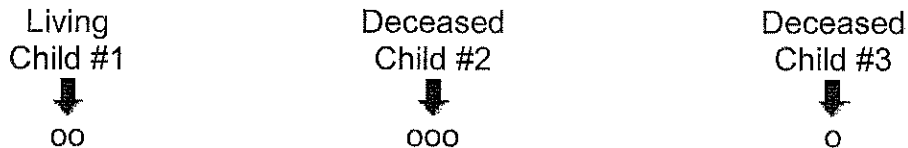


## DISTRIBUTION OF ESTATE ASSETS

If there is a valid Will, the assets of the decedent's estate are distributed according to the terms of the Will. If there is no valid Will, distribution of the estate is governed by the laws of intestate succession. The devisees or heirs of an estate can agree in writing to a different distribution.

You may see the terms **per stirpes** (the share of each deceased descendant is divided among his/her heirs) or **by representation** (the shares of the survivors of deceased descendants are pooled and divided into equal shares based on number of survivors on that level). By Representation is the concept used in New Mexico when there is no Will, but you may also see the term per stirpes used in a Will.

**Per Stirpes/By Representation Example:** Bob died, leaving an estate of \$300,000. He had no surviving spouse. He had 3 children, 2 of whom are deceased. #1 is living and has 2 children; #2 had 3 children; #3 had one child.



Under either concept, C1 inherits \$100,000. C1's children inherit nothing because C1 is still alive.

Under **per stirpes**, C2's 3 children would split C2's \$100,000, each receiving \$33,333.33. C3's child would receive C3's entire share of \$100,000.

Under **by representation**, the shares of C2 and C3 (\$200,000) would be added together and then split equally among their four children, each receiving \$50,000.

Note: The distribution of assets in "Payable/ Transfer on Death" accounts, life insurance, and retirement plans is governed by the beneficiary designation. These assets are not considered part of the probate estate. Even if you devise these assets to someone in a Will, the beneficiary designation determines distribution of the asset.