



September 2008

The Uncontested Docket: When a Client Dies Without a Will

Counselors,

Welcome to Travis County Probate Court No. 1. As you know, representing a client who is handling the estate of a loved one is an important responsibility. The families who come through this Court are going through a difficult time. That is why the staff of this Court is committed to ensuring that the probate process is as smooth as possible. This guide is designed to help you understand how the uncontested docket works in Travis County when your client dies without a will (intestate). The first part is a brief overview of some administrative procedures that you might want to share with your staff. The remaining parts highlight some basic requirements of the Texas Probate Code (TPC) that pertain to the two most common probate proceedings for decedents who die without a will – determination of heirship and letters of administration – and show how you can avoid the most common mistakes made by lawyers. The final part addresses the options you have when a witness is unable to appear in court.

I hope you will find this guide useful, but it comes with two important caveats. First, the guide is not intended as a substitute for your legal expertise. For example, although the guide includes selected pleading tips for different probate proceedings, it does not address which proceeding is appropriate given your client's situation. Although the most common proceedings involving intestacy are addressed in this guide, other possibilities are not included (e.g., Small Estate Affidavits under TPC § 137, which could be the most cost-effective proceeding for an intestate decedent if the statutory requirements are met). Second, this guide is not a substitute for the Probate Code. Everything in this guide is consistent with the Probate Code, but this basic guide makes no pretense about being comprehensive.

Sincerely,

Guy Herman, Judge Presiding

I. Administrative

A. Document checklist. Every heirship proceeding requires the following documents:

- an application (combined with an application for administration, if applicable),
- service of citation on – or waiver from – all non-applicant heirs and any additional persons requiring notice under § 49 of the Probate Code,
- an affidavit of publication,
- a proof of death and other facts,
- two affidavits of facts concerning the identity of heirs to be signed after the hearing (one affidavit for each of two disinterested witnesses),
- a death certificate, and
- a judgment declaring heirs (combined with an order for administration, if applicable).

You may need to submit documents other than the above, depending on the circumstances. For example, if seeking administration, you also will always need an oath for each administrator plus the necessary consents from the heirs.

B. Attorney Ad Litem. In every determination of heirship, the Court will automatically appoint an attorney ad litem to represent the decedent's unknown heirs (and, if any, known heirs whose whereabouts are unknown and known heirs suffering legal disability). The applicant does not need to

specifically request the appointment of the attorney ad litem, but the applicant does need to provide the clerk's office with a copy of the application to be sent to the attorney ad litem. ***The attorney ad litem's presence is required at the hearing.*** See TPC § 53.

C. Hearing Schedule. Uncontested heirship proceedings are usually scheduled Tuesdays at 9:15 a.m. The Court prefers that all heirship hearings be heard within 60 days of filing the application or within 60 days of filing an application for administration, whichever is earlier, but ***please do not call to schedule an heirship hearing until the following have been taken care of:***

1. An ad litem has been appointed, and you have talked with the ad litem about the hearing date.
2. You already have arranged for notice by publication, and the return date will be before the hearing. See TPC § 50(b) and § 33(f)(3). See also "Notice" below.
3. You know that, before the hearing, you will have service on or waivers from **all** of the intestate heirs and others requiring notice. See "Notice" below.
4. You either have already turned in all necessary documents (including any deposition responses), **or** you know you will be able to do so before the deadline. See "Submission of Documents" below.

In addition, pick a date you know will work for everyone who needs to testify, including the disinterested witnesses and the ad litem. ***Once the hearing is set, make sure everyone receives sufficient notice.***

D. Updated: Submission of Documents. The Court needs to have access to all documents required for an uncontested-docket probate hearing no later than 10:00 a.m. on the Tuesday the week before the hearing, as specified in the *Guidelines for Uncontested Docket Paperwork*. **This deadline is especially important for heirship cases.** Compliance with this rule allows Court staff to review the file and contact the attorney should any deficiencies be present. Compliance with the rule also ensures that the attorneys are not embarrassed in front of their clients for lack of preparation.

TIP: **At the time you file the application,** submit to the Clerk's Office with your application all of the documents you have prepared at that time. Do not submit copies of these documents directly to the Court.

TIP: **For documents that are not ready when you file the application,** what you need to do with a document will depend on what the document is and when the hearing is scheduled. We wish we could tell you to deliver all other documents to the same location, regardless of what the documents are and regardless of when you file them, but the realities of paperflow at the Courthouse make that impossible.

Documents that are ready to be filed (e.g., publisher's affidavit, death certificate, notarized consents and waivers, appointments of resident agent). The Court does not want to risk losing an executed document that has not been filed and scanned. Therefore, please **file** in the Clerk's office all executed documents and other documents that are ready to be filed. What else you need to do with those documents – if anything – depends on when the hearing will be held:

1. *If a hearing will not occur for at least three full weeks,* filing the documents with the Clerk is all you need to do.
2. *If a hearing will be held within three weeks after you file a document, please **also mail or drop off a file-stamped copy to the Court – marked as a courtesy copy** – with a letter or Post-It note indicating the date and time of the hearing. **Adding the date and time of the scheduled hearing will allow the law clerk to keep track of documents submitted directly to the Court.***

Unexecuted documents (e.g., proposed orders or proofs to be signed after the hearing that weren't ready when you filed the application):

1. *If a hearing has been scheduled,* submit the documents **to the judge's chambers** before the paperwork deadline. When submitting documents to the Judge's chambers, **include the date and time of your scheduled hearing.**

2. *If a hearing has not been scheduled*, please hold unexecuted documents until you do have a hearing time. Unexecuted documents that come to the Court without a hearing date and time go into a “mystery file,” which makes it difficult to have them matched to the right file once a hearing is scheduled

If you miss the deadline for submitting documents, you should still get the missing documents to the judge’s chambers as soon as possible. Documents you’re submitting after the deadline should definitely be submitted directly to the Court, not to the Clerk’s Office. However, there is no guarantee that Court staff will be able to review the tardy documents before the hearing. **For heirships, the Court will postpone the hearing if an attorney fails to comply with the posted guidelines for uncontested docket paperwork, and it appears that there might be significant problems with the paperwork at the scheduled hearing or Court staff does not have time to review the tardy documents.**

II. Applications

A. Heirships & Administrations

1. **If an administration is needed**, the Court strongly prefers that an application for the determination of heirship also contain an application for administration, either independent or dependent. Under TPC § 145(g), a hearing for an independent administration cannot be held *before* an heirship hearing. If it is necessary to begin administration before a determination of heirship proceeding can be held, the only option given TPC § 145(g) is a dependent administration. In that case, the Court requires that the heirship proceeding take place no more than 60 days after the dependent administration is opened.
2. **If any heirs are minors**, the Court *will not* grant an independent administration. A dependent administration is the only option when minor heirs are involved and an administration is needed.
3. **If the decedent died more than four years before the application will be filed**, the applicant cannot request an administration (except in rare cases). See TPC §§ 48(b) & 74.
4. **For a determination of heirship plus administration**, file one application titled “Application for Determination of Heirship and Letters of [Independent, if applicable] Administration.” *The requirements for an application for letters of administration are found in TPC § 82. Combine the requirements in § 82 with the requirements for the heirship application in § 49(a).* If applicable in an independent administration, the application should also request that bond be waived.

Required consents:

If the applicant requests an independent administration, the consent of all the distributees is required. TPC § 145(e). The distributees must also consent to any waiver of bond. TPC § 145(p).

The Court encourages lawyers to incorporate the consents of non-applicant distributees into the waivers of service, thereby reducing the number of documents that must be executed and filed. Each consent should

- specifically consent to an independent administration, requesting that no other action shall be had in the county court in relation to the settlement of the decedent’s estate other than the return of an inventory, etc.,
- designate “x” as independent administrator (and waive own right to serve),
- waive bond, if that’s what the application requests, and
- if combined with the waiver of service, include that language as well.

B. Application for Determination of Heirship

1. **Statutory Requirements.** Section 49(a) of the Code outlines who may institute an heirship proceeding and the information that is required in an heirship application. The Court does check to see that all of the required information is included and will require an amended application if required information is missing and cannot be corrected by adding information in the proof of death or the judgment.
 - the name of the decedent (sufficiently similar to the death certificate that the Court knows it is the same person),
 - the time and place of death (obviously should match the death certificate),
 - (1) the names and residences of the decedent's heirs, (2) the relationship of each heir to the decedent, and (3) the true interest of the applicant and each of the heirs in the estate of the decedent (see further instructions below),
 - if the time or place of death or the names or residences of all the heirs are not definitely known to the applicant, all the material facts and circumstances within the knowledge and information of the applicant that might reasonably tend to show the time or place of death or the names or residences of all heirs,
 - a statement that all children born to or adopted by the decedent have been listed,
 - a statement that each marriage of the decedent has been listed with (1) the date of the marriage, (2) the name of the spouse, and (3) if the marriage was terminated, the date and place of termination, plus (4) any other facts that show whether a spouse has an interest in the property of the decedent (including any common-law spouse),
 - whether the decedent died testate and, if so, what disposition has been made of the will,
 - a general description of all the real and personal property belonging to the estate of the decedent, and
 - an explanation for the omission of any of the foregoing information that is not included in the application.
2. **Affidavit.** Section 49(b) of the Code requires that the application be supported by each applicant's affidavit verifying the application.
3. **Chart with Beneficiaries' Shares.** The Court prefers that applications set out in chart form the required information about the heirs:
 - Name of each of the decedent's heirs.
 - Residence of each of the decedent's heirs. Please note that "residence" means an actual address, not just the county or city of residence.
 - Relationship of each heir to the decedent. If there is a surviving spouse, the relationship information for each child or descendant of the deceased spouse should also indicate who the other parent is. The distribution of community property differs depending on whether all surviving children and descendants of the deceased spouse are also children or descendants of the surviving spouse. See TPC § 45.
 - True interest of each heir, including the applicant, in the estate of the decedent. See TPC §§ 38-47 and charts on pages 9-10 of this handout. When the decedent leaves a surviving spouse, interests should be indicated for separate personal property, separate real property, and community property (except in those situations where the interests are identical). Fractional interests should be indicated by fractions rather than percentages. Please finish-out the fractions as well. For example, **do not** put "1/3 of 2/3 of the separate personal property." Rather, the Court prefers that you use the fraction "2/9."

- Where minors are involved, it is helpful to include the date of birth of the minor and a designation beside the minor's name. (In the judgment, having this information in the chart makes it easy for others to know when the minor is old enough to sell property.)

See sample charts on pages 9-10 of this handout.

Some common mistakes found on heirship applications:

- **Characterization of Property.** Absent a declaratory action, the Court will not decide what types of property an heir owned. Consequently, the Court's judgment will indicate each heir's interest in *every possible type* of property. For separate property, statutory shares can differ for personal property and real property. TPC § 38. For community property, statutory shares are identical for personal property and real property. TPC § 45. Therefore, an application should indicate each heir's interest in each type of property for which the shares are different: separate personal property, separate real property, and community property.
- **Community Property Issues.** Section 45(b) of the Probate Code – which dictates the distribution of the community estate when a decedent had children from a prior marriage – can be misunderstood if read too quickly. That section specifies that “one-half of the community estate is retained by the surviving spouse and the other one-half passes to the children” from a prior marriage. This language does *not* mean that the surviving spouse is entitled to one-half of the *decedent's share* of the community estate. Remember that each spouse owns a one-half interest in the community estate and that a judgment declaring heirs distributes only the *decedent's share* of the community estate, not the entire community estate. Therefore, in a cell indicating the surviving spouse's share of decedent's community property, the only correct entries are “*all*” or “*none, but retains [his or her] 1/2 interest in the community estate.*”

III. Notice

- A. Citation by publication.** The Court requires citation by publication in all heirship proceedings. TPC § 50(b); See also TPC § 33(f)(3). *Although the Travis County Clerk prepares the citation, it is the attorney's responsibility to secure publication in one of the local papers and to obtain an affidavit of publication executed by the publisher.* The original publisher's affidavit – with the newspaper clipping – must be filed before the hearing.

NOTE: If the decedent lived in another county for a substantial part of his or her life, then citation by publication in that county may be necessary depending on the individual facts of the case.

- B. Service on or waiver of notice from all non-applicant heirs.** See TPC § 50. The Court requires that all non-applicant heirs, including minor heirs, be served with process in person *unless* they have executed valid waivers of notice. You do not need to take the same approach with all heirs. See also § 49 regarding others who may require notice.
- 1. Personal Service.** As noted above, all non-applicant heirs – including minors – must be served with process in person *unless* they have executed valid waivers of notice. Minors aged 12 through 18 must be personally served; they may not waive service and no one may waive for them. See TPC §§ 35 & 50(e). For heirs younger than 12 years of age, citation can be personally served on the parent, managing conservator, or guardian. **Note that the Probate Code does not permit the use of private process servers for service on heirs within the State of Texas.**
 - 2. Waivers of Personal Service.** Adult heirs may waive personal service. A natural parent or a guardian of a minor *younger than 12 years of age* may waive service on behalf of the minor in that parent's or guardian's capacity as parent or guardian. But no one may waive service on behalf of a minor who is 12 years or older, and a minor is not competent to sign a waiver.

<p>Waivers combined with § 145 consents for an independent administration: As noted above, the Court encourages lawyers to incorporate the consents of non-applicant distributees</p>
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into their waivers of service, thereby reducing the number of documents that must be executed and filed.

IV. Documents that reduce the expected testimony to writing

Under Probate Code § 53(a), this Court requires all oral evidence admitted in a proceeding to declare heirship to be reduced to writing and subscribed and sworn to by the witnesses following the hearing. Therefore, you should prepare written testimony in advance, as described below. The witnesses will sign their testimony before a deputy clerk after the hearing. Section 53(a) presupposes live testimony, and the Court strongly encourages live testimony. However, if a necessary witness cannot attend the hearing, you may follow the procedures outlined in the section VI below, entitled “When witnesses are unable to appear in court.”

For testimony that witnesses will sign after the hearing, you will streamline the process if your signature block for the deputy clerk includes all of the needed information. The Clerk’s stamp includes the following:

Dana DeBeauvoir
County Clerk, Travis County, Texas
By _____ Deputy

A. Proof of Death and Other Facts (POD). The POD should prove-up the allegations in the application that will not be proved by the disinterested witnesses who will testify as to the identity of the heirs. This information is usually provided by the applicant, but it can be presented by anyone with personal knowledge of the facts presented.

1. The following information is required for the heirship:

- State the name of the decedent, and indicate when and where the decedent died.
- State the underlying *facts* that show why the Court has jurisdiction and venue. Usually this requirement is fulfilled because the decedent was domiciled and had a fixed place of residence in Travis County. TPC § 6(a). (A statutory probate court has exclusive jurisdiction over probate and administrations in counties where there is such a court. TPC § 5(d). Having venue under TPC § 6 grants the court jurisdiction.)
- State whether the decedent had a lawful will and, if so, what disposition has been made of the will.
- Give a general description of the property belonging to the estate of the decedent.
- State whether a necessity exists for administration. Obviously, the allegation should match what you’re seeking. If the application requests letters of administration, then the POD should state a need for administration. However, if you are applying for a determination of heirship only, then the POD should indicate that there is no need for administration.

2. Add the following information if also requesting administration. The proof required for the granting of letters of administration is found in TPC § 88(a) & (d).

- The application was filed within four years after decedent’s death.
- The proposed administrator is entitled to letters and is not disqualified.
- **DO NOT** include in the POD any language regarding citation. Seldom does a witness have knowledge about whether citation has been properly served. The Court will decide on its own whether citation is proper.

B. Statement of facts concerning the identity of heirs, for each of two disinterested witnesses.

The Court requires the testimony of two disinterested witnesses regarding the identity of decedent’s heirs. Written testimony should be prepared in advance in the form of an affidavit phrased as court testimony. Parts of § 52A of the Texas Probate Code provide a useful format for the testimony necessary for establishing a testator’s heirs – see numbers 1-5, and then 6-8 as needed. Instead of the notary’s signature block, use a signature block for the deputy clerk, as described above.

Preparing a comprehensive statement in advance will also help you fully develop the heirship facts, such as information about previous marriages (including possible common-law marriages), information about predeceased children or siblings and their descendants, and information about parents. You may also discover that a potential heirship witness does not know enough about the decedent to serve as a witness.

V. Judgment declaring heirs (combined with order for administration, if applicable).

A. Judgment Declaring Heirship. The judgment should conform to the requirements set forth in TPC § 54. The information about the heirs and their interests should be set out in chart form, as described above in the section on applications. See the sample charts on pages 9-10 of this handout.

The **common mistakes** in heirship applications that are discussed above are also often found in heirship judgments. Please see comments on page 5 about characterization of property and community property issues. In addition, watch out for these other common mistakes that often show up in heirship judgments:

- **Declaratory-Judgment Information.** Unless you have applied for a declaratory judgment and have met the posting and evidentiary requirements, **do not include** in an heirship order any information that requires the Court to make a declaratory judgment. Such information that cannot be in a routine heirship order includes descriptions of specific items of property, whether the decedent owned separate real property, etc.
- **Ad Litem.** The order should include a provision *discharging the attorney ad litem and taxing his or her “reasonable and necessary” fees as costs*, unless there will be a dependent administration with continuing responsibilities for the ad litem.
- **Terminology.** The judgment should end “Signed . . .” or “Signed and Ordered Entered . . .” but in no case shall it end “Signed and Entered . . .” (The Clerk, not the Court, “enters” an order.)

B. Ordering issuance of Letters of Administration. If an administration is sought in conjunction with the declaration of heirs, an attorney should submit one order that incorporates the issuance of letters of administration and the judgment declaring heirs.

VI. When witnesses are not available to appear in court.

Section 53(a) of the Texas Probate Code presupposes live testimony for all proceedings. Should a witness not be able to provide live testimony, the testimony of the witness may be by deposition, either written or oral, taken in accordance with the Texas Rules of Civil Procedure (Rules), except as modified by the Probate Code. *Affidavits and other statements that do not comport with the provisions outlined below for reducing live testimony to writing constitute inadmissible evidence.* Here are your options:

A. Updated: Deposition On Written Questions (Probate Code Option) – The Texas Rules of Civil Procedure that govern oral depositions and depositions on written question outline time-consuming and expensive procedures for replacing live testimony with written testimony or oral depositions. In response to this inefficiency, the legislature has made available a less costly and less time-consuming

method for reducing live testimony to writing in § 22 of the Texas Probate Code.¹ Once you have prepared the questions, the procedure is rather simple:

1. File in the County Clerk's Office the notice of intention to take deposition on written questions for the individual you want to depose, with the questions attached. As a courtesy, deliver a copy to the ad litem.
2. After the 10-day posting period has ended, the Clerk's Office will mail to the attorney who requested the posting a commission to take the deposition on written questions attached with the notice and questions that were already filed with the Clerk's Office.
3. Mail the commission, notice, and questions to the witnesses. Have them answer the questions as needed, execute the document before a notary public, and return all the documents to your office.
4. Read the responses when they are returned to your office so that you know before the hearing if there is a problem with any of the answers. Send a copy to the attorney ad litem.
5. File the documents with the Clerk's Office. If you have a scheduled hearing within three weeks of the date you file the documents, please send a copy to the Court, with the hearing time noted. (It can take awhile for documents to get from the Clerk's Office to the Court.)

B. Deposition on Written Questions (Rules of Civil Procedure Option) – For a deposition by written questions, the Rules require the notice of intent to take a deposition by written questions to be served on the witness and all other parties at least 20 days before the deposition is taken. Such notice – *along with proof of its service 20 days before the taking of the deposition* – must be filed with the Clerk and a copy provided to the Court in advance of the hearing.

C. Oral Deposition – This is the most costly and rarely used option. It is governed by Rule 199 of the Texas Rules of Civil Procedure.

D. NEW: Oral Deposition by Telephone or Other Remote Electronic Means (Rules of Civil Procedure, Rule 199.1(b)). This procedure may be more expedient than using a Deposition on Written Questions since no posting period is involved. As with regular depositions, this is a costly procedure, but it may prove useful if the only witnesses with personal knowledge cannot travel to the hearing because of health problems or undue expense. *Attorneys are advised that the Attorney ad Litem must participate in the deposition so that the opportunity to cross-examine the witnesses is preserved.* Also, each attorney should ask very thorough and detailed questions of the witness as any deficiency in the proof offered may result in no judgment being signed.

¹ Section 22 of the Probate Code provides the following:

[I]n other probate matters where there is no opposing party or attorney of record upon whom notice and copies of interrogatories may be served, service may be had by posting notice of intention to take depositions for a period of ten days as provided in this Code governing posting of notices. When such notice is filed with the clerk, a copy of the interrogatories shall also be filed, and at the expiration of ten days, commission may issue for taking the depositions, and the judge may file cross-interrogatories where no one appears, if he so desires.

VII. Sample charts for Applications and Judgments

The following samples illustrate the chart form the Court prefers for heirship applications and judgments. *Obviously, the actual chart you use in an application and judgment should vary given the circumstances.* These charts are examples only and do not illustrate all (or even most) of the possibilities. See Probate Code sections 38-47 and the illustrations on pages 11-13 of this handout.

Sample 1. Decedent is survived by spouse and by one minor child from a prior marriage.

Distributee's Name, Address, and Relationship to Deceased	Share of Separate Personal Property	Share of Separate Real Property	Share of Decedent's Community Property
Jill Doe Surviving Spouse 1234 Fake Street Austin, Texas 78700	1/3	Life estate in 1/3 of all separate real property	NONE, but retains her 1/2 interest in the community estate
Jane Doe Minor: DOB = 04/16/2001 Daughter from previous marriage 5678 Fake Street Austin, Texas 78700	2/3	ALL, subject to the surviving spouse's 1/3 life estate	ALL

Sample 2. Decedent is survived by spouse and by two adult children from that marriage.

Distributee's Name, Address, and Relationship to Deceased	Share of Separate Personal Property	Share of Separate Real Property	Share of Decedent's Community Property
John Doe Surviving Spouse [address]	1/3	Life estate in 1/3 of all separate real property	ALL
Debbie Doe Jones (b. 1948) Daughter of deceased & John Doe [address]	1/3	1/2, subject to the surviving spouse's 1/3 life estate	NONE
John Doe, Jr. (b. 1952) Son of deceased & John Doe [address]	1/3	1/2, subject to the surviving spouse's 1/3 life estate	NONE

Sample 3. Decedent is survived by spouse and both parents, but is not survived by any child or other descendant.

Distributee's Name, Address, and Relationship to Deceased	Share of Separate Personal Property	Share of Separate Real Property	Share of Decedent's Community Property
John Doe Surviving Spouse [address]	ALL	1/2	ALL
Elizabeth Jones Mother of deceased [address]	NONE	1/4	NONE
Joseph Jones Father of deceased [address]	NONE	1/4	NONE

Sample 4. Unmarried decedent is survived by one child. Decedent was predeceased by a second child, whose two children are still living. One is a minor.

Distributee's Name, Address, and Relationship to Deceased	Share of All Property
Debbie Doe Jones (b. 1948) Daughter of deceased [address]	1/2
Jane Doe (b. 1981) Granddaughter (child of John Doe*) [address]	1/4
George Doe Minor: DOB = 04/16/1995 Grandson (child of John Doe*) [address]	1/4

*Additional information about John Doe, the predeceased child, will be set out elsewhere in the Application and Judgment.

Sample 5. Unmarried decedent is survived by no child or descendant and by no parent, but is survived by two siblings.

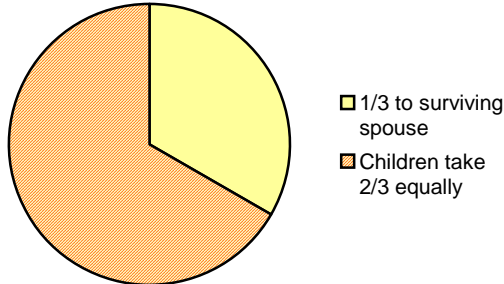
Distributee's Name, Address, and Relationship to Deceased	Share of All Property
Debbie Doe Jones (b. 1948) Sister [address]	1/2
David Doe (b. 1949) Brother [address]	1/2

Texas Descent and Distribution²

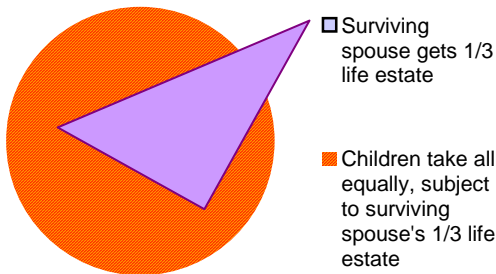
The Legal Effect of Not Having a Will (for decedents dying after 9/1/1993)

1. Married Person with Child[ren] or Other Descendants

A. Decedent's separate personal property (all that is not real property) (TPC § 38(b)(1))

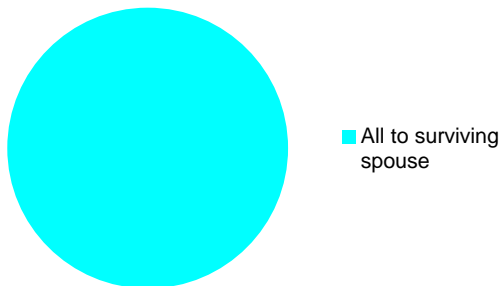


B. Decedent's separate real property (TPC § 38(b)(1))

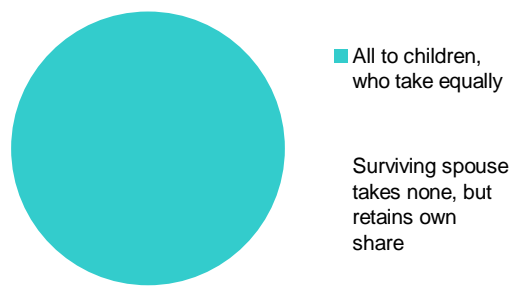


All separate real property will be owned outright by decedent's child[ren] or other descendants when surviving spouse dies.

C. Decedent's share of community property when all surviving children and descendants of deceased are also children or descendants of surviving spouse. (TPC § 45(a)(2))



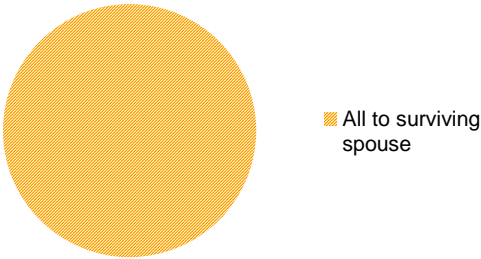
C. Decedent's share of community property when there are children or other descendants from outside of the existing marriage on the date of decedent's death. (TPC § 45(b))



² The charts in this handout illustrate the general rules of descent and distribution under Texas law. In addition to the statutory references noted throughout, see § 43 of the Texas Probate Code, Determination of Per Capita and Per Stirpes Distribution, as well as the following sections: § 40, Inheritance By and From an Adopted Child; § 41, Matters Affecting and Not Affecting the Right to Inherit; § 42, Inheritance Rights of Children; § 44, Advancements; and § 47, Requirement of Survival by 120 Hours.

2. Married Person with No Child or Descendant

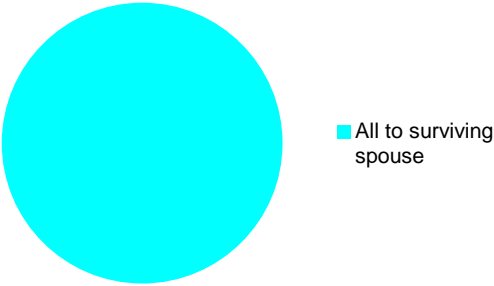
A. Decedent's separate personal property (all that is not real property) (TPC § 38(b)(1))



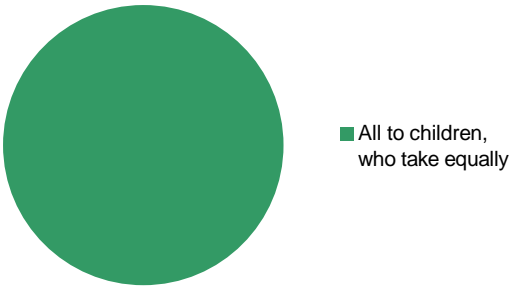
B. Decedent's separate real property (TPC § 38(b)(2))

<p>If decedent is survived by both mother and father. TPC § 38(b)(2) & (a)(2).</p> <ul style="list-style-type: none"> □ 1/4 to father ■ 1/4 to mother ■ 1/2 to surviving spouse 	<p>If decedent is survived (1) by mother or father and (2) by sibling(s) or their descendants. TPC § 38(b)(2) & (a)(2).</p> <ul style="list-style-type: none"> □ 1/4 to surviving parent ■ 1/4 to siblings, etc. ■ 1/2 to surviving spouse 	<p>If decedent is survived by mother or father, but is not survived by any sibling(s) or their descendants. TPC § 38(b)(2) & (a)(2).</p> <ul style="list-style-type: none"> □ 1/2 to surviving parent ■ 1/2 to surviving spouse
<p>If decedent is survived by neither parent, but is survived by sibling(s) or their descendants. TPC § 38(b)(2) & (a)(3).</p> <ul style="list-style-type: none"> ■ 1/2 to siblings, etc. ■ 1/2 to surviving spouse 	<p>If decedent is survived by no parent, no sibling, and no descendant of a sibling. TPC § 38(b)(2).</p> <ul style="list-style-type: none"> ■ All to surviving spouse 	

C. Decedent's share of community property (TPC § 45(a)(1))



3. Unmarried Person with Child[ren] or Other Descendants (TPC § 38(a)(1))



4. Unmarried Person with No Child or Descendant

All property passes depending on who survived the decedent:¹

<p>TPC § 38(a)(2). If decedent is survived by both mother and father.</p> <p>■ 1/2 of all property to father ■ 1/2 of all property to mother</p>	<p>TPC § 38(a)(2). If decedent is survived (1) by mother or father and (2) by sibling(s) or their descendants.</p> <p>■ 1/2 to siblings or to descendants of deceased siblings ■ 1/2 to surviving parent</p>
<p>TPC § 38(a)(2). If decedent is survived by mother or father, but is not survived by any sibling(s) or their descendants.</p> <p>■ All to surviving parent</p>	<p>TPC § 38(a)(3). If decedent is survived by neither parent, but is survived by sibling(s) or their descendants.</p> <p>■ All to siblings or to descendants of deceased siblings</p>

¹ If none of the four situations above applies, see TPC § 38(a)(4).