

Instructions for Form (MPC 162) - Surviving Spouse, Children, Heirs at Law

About This Form

Form Use. This form must be used to identify a Decedent's surviving spouse, children and heirs at law. Heirs at law are persons entitled to receive the Decedent's property under the intestacy succession laws if there is no will. For dates of death on or after March 31, 2012, the Massachusetts Uniform Probate Code, G. L. c. 190B, § 2-101, et seq., should be consulted. For deaths prior to that date, see generally, Chapter 190.

Filing Fee. There is no fee to file this form.

Filing with the Court. This form must be filed with the petition to which it relates. **Failure to submit this form with the petition to which it relates will result in a delay in processing your case.**

Top of the Form

SURVIVING SPOUSE, CHILDREN, HEIRS AT LAW G. L. c. 190B, § 3-301		Docket No. B	Commonwealth of Massachusetts The Trial Court Probate and Family Court
<input checked="" type="checkbox"/> Original Form A <input type="checkbox"/> Amended Form			
Estate of: Donna First Name Middle Name Decedent Last Name		Middlesex Division D	Instructions
Date of Death: April 1, 2016 C			

A Original or Amended Form

Put an "X" next to "Original Form" if this is the first time you are filing this form; put an "X" next to "Amended Form" if you have previously filed this form with the court and are now changing the information.

Thereafter, a party may amend after an appearance has been filed only by leave of court or by written consent of all parties. See generally, Rules 3 and 7 of the Supplemental Rules of the Probate and Family Court and Rule 15 of the Mass.R.Civ.P.



*There are specific rules that govern when a pleading can be amended. In an informal proceeding, an Informal Petition (MPC 150), Surviving Spouse, Children, Heirs at Law (MPC 162) or Devisees (MPC 163) form may **only** be amended by a party **prior to allowance**. In a formal proceeding, a Formal Petition (MPC 160), Surviving Spouse, Children, Heirs at Law (MPC 162) or Devisees (MPC 163) form may be amended by a party as **a matter of course** prior to an appearance being filed before 10:00 a.m. on the return day.*

B Docket Number

If known, fill in the docket number assigned by the court or leave blank if not yet assigned.

C Decedent's Name and Date of Death

Enter the name of the deceased and date of death.

D Division

(Example: Suffolk Division, Middlesex Division, Plymouth Division, etc.)

Enter the name of the county Probate and Family Court where this form will be filed.

Line 1 - Information Regarding Decedent's Surviving Spouse

ALL PETITIONERS MUST COMPLETE LINE 1

A 1. The Decedent ☐ did not leave a surviving spouse ☒ left a surviving spouse:

NAME OF SURVIVING SPOUSE	ADDRESS (omit if since deceased)
Sam Spouse	1 Main Street Anywhere MA 00000

A Surviving Spouse, if any

Put an "X" next to the appropriate box to indicate if the Decedent left a **SURVIVING** spouse at the time of the Decedent's death. If a spouse survived the Decedent's death but is no longer living at the time of this filing, you must put an "X" next to the box that indicates that the Decedent left a surviving spouse.

B Name and Address

Enter the name of the **SURVIVING** spouse and complete address. If the spouse is no longer living at the time of this filing, you may omit the address. **ALERT:** You must provide additional information regarding the **since deceased spouse in line 8** of this form.

!

If any heir at law is under a legal disability (a minor, an adjudicated or an alleged incapacitated or protected person) then you must provide additional information regarding the heir at law in line 7 of this form.

Line 2 - Information Regarding Decedent's Children

ALL PETITIONERS MUST COMPLETE LINE 2

A 2. a. The Decedent ☐ did not have children (biological or adopted) ☒ had the following children (biological or adopted):

NAME OF DECEDENT'S CHILD	ADDRESS (omit if deceased)	CHILD OF SURVIVING SPOUSE	A MINOR
Alaina Doe	1 Main Street Anytown MA 00000	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes
Olivia Doe		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes

D ☐ b. The surviving spouse has surviving descendants (children, grandchildren, etc.) who are not descendants of the Decedent.

A

Line 2, part a, Decedent's Children

Put an "X" next to the appropriate box to indicate if the Decedent had children (*biological or adopted*), whether alive or deceased.

B

Name and Address

Enter the name of the Decedent's children and complete address. If a child is **deceased**, you may omit the address. **ALERT:** If a child **SURVIVED** the Decedent's death but is no longer living at the time of this filing, you must provide additional information regarding the **since deceased child in line 8** of this form **ONLY IF** the child is an heir at law. See the Intestate Succession Charts on pages 11 - 12.

C

Child of Surviving Spouse; Minor

Put an "X" next to the appropriate box to indicate if the Decedent's child is a child of the surviving spouse. If the Decedent was never married or a spouse did not survive, do not check either box. If a child is a minor, you must check the "Yes" box. **ALERT:** You must provide additional information regarding the **minor child in line 7** of this form **ONLY IF** the child is

an heir at law. See the Intestate Succession Charts on pages 11 - 12.

D

Line 2, part b, Surviving Spouse's Children

Put an "X" next to this box if the **SURVIVING** spouse has surviving descendants (children, grandchildren etc.) who are **NOT** descendants (children, grandchildren etc.) of the Decedent and the Decedent **died on or after March 31, 2012**.

!

If any heir at law is under a legal disability (a minor, an adjudicated or an alleged incapacitated or protected person) then you must provide additional information regarding the heir at law in line 7 of this form.

Line 3 - Information Regarding Children of any Predeceased Child

*****Complete Line 3 ONLY if the Decedent left children in line 2a who are also heirs at law *****
See the Intestate Succession Charts on pages 11-12 for more information.

A

3. ☐ a. All of the children listed in 2a **survived** the Decedent.

☒ b. The following children listed in 2a died **before** the Decedent:

NAME OF PREDECEASED CHILD	DATE OF DEATH
Olivia Doe	3/20/2014
<div>click to add</div> <div>click to remove</div>	

C

c. The predeceased child(ren) listed in 3b:

☐ did not leave surviving descendants (children, grandchildren, etc.) (*biological or adopted*).

☒ left the following surviving descendants (children, grandchildren, etc.) (*biological or adopted*):

NAME OF SURVIVING DESCENDANT OF PREDECEASED CHILD	ADDRESS <small>(omit if since deceased)</small>	RELATIONSHIP TO DECEDENT	A MINOR
Benjamin Doe	1 State Street Anytown MA 00000	Grandchild	<input checked="" type="checkbox"/> Yes
			<input type="checkbox"/> Yes

A Line 3, part a, All Children Survived

Check this box if **ALL** of the children listed in 2a **SURVIVED** the death of the Decedent.

B Line 3, part b, Predeceased Children

Check this box **ONLY** if a child of the Decedent listed in 2a died **BEFORE** the death of the Decedent. Enter the name and date of death of the child who **predeceased** the Decedent.

C Line 3, part c, Descendants of any Predeceased Child

Put an "X" next to the appropriate box to indicate if a **predeceased** child listed in 3b left descendants children, grandchildren, etc.)(*biological or adopted*) who **SURVIVED** the death of the Decedent.

D Name and Address

Enter the name of the **SURVIVING** descendant(s) and complete address. If a descendant is no longer living at the time of this filing, you may omit the address. **ALERT:** You must provide additional information regarding

the **since deceased descendant in line 8** of this form.

E Relationship to Decedent; Minor


Identify the descendant's relationship **to the Decedent** (grandchild, great-grandchild, etc.). If a descendant is a minor, you must check the "Yes" box. **ALERT:** You must provide additional information regarding the **minor descendant in line 7** of this form.



If any heir at law is under a legal disability (a minor, an adjudicated or an alleged incapacitated or protected person) then you must provide additional information regarding the heir at law in line 7 of this form.

Line 4 - Information Regarding Decedent's Parents

****Complete Line 4 ONLY if the Decedent left NO surviving descendants (children, grandchildren, etc.)****

Otherwise  and go to **line 7 and line 8**.

A

4. The Decedent ☐ did not leave a surviving parent. ☐ left a surviving parent or parents:

NAME OF SURVIVING PARENT(S)	ADDRESS (omit if since deceased)
B	

A

Surviving Parent(s), if any

Put an "X" next to the appropriate box to indicate if the Decedent left a **SURVIVING** parent at the time of the Decedent's death. If a parent survived the Decedent's death but is no longer living at the time of this filing, you must put an "X" next to the box that indicates that the Decedent left a surviving parent.

information regarding the **since deceased** parent **in line 8** of this form.



*If any heir at law is under a legal disability (a minor, an adjudicated or an alleged incapacitated or protected person) then you must provide additional information regarding the heir at law **in line 7** of this form.*


B

Name and Address


Enter the name of the **SURVIVING** parent(s) and complete address. If a parent is no longer living at the time of this filing, you may omit the address. **ALERT:** You must provide additional

Line 5 - Information Regarding Decedent's Siblings and Children of any Predeceased Sibling

For deaths on or after March 31, 2012: Complete line 5a and line 5b **ONLY** if the Decedent left **NO** surviving spouse, descendants (children, grandchildren, etc.) or parents.

Otherwise  and go to **line 7 and line 8**.

For deaths prior to March 31, 2012: Complete line 5a and line 5b **ONLY** if the Decedent left **NO** surviving descendants (children, grandchildren, etc.) or parents.

Otherwise  and go to **line 7 and line 8**.

A

5. a. The Decedent ☐ did not leave a surviving sibling. ☐ left the following surviving sibling(s) (biological or adopted, whole or half-blood):

NAME OF SURVIVING SIBLING	ADDRESS (omit if since deceased)	A MINOR
		<input type="checkbox"/> Yes
		<input type="checkbox"/> Yes

B

A Line 5, part a, Surviving Sibling(s)

Put an "X" next to the appropriate box to indicate if the Decedent left a **SURVIVING** sibling (*biological or adopted, whole or half-blood*) at the time of the Decedent's death. If a sibling survived the Decedent's death but is no longer living at the time of this filing, you must put an "X" next to the box that indicates that the Decedent left a surviving sibling.

B Name and Address; Minor

Enter the name of the **SURVIVING** sibling(s) and complete address. If a sibling is no longer living

at the time of this filing, you may omit the address. **ALERT:** You must provide additional information regarding the **since deceased sibling in line 8** of this form. If a sibling is a minor, you must check the "Yes" box. You must provide additional information regarding the **minor sibling in line 7** of this form.

If any heir at law is under a legal disability (a minor, an adjudicated or an alleged incapacitated or protected person) then you must provide additional information regarding the heir at law in line 7 of this form.

!

C b. ☐ One or more of the Decedent's siblings died before the Decedent and left surviving descendants (*biological or adopted*):

NAME OF SURVIVING DESCENDANT OF PREDECEASED SIBLING	ADDRESS (omit if since deceased)	RELATIONSHIP TO DECEDENT	A MINOR <input type="checkbox"/> Yes
D		E	

C Line 5, part b, Descendants of any Predeceased Sibling

Put an "X" next to the box to indicate that one or more of the Decedent's siblings died before the death of the Decedent leaving **SURVIVING** descendants (*biological or adopted*).

D Name and Address

Enter the name and address of the surviving descendant(s). If a descendant is no longer living at the time of this filing, you may omit the address. **ALERT:** You must provide additional information regarding the **since deceased descendant in line 8** of this form.

E Relationship to Decedent; Minor


Identify the descendant's relationship **to the Decedent** (niece, nephew, etc.). If a descendant is a minor you must check the "Yes" box. **ALERT:** You must provide additional information regarding the **minor descendant in line 7** of this form.

If any heir at law is under a legal disability (a minor, an adjudicated or an alleged incapacitated or protected person) then you must provide additional information regarding the heir at law in line 7 of this form.


!

Line 6 - Information Regarding Next of Kin

*For deaths on or after March 31, 2012: Complete line 6 **ONLY** if the Decedent left **NO** surviving spouse, descendants (children, grandchildren, etc.), parents, siblings, **or** descendants of any predeceased sibling.

Otherwise  and go to **line 7 and line 8**.

*For deaths prior to March 31, 2012: Complete line 6 **ONLY** if the Decedent left **NO** surviving descendants (children, grandchildren, etc.), parents, siblings, or descendants of any predeceased sibling.

Otherwise  and go to **line 7 and line 8**.

6. List the heirs as defined by the law in effect on the Decedent's date of death. (Select one):

A

☐ The heirs at law are as follows:

For assistance, see the Instructions and the [Massachusetts Degree of Kinship Chart \(MPC 960\)](#). See also line 7 and line 8.

NAME OF <u>HEIR</u>	ADDRESS (Omit if since deceased)	RELATIONSHIP TO DECEDENT	A MINOR
B			<input type="checkbox"/> Yes
			<input type="checkbox"/> Yes
		click to add	click to remove

D

☐ After a reasonable diligent search, the heirs at law are unknown or unascertainable. (Requires a formal proceeding.)

A

Heirs at Law/Next of Kin

Put an "X" next to this box to indicate that the Decedent's estate passes to the Decedent's next of kin. Check the applicable statute in effect on the Decedent's date of death and the Intestate Succession Charts on pages 11 - 12. Review the Massachusetts Degree of Kinship Chart (MPC 960) on page 13 carefully since the heirs at law may include persons up to 11 degrees or more of kinship. Create a family tree, if necessary.

B

Name and Address

Enter the name and address of the surviving heir(s) at law. **ALERT:** If an heir at law survived the Decedent's death but is no longer living at the time of this filing, you must provide additional information regarding the **since deceased heir at law** in line 8 of this form.

C

Relationship to Decedent; Minor

Identify the heir at law's relationship **to the Decedent** (1st cousin, etc.). **ALERT:** If an heir at law is a **minor**, you must provide additional information regarding the **minor heir at law** in line 7 of this form.



If any heir at law is under a legal disability (a minor, an adjudicated or an alleged incapacitated or protected person) then you must provide additional information regarding the heir at law in line 7 of this form.



Unknown/Unascertainable Heirs at Law

Put an "X" next to this box if after a reasonable diligent search, the heirs at law are unknown or unascertainable.



Checking this box will prohibit you from filing an Informal Petition (MPC 150)! A Formal Petition (MPC 160) however, may be filed.

Line 7- Information Regarding Heirs at Law under a Legal Disability

ALL PETITIONERS MUST COMPLETE LINE 7, if applicable

7. **NONE** of the Decedent's heirs at law (surviving spouse, children, etc.) are under a legal disability except for:

NAME OF HEIR AND RELATIONSHIP TO DECEDENT	LEGAL DISABILITY	REPRESENTED BY * (Guardian ad litem required unless waived. See Instructions)	NAME/ADDRESS OF REPRESENTATIVE (Provide docket number or proof of appointment for any court appointed fiduciary.)
A	<input type="checkbox"/> Minor List age: <input type="text"/> <input type="checkbox"/> Incapacitated or protected person (adjudicated or alleged)	<input type="checkbox"/> Guardian <input type="checkbox"/> Conservator <input type="checkbox"/> Unrepresented*	B



Heirs at Law under a Legal Disability

Enter the name of any heir at law under a legal disability and indicate their relationship to the Decedent. Check the appropriate box to identify the legal disability (a minor or an adjudicated or an alleged incapacitated or protected person). If a minor, list the age.



Represented By

Check the appropriate box to indicate if an heir at law is represented by a guardian, conservator or is unrepresented. Provide the name and complete address of the

representative. Include the docket number or proof of appointment for any court appointed fiduciary.



An **informal proceeding** is **NOT** available if an heir at law is a minor or an adjudicated or an alleged incapacitated or protected person unless he or she is represented by a conservator or a guardian who is not the petitioner. A formal proceeding however may be commenced. Any request for parental or virtual representation can **ONLY** be made in a **formal proceeding**. To do so, the petitioner must submit a motion for court approval prior to the appointment of a Guardian ad Litem. A formal proceeding is always required when an heir at law under a legal disability is unrepresented.

Line 8 - Information Regarding Heirs at Law Since Deceased

*** ALL PETITIONERS MUST COMPLETE LINE 8, if applicable. ***

8. **NONE** of the heirs at law (surviving spouse, children, etc.) who survived the Decedent are deceased at the time of this filing except for:

NAME OF SINCE DECEASED HEIR AND RELATIONSHIP TO DECEDENT	DATE OF DEATH	REPRESENTED BY	NAME/ADDRESS OF REPRESENTATIVE (Provide docket number or proof of appointment for any court appointed fiduciary.)
A		<input type="checkbox"/> Personal Representative (Required for an informal proceeding) <input type="checkbox"/> Unrepresented (Formal proceeding required)	B

A

Heirs at Law since Deceased

Enter the name of any **heir at law** who **SURVIVED** the death of the Decedent but is no longer living at the time of this filing. Indicate their relationship to the Decedent.

Representative. Include the docket number or proof of appointment.

!

*If an **heir at law** is **since deceased** (i.e. died after the death of the decedent), a **Personal Representative** must be appointed to represent that estate in order to proceed **informally**. If no **Personal Representative** is appointed to represent the **since deceased's** estate, a **formal proceeding** must be filed.*

B

Represented By

Check the appropriate box to indicate if that estate is represented by a court appointed **Personal Representative**. Enter the name and complete address of the Personal

Bottom of Form – Petitioner's Signature

ALL PETITIONERS MUST COMPLETE THIS SECTION

****Important Information – Please Read****

Review the completed form for accuracy prior to filing it with the court. If you do not understand this form, do not sign it! Please consult an attorney for legal advice. Court staff cannot provide legal advice or instruct you as to the identity of a Decedent's heirs at law.

SIGNED UNDER THE PENALTIES OF PERJURY			
I certify under the penalties of perjury that the foregoing statements are true to the best of my knowledge and belief.			
Date:	April 15, 2016		
Signature of Petitioner	<div style="border: 1px solid black; border-radius: 50%; width: 40px; height: 40px; display: flex; align-items: center; justify-content: center; margin: 0 auto;">A</div>		
	Mary Smith (Print name)		
	1 Jay Road (Address)		
	Concord (City/Town)	MA (State)	00000 (Zip)
Primary Phone #:	000-000-0000		
B.B.O. #			
Email:	MSmith@provider.com		

A Petitioner Signature Section

All Petitioners must complete this section and sign the form on the Petitioner signature line and date it in the appropriate space.

After You Have Finished

Once completed, you must file this form with the petition to which it relates in the proper division of the Probate and Family Court. **Failure to submit this form with the petition to which it relates will result in a delay in processing your case.**

For Additional Information

A detailed description of each probate process can be found in the ***MUPC Estate Administration Procedural Guide: A Guide to Estate Administration Practices & Procedures in the Probate and Family Court***, located at: <http://www.mass.gov/courts/docs/courts-and-judges/courts/probate-and-family-court/mupc-procedural-guide.pdf>.

Massachusetts Uniform Probate Code (G. L. c. 190B)
Intestate Succession
(for dates of death on or after March 31, 2012)

	If the Decedent is survived by:	The intestate estate passes to:
1.	Spouse and Children (or the descendants of any pre-deceased child) and... all surviving children are also children of the surviving spouse and the surviving spouse has no surviving children who are not children of the decedent.	<ul style="list-style-type: none"> Spouse Only.
2.	Spouse and Children (or the descendants of any pre-deceased child) and... not all surviving children of the Decedent are also children of the surviving spouse; OR the surviving spouse also has surviving children who are not children of the Decedent.	<ul style="list-style-type: none"> Spouse AND decedent's surviving children (and surviving descendants of any pre-deceased child).
3.	Spouse and NO Children	<ul style="list-style-type: none"> Spouse ONLY, if no surviving parents; <u>OR</u> Spouse AND decedent's surviving parent(s).
4.	Children (or descendants of any pre-deceased child) and NO Spouse	<ul style="list-style-type: none"> Surviving Children ONLY (and surviving descendants of any pre-deceased child).
5.	Parents, and NO Spouse and NO Children	<ul style="list-style-type: none"> Surviving Parent(s) ONLY.
6.	Siblings (or descendants of any pre-deceased sibling), and NO Spouse, NO Children, and NO Parents	<ul style="list-style-type: none"> Surviving Siblings ONLY (and surviving descendants of any pre-deceased sibling).
7.	Kin and NO Spouse, NO Children, NO Parents, NO Siblings	<ul style="list-style-type: none"> Surviving closest relative according to degrees of kindred (see § 2-103(4)).
8.	No Taker	<ul style="list-style-type: none"> Commonwealth or Soldiers Home (see § 2-105).

Intestate Succession Pursuant to G. L. c. 190
(for dates of death prior to March 31, 2012)

	If the Decedent is survived by:	The intestate estate passes to:
1.	Spouse and Children (or the descendants ¹ of any pre-deceased child)	<ul style="list-style-type: none"> Spouse AND decedent's surviving children (and surviving descendants of any pre-deceased child).
2.	Spouse and NO Children	<ul style="list-style-type: none"> Spouse ONLY, if no surviving kindred²; <u>OR</u> Spouse AND decedent's surviving kindred.
3.	Children (or descendants of any pre-deceased child) and NO Spouse	<ul style="list-style-type: none"> Surviving Children ONLY (and surviving descendants of any pre-deceased child).
4.	Parents, and NO Spouse and NO Children	<ul style="list-style-type: none"> Surviving Parent(s) ONLY.
5.	Siblings (or descendants of any pre-deceased sibling), and NO Spouse, NO Children, and NO Parents	<ul style="list-style-type: none"> Surviving Siblings ONLY (and surviving descendants of any pre-deceased sibling).
6.	Kin and NO Spouse, NO Children, NO Parents, NO Siblings	<ul style="list-style-type: none"> Surviving closest relative according to degrees of kindred (see Massachusetts Degree of Kinship Chart (MPC 960)).
7.	No Taker	<ul style="list-style-type: none"> Commonwealth Soldiers Home

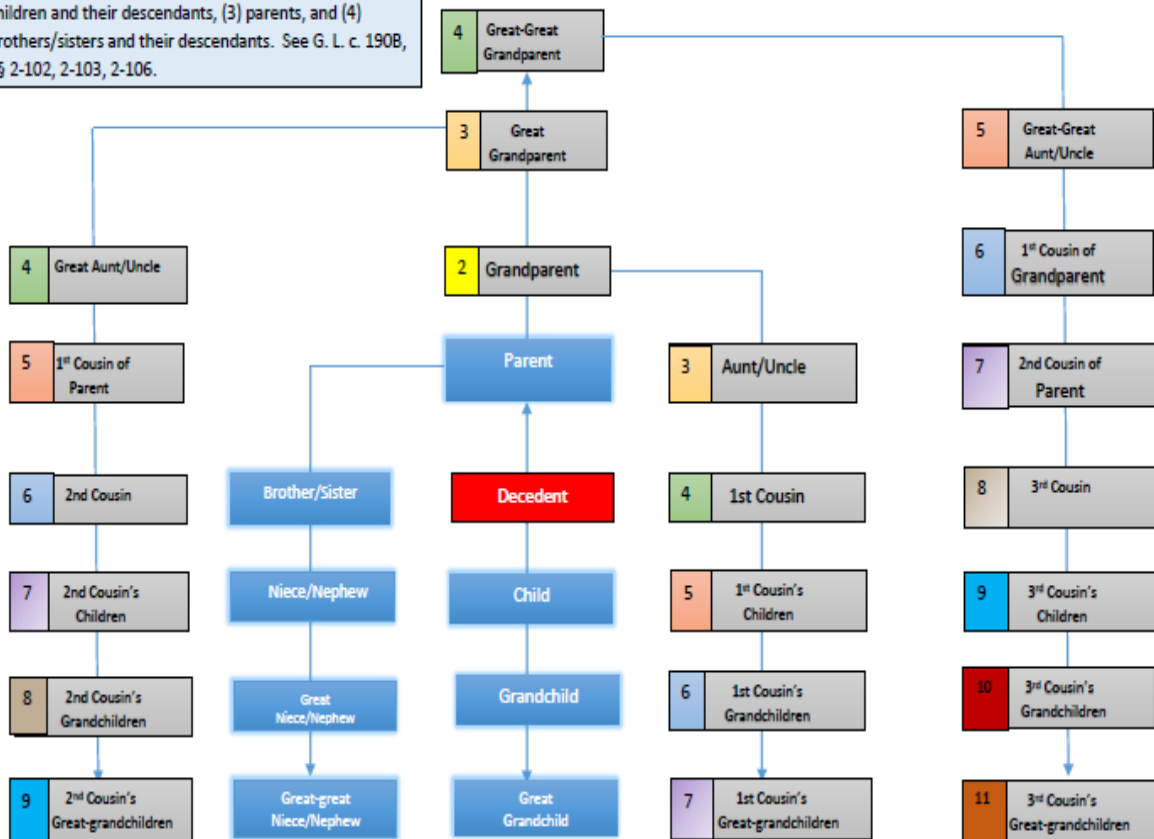
¹ Chapter 190 uses the term "issue" and not "descendants" to refer to the Decedent's children, grandchildren, etc.

² Kindred includes surviving parent(s), siblings, descendants of any predeceased sibling, etc., and the closest relative as listed on the Massachusetts Degrees of Kinship Chart (MPC 960).

Degrees of kinship are used to identify heirs at law in the "next of kin" category **ONLY** if there are no members in the first four groups of heirs: (1) surviving spouse, (2) children and their descendants, (3) parents, and (4) brothers/sisters and their descendants. See G. L. c. 190B, §§ 2-102, 2-103, 2-106.

MASSACHUSETTS DEGREES OF KINSHIP CHART (MPC 960)

Each title is that person's relation to the Decedent.



- The numbers above represent the order of nearness in blood to the deceased and are referred to as "degrees of kindred". The lower the degree or number, the closer a relation is to the Decedent.
- When there are multiple relations with the same degree, those who claim through the nearest ancestor are preferred. See G. L. c. 190B, § 2-103 (4). For example, if the nearest living relatives are a great-aunt, a great-uncle and two 1st cousins, all are 4th degree relations, but the two 1st cousins inherit because they claim through the grandparents - a closer ancestor than the great-grandparents.
- The nearest living relatives of the lowest degree inherit the estate equally regardless of whether they claim on the mother's side or the father's side of the family. Children of deceased relatives in a class are excluded. See G. L. c. 190B, § 2-103 (4).
- If there are no known heirs at law, see G. L. c. 190B, § 2-105. The Attorney General must be provided notice in such cases.