

DIVISION OF PROPERTY UPON INTESTACY IN TEXAS

I. WITHOUT Surviving Spouse - Texas Estates Code §201.001

- 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: Surviving Parent ----- 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

I. WITH Surviving Spouse - Texas Estates Code §201.001

A. SEPARATE ESTATE (§ 201.002, Texas Estates Code)

- 1) **With** Children or their descendants - §201.002(b)
 - a) Pers Prop: 1) Surviving spouse ----- 1/3
 - 2) Children and their descendants ----- 2/3
 - b) Real Prop: 1) Surviving spouse has life interest in ----- 1/3
 - (with remainder interest to children and their descendants)
 - 2) Children and their descendants have fee in ----- 2/3
- 2) **Without** Children or their descendants - §201.002(c):
 - 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

B. COMMUNITY ESTATE (§ 201.003, Texas Estates Code)

- 1) **With** Surviving Spouse **and** Children (or their descendants):
 - a) Surviving Spouse and Decedent were the parents of all the children
 - Surviving Spouse ----- All
 - b) Surviving Spouse and Decedent were not the parents of all the children:
 - Surviving Spouse (retains Surviving Spouse's 1/2) ----- None
 - Children or their descendants (take Decedent's 1/2) ----- All
- 2. **With** Surviving Spouse only ----- All
- 3. **With** Children or their descendants only ----- All

Courtesy Judge Steve M. King, Tarrant County Probate Court One