



Intestacy

Survival

Uniform simultaneous Death Act:
Survive by 120 hours (5 days) to inherit

Common law:
Survive by an instant --> inherit

Bars to succession

Disclaimer
(Often for tax purposes)
Treat as if disclaimant pre-deceased

Divorce
No longer spouses

Slayer statutes
Cannot inherit; treat as if pre-deceased
(Minority: exempt if involuntary manslaughter)

Distribution scheme

Strict/classic per stirpes:
Count # of children (surv. & dec.)
One share to each stock;
if child pre-desc., share passes to child's descendants

Per capita:
follow each descendant until you find a survivor;
count total survivors, divide evenly

Per capita w/ representation/modern per stirpes
Skip "empty" generations; divide per stirpes;
pre-deceased descendant's share passes to his issue

Modern per stirpes: (1969 UPC)
Skip generations until you find survivors;
at first generation w/ survivors, apply per stirpes
(count # of children, inc. pre-dec., divide)

UPC per stirpes/per capita with
Distribute @ first generation w/ survivors to survivors;
pool shares of pre-dec. descendants, distribute to their descendants
(Equally near, equally dear)

Path through family tree

No descendants?
Parents --> descendants of parents
Grandparents --> descendants of GP

Cut off at

Nearest kin

UPC: escheat to the state;
no laughing heirs

Adopted children:
treated as if natural child

Natural parent dies, adopted by step-parent:
May be allowed to inherit from natural parent and adoptive parent

No inheritance to/from natural parents

One way: child can inherit from natural parent,
Natural parent cannot inherit from child

Equitable/virtual adoption/adoption by estoppel:
"Adoptive" parent makes affirmation, but reneges
Treat it as if adopted

Doctrine of advancements

(see also doctrine of satisfaction)
Advancement : Intestacy :: Satisfaction : Testacy

Substantial gift presumed an advancement of inheritance:
equally near/equally dear: all children end up w/ same amount

Hotch-pot calculation: pretend gift was never given
Divide estate, deduct gift from that person's share
(if gift > inheritance, do not take back property)

Half-blood

Out of wedlock