or if deceased among their descendants equally by representation). **The surviving partner gets nothing.**

SITUATION FOUR: *Committed domestic partners or other unmarried couple, no children or descendants, no parent(s) alive, no siblings alive, no nieces and nephews alive, but grandparents are alive and one partner passes on.*

All real and personal property goes equally to any grandparents (or if deceased among their descendants equally by representation). **The surviving partner gets nothing.**

SITUATION FIVE: *Committed domestic partners or other unmarried couple, no children or descendants, no parent(s) alive, no siblings alive, no nieces and nephews alive, no grandparents alive, no aunts and uncles alive, but there are cousins alive and one partner passes on.*

All real and personal property goes equally to the closest class of cousins alive (or if deceased among their descendants equally by representation). **The surviving partner gets nothing.**

With all of these examples, the main thing that committed domestic partners and unmarried couples should keep in mind is that they are not protected unless they take active steps to plan their estates. In addition to the inheritance rules listed above, partners should also keep in mind that the same people listed above are entitled to make medical decisions for a sick partner that can not make their own wishes known. It does not matter if the partners have been together for 30 years, it is still the closest legal relative that gets to make healthcare decisions if a partner becomes incapacitated.

The only way to be sure that your wishes regarding property distribution are handled is to put it in writing in legally binding, fully executed estate and life planning documents. For more information, or to schedule a free initial consultation to discuss your specific situation, then please contact The Law Offices of Jeffrey G. Marsocci, PLLC at (919) 844-7993.

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