

California Intestate Succession Law

In California, an *intestate* share is distributed in the following order and manner:

Surviving spouse: receives one-half of the *community property* and *quasi-community property* that belonged to the *decedent*. Also entitled to receive the following amount of the *decedent's separate property*:

- All: if the *decedent* has no surviving *issue*, parent, sibling, or issue of a deceased sibling.
- One-half: if the *decedent* leaves one of the following – a surviving child, children of a child who predeceased the *decedent*, parents or siblings.
- One-third: if the *decedent* is survived by more than one child or multiple lines of *issue*

If there is no surviving spouse: to the first category of *heirs* who survive:

- *Descendants* (e.g., children and grandchildren) *per stirpes*.
- Surviving parent or parents equally.
- *Issue* of parent or parents, split equally if they are all the same degree of kinship to the *decedent* (e.g., siblings) or split *per stirpes* if unequal degrees of kinship (e.g., some siblings survive and some are dead but survived by children).
- Surviving grandparent or grandparents equally.
- *Issue* of grandparents, *per stirpes*.
- *Issue* of predeceased spouse. However, if the former spouse predeceased the *decedent* by more than 5 years, no personal property will be distributed to the predeceased spouse's *issue*. If the former spouse predeceased the *decedent* by more than 15 years, no real property will be distributed to the predeceased spouse's *issue*.
- *Decedent's* next of kin in equal degree. If a claim is made through two or more different lines of *ancestors*, those who claim through the *ancestor* nearest to the *decedent* are preferred.

If no heirs survive: *escheat* to the State of California.

Additional considerations:

Relatives of the half blood generally inherit the same as relatives of the whole blood unless the relationship between a child and the child's natural parent is severed by adoption.

Relatives conceived before death but born after death inherit as though they had been born during the *decedent's* lifetime.

Persons who fail to survive the *decedent* by 120 hours are deemed to have predeceased the *decedent*. In other words, they do not get a share of the *decedent's estate*.

Slayer Statute: any person who intentionally and feloniously kills the *decedent* cannot *inherit* any of the *decedent's* assets or otherwise benefit from the killing. The murderer is treated as though he or she predeceased the *decedent*. Felonious and intentional killing is established through a criminal conviction (where the standard is guilty beyond a reasonable doubt) or a civil trial (where the standard is the lesser, preponderance of the evidence, or "more likely than not").

Elder Abuse: any person who physically abuses, neglects, or commits fiduciary abuse of a *decedent* who was an elder or dependent adult is prevented from profiting after the *decedent's* death. The abusive person is treated as having predeceased the *decedent* and is thus ineligible to *inherit*.