

# MINNESOTA STATUTES 1975 SUPPLEMENT

## PROBATE PROCEEDINGS 525.02

### CHAPTER 525. PROBATE PROCEEDINGS.

Sec.		Sec.	
525.02	Powers.	525.48	Final account, attorney fees and representative fees.
525.03	Books of record.	525.484	Property of deceased persons to be transferred to representatives of foreign countries in certain cases.
525.07	Acting as counsel prohibited.	525.486	Termination of trusts; distribution. [New]
525.08	Salaries.	525.491	Attorney's lien.
525.091	Destruction and reproduction of probate records.	525.504	Discharge of guardian or conservator; property of minors. [New]
525.112	Court reporters for hennepin county court.	525.51	Summary proceedings.
525.12	Auditor; appointment.	525.515	Basis for attorney's fees.
525.122	Compensation of auditor.	525.521	Repealed.
525.15	Allowances to spouse.	525.522	Repealed.
525.151	Allowance selection and maintenance payment. [New]	525.523	Repealed.
525.161	No surviving spouse or kindred, notices to attorney general.	525.524	Repealed.
525.18	Repealed.	525.525	Repealed.
525.181	Repealed.	525.526	Repealed.
525.182	Repealed.	525.527	Repealed.
525.183	Repealed.	525.53	Repealed.
525.184	Repealed.	525.531	Repealed.
525.19	Repealed.	525.532	Disclaimer of interests passing by will, intestate succession or under certain powers of appointment.
525.191	Repealed.	525.551	Hearing; appointment; bond; prosecution; notice.
525.202	Apportionment.	525.561	Contents of inventory. [New]
525.203	Repealed.	525.562	Appraisal. [New]
525.211	Repealed.	525.591	Special guardian or conservator.
525.212	Renunciation and election.	525.62	Mortgage and lease.
525.215	Election against other conveyances.	525.63	Reasons for sale, mortgage, lease.
525.223	Uniform testamentary additions to trusts act.	525.64	Petition, notice, hearing.
525.253	Sale of devised property.	525.641	Order for sale, mortgage, lease.
525.26	Repealed.	525.642	Terms of sale.
525.261	Repealed.	525.65	Public sale.
525.262	Repealed.	525.652	Additional bond.
525.27	Repealed.	525.66	Sale of contract interest.
525.271	Repealed.	525.661	Sale subject to charge.
525.272	Repealed.	525.662	Confirmation.
525.31	Essentials. [New]	525.67	Agreement and sale for public purpose.
525.311	Contents of petition. [New]	525.68	Platting.
525.312	Decree of descent. [New]	525.69	Conveyance of vendor's title.
525.33	Repealed.	525.691	Mortgage extension.
525.37	Foreclosure of mortgages. [New]	525.692	Liability on mortgage note.
525.38	Realty acquired. [New]	525.693	Repealed.
525.39	Repealed.	525.70	Validity of proceedings.
525.393	Disposal by coroner.	525.701	Repealed.
525.41	Repealed.	525.702	Limitation of action.
525.411	Repealed.	525.71	Appealable orders.
525.412	Repealed.	525.80	Representative. [New]
525.413	Repealed.	525.83	Notice.
525.42	Repealed.	525.84	Erroneous escheat.
525.421	Repealed.	525.841	Escheat returned.
525.43	Repealed.	525.86	Repealed.
525.431	Repealed.	525.87	Repealed.
525.44	Repealed.	525.91	Letters, contents. [New]
525.441	Repealed.	525.924	Manner of executing anatomical gifts.
525.442	Repealed.	525.927	Rights and duties at death.
525.45	Repealed.		
525.46	Repealed.		
525.475	Repealed.		
525.475	Dormant estate; removal of representative or attorney. [New]		

#### 525.02 Powers.

In addition to its general powers, the court shall have power to correct, modify, vacate, or amend its records, orders and decrees:

(a) At any time, for the correction of clerical error or pursuant to the provisions of section 524.3-413.

(b) Within the time for taking an appeal, for the correction of judicial error;

(c) Within two years after petitioner's discovery thereof, for fraud, whether intrinsic or extrinsic, or misrepresentation unless petitioner be a party to such fraud;

(d) Within two years after the date of filing of any record, order or decree, for excusable neglect, inadvertence or mistake.

In any case, the petitioner must proceed with due diligence and may be barred by laches or the court may deny relief where it appears that the granting thereof would be inequitable in view of all the facts and circumstances appearing.

# MINNESOTA STATUTES 1975 SUPPLEMENT

## 525.02 PROBATE PROCEEDINGS

[1975 c 347 s 81]

### 525.03 Books of record.

The court shall keep the following books of record:

(1) An index in which files pertaining to estates of deceased persons shall be indexed under the name of the decedent, those pertaining to guardianships under the name of the ward, those pertaining to a mentally ill, inebriate, mentally deficient, or epileptic person under the name of such person, those pertaining to wills deposited pursuant to section 525.22, under the name of the testator; after the name of each file shall be shown the file number and, if ordered by the court, the book and page of the register in which the documents pertaining to such file are listed, and the date of the filing of the first document;

(2) A register, properly indexed, in which shall be listed under the name of the decedent, ward, mentally ill, inebriate, mentally deficient, or epileptic person, or testator, all documents filed pertaining thereto and in the order filed; such list shall show the name of the document, the date of the filing thereof, and shall give a reference to the volume and page of any other book in which any record shall have been made of such document;

(3) A record of wills, properly indexed, in which shall be recorded all probated wills with the order of probate thereof;

(4) A record of bonds, if ordered by the court, properly indexed, in which may be recorded such bonds as may be ordered by the court to be recorded;

(5) A record of letters, properly indexed, in which shall be entered all letters testamentary, of administration, and of conservatorship or guardianship issued;

(6) A record of orders, properly indexed, in which shall be recorded all orders authorizing, or refusing to authorize, the sale, mortgage, or lease of real estate, or confirming, or refusing to confirm, the sale or lease of real estate; all orders directing, or refusing to direct, a conveyance or lease of real estate under contract; all orders vacating a previous appealable order, judgment, or decree; all orders refusing to vacate a previous appealable order, judgment, or decree alleged to have been procured by fraud or misrepresentation, or through surprise or excusable inadvertence or neglect; all judgments or decrees of partial or final distribution; all orders of distribution and general protection; and all orders granting or denying restoration to capacity.

[1975 c 347 s 82]

### 525.07 Acting as counsel prohibited.

No judge, referee, registrar, clerk, deputy clerk, or employee of any court, or the law partner of any of them, shall be counsel or attorney in any action or proceedings for or against any devisee, legatee, heir, creditor, representative, or ward over whom, or whose estate, claim, or accounts such court has jurisdiction. Except in matters relating to commitments, none of them shall give counsel or advice, or draw or prepare any paper relating to any matter which is or may be brought before such court, except orders, judgments, decrees, executions, warrants, certificates, or subpoenas issuing out of such court. No judge, referee, registrar, or clerk shall keep or hold his official office with any practicing attorney.

[1975 c 347 s 83]

### 525.08 Salaries.

The salaries of the judges, referees, registrars, clerks, reporters, and employees shall be as provided by law, but the salaries of the registrars, clerks and employees shall be fixed by the judge within the budget approved by the board of county commissioners, subject to the provisions of section 382.265.

[1975 c 347 s 84]

### 525.091 Destruction and reproduction of probate records.

Subdivision 1. The clerk of court of any county upon order of the probate judge may destroy all the original documents in any proceeding of record in his of-

# MINNESOTA STATUTES 1975 SUPPLEMENT

## PROBATE PROCEEDINGS 525.112

five years after the file in such proceeding has been closed provided the original or a Minnesota state archives commission approved photographic, photostatic, microphotographic, microfilm, or similarly reproduced copy of the original of the following enumerated documents in the proceeding are on file in his office.

Enumerated original documents:

(a) In estates, the jurisdictional petition and proof of publication of the notice of hearing thereof; will and certificate of probate; letters; inventory and appraisal; inheritance tax return or schedule of non-probate assets; inheritance tax return waiver or self assessed inheritance tax return; orders directing and confirming sale, mortgage, lease, or for conveyance of real estate; order setting apart statutory selection; receipts for federal estate taxes and state inheritance taxes; orders of distribution and general protection; decrees of distribution; federal estate tax closing letter, consent to discharge by commissioner of revenue and order discharging representative; and any amendment of the listed documents.

When an estate is deemed closed as provided in clause (d) of this subdivision, the enumerated documents shall include all claims of creditors.

(b) In guardianships or conservatorships, the jurisdictional petition and order for hearing thereof with proof of service; letters; orders directing and confirming sale, mortgage, lease or for conveyance of real estate; order for restoration to capacity and order discharging guardian; and any amendment of the listed documents.

(c) In mental, inebriety, and indigent matters, the jurisdictional petition; report of examination; warrant of commitment; notice of discharge from institution, or notice of death and order for restoration to capacity; and any amendment of the listed documents.

(d) Except for the enumerated documents described in this subdivision, the clerk of probate court may destroy all other original documents in any proceeding without retaining any reproduction of the document. For the purpose of this subdivision, a proceeding in the probate court is deemed closed if no document has been filed in the proceeding for a period of 15 years, except in the cases of wills filed for safe-keeping and those containing wills of decedents not adjudicated upon.

Subd. 2. The clerk of probate court of any county upon order of the probate judge may destroy the original record books as enumerated in this subdivision provided a Minnesota state archives commission approved photographic, photostatic, microphotographic, microfilm, or similarly reproduced copy of the original record book is on file in his office.

Enumerated original record books:

(a) All record books kept for recording in compliance with section 525.03, clauses (3), (4), (5) and (6).

(b) All record books kept for inheritance tax purposes in compliance with section 291.29, subdivisions 1 and 2, after the expiration of 15 years from the date of the last proceeding entered therein.

*[For text of subd 3, see M.S.1974]*

Subd. 4. This section does not apply to the court of any county until the county board of the county adopts a resolution authorizing the destruction of probate records pursuant to the provisions of this section. When the county board has complied with this subdivision, section 525.092 and any act amendatory thereof shall no longer apply to the probate court of that county.

*[1975 c 347 s 85-87]*

### **525.112 Court reporters for hennepin county court.**

The county judge or judge of probate of any county now having or which may hereafter have 400,000 inhabitants, or over, may appoint a competent stenographer as court reporter and secretary, who shall be paid a salary of \$3,000 per annum; and, in addition to this salary, the court reporter may also be paid such fees

# MINNESOTA STATUTES 1975 SUPPLEMENT

## 525.112 PROBATE PROCEEDINGS

for transcripts of evidence made in relation to probate hearings, as the judge of probate shall fix and allow, and appoint two additional clerks who shall be competent stenographers, who shall each be paid a salary of \$1,200 per annum.

[1975 c 347 s 88]

### 525.12 Auditor; appointment.

The court may appoint an auditor in any matter involving an annual, partial, or final account, or the amount due on a claim or an offset thereto. Such appointment may be made with or without notice and on the court's own motion or upon the petition of the personal representative or of any person interested in the estate or guardianship.

[1975 c 347 s 89]

### 525.122 Compensation of auditor.

The auditor shall be allowed such reasonable fees, disbursements, and expenses as may be determined by the court and shall be paid by the personal representative as expenses of administration, guardianship or conservatorship or by the person applying for such audit as the court may determine.

[1975 c 347 s 90]

### 525.15 Allowances to spouse.

When any person dies, testate or intestate,

(1) The surviving spouse shall be allowed from the personal property of which the decedent was possessed or to which he was entitled at the time of his death, the wearing apparel, and, as selected by him, furniture and household goods not exceeding \$2,000 in value, and other personal property not exceeding \$1,000 in value;

(2) When, except for one automobile, all of the personal estate of the decedent is allowed to the surviving spouse by clause (1), the surviving spouse shall also be allowed such automobile;

(3) If there be no surviving spouse, the minor children shall receive the property specified in clause (1) as selected in their behalf;

(4) During administration, but not exceeding 18 months, unless an extension shall have been granted by the court, or, if the estate be insolvent, not exceeding 12 months, the spouse or children, or both, constituting the family of the decedent shall be allowed reasonable maintenance;

(5) In the administration of an estate of a nonresident decedent, the allowances received in the domiciliary administration shall be deducted from the allowances under this section.

[1975 c 347 s 91]

### 525.151 Allowance selection and maintenance payment.

The surviving spouse, and conservators or guardians of the minor children, may select the property of the estate allowed to them under section 525.15 (1), (2) and (3). The personal representative may make these selections if the surviving spouse or the conservators or guardians of the minor children are unable or fail to do so within a reasonable time or if there are no conservators or guardians of the minor children. The personal representative may execute an instrument or deed of distribution to establish the ownership of such property. He may determine maintenance in periodic installments not exceeding \$500 per month for one year, if the estate is insolvent or 18 months if the estate is solvent, and may disburse funds of the estate in payment of such maintenance. The personal representative or any interested person aggrieved by any selection, determination, payment, proposed payment, or failure to act under this section may petition the court for appropriate relief which relief may provide a family allowance larger or smaller than that which the personal representative determined or could have determined.

[1975 c 347 s 92]

PROBATE PROCEEDINGS 525.215

**525.161 No surviving spouse or kindred, notices to attorney general.**

When it appears from the petition or application for administration of the estate, or otherwise, in a proceeding in the court that the intestate left surviving no spouse or kindred, the court shall give notice of such fact and notice of all subsequent proceedings in such estate to the attorney general forthwith; and the attorney general shall protect the interests of the state during the course of administration. The residue which escheats to the state shall be transmitted to the attorney general. All moneys, stocks, bonds, notes, mortgages and other securities, and all other personal property so escheated shall then be given into the custody of the state treasurer, who shall notify the commissioner of finance thereof and immediately credit the moneys received to the general fund. The treasurer shall hold such stocks, bonds, notes, mortgages and other securities, and all other personal property, subject to such investment, sale or other disposition as the state board of investment may direct pursuant to section 11.08. The attorney general shall immediately report to the state executive council all real property received in the individual escheat, and any sale or disposition of such real estate shall be made in accordance with sections 94.09 to 94.16.

[1975 c 347 s 93]

- 525.18** [Repealed, 1975 c 347 s 144]
- 525.181** [Repealed, 1975 c 347 s 144]
- 525.182** [Repealed, 1975 c 347 s 144]
- 525.183** [Repealed, 1975 c 347 s 144]
- 525.184** [Repealed, 1975 c 347 s 144]
- 525.19** [Repealed, 1975 c 347 s 144]
- 525.191** [Repealed, 1975 c 347 s 144]
- 525.202 Apportionment.**

If the person takes a portion of a testator's estate under the provisions of section 525.20 or 525.201, such portion shall be taken from the estate not disposed of by the will; if that be insufficient, the devises made by the will abate as provided in section 524.3-902.

[1975 c 347 s 94]

- 525.203** [Repealed, 1975 c 347 s 144]
- 525.211** [Repealed, 1975 c 347 s 144]
- 525.212 Renunciation and election.**

If a will make provision for a surviving spouse in lieu of the rights in the estate secured by statute, such spouse shall be deemed to have elected to take under the will, unless he shall have filed with the court and mailed or delivered to the personal representative, if any, within nine months after the date of death, or within six months after the probate of the decedent's will, whichever limitation last expires, an instrument in writing renouncing and refusing to accept the provisions in such will. For good cause shown, the court may permit an election within such further time as the court may determine. No devise to a surviving spouse shall be considered as adding to the rights in the estate secured by sections 525.145 and 525.16 to such spouse, unless it clearly appears from the contents of the will that such was the testator's intent.

[1975 c 347 s 95]

**525.215 Election against other conveyances.**

A spouse electing under sections 525.213 to 525.216 also must elect to take against the will, if spouse is a beneficiary thereunder, and against all other conveyances within the scope of section 525.213 of which spouse is a beneficiary. A spouse electing to take against the will pursuant to section 525.212 also must elect to take against all conveyances within the scope of section 525.213 of which spouse is a beneficiary. The share of any surviving spouse in all assets, probate and non-

# MINNESOTA STATUTES 1975 SUPPLEMENT

## 525.215 PROBATE PROCEEDINGS

probate, shall thereupon be determined in accordance with the provisions of sections 525.145, 525.15, and 525.16 (1), (2) and (3).

[1975 c 347 s 96]

## 525.223 Uniform testamentary additions to trusts act.

**Subdivision 1. Testamentary additions to trusts.** A devise, the validity of which is determinable by the law of this state, may be made by a will to the trustee or trustees of a trust established or to be established by the testator or by the testator and some other person or persons or by some other person or persons, including a funded or unfunded life insurance trust, although the trustor has reserved any or all rights of ownership of the insurance contracts, if the trust is identified in the testator's will and its terms are set forth in a written instrument, other than a will, executed before or concurrently with the execution of the testator's will or in the valid last will of a person who has predeceased the testator, regardless of the existence, size, or character of the corpus of the trust. The devise shall not be invalid because the trust is amendable or revocable, or both, or because the trust was amended after the execution of the will or after the death of the testator. Unless the testator's will provides otherwise, the property so devised (a) shall not be deemed to be held under a testamentary trust of the testator but shall become a part of the trust to which it is given and (b) shall be administered and disposed of in accordance with the provisions of the instrument or will setting forth the terms of the trust, including any amendments thereto made before the death of the testator, regardless of whether made before or after the execution of the testator's will, and, if the testator's will so provides, including any amendments to the trust made after the death of the testator. A revocation or termination of the trust before the death of the testator shall cause the devise to lapse.

**Subd. 2. Effect on prior wills.** This section shall not invalidate any devise made by a will executed prior to the effective date of Laws 1963, Chapter 13.

[1975 c 347 s 97,98]

[For text of subds 3 to 5, see M.S.1974]

## 525.253 Sale of devised property.

Subdivision 1. Unless a contrary intent appears from the will, an agreement made by a testator for the sale or transfer of real property disposed of by the will previously made, does not revoke or adeem such disposal; but all the right, title, and interest of the decedent in such property and in said agreement shall pass, according to the terms of the will. Such an agreement shall be enforceable and subject to the same remedies for specific performance or otherwise against the devisees as exists against a decedent's successors if the same passed by succession.

[1975 c 347 s 99]

[For text of subd 2, see M.S.1974]

525.26 [Repealed, 1975 c 347 s 144]

525.261 [Repealed, 1975 c 347 s 144]

525.262 [Repealed, 1975 c 347 s 144]

525.27 [Repealed, 1975 c 347 s 144]

525.271 [Repealed, 1975 c 347 s 144]

525.272 [Repealed, 1975 c 347 s 144]

## 525.31 Essentials.

Whenever any person has been dead for more than three years and has left real or personal property, or any interest therein, and no will or authenticated copy of a will probated outside this state in accordance with the laws in force in the place where probated has been probated nor proceedings had in this state, any interested person may petition the court of the county of the decedent's residence or of the county wherein such real or personal property, or any part thereof, is situated to determine the descent of such property and to assign such property to the

## PROBATE PROCEEDINGS 525.37

persons entitled thereto.

[1975 c 347 s 100]

### 525.311 Contents of petition.

Such petition shall show so far as known to the petitioner:

(1) The name of the decedent, his place of residence, the date and place of his death, his age and address at such date, and whether he died testate or intestate;

(2) The names, ages, and addresses of his heirs, personal representatives, and devisees;

(3) That no will or authenticated copy of a will probated outside of this state in accordance with the laws in force in the place where probated has been probated nor proceedings had in this state;

(4) A description of the real or personal property, or interest therein and if a homestead, designated as such, the interest therein of the decedent, the value thereof at the date of his death, and the interest therein of the petitioner;

(5) If the decedent left a will which has not been probated in this state, such will or authenticated copy of a will probated outside of this state in accordance with the laws in force in the place where probated shall be filed and the petition shall contain a prayer for its probate.

(6) That the devisee or his successors and assigns possess the property devised in accordance with the will, any heir or his successor and assigns possess such property which passes to such heir under the laws of intestate succession in force at the decedent's death, or such property was not possessed or claimed by anyone by virtue of the decedent's title during the time period for testacy proceedings.

(7) In any such proceeding wherein it appears that the property affected descends through several decedents under circumstances qualifying for a descent proceeding under this section in each case, the court in its discretion may consolidate the proceedings into one and may accept the filing of one petition for the several decedents where no interests are prejudiced thereby. The notice and other requirements of sections 525.31, 525.311, and 525.312 shall be complied with, and the matter shall be then adjudicated under one title combining the names of the several decedents and making appropriate findings for each decedent and determining heirship.

[1975 c 347 s 100]

### 525.312 Decree of descent.

Upon the filing of such petition, the court shall fix the time and place for the hearing thereof, notice of which shall be given pursuant to section 524.1-401. Upon proof of the petition and of the will if there be one, or upon proof of the petition and of an authenticated copy of a will duly proved and allowed outside of this state in accordance with the laws in force in the place where proved, if there be one, the court shall allow the same and enter its decree of descent assigning the real or personal property, or any interest therein, to the persons entitled thereto pursuant to the will or such authenticated copy, if there be one, otherwise pursuant to the laws of intestate succession in force at the time of the decedent's death. The court may appoint two or more disinterested persons to appraise the property. No decree of descent shall be entered until the inheritance tax, if any, has been determined and paid.

[1975 c 347 s 100]

**525.33** [Repealed, 1975 c 347 s 144]

### 525.37 Foreclosure of mortgages.

The guardian or conservator shall have the same right to foreclose a mortgage, lien, or pledge or collect the debt secured thereby as the ward or conservatee would have had, if competent, and he may complete any such proceeding commenced by such ward or conservatee.

# MINNESOTA STATUTES 1975 SUPPLEMENT

## 525.37 PROBATE PROCEEDINGS

[1975 c 347 s 101]

### 525.38 Realty acquired.

When a foreclosure sale or a sale on execution for the recovery of a debt due the estate is had or redemption is made the personal representative shall receive the money paid and execute the necessary satisfaction or release. If bid in by the personal representative or if bid in by the decedent or ward and the redemption period expired during the administration of the estate or guardianship or conservatorship without redemption, the real estate shall be treated as personal property. If not so sold, mortgaged, or leased, the real estate or, if so sold, mortgaged, or leased, the proceeds shall be assigned or distributed to the same persons and in the same proportions as if it had been part of the personal estate of the decedent, unless otherwise provided in the will.

[1975 c 347 s 102]

525.39 [Repealed, 1975 c 347 s 144]

### 525.393 Disposal by coroner.

When personal property of a decedent has come into the custody of any coroner and has not been surrendered as hereinafter provided and no will has been admitted to probate or no administration has been had within three months after the decedent's death, the coroner, after the expiration of said time, shall file in the court an inventory of all such property and a finger-print of each finger of each hand of the decedent. Wearing apparel and such other property as the coroner determines to be of nominal value, may be surrendered by the coroner to the spouse or to any blood relative of the decedent. If no will is admitted to probate nor administration had within six months after death, the coroner shall sell the same at public auction upon such notice and in such manner as the court may direct. He shall be allowed reasonable expenses for the care and sale of the property, and shall deposit the net proceeds of such sale with the county treasurer in the name of the decedent, if known. The treasurer shall give the coroner duplicate receipts therefor, one of which he shall file with the county auditor and the other in the court. If a representative shall qualify within six years from the time of such deposit, the treasurer shall pay the same to such representative.

[1975 c 347 s 103]

525.41 [Repealed, 1975 c 347 s 144]

525.411 [Repealed, 1975 c 347 s 144]

525.412 [Repealed, 1975 c 347 s 144]

525.413 [Repealed, 1975 c 347 s 144]

525.42 [Repealed, 1975 c 347 s 144]

525.421 [Repealed, 1975 c 347 s 144]

525.43 [Repealed, 1975 c 347 s 144]

525.431 [Repealed, 1975 c 347 s 144]

525.44 [Repealed, 1975 c 347 s 144]

525.441 [Repealed, 1975 c 347 s 144]

525.442 [Repealed, 1975 c 347 s 144]

525.45 [Repealed, 1975 c 347 s 144]

525.46 [Repealed, 1975 c 347 s 144]

525.475 [Repealed, 1975 c 347 s 144]

### 525.475 Dormant estate; removal of representative or attorney.

(1) In a supervised administration under sections 524.3-501 to 524.3-505:

(a) If an order of complete settlement of the estate or a decree, as provided in section 524.3-1001, is not entered within 18 months after appointment of the personal representative, the court shall order the personal representative and his attorney to show good cause why an order of complete settlement of the estate or a decree has not been entered.



## PROBATE PROCEEDINGS 525.484

(b) If good cause is not shown the court shall order the removal of the personal representative, instruct the personal representative to dismiss his attorney and employ another attorney, if necessary, to complete the administration of the estate, or shall order such other or further relief as may be appropriate. In addition, the court may refer a record of the proceeding to the state board of professional responsibility. If removal of the personal representative is ordered, the court shall also direct by order the disposition of the assets remaining in the name of, or under the control of, the personal representative being removed.

(c) If good cause is shown, the court shall order that the time for administration of the estate be extended for an additional period not to exceed one year. If an order of complete settlement of the estate or a decree, as provided in section 524.3-1001, is not entered within such extended period, the court shall again order the personal representative and his attorney to show cause why an order of complete settlement or a decree has not been entered. If good cause is not shown, the provisions of paragraph (b) of this section shall be applicable. If good cause is shown, the court shall order that the time for administration of the estate be again extended for an additional period not to exceed one year and the provisions of this paragraph (c) of this section shall be applicable to such additional extension.

(2) In an administration other than a supervised administration under sections 524.3-501 to 524.3-505:

(a) Upon the petition of an interested person and upon showing of probable cause for relief, the court shall order the personal representative and his attorney to show cause why the estate has not been closed pursuant to the provisions of sections 524.3-1001 to 524.3-1003.

(b) If good cause is not shown, the court shall order the removal of the personal representative, instruct the personal representative to dismiss his attorney and employ another attorney, if necessary, to complete the administration of the estate or shall order such other or further relief as may be appropriate. In addition, the court may refer a record of the proceeding to the state board of professional responsibility. If removal of the personal representative is ordered, the court shall also direct by order the disposition of the assets remaining in the name of, or under the control of, the personal representative being removed.

(c) If good cause is shown, the court shall enter an order so finding. An interested party may thereafter again petition the court for an order directing the personal representative and his attorney to show cause why the estate has not been closed pursuant to the provisions of sections 524.3-1001 to 524.3-1003.

(3) An attorney dismissed pursuant to this section and who is seeking attorney fees for services rendered to the estate has the burden of affirmatively proving that the estate has benefited from his services and that the benefits warrant the payment of the requested fee.

[1975 c 347 s 104]

### **525.48 Final account, attorney fees and representative fees.**

Any full or final account to distributees shall include a statement of attorney fees and representative fees. This statement shall include the total fees charged to date and estimated future fees to be charged.

[1975 c 347 s 105]

### **525.484 Property of deceased persons to be transferred to representatives of foreign countries in certain cases.**

Whenever any person who is entitled to any property in an estate is a citizen of and a resident in any foreign country with the government of which the United States maintains diplomatic relations, the personal representative of the estate may deliver or pay such property to an accredited diplomatic or consular representative of the government of such foreign country for delivery or payment to such person, or, if such property has been deposited with the county treasurer pursuant to section 524.3-914, the court upon application as therein provided shall grant its order authorizing and directing the county auditor to issue his warrant to the county treasurer to pay such money or deliver such property to such accredited diplomatic

# MINNESOTA STATUTES 1975 SUPPLEMENT

## **525.484 PROBATE PROCEEDINGS**

or consular representative, and the personal representative of such estate or the county treasurer shall be discharged from his trust and all further liability thereunder upon filing the receipt of such diplomatic or consular representative for such property with such court, provided that such diplomatic or consular representative has been licensed by proper federal authority to receive such property of the nationals of such country, where such license is required.

This section shall not apply where such citizen of and resident in any such foreign country has appeared in person or by duly authorized representative other than such diplomatic or consular representative.

[1975 c 347 s 106]

## **525.486 Termination of trusts; distribution.**

In any administration of an estate in probate, wherein the decedent died testate and has established a testamentary trust, and it appears to the court that the operative events have occurred whereby said trust is terminated prior to distribution in whole or in part, the court shall have jurisdiction in its discretion to adjudge and determine that said trust be terminated in whole or in part without further proceedings in any other court of general jurisdiction and may make its decree or order of distribution accordingly to the extent that the trust is no longer operative.

[1975 c 347 s 107]

## **525.491 Attorney's lien.**

When any attorney at law has been retained to appear for any heir or devisee, such attorney may perfect his lien upon the client's interest in the estate for compensation for such services as he may have rendered respecting such interest, by serving upon the personal representative before distribution is made, a notice of his intent to claim a lien for his agreed compensation, or the reasonable value of his services. The perfecting of such a lien, as herein provided, shall have the same effect as the perfecting of a lien as provided in section 481.13, and such lien may be enforced and the amount thereupon determined in the manner therein provided.

[1975 c 347 s 108]

## **525.504 Discharge of guardian or conservator; property of minors.**

When a minor child receives or is entitled to personal property, the court may order and direct a guardian or conservator to make payment of not to exceed \$2,000 thereof to the parent or parents, custodian, or the person, corporation, or institution with whom the minor child is, for the benefit, support, maintenance, and education of the minor child or may direct the investment of the whole or any part thereof in a savings account, savings certificate, or certificate of deposit in a bank, savings bank, building and loan association, or savings and loan association having deposit insurance, in the name of the minor child. When so invested the savings account passbook, savings certificate, certificate of deposit, or other acknowledgement of receipt of the deposit by the depository as the case may be, is to be kept as provided by the court, and the depository shall be instructed not to allow such investment to be withdrawn, except by order of the court. The court may authorize the use of any part or all thereof to purchase United States government savings bonds in the minor's name the bonds to be kept as provided by the court and to be retained until the minor reaches majority unless otherwise authorized by an order of the court.

[1975 c 347 s 109]

## **525.51 Summary proceedings.**

Subdivision 1. Upon petition of an interested person, the court, with or without notice, may determine that the decedent had no estate, or that the property has been destroyed, abandoned, lost, or rendered valueless, and that no recovery has been had nor can be had therefor, or if there be no property except such as has been recovered for death by wrongful act, or such as is exempt from all debts and charges in the probate court, or such as may be appropriated for the payment of the allowances to the spouse and children mentioned in section 525.15, expenses of

## PROBATE PROCEEDINGS 525.51

administration, funeral expenses, expenses of last illness, debts having preference under laws of the United States, and taxes, the personal representative by order of the court may pay the same in the order named. Thereupon the court with or without notice may summarily determine the heirs, legatees, and devisees in its final decree or order of distribution assigning to them their share or part of the property with which the personal representative is charged.

Subd. 2. If upon hearing of a petition for summary assignment or distribution, for special administration, or for any administration, or for the probate of a will, the court determines that there is no need for the appointment of a representative and that the administration should be closed summarily for the reason that all of the property in the estate is exempt from all debts and charges in the probate court, a final decree or order of distribution may be entered, with or without notice, assigning such property to the persons entitled thereto pursuant to the terms of the will, or if there be none, pursuant to the law of intestate succession in force at the time of the decedent's death.

Subd. 3. Summary distribution may be made under this section in any proceeding of any real, personal, or other property in kind in reimbursement or payment of the allowances to the spouse and children mentioned in said section 525.15, expenses of administration, funeral expenses, expenses of last illness, debts having preference under the laws of the United States, and taxes, in the order named, whenever the court is satisfied as to the propriety thereof and as to the valuation, based upon appraisal in the case of real estate other than homestead, of the property being assigned to exhaust the assets of the estate.

Subd. 4. Summary proceedings may be had with or without the appointment of a personal representative. In all summary proceedings wherein no personal representative is appointed, the court may require the petitioner to file a corporate surety bond in an amount fixed and approved by the court. The condition of the bond shall be that the petitioner has made a full, true, and correct disclosure of all the facts related in the petition and will perform the terms of the decree or order of distribution issued pursuant thereto. Any interested person suffering damages as a result of misrepresentation or negligence of the petitioner in stating facts in the petition pursuant to which an improper decree or order of distribution is issued, or the terms of the decree or order of distribution are not performed by the petitioner as required, shall have a cause of action against the petitioner and his surety to recover such damages in the court wherein such proceeding was had which is hereby granted jurisdiction thereof.

Subd. 5. In any summary, special, or other administration wherein it appears that the estate will not be exhausted in payment of the priority items enumerated in the foregoing subdivisions, the estate may nevertheless be summarily closed without further notice, and the property assigned to the proper persons, if the gross probate estate, exclusive of any exempt homestead as defined in section 525.145, does not exceed the value of \$30,000. Where such closing and distribution of assets is made pursuant to the terms of a will, no decree shall issue until a hearing has been held for formal probate of the will as provided in sections 524.3-401 to 524.3-413.

No summary closing of an estate shall be made to any distributee under this subdivision, unless a showing is made by the personal representative or the petitioner, that all funeral expenses, expenses of last illness, taxes, debts, and claims have been paid, and provided, further, that a bond shall be filed by the personal representative or the petitioner, conditioned upon the fact that all such obligations have been paid and that all the facts shown on the petition are true, with sufficient surety approved by the court in an amount as may be fixed by the court to cover potential improper distributions. If a personal representative is appointed, his representative's bond shall be sufficient for such purpose unless an additional bond is ordered, and the sureties on his bond shall have the same obligations and liabilities as provided for sureties on a distribution bond.

In the event that an improper distribution or disbursement is made in a summary closing, in that not all of said obligations have been paid or that other facts as shown by the personal representative or the petitioner, are not true, resulting in damage to any party, the court may vacate its summary decree or closing order,

# MINNESOTA STATUTES 1975 SUPPLEMENT

## 525.51 PROBATE PROCEEDINGS

and the petitioner or the personal representative, together with his surety, shall be liable for damages to any party determined to be injured thereby as herein provided. The personal representative, petitioner, or his surety, may seek reimbursement for damages so paid or incurred from any distributee or recipient of assets under summary decree or order, who shall be required to make a contribution to cover such damages upon a pro rata basis or as may be equitable to the extent of assets so received. The court is hereby granted complete and plenary jurisdiction of any and all such proceedings and may enter such orders and judgments as may be required to effectuate the purposes of this subdivision.

Any judgment rendered for damages or the recovery of assets in such proceedings shall be upon petition and only after hearing held thereon on 14 days' notice of hearing and a copy of petition served personally upon the personal representative and the surety and upon any distributee or recipient of assets where applicable. Any action for the recovery of moneys or damages under this subdivision shall be subject to the time and other limitations imposed by section 525.02.

[1975 c 347 s 110]

### 525.515 Basis for attorney's fees.

(a) Notwithstanding any law to the contrary, an attorney performing services for the estate at the instance of the personal representative, guardian or conservator shall have such compensation therefor out of the estate as shall be just and reasonable. This section shall apply to all probate proceedings.

(b) In determining what is a fair and reasonable attorney's fee effect shall be given to a prior agreement in writing by a testator concerning attorney fees. Where there is no prior agreement in writing with the testator consideration shall be given to the following factors in determining what is a fair and reasonable attorney's fee:

- (1) The time and labor required;
- (2) The experience and knowledge of the attorney;
- (3) The complexity and novelty of problems involved;
- (4) The extent of the responsibilities assumed and the results obtained; and
- (5) The sufficiency of assets properly available to pay for the services;

(c) An interested person who desires that the court review attorney fees shall seek review of attorney fees in the manner provided in section 524.3-721. In determining the reasonableness of the attorney fees, consideration shall be given to all the factors listed in clause (b) and the value of the estate shall not be the controlling factor.

[1975 c 347 s 111]

**525.521** [Repealed, 1975 c 347 s 144]

**525.522** [Repealed, 1975 c 347 s 144]

**525.523** [Repealed, 1975 c 347 s 144]

**525.524** [Repealed, 1975 c 347 s 144]

**525.525** [Repealed, 1975 c 347 s 144]

**525.526** [Repealed, 1975 c 347 s 144]

**525.527** [Repealed, 1975 c 347 s 144]

**525.53** [Repealed, 1975 c 347 s 144]

**525.531** [Repealed, 1975 c 347 s 144]

**525.532 Disclaimer of interests passing by will, intestate succession or under certain powers of appointment.**

[For text of subds 1 to 3, see M.S.1974]

Subd. 4. Such disclaimer shall be effective upon being filed in the court in which the estate of the person by whom the interest was created or from whom it would have been received is, or has been, administered or, if no probate administration has been commenced, then in the court where it would be pending if com-

## PROBATE PROCEEDINGS 525.561

menced. A copy of the disclaimer shall be delivered or mailed to the personal representative, trustee or other person having legal title to, or possession of, the property in which the interest disclaimed exists, and no such representative, trustee or person shall be liable for any otherwise proper distribution or other disposition made without actual notice of the disclaimer. If an interest in or relating to real estate is disclaimed, the original of the disclaimer, or a copy of the disclaimer certified as true and complete by the clerk of the court wherein the same has been filed, shall be filed in the office of the register of deeds or the registrar of titles, as hereinafter provided, in the county or counties where the real estate is situated and shall constitute notice to all persons only from and after the time of such filing. If title to such real estate has not been registered under the provisions of chapter 508, such disclaimer or certified copy shall be filed with the register of deeds. If title to such real estate has been registered under the provisions of chapter 508, such disclaimer or certified copy shall be filed with the registrar of titles.

Subd. 5. Unless the person by whom the interest was created or from whom it would have been received has otherwise provided by will or other appropriate instrument with reference to the possibility of a disclaimer by the beneficiary, the property in which the interest disclaimed existed shall descend, be distributed or otherwise be disposed of in the same manner as if the disclaimant had died immediately preceding the death or other event which causes him to become finally ascertained as a beneficiary and his interest to become indefeasibly fixed both in quality and quantity, and, in any case, the disclaimer shall relate for all purposes to such date, whether filed before or after such death or other event. However, one disclaiming an interest in a non-residuary gift, devise or bequest shall not be excluded, unless his disclaimer so provides, from sharing in a gift, devise or bequest of the residue even though, through lapse, such residue includes the assets disclaimed. An interest of any nature in or to the estate of an intestate may be declined, refused or disclaimed as herein provided without ever vesting in the disclaimant.

[1975 c 347 s 112,113]

[For text of subs 6 to 9, see M.S.1974]

**525.551 Hearing; appointment; bond; prosecution; notice.**

Upon proof of the petition, the court shall appoint one or two persons suitable and competent to discharge the trust as general guardians or conservators of the person or estate or of both. Upon the filing of a bond in such amount as the court may direct and an oath according to law, or upon the filing of an acceptance of the trust pursuant to section 48.79, letters of guardianship or conservatorship shall issue. If there be no personal property, the court may waive the filing of a bond, but if the guardian or conservator receives or becomes entitled to any such property he shall immediately file a report thereof and a bond in such amount as the court may direct. In case of breach of any condition of the bond an action thereon may be prosecuted by leave of the court by any interested person. If the ward or conservatee be a patient of a state hospital for the mentally ill, or committed to the guardianship or conservatorship of the commissioner of public welfare as mentally retarded, epileptic, dependent and neglected or is under the temporary custody of the commissioner of public welfare, the court shall notify the commissioner of public welfare of the appointment of a guardian or conservator or successor guardian or conservator of the estate of such ward or conservatee.

[1975 c 347 s 114]

**525.561 Contents of inventory.**

Within one month after his appointment, unless a longer time has been granted by the court, every guardian or conservator shall make and exhibit to the court a verified inventory of all the estate of the ward or conservatee which shall have come to his possession or knowledge. Such property shall be classified therein as follows: (1) real estate, with plat or survey description, and if a homestead, des-

# MINNESOTA STATUTES 1975 SUPPLEMENT

## 525.561 PROBATE PROCEEDINGS

ignated as such, (2) furniture and household goods, (3) wearing apparel, (4) corporation stocks described by certificate numbers, (5) mortgages, bonds, notes, and other written evidence of debt, described by name of debtor, recording data, or other identification, (6) all other personal property accurately identified. All encumbrances, liens, and other charges on any item shall be stated. The guardian or conservator shall set forth in the inventory the fair market value of all assets listed therein. If appraisers are appointed by the court, the value of assets other than those assets specified in section 525.562, subdivision 1, clause (b) shall be determined by the court appointed appraisers. Such value shall be the value at the date of appointment of the guardian or conservator. Such inventory shall show the net value of each item after deducting all encumbrances, liens and charges and the total net value of each class of items and of all classes.

[1975 c 347 s 115]

### 525.562 Appraisal.

Subdivision 1. For the usual purposes of administration, the inventory filed by the guardian or conservator pursuant to section 525.561 shall be sufficient without any appraisal of assets by court appointed appraisers in the following instances:

(a) Where no sale of assets is to be made, and then an appraisal shall be had only as to assets which are to be sold and which are not included in clause (b) below.

(b) As to the following assets:

(1) Cash or deposits in any financial institution;

(2) Securities, bonds or other obligations of the United States government or agency thereof; and

(3) Securities listed on the New York Stock Exchange or the American Stock Exchange, and such other securities markets as may be designated by a rule of court, if the market value thereof can be readily ascertained.

Subd. 2. In all other instances, and in all instances enumerated under clauses (a) and (b) above where an appraisal is necessary for some special administrative purpose, the court shall appoint two or more disinterested and qualified appraisers who shall appraise the assets required to be appraised and shall set down in figures after each item after deducting the encumbrances, liens and charges, the net value thereof and show the total amount of each class, and of all classes, and forthwith deliver such inventory and appraisal certified by them, to the guardian, or conservator, who shall immediately file the same. Such assets shall be appraised at the fair market value thereof as of the date of the appointment of the guardian or conservator or time of sale of assets as circumstances may require as directed by the court.

Subd. 3. The appraisers shall be allowed such reasonable fees, necessary disbursements and expenses as may be fixed by the court, and be paid by the guardian or conservator as expenses of guardianship or conservatorship. In fixing the fee so allowed, the court shall not give any consideration to items not requiring appraisal by this section, even though such assets be included with other appraisable assets in an inventory and appraisal filed pursuant hereto.

[1975 c 347 s 116]

### 525.591 Special guardian or conservator.

Upon a showing of necessity or expediency, the court with or without notice may appoint a special guardian or conservator of the person or estate or both of any person designated in section 525.54, whether a petition for general guardianship or conservatorship has been filed or not. There shall be no appeal from any order appointing or refusing to appoint a special guardian or conservator. A special guardian or conservator of the person shall have charge of the person of the ward or conservatee. A special guardian or conservator of the estate shall collect the assets and conserve the estate, unless his powers are limited by the court in the order of appointment and in the letters to the performance of specified acts. Upon a

## PROBATE PROCEEDINGS 525.641

showing of necessity or expediency, the court with or without notice may expressly confer upon a special guardian or conservator power to perform any or all acts in the administration of the guardianship or conservatorship, not exceeding the powers conferred by law upon general guardians or conservators.

Within 14 days after appointment, a special guardian or conservator of the estate shall file an inventory and appraisal of the personal property according to the requirements of sections 525.561 and 525.562. Upon the granting of letters of general guardianship or conservatorship, the power of a special guardian or conservator shall cease, and he shall proceed forthwith to a final accounting. When a special guardian or conservator has been appointed to protect the ward's or conservatee's interest in any matter wherein the interest of the general guardian or conservator appears to conflict with that of the ward or conservatee, or to protect the ward's or conservatee's interest upon suspension of an order of removal of a general guardian or conservator by appeal, the power of such special guardian or conservator shall not cease until terminated by the court.

[1975 c 347 s 117]

### **525.62 Mortgage and lease.**

Sections 525.62 to 525.702 shall be applicable only to guardianships and conservatorships and not to decedents' estates. As used in sections 525.62 to 525.702, the word "mortgage" includes an extension of an existing mortgage, subject to the provisions of section 525.691; the word "lease," unless the context otherwise indicates, means a lease for more than three years.

[1975 c 347 s 118]

### **525.63 Reasons for sale, mortgage, lease.**

The court may direct a sale, mortgage, or lease of any real estate of a ward or conservatee when the personal property is insufficient to pay his debts and other charges against his estate, or to provide for the support, maintenance, and education of the ward or conservatee, his wife, and children, or when it shall determine such sale, mortgage, or lease to be for the best interest of the ward or conservatee.

The homestead of a ward or conservatee shall not be sold, mortgaged, or leased unless the written consent of the spouse has been filed.

[1975 c 347 s 119]

### **525.64 Petition, notice, hearing.**

A guardian or conservator may file a petition to sell, mortgage, or lease alleging briefly the facts constituting the reasons for the application and describing the real estate involved therein. The petition may include all the real estate of the ward or conservatee or any part or parts thereof. It may apply for different authority as to separate parcels. It may apply in the alternative for authority to sell, mortgage, or lease. Upon the filing of such petition, the court shall fix the time and place for the hearing thereof. Notice of the hearing shall state briefly the nature of the application made by the petition and shall be given pursuant to section 525.83 except that no publication is required unless otherwise ordered. Upon the hearing, the court shall have full power to direct the sale, mortgage, or lease of all the real estate described in the petition, or to direct the sale, mortgage, or lease of any one or more parcels thereof, provided that any such direction shall be within the terms of the application made by the petition.

[1975 c 347 s 120]

### **525.641 Order for sale, mortgage, lease.**

The order shall describe the real estate to be sold, mortgaged, or leased, and may designate the sequence in which the several parcels shall be sold, mortgaged, or leased. If the order be for a sale, it shall direct whether the real estate shall be sold at private sale or public auction. An order to mortgage shall fix the maximum amount of the principal and the maximum rate of interest and shall direct the purpose for which the proceeds shall be used. An order for sale, mortgage, or lease shall remain in force until terminated by the court, but no private sale shall be

# MINNESOTA STATUTES 1975 SUPPLEMENT

## 525.641 PROBATE PROCEEDINGS

made after one year from the date of the order unless the real estate shall have been reappraised under order of the court within three months preceding the sale.

[1975 c 347 s 121]

### 525.642 Terms of sale.

The court may order a sale of real estate for cash, part cash and a purchase-money mortgage of not more than 50 percent of the purchase price, or on contract for deed. The initial payment under a sale on contract shall not be less than ten percent of the total purchase price, and the unpaid purchase price shall bear interest at a rate of not less than four percent per annum and shall be payable in reasonable monthly, quarterly, semiannual, or annual payments, and the final installment shall become due and payable not later than ten years from the date of the contract. Such contract shall provide for conveyance by quitclaim deed, which deed shall be executed and delivered upon full performance of the contract without further order of the court. In the event of termination of the interest of the purchaser and his assigns in such contract, the real estate may be resold under the original order and a reappraisal within three months preceding the sale. A sale of the vendor's interest in real estate sold by the guardian or conservator on contract may be made under order of the court, with or without notice, upon an appraisal of such interest within three months preceding the sale; no such sale shall be made for less than its value as fixed by such appraisal.

[1975 c 347 s 122]

### 525.65 Public sale.

If a sale at public auction be ordered, three weeks' published notice of the time and place of sale shall be given. Proof of publication shall be filed before the confirmation of the sale. Such publication and sale may be made in the county where the real estate is situated or in the county of the proceedings. If the parcels to be sold are contiguous and lie in more than one county, notice may be given and the sale may be made in either of such counties or in the county of the proceedings. The guardian or conservator may adjourn the sale from time to time, if for the best interests of the estate and the persons concerned, but not exceeding three months in all. Every adjournment shall be announced publicly at the time and place fixed for the sale and, if for more than one day, further notice thereof shall be given as the court may direct.

[1975 c 347 s 123]

### 525.652 Additional bond.

If the bond of the guardian or conservator be insufficient, before confirmation of a sale or lease, or before execution of a mortgage, he shall file an additional bond in such amount as the court may require.

[1975 c 347 s 124]

### 525.66 Sale of contract interest.

When a ward or conservatee is entitled under contract of purchase to any interest in real estate, such interest may be sold for the same reasons and in the same manner as other real estate of a ward or conservatee. Before confirmation, the court may require the filing of a bond conditioned to save the estate harmless. Upon confirmation, the guardian or conservator shall assign the contract and convey by quitclaim deed.

[1975 c 347 s 125]

### 525.661 Sale subject to charge.

When the estate of a ward or conservatee is liable for any charge, mortgage, lien, or other encumbrance upon the real estate therein, the court may refuse to confirm the sale or lease until after the filing of a bond in such amount as the court may direct conditioned to save the estate harmless.

[1975 c 347 s 126]



## PROBATE PROCEEDINGS 525.70

### **525.662 Confirmation.**

Upon making a sale or lease, the guardian or conservator shall file his report thereof. Upon proof of compliance with the terms of the order, the court may confirm the sale or lease and order the guardian or conservator to execute and deliver the proper instrument.

[1975 c 347 s 127]

### **525.67 Agreement and sale for public purpose.**

When any real estate of a ward or conservatee is desired by any person, firm, association, corporation, or governmental agency having the power of eminent domain, the guardian or conservator may agree, in writing, upon the compensation to be made for the taking, injuring, damaging, or destroying thereof, subject to the approval of the court. When such agreement has been made, the guardian or conservator shall file a petition, of which the agreement shall be a part, setting forth the facts relative to the transaction. The court, with or without notice, shall hear, determine, and act upon the petition. If the court approves the agreement, the guardian or conservator, upon payment of the agreed compensation, shall convey the real estate sought to be acquired and execute any release which may be authorized.

[1975 c 347 s 128]

### **525.68 Platting.**

When it is for the best interests of the estate of a ward or conservatee, real estate may be platted by the guardian or conservator under such conditions and upon such notice as the court may order.

[1975 c 347 s 129]

### **525.69 Conveyance of vendor's title.**

When any ward or conservatee is legally bound to make a conveyance or lease, the court, with or without notice, may direct the guardian or conservator to make the conveyance or lease to the person entitled thereto. The petition may be made by any person claiming to be entitled to such conveyance or lease, or by the guardian or conservator, or by any person interested in the estate or claiming an interest in such real estate or contract, and shall show the description of the land and the facts upon which such claim for conveyance or lease is based. Upon proof of the petition, the court may order the guardian or conservator to execute and deliver an instrument of conveyance or lease upon performance of the contract.

[1975 c 347 s 130]

### **525.691 Mortgage extension.**

A guardian or conservator without order of the court may make an extension of an existing mortgage for a period of five years or less, if the extension agreement contains the same prepayment privileges and the rate of interest does not exceed the lowest rate in the mortgage extended.

[1975 c 347 s 131]

### **525.692 Liability on mortgage note.**

No guardian or conservator shall be liable personally on any mortgage note or by reason of the covenants in any instrument or conveyance executed by him in his capacity as guardian or conservator.

[1975 c 347 s 132]

### **525.693 [Repealed, 1975 c 347 s 144]**

### **525.70 Validity of proceedings.**

No sale, mortgage, lease, or conveyance by a guardian or conservator shall be subject to collateral attack on account of any irregularity in the proceedings if the court which ordered the same had jurisdiction of the estate.

# MINNESOTA STATUTES 1975 SUPPLEMENT

## 525.70 PROBATE PROCEEDINGS

[1975 c 347 s 133]

**525.701** [Repealed, 1975 c 347 s 144]

### **525.702** Limitation of action.

No proceeding to have declared invalid the sale, mortgage, lease, or conveyance by a guardian or conservator shall be maintained by any person claiming under or through the ward or conservatee unless such proceeding is begun within five years immediately succeeding the date of such sale, mortgage, lease, or conveyance, provided, that in case of real estate sold by a guardian or conservator, no action for its recovery shall be maintained by or under the ward or conservatee unless it is begun within five years next after the termination of the guardianship or conservatorship; and that, in cases of fraud, minors and others under legal disability to sue when the right of action first accrues may begin such action at any time within five years after the disability is removed.

[1975 c 347 s 134]

### **525.71** Appealable orders.

Appeals to the district court may be taken from any of the following orders, judgments, and decrees issued by a judge of the court under chapters 524 or 525:

- (1) An order admitting, or refusing to admit, a will to probate;
- (2) An order appointing, or refusing to appoint, or removing, or refusing to remove, a representative other than a special administrator or special guardian;
- (3) An order authorizing, or refusing to authorize, the sale, mortgage, or lease of real estate, or confirming, or refusing to confirm, the sale or lease of real estate;
- (4) An order directing, or refusing to direct, a conveyance or lease of real estate under contract;
- (5) An order permitting, or refusing to permit, the filing of a claim, or allowing or disallowing a claim or counterclaim, in whole or in part, when the amount in controversy exceeds \$100;
- (6) An order setting apart, or refusing to set apart, property, or making, or refusing to make, an allowance for the spouse or children;
- (7) An order determining, or refusing to determine, venue; an order transferring, or refusing to transfer, venue;
- (8) An order directing, or refusing to direct, the payment of a bequest or distributive share when the amount in controversy exceeds \$100;
- (9) An order allowing, or refusing to allow, an account of a representative or any part thereof when the amount in controversy exceeds \$100;
- (10) An order adjudging a person in contempt;
- (11) An order vacating a previous appealable order, judgment, or decree; an order refusing to vacate a previous appealable order, judgment, or decree alleged to have been procured by fraud or misrepresentation, or through surprise or excusable inadvertence or neglect;
- (12) A judgment or decree of partial or final distribution or an order determining or confirming distribution or any order of general protection;
- (13) An order entered pursuant to section 576.142;
- (14) An order granting or denying restoration to capacity;
- (15) An order made directing, or refusing to direct, the payment of representative's fees or attorneys' fees, and in such case the representative and the attorney shall each be deemed an aggrieved party and entitled to take such appeal;
- (16) An order, judgment, or decree relating to or affecting inheritance taxes or refusing to amend, modify, or vacate such an order, judgment, or decree; but nothing herein contained shall abridge the right of direct review by the supreme court;
- (17) An order extending the time for the settlement of the estate beyond five years from the date of the appointment of the representative.

[1975 c 347 s 135]

# MINNESOTA STATUTES 1975 SUPPLEMENT

## PROBATE PROCEEDINGS 525.91

### **525.80 Representative.**

As used in this chapter, the word "representative", unless the context otherwise indicates, includes personal representatives as that term is defined in chapter 524, guardians, and conservators.

[1975 c 347 s 136]

### **525.83 Notice.**

When notice of hearing is required by any provision of this chapter by reference to this section, such notice shall be given once a week for three consecutive weeks in a legal newspaper designated by the petitioner in the county wherein the proceedings are pending; or, if no such designation be made, in any legal newspaper in such county; or, if the city of the decedent's residence is situated in more than one county, in any legal newspaper in such city. The first publication shall be had within two weeks after the date of the order fixing the time and place for the hearing.

At least 14 days prior to the date fixed for hearing the petitioner, his attorney or agent, shall in guardianship mail a copy of the notice to such persons as the court may direct and in estates shall mail a copy of the notice to each heir, devisee, and legatee whose name and address are known to him.

Proof of such publication and mailing shall be filed before the hearing. No defect in any notice nor in the publication or service thereof shall invalidate any proceedings.

[1975 c 347 s 137]

### **525.84 Erroneous escheat.**

When any property has escheated to the state because the decedent left surviving no spouse nor kindred or because of the failure of a devisee or legatee to receive under a will admitted to probate, or when application is made to prove a will disposing of property escheated to the state, upon the petition of the representative or any person interested in the estate and upon 20 days' notice to the attorney general and to such other persons as the court may direct, the court may admit the will to probate as provided by law, or make its determination of heirship and enter its order assigning the escheated property to the persons entitled thereto.

[1975 c 347 s 138]

### **525.841 Escheat returned.**

In all such cases the commissioner of finance shall be furnished with a certified copy of the court's order assigning the escheated property to the persons entitled thereto, and upon notification of payment of the inheritance tax, the commissioner of finance shall draw his warrant on the state treasurer, or execute a proper conveyance to the persons designated in such order. In the event any escheated property has been sold pursuant to sections 11.08 or 94.09 to 94.16, then the warrant shall be for the appraised value as established during the administration of the decedent's estate. There is hereby annually appropriated from any moneys in the state treasury not otherwise appropriated an amount sufficient to make payment to all such designated persons. No interest shall be allowed on any amount paid to such persons.

[1975 c 347 s 139]

**525.86** [Repealed, 1975 c 347 s 144]

**525.87** [Repealed, 1975 c 347 s 144]

### **525.91 Letters, contents.**

All letters issued by the courts to representatives of estates of deceased persons shall state the date of death of the deceased.

[1975 c 347 s 140]

# MINNESOTA STATUTES 1975 SUPPLEMENT

## 525.924 PROBATE PROCEEDINGS

### 525.924 Manner of executing anatomical gifts.

[For text of subs 1 to 5, see M.S.1974]

Subd. 6. In respect to a gift of an eye, a person licensed to practice mortuary science under chapter 149, or any other person who has completed a course in eye enucleation conducted and certified by the department of ophthalmology of any accredited college of medicine, and holds a valid certificate of competence for completing the course, may enucleate eyes for a gift after certification of death by a physician. A written release authorizing the enucleation must be obtained prior to the performance of the procedure. The release shall be obtained from a relative or other person in the order of priority stated in section 525.922, subdivision 2. A mortician or other person acting in accordance with the provisions of this subdivision shall not have any liability, civil or criminal, for the eye enucleation.

Subd. 7. The designation "donor" on the front side of a donor's driver's license or nonqualification certificate, pursuant to the provisions of section 171.07, subdivision 5, shall constitute sufficient legal authority for the removal of all body organs or parts, upon the death of the donor for the purpose of transplantation.

[1975 c 198 s 1; 1975 c 393 s 3]

### 525.927 Rights and duties at death.

[For text of subs 1 and 2, see M.S.1974]

Subd. 3. A person who acts in good faith in accord with the terms of sections 171.07, subdivision 5; 171.12, subdivision 5; and 525.921 to 525.93, or the anatomical gift laws of another state or a foreign country is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his act.

[1975 c 393 s 4]

## CHAPTER 541. LIMITATION OF TIME, COMMENCING ACTIONS

Sec.  
541.16 Period between death of party and commencement of action.

### 541.16 Period between death of party and commencement of action.

If the death of a person occurs within the last year of the period of limitation for the commencement of an action, the action may be commenced by the personal representative at any time within one year after such death. If a cause of action survives against a decedent, which is not required by law to be presented as a claim against the decedent's estate, an action may be brought thereon against the personal representative of the decedent at any time within one year after death or within the limitation period otherwise prescribed, whichever is longer.

[1975 c 347 s 141]

## CHAPTER 542. VENUE OF ACTIONS

Sec.  
542.10 Change of venue as of right; demand.

### 542.10 Change of venue as of right; demand.

If the county designated in the complaint is not the proper county, the action may notwithstanding be tried therein unless, within 20 days after the summons is served, the defendant demands in writing that it be tried in the proper county. This demand shall be accompanied by the affidavit of the defendant, or his agent or attorney, setting forth the county of his residence at the time of the commencement of the action, the date of service of the summons, and stating that neither the