ESTATES CODE

TITLE 2. ESTATES OF DECEDENTS; DURABLE POWERS OF ATTORNEY

SUBTITLE E. INTESTATE SUCCESSION

CHAPTER 201. DESCENT AND DISTRIBUTION

SUBCHAPTER A. INTESTATE SUCCESSION

Sec. 201.001. ESTATE OF AN INTESTATE NOT LEAVING SPOUSE. (a) If a person who dies intestate does not leave a spouse, the estate to which the person had title descends and passes in parcenary to the person's kindred in the order provided by this section.

(b) The person's estate descends and passes to the person's children and the children's descendants.

(c) If no child or child's descendant survives the person, the person's estate descends and passes in equal portions to the person's father and mother.

(d) If only the person's father or mother survives the person, the person's estate shall:

(1) be divided into two equal portions, with:

(A) one portion passing to the surviving parent; and

(B) one portion passing to the person's siblings and the siblings' descendants; or

(2) be inherited entirely by the surviving parent if there is no sibling of the person or siblings' descendants.

(e) If neither the person's father nor mother survives the person, the person's entire estate passes to the person's siblings and the siblings' descendants.

(f) If none of the kindred described by Subsections (b)-(e) survive the person, the person's estate shall be divided into two moieties, with:

(1) one moiety passing to the person's paternal kindred as provided by Subsection (g); and

(2) one moiety passing to the person's maternal kindred as provided by Subsection (h).

(g) The moiety passing to the person's paternal kindred

passes in the following order:

(1) if both paternal grandparents survive the person, equal portions pass to the person's paternal grandfather and grandmother;

(2) if only the person's paternal grandfather or grandmother survives the person, the person's estate shall:

(A) be divided into two equal portions, with:

(i) one portion passing to the surviving grandparent; and

(ii) one portion passing to the descendants of the deceased grandparent; or

(B) pass entirely to the surviving grandparent if no descendant of the deceased grandparent survives the person; and

(3) if neither the person's paternal grandfather nor grandmother survives the person, the moiety passing to the decedent's paternal kindred passes to the descendants of the person's paternal grandfather and grandmother, and so on without end, passing in like manner to the nearest lineal ancestors and their descendants.

(h) The moiety passing to the person's maternal kindred passes in the same order and manner as the other moiety passes to the decedent's paternal kindred under Subsection (g).

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 201.002. SEPARATE ESTATE OF AN INTESTATE. (a) If a person who dies intestate leaves a surviving spouse, the estate, other than a community estate, to which the person had title descends and passes as provided by this section.

(b) If the person has one or more children or a descendant of a child:

(1) the surviving spouse takes one-third of the personal estate;

(2) two-thirds of the personal estate descends to the person's child or children, and the descendants of a child or children; and

(3) the surviving spouse is entitled to a life estate

in one-third of the person's land, with the remainder descending to the person's child or children and the descendants of a child or children.

(c) Except as provided by Subsection (d), if the person has no child and no descendant of a child:

(1) the surviving spouse is entitled to all of the personal estate;

(2) the surviving spouse is entitled to one-half of the person's land without a remainder to any person; and

(3) one-half of the person's land passes and is inherited according to the rules of descent and distribution.

(d) If the person described by Subsection (c) does not leave a surviving parent or one or more surviving siblings, or their descendants, the surviving spouse is entitled to the entire estate.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 201.003. COMMUNITY ESTATE OF AN INTESTATE. (a) If a person who dies intestate leaves a surviving spouse, the community estate of the deceased spouse passes as provided by this section.

(b) The community estate of the deceased spouse passes to the surviving spouse if:

(1) no child or other descendant of the deceased spouse survives the deceased spouse; or

(2) all of the surviving children and descendants of the deceased spouse are also children or descendants of the surviving spouse.

(c) If the deceased spouse is survived by a child or other descendant who is not also a child or other descendant of the surviving spouse, the deceased spouse's undivided one-half interest in the community estate passes to the deceased spouse's children or other descendants. The descendants inherit only the portion of that estate to which they would be entitled under Section 201.101. In every case, the community estate passes charged with the debts against the community estate.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. 2782), Sec. 5, eff. September 1, 2019.

SUBCHAPTER B. MATTERS AFFECTING INHERITANCE

Sec. 201.051. MATERNAL INHERITANCE. (a) For purposes of inheritance, a child is the child of the child's biological or adopted mother, and the child and the child's issue shall inherit from the child's mother and the child's maternal kindred, both descendants, ascendants, and collateral kindred in all degrees, and they may inherit from the child and the child's issue. However, if a child has intended parents, as defined by Section 160.102, Family Code, under a gestational agreement validated under Subchapter I, Chapter 160, Family Code, the child is the child of the intended mother and not the biological mother or gestational mother unless the biological mother is also the intended mother.

(b) This section does not permit inheritance by a child for whom no right of inheritance accrues under Section 201.056 or by the child's issue.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1136 (H.B. 2912), Sec. 11, eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 949 (S.B. 995), Sec. 6, eff. September 1, 2015.

Sec. 201.052. PATERNAL INHERITANCE. (a) For purposes of inheritance, a child is the child of the child's biological father if:

(1) the child is born under circumstances described by Section 160.201, Family Code;

(2) the child is adjudicated to be the child of the father by court decree under Chapter 160, Family Code;

(3) the child was adopted by the child's father; or

(4) the father executed an acknowledgment of paternity

under Subchapter D, Chapter 160, Family Code, or a similar statement properly executed in another jurisdiction.

(a-1) Notwithstanding Subsection (a), if a child has intended parents, as defined by Section 160.102, Family Code, under a gestational agreement validated under Subchapter I, Chapter 160, Family Code, the child is the child of the intended father and not the biological father unless the biological father is also the intended father.

(b) A child described by Subsection (a) or (a-1) and the child's issue shall inherit from the child's father and the child's paternal kindred, both descendants, ascendants, and collateral kindred in all degrees, and they may inherit from the child and the child's issue.

(c) A person may petition the probate court for a determination of right of inheritance from a decedent if the person:

(1) claims to be a biological child of the decedent and is not otherwise presumed to be a child of the decedent; or

(2) claims inheritance through a biological child of the decedent who is not otherwise presumed to be a child of the decedent.

(d) If under Subsection (c) the court finds by clear and convincing evidence that the purported father was the biological father of the child:

(1) the child is treated as any other child of the decedent for purposes of inheritance; and

(2) the child and the child's issue may inherit from the child's paternal kindred, both descendants, ascendants, and collateral kindred in all degrees, and they may inherit from the child and the child's issue.

(e) This section does not permit inheritance by a purported father of a child, recognized or not, if the purported father's parental rights have been terminated.

(f) This section does not permit inheritance by a child for whom no right of inheritance accrues under Section 201.056 or by the child's issue.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1,

eff. January 1, 2014.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1136 (H.B. 2912), Sec. 12, eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 949 (S.B. 995), Sec. 7, eff. September 1, 2015.

Sec. 201.053. EFFECT OF RELIANCE ON AFFIDAVIT OF HEIRSHIP. (a) A person who purchases for valuable consideration any interest in property of the heirs of a decedent acquires good title to the interest that the person would have received, as purchaser, in the absence of a claim of the child described by Subdivision (1), if the person:

(1) in good faith relies on the declarations in an affidavit of heirship that does not include a child who at the time of the sale or contract of sale of the property:

(A) is not a presumed child of the decedent; and

(B) has not under a final court decree or judgment been found to be entitled to treatment under Section 201.052 as a child of the decedent; and

(2) is without knowledge of the claim of the child described by Subdivision (1).

(b) Subsection (a) does not affect any liability of the heirs for the proceeds of a sale described by Subsection (a) to the child who was not included in the affidavit of heirship.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 201.054. ADOPTED CHILD. (a) For purposes of inheritance under the laws of descent and distribution, an adopted child is regarded as the child of the adoptive parent or parents, and the adopted child and the adopted child's descendants inherit from and through the adoptive parent or parents and their kindred as if the adopted child were the natural child of the adoptive parent or parents. The adoptive parent or parents and their kindred inherit from and through the adopted child as if the adopted child were the natural child of the adoptive parent or parents.

(b) The natural parent or parents of an adopted child and the kindred of the natural parent or parents may not inherit from or through the adopted child, but the adopted child inherits from and through the child's natural parent or parents, except as provided by Section 162.507(c), Family Code.

(c) This section does not prevent an adoptive parent from disposing of the parent's property by will according to law.

(d) This section does not diminish the rights of an adopted child under the laws of descent and distribution or otherwise that the adopted child acquired by virtue of inclusion in the definition of "child" under Section 22.004.

(e) For purposes of this section:

(1) "Adopted child" means a child:

(A) adopted through an existing or former statutory procedure; or

(B) considered by a court to be equitably adopted or adopted by acts of estoppel.

(2) "Adoptive parent" means a parent:

(A) who adopted a child through an existing or former statutory procedure; or

(B) considered by a court to have equitably adopted a child or adopted a child by acts of estoppel.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 844 (H.B. 2271), Sec. 9, eff. September 1, 2017.

Acts 2023, 88th Leg., R.S., Ch. 631 (H.B. 4765), Sec. 1, eff. September 1, 2023.

Sec. 201.055. ISSUE OF VOID OR VOIDABLE MARRIAGE. The issue of a marriage declared void or voided by annulment shall be treated in the same manner as the issue of a valid marriage.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 201.056. PERSONS NOT IN BEING. No right of

inheritance accrues to any person unless the person is born before, or is in gestation at, the time of the intestate's death and survives for at least 120 hours. A person is:

(1) considered to be in gestation at the time of the intestate's death if insemination or implantation occurs at or before the time of the intestate's death; and

(2) presumed to be in gestation at the time of the intestate's death if the person is born before the 301st day after the date of the intestate's death.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 949 (S.B. 995), Sec. 8, eff. September 1, 2015.

Sec. 201.057. COLLATERAL KINDRED OF WHOLE AND HALF BLOOD. If the inheritance from an intestate passes to the collateral kindred of the intestate and part of the collateral kindred are of whole blood and the other part are of half blood of the intestate, each of the collateral kindred who is of half blood inherits only half as much as that inherited by each of the collateral kindred who is of whole blood. If all of the collateral kindred are of half blood of the intestate, each of the collateral kindred inherits a whole portion.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 201.058. CONVICTED PERSONS. (a) No conviction shall work corruption of blood or forfeiture of estate except as provided by Subsection (b).

(b) If a beneficiary of a life insurance policy or contract is convicted and sentenced as a principal or accomplice in wilfully bringing about the death of the insured, the proceeds of the insurance policy or contract shall be paid in the manner provided by the Insurance Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 201.059. PERSON WHO DIES BY CASUALTY. Death by casualty does not result in forfeiture of estate.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 201.060. ALIENAGE. A person is not disqualified to take as an heir because the person, or another person through whom the person claims, is or has been an alien.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 201.061. ESTATE OF PERSON WHO DIES BY SUICIDE. The estate of a person who commits suicide descends or vests as if the person died a natural death.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 201.062. TREATMENT OF CERTAIN PARENT-CHILD RELATIONSHIPS. (a) A probate court may enter an order declaring that the parent of a child under 18 years of age may not inherit from or through the child under the laws of descent and distribution if the court finds by clear and convincing evidence that the parent has:

(1) voluntarily abandoned and failed to support the child in accordance with the parent's obligation or ability for at least three years before the date of the child's death, and did not resume support for the child before that date;

(2) voluntarily and with knowledge of the pregnancy:

(A) abandoned the child's mother beginning at a time during her pregnancy with the child and continuing through the birth;

(B) failed to provide adequate support or medical care for the mother during the period of abandonment before the child's birth; and

(C) remained apart from and failed to support the child since birth; or

(3) been convicted or has been placed on community supervision, including deferred adjudication community supervision, for being criminally responsible for the death or serious injury of a child under the following sections of the Penal Code or adjudicated under Title 3, Family Code, for conduct that caused the death or serious injury of a child and that would constitute a violation of one of the following sections of the Penal Code:

(A) Section 19.02 (murder);

(B) Section 19.03 (capital murder);

(C) Section 19.04 (manslaughter);

(D) Section 21.11 (indecency with a child);

(E) Section 22.01 (assault);

(F) Section 22.011 (sexual assault);

(G) Section 22.02 (aggravated assault);

(H) Section 22.021 (aggravated sexual assault);

(I) Section 22.04 (injury to a child, elderly individual, or disabled individual);

(J) Section 22.041 (abandoning or endangering a child, elderly individual, or disabled individual);

(K) Section 25.02 (prohibited sexual conduct);

(L) Section 43.25 (sexual performance by a child); or

(M) Section 43.26 (possession or promotion of child pornography).

(b) On a determination under Subsection (a) that the parent of a child may not inherit from or through the child, the parent shall be treated as if the parent predeceased the child for purposes of:

(1) inheritance under the laws of descent and distribution; and

(2) any other cause of action based on parentage.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 830 (H.B. 2187), Sec. 3, eff. September 1, 2023.

SUBCHAPTER C. DISTRIBUTION TO HEIRS

Sec. 201.101. DETERMINATION OF PER CAPITA WITH REPRESENTATION DISTRIBUTION. (a) The children, descendants, brothers, sisters, uncles, aunts, or other relatives of an intestate who stand in the first or same degree of relationship alone and come into the distribution of the intestate's estate take per capita, which means by persons.

(b) If some of the persons described by Subsection (a) are dead and some are living, each descendant of those persons who have died is entitled to a distribution of the intestate's estate. Each descendant inherits only that portion of the property to which the parent through whom the descendant inherits would be entitled if that parent were alive.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 201.102. NO DISTINCTION BASED ON PROPERTY'S SOURCE. A distinction may not be made, in regulating the descent and distribution of an estate of a person dying intestate, between property derived by gift, devise, or descent from the intestate's father, and property derived by gift, devise, or descent from the intestate's mother.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 201.103. TREATMENT OF INTESTATE'S ESTATE. All of the estate to which an intestate had title at the time of death descends and vests in the intestate's heirs in the same manner as if the intestate had been the original purchaser.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

SUBCHAPTER D. ADVANCEMENTS

Sec. 201.151. DETERMINATION OF ADVANCEMENT; DATE OF

VALUATION. (a) If a decedent dies intestate as to all or part of the decedent's estate, property that the decedent gave during the decedent's lifetime to a person who, on the date of the decedent's death, is the decedent's heir, or property received by the decedent's heir under a nontestamentary transfer under Subchapter B, Chapter 111, or Chapter 112 or 113, is an advancement against the heir's intestate share of the estate only if:

(1) the decedent declared in a contemporaneous writing, or the heir acknowledged in writing, that the gift or nontestamentary transfer is an advancement; or

(2) the decedent's contemporaneous writing or the heir's written acknowledgment otherwise indicates that the gift or nontestamentary transfer is to be considered in computing the division and distribution of the decedent's intestate estate.

(b) For purposes of Subsection (a), property that is advanced is valued as of the earlier of:

(1) the time that the heir came into possession or enjoyment of the property; or

(2) the time of the decedent's death.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 201.152. SURVIVAL OF RECIPIENT REQUIRED. If the recipient of property described by Section 201.151 does not survive the decedent, the property is not considered in computing the division and distribution of the decedent's intestate estate unless the decedent's contemporaneous writing provides otherwise.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.