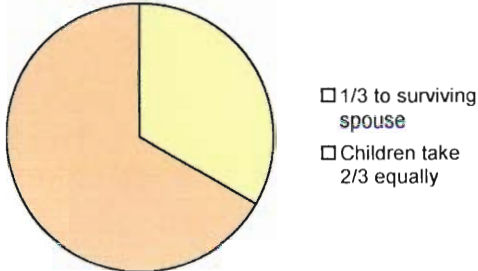


# Texas Descent and Distribution<sup>1</sup>

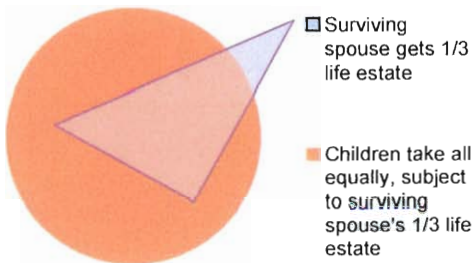
The Legal Effect of Not Having a Will (for decedents dying after 9/1/1993)

## 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))



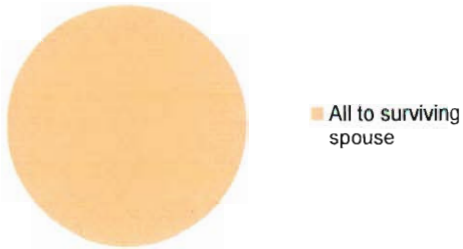
All separate real property will be owned outright by decedent's child[ren] or other descendants when surviving spouse dies.

<h3>C. Decedent's share of community property</h3> <p>when all surviving children and descendants of deceased are also children or descendants of surviving spouse. (TPC § 45(a)(2))</p> <p>A solid blue circle representing 100% of the community property going to the surviving spouse.</p> <ul style="list-style-type: none"><li>■ All to surviving spouse</li></ul>	<h3>C. Decedent's share of community property</h3> <p>when there are children or other descendants from outside of the existing marriage on the date of decedent's death (or if decedent died before September 1, 1993) (TPC § 45(b))</p> <p>A solid blue circle representing 100% of the community property going to the children. A separate note indicates the surviving spouse takes none but retains their own share.</p> <ul style="list-style-type: none"><li>■ All to children, who take equally</li></ul> <p>Surviving spouse takes none, but retains own share</p>
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<sup>1</sup> 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

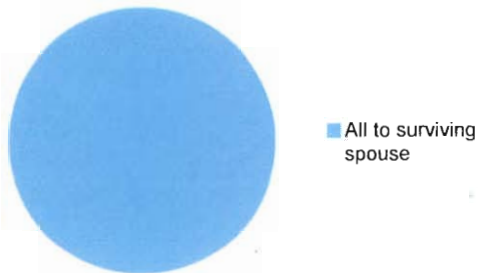
### A. Decedent's separate personal property (all that is not real property) (TPC § 38(b)(1))



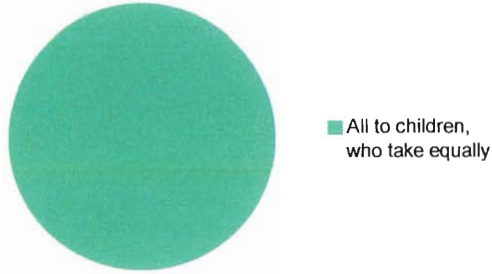
### B. Decedent's separate real property (TPC § 38(b)(2))

<p>If decedent is survived by <b>both</b> mother and father. TPC § 38(b)(2) &amp; (a)(2).</p> <ul style="list-style-type: none"> <li><span style="color: yellow;">■</span> 1/4 to father</li> <li><span style="color: lightgreen;">■</span> 1/4 to mother</li> <li><span style="color: orange;">■</span> 1/2 to surviving spouse</li> </ul>	<p>If decedent is survived (1) by mother <b>or</b> father <b>and</b> (2) by sibling(s) or their descendants. TPC § 38(b)(2) &amp; (a)(2).</p> <ul style="list-style-type: none"> <li><span style="color: yellow;">■</span> 1/4 to surviving parent</li> <li><span style="color: lightgreen;">■</span> 1/4 to siblings, etc.</li> <li><span style="color: orange;">■</span> 1/2 to surviving spouse</li> </ul>	<p>If decedent is survived by mother <b>or</b> father, <b>but is not</b> survived by any sibling(s) or their descendants. TPC § 38(b)(2) &amp; (a)(2).</p> <ul style="list-style-type: none"> <li><span style="color: yellow;">■</span> 1/2 to surviving parent</li> <li><span style="color: orange;">■</span> 1/2 to surviving spouse</li> </ul>
<p>If decedent is survived by neither parent, but <b>is</b> survived by sibling(s) or their descendants. TPC § 38(b)(2) &amp; (a)(3).</p> <ul style="list-style-type: none"> <li><span style="color: lightgreen;">■</span> 1/2 to siblings, etc.</li> <li><span style="color: orange;">■</span> 1/2 to surviving spouse</li> </ul>	<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"> <li><span style="color: orange;">■</span> All to surviving spouse</li> </ul>	

### 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:<sup>1</sup>

<p>TPC § 38(a)(2). If decedent is survived by <b>both</b> 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 <b>or</b> father <b>and</b> (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 <b>or</b> father, <b>but is not</b> 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, <b>but is</b> survived by sibling(s) or their descendants.</p> <p>■ All to siblings or to descendants of deceased siblings</p>

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