

**HOW A DECEDENT'S ESTATE IS DISTRIBUTED
UNDER MONTANA LAW
IF THE DECEDENT DOES NOT HAVE A WILL**

Step 1: If there is a Surviving Spouse, Determine What Portion Passes to the Surviving Spouse:

When ...	The Spouse Receives ...	And the Other Heirs Receive ...
No descendant or parent survives the decedent	100%	Nothing
All of the surviving descendants are also descendants of the surviving spouse and there is no other descendant of the surviving spouse who survives the decedent	100%	Nothing
No descendant survives but a parent survives the decedent	The first \$200,000 + $\frac{3}{4}$ of any excess	$\frac{1}{4}$ of any excess over \$200,000
All of the surviving descendants are also descendants of the surviving spouse and the surviving spouse has one or more surviving descendants who are not descendants of the decedent	The first \$150,000 + $\frac{1}{2}$ of any excess	$\frac{1}{2}$ of any excess over \$150,000
One or more of the decedent's surviving descendants are not descendants of the surviving spouse	The first \$100,000 + $\frac{1}{2}$ of any excess	$\frac{1}{2}$ of any excess over \$100,000

Step 2: The Share Provided for Heirs Other than the Surviving Spouse is distributed in the Following Order of Priority:

- I. The decedent's descendants, by representation
- II. The decedent's parents equally if both survive or to the surviving parent;
- III. The descendants of the decedent's parents or either of them by representation;
- IV. To grandparents and their descendants in the following manner:
 - A. One-half to
 1. The decedent's paternal grandparents equally if both survive;
 2. The surviving paternal grandparent; or
 3. The descendants of the decedent's paternal grandparents or either of them if both are deceased, the descendants taking by representation; and
 - B. The other half to the decedent's maternal relatives in the same manner; or
 - C. If no grandparent or descendant on one side, the entire estate goes to the other side in the same manner as the half;
- D. To the person of the closest degree of kinship with the decedent. If more than one person is of that closest degree, those persons share equally. Exception: If more than one person is of the closest degree but they claim through different ancestors, those who claim through the nearer ancestor shall receive to the exclusion of those claiming through a more remote ancestor.

Step 3: If the estate cannot be distributed under Steps 1 and 2, the estate passes to the State of Montana.