Ellis County Court at Law No. 1

JUDGE JIM CHAPMAN
Ellis County Courts Building
109 S. Jackson
Waxahachie, TX 75165

Updated March 2022

When a Client Dies Without a Will: Heirship and Administration

Counselors,

Welcome to Ellis County Court at Law 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 docket works in Ellis County when your client dies without a will (intestate).

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 TEC Ch. 205, 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 Texas Estates Code "TEC". Everything in this guide is consistent with the TEC, but this basic guide makes no pretense about being comprehensive.

Sincerely,

Jim Chapman, 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 Ch. 202 of the TEC,
- an affidavit of service of citation compliant with the requirements of TEC §202.057,
- 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 Verification (may be obtained from County Clerk of the county in which Decedent died or the State Vital Statistics Office), or a published obituary, and
- a judgment declaring heirship (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 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 attorney ad litem's presence is required at the hearing.

The applicant shall pay a $400.00 deposit into the registry of the Court towards the ad litem expense. This amount, while a deposit only, should cover the expense in the majority of cases. No case for which an ad litem deposit is required will be heard by the Court until such deposit has been paid. The ad item will need to obtain prior Court approval before undertaking work on the case that will necessitate a fee greater than $400.00.

C. Hearing Schedule. The Court prefers that all heirship determinations be complete within 60 days of filing the application, 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 TEC §202.052 and §51.054. See also "Citation" in section III. 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 "Citation" in section III. 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. Submission of Documents. The Court needs to have access to all documents required for an uncontested hearing no later than 10:00 a.m. three days before the hearing. Compliance with this rule allows the Court 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. Documents that are ready to be filed by this deadline are a publisher's affidavit, notarized consents and waivers, the attorney affidavit on service of citation compliance, appointments of resident agent and proposed orders or proofs to be signed. The Death Verification or published obituary should be brought to the hearing. The Court does not want to risk losing an executed document that has not been filed and scanned. Therefore, please file all original documents to be filed in the Clerk's office. All proposed orders or proofs may be submitted electronically to the Court at **ccl1coordinator@co.ellis.tx.us** in Word format.

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.

TIP: If you don't file all necessary documents at the time you file the application, the unexecuted proposed documents (e.g., Proof, Order etc.), should be submitted to the Judge's chambers before the deadline, **preferably by emailing them to the Court Coordinator, Tianta Schwartz (ccl1coordinator@co.ellis.tx.us) in Word format**. When submitting documents to the Judge's chambers, always include the date and time of your scheduled hearing to ensure the documents make it to the file.

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 be submitted directly to the Court, not to the Clerk's Office. However, there is no guarantee that the Court will be able to review the documents before the hearing. For heirships, the Court may 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 the Court does not have time to review the tardy documents.

II. Applications

A. Heirships & Administrations

1. **If an administration is needed**, the Court prefers that an application for the determination of heirship also contain an application for administration, either independent or dependent, and that all applications for administration be accompanied by an application for determination of heirship. Under TEC § 401.003, 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 TEC § 401.003 is a dependent administration; ***however, the Court will only grant administration without a completed heirship determination in emergency circumstances or where the estate is clearly insolvent***. In all solvent administrations the Court requires an heirship determination be completed concurrently with the appointment of an administrator.

2. **If any heirs are minors,** the Court will only permit an independent administration under exceptional circumstances. A dependent administration is the preferred 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 TEC §§ 202.006 & 301.002.

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 TEC § 301.052. Combine the requirements in § 301.052 with the requirements for the heirship application in § 202.004 & 202.005. 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. TEC § 401.003. The distributees must also consent to any waiver of bond. TEC § 401.005.
>
> 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.** Sections 202.004 & 202.005 of the TEC outline 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 Verification that the Court knows it is the same person),

- the time and place of death (obviously should match the Death Verification),
- (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,
- the last three digits of the decedent's Social Security number and Driver's License number,
- 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 202.007 of the TEC requires that the application be supported by each applicant's affidavit verifying the application.

3. **Information about Decedent's Heirs.** The following information is required. For ease of use, the Court prefers that applications set out in chart form the required information about the heirs:
   - Name of each of the decedent's heirs. **(SEE II. 6. Below)**
   - 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 TEC § 201.003.
   - True interest of each heir, including the applicant, in the estate of the decedent. See charts at the back 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 required to include the date of birth of the minor. See TEC § 301.052(7). (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 at the back of this handout.

4. **Informal Marriage.** If an Informal Marriage (Fam. Code §2.401) is alleged, the application must contain a clearly delineated Declaratory Judgment action to establish the Informal Marriage.

5. **Equitable Adoption.** If it is alleged that an heir acquired that status by Equitable Adoption/Adoption by Estoppel, the application must contain a clearly delineated Declaratory Judgment action to establish the Equitable Adoption.

6. **Common Heirship Mistakes to be Avoided**. These mistakes are often found on heirship applications:

- **Characterization of Property when the Decedent leaves a surviving spouse.** Absent a declaratory judgment action, with all potential heirs of community and separate property personally served with citation, 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. TEC § 201.001 & 201.002. For community property, statutory shares are identical for personal property and real property. TEC § 201.003. 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.
- **Failure to List All Heirs and All Types of Property.** This is probably the most common error found on heirship applications and occurs when it is assumed there is no separate property and those potential separate property heirs do not need to be named, served or included in the distribution chart. In EVERY heirship involving a married Decedent there should always be a finding and a distribution chart for all three categories of Estate property: Community Property, Separate Real Property and Separate Personal Property. Too often the position is taken that there is no separate property and therefore those potential separate property heirs do not have to be served and that the Separate Property classifications are not required in the disposition chart in the Order Determining Heirship. This is legally incorrect. Even if there is no known separate property at the time the application is filed, there is always the possibility of later discovered Separate Property and/or that the potential Separate Property heirs, if given proper notice, might choose to contest the issue of whether property of the Estate is Community or Separate. Depriving them of notice deprives them of their rights as potential heirs of the Decedent.
- **Community Property Issues.** Section § 201.003 of the TEC – 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. Citation for Heirship Determinations and/or Administrations

Necessary parties: TEC §202.008. Remember that each of the following persons must be made a party to a proceeding to declare heirship: unknown heirs, known heirs, and "each person who is, on the filing date of the application, shown as owning a share or interest in any real property described in the application by the deed records of the county in which the property is located."

A. Citation by publication. The TEC requires citation by publication in all heirship proceedings. TEC §202.052; see also TEC §51.054. ***Although the Clerk prepares the citation, it is the***

attorney's responsibility to secure publication in one of the local general-circulation papers and to obtain an affidavit of publication executed by the publisher. The publisher's affidavit – with the newspaper clipping – must be e-filed before the hearing is set. Also make sure it is also published on the State's Public Information Internet Website.

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 also be necessary depending on the individual facts of the case.

B. Service of citation on or waiver of citation from all non-applicant heirs who have not made an appearance. TEC §202.051-202.0560 require service of citation on or waiver of citation from all non-applicant heirs. See below for requirements. Also see TEC §202.008 regarding others who may require citation.

1. **Adult non-applicant heirs.** All adult non-applicant heirs must be served with citation ***unless*** they have executed valid waivers of citation or have made an appearance in the case. You do not need to take the same approach with all heirs.

   a. Waivers of Citation. Adult heirs may waive citation.

   > *Waivers may be combined with EC chapter 401 consents for an independent administration.* As noted above, the Court encourages lawyers to incorporate the consents of non-applicant distributees into their waivers of citation, thereby reducing the number of documents that must be executed and e-filed – but make sure each document includes *everything* necessary.

   b. Personal citation. When an heir or necessary party does not waive citation and has not made an appearance in the case, the ***Court requires personal citation*** rather than citation by certified mail. TEC §202.054. Note that the Estates Code does not permit the use of private process servers for citation on heirs within the State of Texas**.** TEC §51.051(b)(1).

2. **Minor heirs younger than 12 years of age.** For heirs younger than 12 years of age, citation can be served on the parent, managing conservator, or guardian. See TEC §202.051. A natural parent or a guardian of a minor younger than 12 years of age may waive citation on behalf of the minor in that parent's or guardian's capacity as parent or guardian. TEC §202.056.

3. **Minor heirs aged 12 through 17.** The Court requires that minors aged 12 through 17 must either (1) be personally served with citation or (2) attend the heirship hearing. The TEC does not allow anyone to waive citation on behalf of a minor who is 12 years or older, and a minor is not competent to sign a waiver. See TEC §§202.054, 202.056, & 51.201.

4. **Citation posted at Decedent's Residence.** The Court requires that citation be posted on the door of the last known address of the Decedent when an application for administration is filed without an accompanying simultaneously filed application for heirship determination.

5. **Section 202.057 certificate or affidavit and required back-up.** TEC §202.057 requires that the applicant file copies of all required citations along with proof of service, and a sworn affidavit from the applicant – or a certificate signed by the applicant's attorney – stating that all required citations were served, including names of persons who were served or who waived citation. See EC §202.057(a)(2) for specifics. ***Note that an affidavit or certificate is always required, regardless of what citation was done.***

   > **For applications filed on or after 9/1/2017, the affidavit or certificate must include additional information if any waivers are filed on behalf of distributees younger than 12.** If any waivers are filed on behalf of distributees younger than

12 years of age, a compliant §202.057 certificate or affidavit must now include "the name of the distributee ***and the representative capacity of the person who waived citation required to be served on the distributee***." EC §202.057(a)(2)(C)(ii), emphasis added.

IV. Documents that reduce the expected testimony to writing

Under TEC § 202.151, 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 the Judge at the hearing. Section 202.151 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 below, entitled "When witnesses are unable to appear in court."

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 Ellis County. TEC § 33.001.
- 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 TEC § 256.151, 301.151 & 301.153.

- 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 § 203.002 of the Texas Estates Code provide a useful format for the testimony necessary for establishing a testator's heirs. Instead of the notary's signature block, use a signature block for the judge.

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 TEC § 202.201. 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 at the back 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 4 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. The order should include provision for the ad litem deposit in the registry of the court be paid to the ad litem.

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. Safekeeping Agreement in Lieu of Some Portion of the Required Bond.

Please note that if it is contemplated that your client may prefer a Safekeeping Agreement in lieu of some portion of the required bond you will need to bring an Order Authorizing Safekeeping Agreement to the prove-up hearing. The Order and Safekeeping Agreement are promulgated by the Court and fillable pdf versions of these documents are available on the Court's website. The Court will establish a full bond amount at the prove-up hearing and if the signed Safekeeping Agreement is ultimately approved the bond will be reduced at that time to reflect the assets kept in safekeeping. Please note that Safekeeping Agreements may only be put in place with "financial institutions" as defined by Texas Finance Code §201.101.

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

Section 202.151 of the Texas Estates 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 Estates 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. Deposition On Written Questions (Estates 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 § 51.203 of the Texas Estates Code. 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, mail the 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.
3. 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.
4. 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 a while 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. 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.

VIII. 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, but attorneys who utilize these charts encounter far fewer complications at the hearing. See the Estates Code and the illustrations on the following pages 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 Waxhahachie, Texas 75165	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 Waxahachie, Texas 75165	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

Sample 6. Unmarried decedent is survived by no child or descendant, by one parent only, and by three siblings.

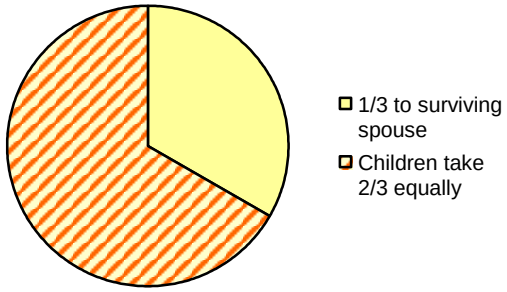
Distributee's Name, Address, and Relationship to Deceased	Share of All Property
Debbie Doe Jones (b. 1948) Sister [address]	1/2
David Doe (b. 1949) Brother [address]	1/6
John Doe (b. 1951) Brother [address]	1/6
Robert Doe (b. 1953) Brother [address]	1/6

Texas Descent and Distribution[1] Appendix

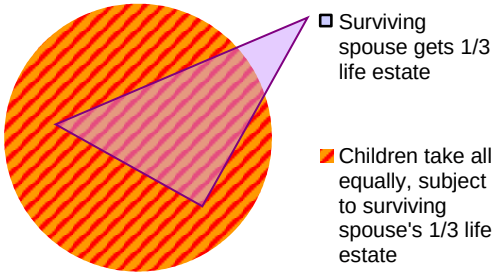
The Legal Effect of Not Having a Will (for decedents dying after 9/1/1993)

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

A. Decedent's separate personal property (all that is not real property) (TEC § 201.002)

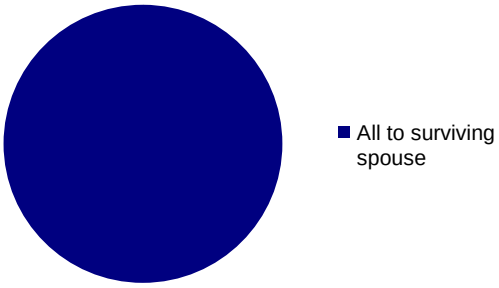


B. Decedent's separate real property (TEC § 201.002)

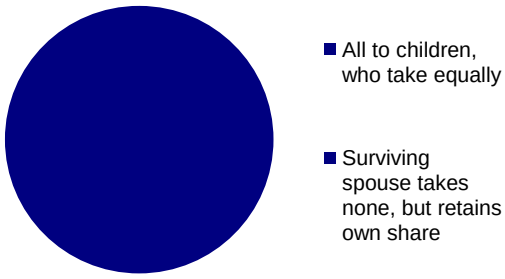


All separate real property will be owned outright by decedent's child[ren] or other descendants when surviving spouse dies.

C. Decedent's share of community property when all surviving children and descendants of deceased are also children or descendants of surviving spouse. (TEC § 201.003)



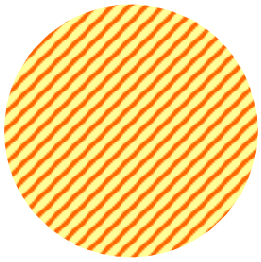
C. Decedent's share of community property when there are children or other descendants from outside of the existing marriage on the date of decedent's death. (TEC § 201.003)



2. Married Person with No Child or Descendant

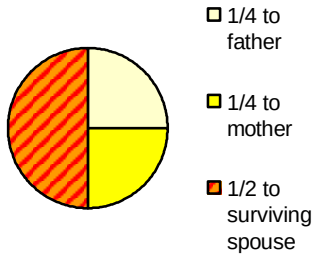
A. Decedent's separate personal property (all that is not real property) (TEC § 201.002)

[1] The charts in this handout illustrate the general rules of descent and distribution under Texas law.

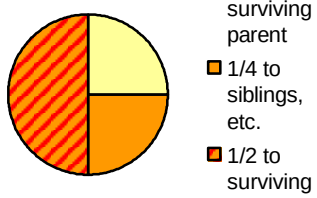


B. Decedent's separate real property (TEC § 201.002)

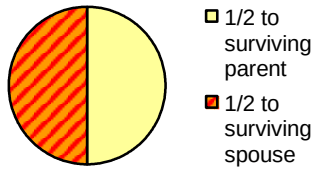
If decedent is survived by **both** mother and father.
(TEC § 201.002)



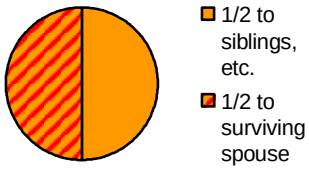
If decedent is survived (1) by mother **or** father **and** (2) by sibling(s) or their descendants.
(TEC § 201.002).



If decedent is survived by mother **or** father, **but is not** survived by any sibling(s) or their descendants.
(TEC § 201.002).

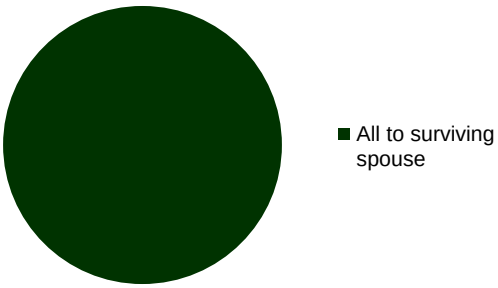


If decedent is survived by neither parent, but **is** survived by sibling(s) or their descendants.
TEC § 201.002.

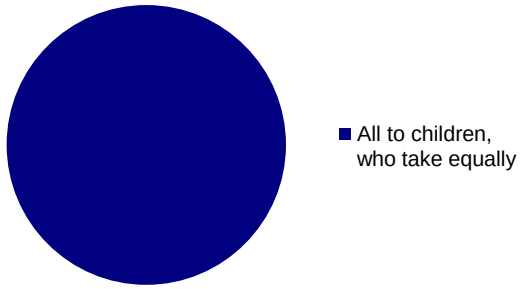


If decedent is survived by no parent, no sibling, and no descendant of a sibling.
TEC § 201.002.

C. Decedent's share of community property (TEC § 201.003)



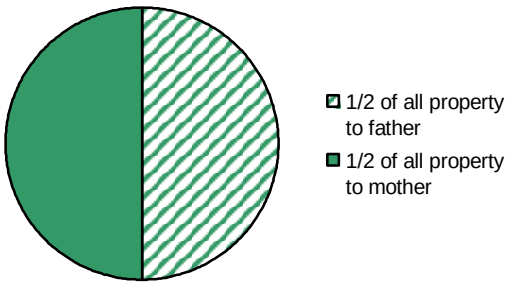
3. Unmarried Person with Child[ren] or Other Descendants (TEC § 201.002)



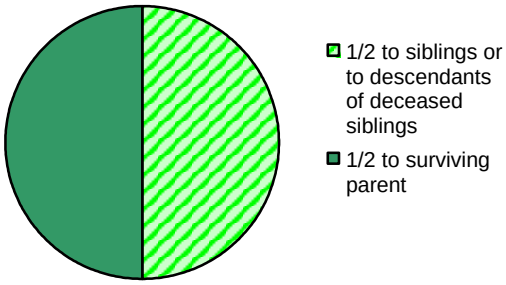
4. Unmarried Person with No Child or Descendant

All property passes depending on who survived the decedent:[1]

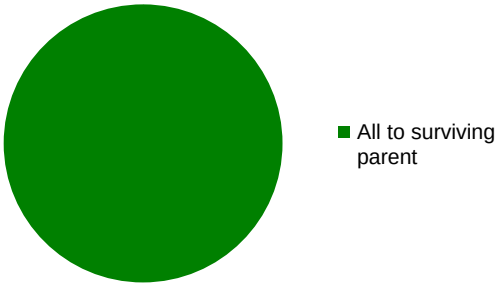
TEC § 201.002. If decedent is survived by **both** mother and father.



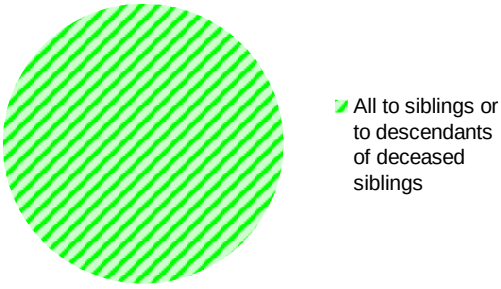
TEC § 201.002. If decedent is survived (1) by mother **or** father **and** (2) by sibling(s) or their descendants.



TEC § 201.002. If decedent is survived by mother **or** father, **but is not** survived by any sibling(s) or their descendants.



TEC § 201.002. If decedent is survived by neither parent, but **is** survived by sibling(s) or their descendants.



[1] If none of the four situations above applies, see Texas Estates Code.