

**THE
INTESTACY MANUAL
2016**

**FOR PROCEEDINGS
IN
TEXAS PROBATE COURTS**

STEVE M. KING
JUDGE
TARRANT COUNTY PROBATE COURT NUMBER ONE
FORT WORTH, TEXAS
REVISION DATE – OCTOBER 2015

DIVISION OF PROPERTY UPON INTESTACY IN TEXAS

I. COMMUNITY PROPERTY (§201.0032, Texas Estates Code)

1. **With Surviving Spouse, and Children** (or their descendants):
 - A) where Surviving Spouse and Decedent are parents of all Children
Surviving Spouse ----- All
 - B) where Surviving Spouse and Decedent are **NOT** the parents of all Children:
Surviving Spouse retains Surviving Spouse's 1/2, takes **NONE** of Decedent's 1/2
Children or their descendants -----take **ALL** of Decedent's 1/2

2. **With Surviving Spouse only:** Surviving Spouse----- All
3. **With Children or their descendants only** Children or their descendants ----- All

II. SEPARATE PROPERTY

1. **With Surviving Spouse (§201.002, Texas Estates Code)**
 - A) **With** Children or their descendants
 - 1) Pers Prop: a) Surviving Spouse ----- 1/3
 - b) Children and their descendants ----- 2/3
 - 2) Real Prop: a) Surviving Spouse has life interest in ----- 1/3
(with remainder to Children and their descendants)
 - b) Children and their descendants have fee in ----- 2/3
& remainder in ----- 1/3
 - B) **Without** Children or their descendants
 - 1) Pers Prop: Surviving Spouse ----- All
 - 2) Real Prop: a) Surviving Spouse has fee in ----- 1/2
 - b) 1) Both Parents Survive: Father ----- 1/4
& Mother ----- 1/4
 - or 2) One Parent surviving ----- 1/4
& Siblings and their descendants ----- 1/4
 - or 3) One Parent surviving alone ----- 1/2
 - or 4) Siblings and their descendants alone ----- 1/2
 - or 5) Surviving Spouse alone ----- All
2. **Without Surviving Spouse (§201.001, Texas Estates Code)**
 - A) **With** Children or their descendants: Children & their descendants ----- All
 - B) **Without** Children or their descendants:
 - 1) Both Parents survive: Father ----- 1/2
& Mother ----- 1/2
 - or 2) One Parent surviving ----- 1/2
& Siblings and their descendants ----- 1/2
 - or 3) One Parent surviving alone ----- All
 - or 4) Siblings and their descendants alone ----- All
 - or 5) a) Paternal Kin: 1) Both Grandparents: Grandfather ----- 1/4
& Grandmother ----- 1/4
 - or 2) One Grandparent surviving ----- 1/4
& descendants of deceased Grandparent ----- 1/4
 - or 3) One Grandparent surviving alone ----- 1/2
 - or 4) descendants of deceased Grandparent alone ----- 1/2
 - & b) Maternal Kin: ----- other half in same order