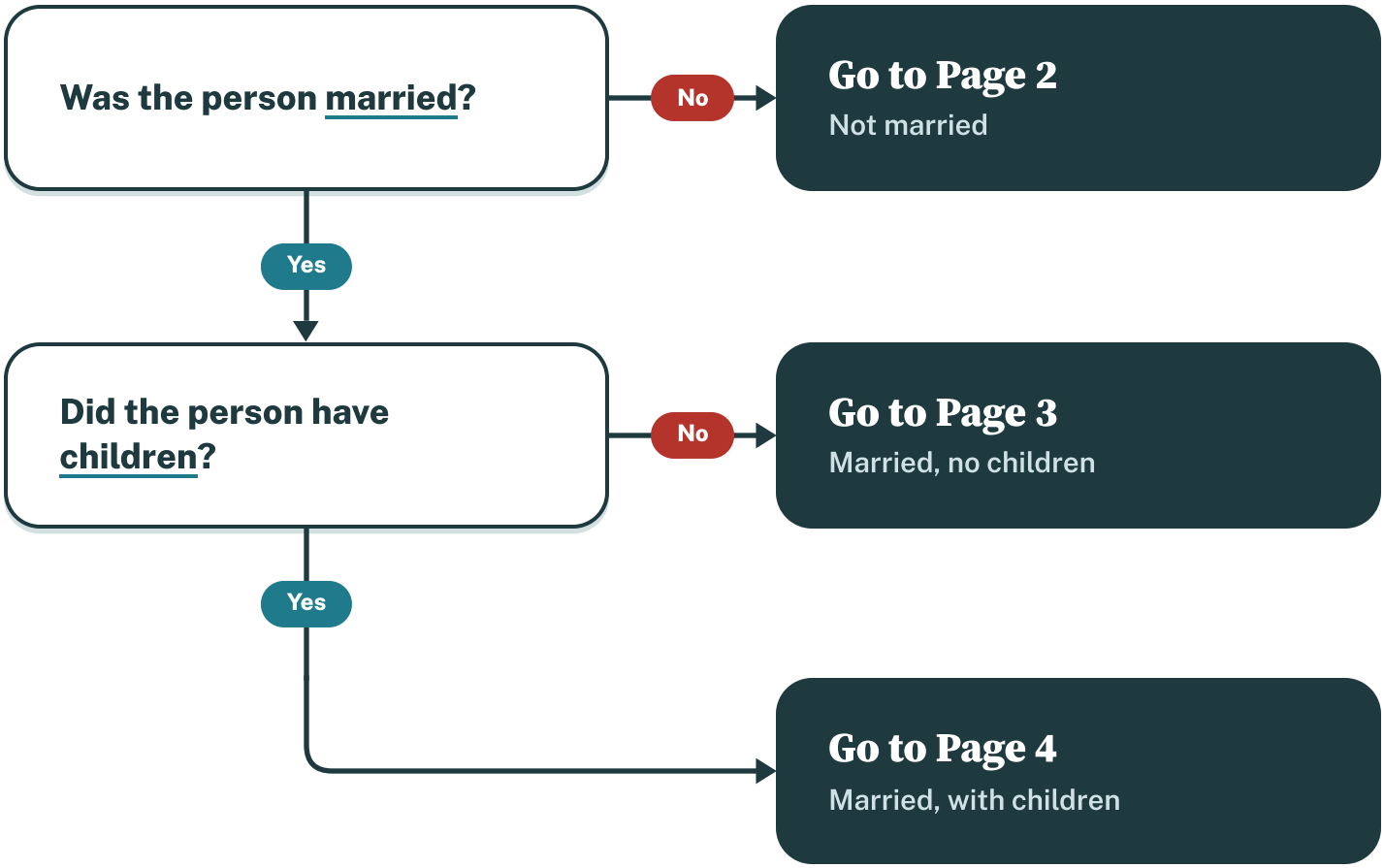
Who inherits when someone dies without a will?

When a property owner dies without a will, the Texas intestate succession laws dictate who inherits the real estate. Use this chart to see how they apply to your loved one by starting with a snapshot of their family on the day they died.



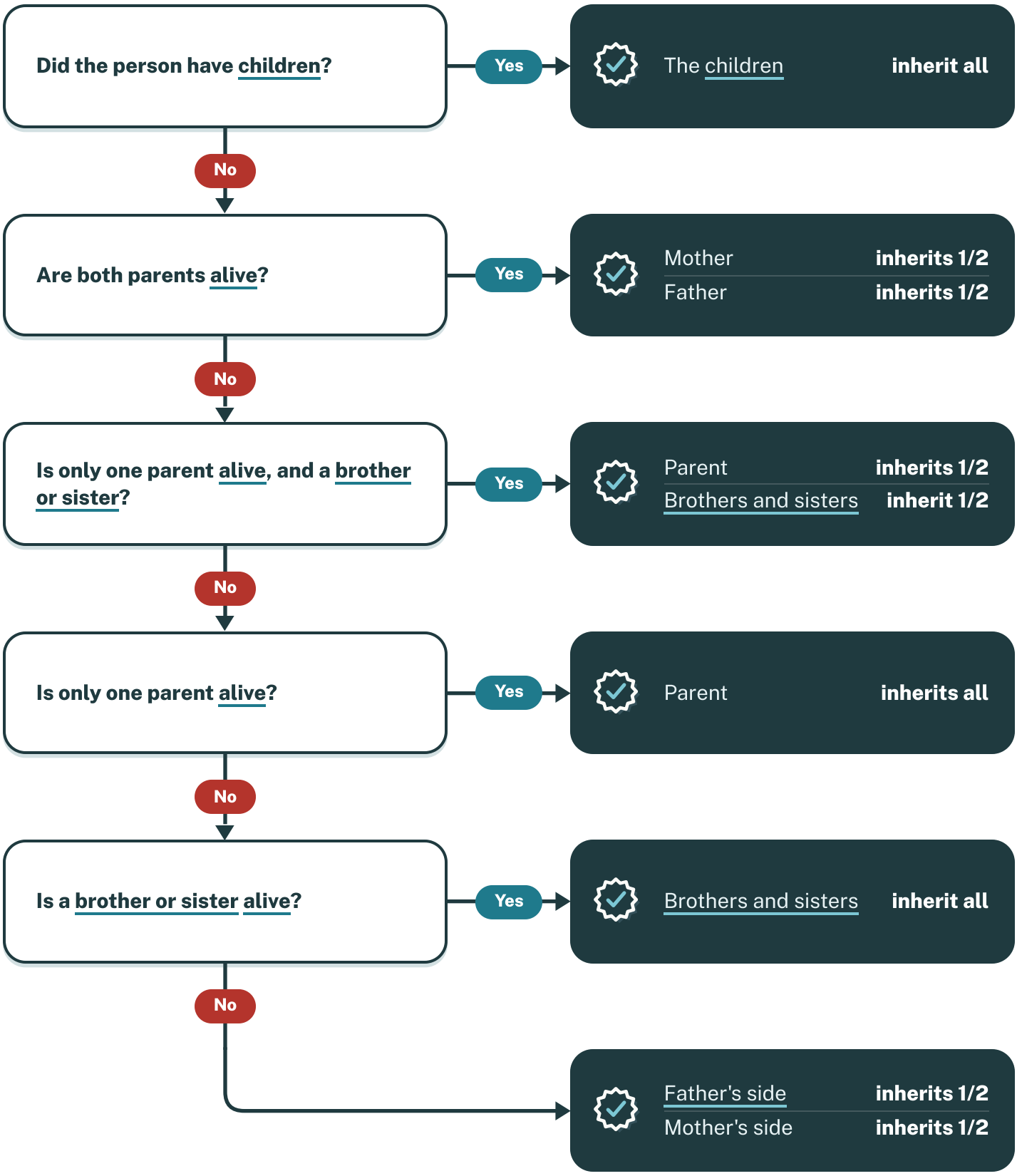
Need help preparing an Affidavit of Heirship for your family?

Heirsy will build one for you. All you have to do is answer questions about your family, and our Affidavit Builder will take care of the rest.

1. **Tell us about your family and the property.**
2. **The Affidavit Builder creates the document for you.**
3. **Sign your affidavit before a notary.**
4. **Send your affidavit to the county to record.**

Let's get started → Heirsy.com

Who inherits when the person was not married?



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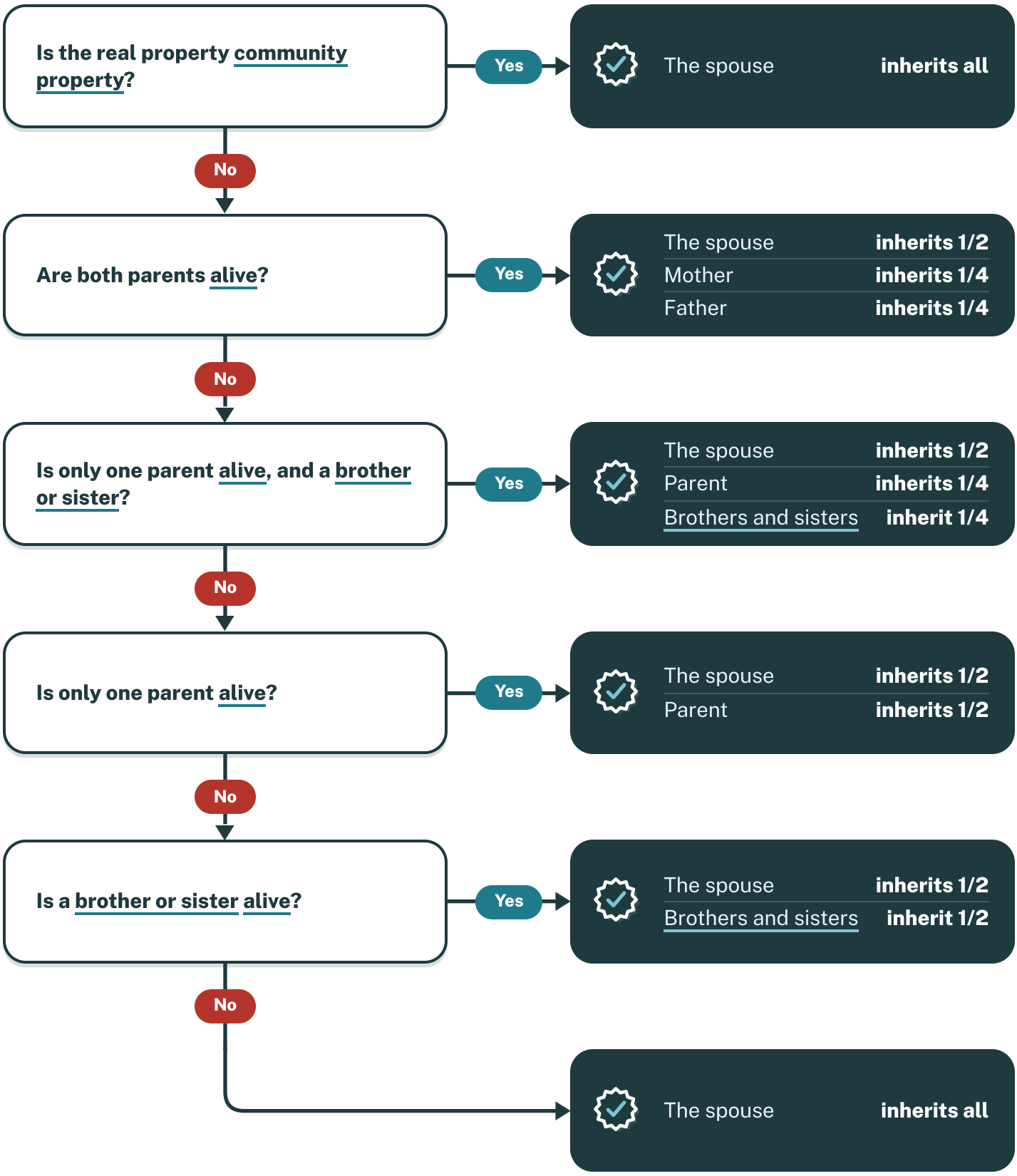
What if the person was married, with no children?



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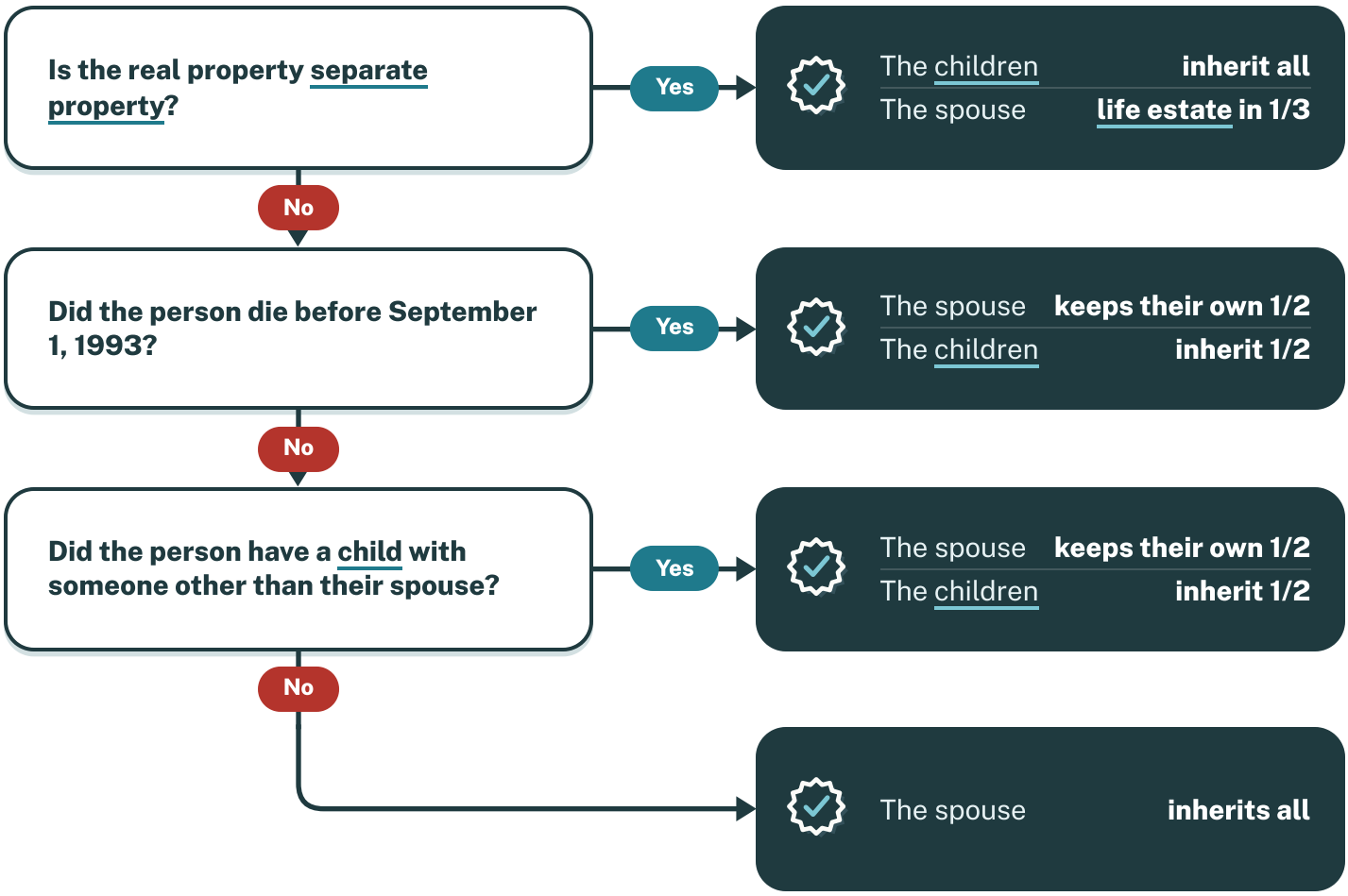
And what if the person was married with children?



OUR GUARANTEE TO YOU

Recorded or Refunded.

If the county won't record your affidavit, you get your money back.

The Heirsy Kit

- The Affidavit Builder fills in the form for you.
- It determines who inherits what from your answers.
- We help you decide who should sign your document.
- And we share the exact steps for recording the affidavit in your county.

Learn more → Heirsy.com

Glossary

What does “intestate” mean?

Intestate means without a will. The intestate succession laws are the rules Texas uses to decide who inherits when someone dies without a will.

What is real estate?

Land, and anything built on it, such as a house. The law calls it real property.

What does “married” mean?

For Texas intestate succession laws, “married” means a couple who married with a marriage license. It also includes a **common-law marriage**: the couple agreed to be married, lived together in Texas as a married couple, and told others they were married. A divorced ex-spouse is not married to the person.

What does “children” mean?

For Texas intestate succession laws, “children” means the person's children by birth (for a father, children the law treats as his). It also includes adopted children, and a child the person agreed to adopt and raised as their own. A child who died first counts only if that child left children; they take their parent's place. A stepchild who was never adopted does not count.

What does “alive” mean?

For Texas intestate succession laws, a relative is alive only if they lived at least 5 days (120 hours) after the person died. A relative who died sooner counts as having died first.

Who counts as a brother or sister?

Brothers and sisters who share both parents with the person, and half-brothers and half-sisters who share one. A brother or sister who died first counts only if they left children; those children take their parent's place.

What are the father's side and the mother's side?

The father's side is his family: first his parents, then their other descendants, such as the person's aunts, uncles and cousins. The mother's side works the same way. If one side has no one, the other side inherits all.

What are separate property and community property?

Separate property was owned before the marriage, or was a gift or an inheritance. Anything else bought during the marriage is **community property**, even if only one name is on the deed.

What does a spouse's life estate in 1/3 mean?

The spouse holds a life estate in an undivided one-third: a one-third share, not a separate piece, in the use of the whole property or its rent, for the rest of the spouse's life. The children own the property in **fee simple**, meaning full ownership, subject to that life estate. For that third they are also the **remaindermen**: the owners who get full use of it when the spouse dies and the life estate ends.

What if both owners have died?

If the house is still in the names of a couple who have both died, use this chart once for each death, starting with the one who died first.

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Sources

1	Who inherits when there is no surviving spouse, including the father's side and the mother's side	Estates Code §201.001
2	Who inherits separate property when there is a spouse, including the life estate	Estates Code §201.002
3	Who inherits community property when there is a spouse	Estates Code §201.003
4	The rule for a death before September 1, 1993	former Probate Code §45 (repealed; the text is in the session laws at the Texas Legislative Reference Library)
5	Children by birth, and fathers	Estates Code §201.051, §201.052
6	Adopted children, and children raised as one's own	Estates Code §201.054
7	Half-brothers and half-sisters	Estates Code §201.057
8	A child or a brother or sister who died first: their children take their place	Estates Code §201.101
9	Alive: the 5-day (120-hour) rule	Estates Code §121.052
10	Common-law marriage	Family Code §2.401
11	Separate property and community property	Family Code §3.001, §3.002, §3.003

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