

CHAPTER 525

PROBATE PROCEEDINGS

525.172 Certain children as heirs.
 525.173 Heirs to certain children.
 525.58 Filing of accounts; filing of affidavit.
 525.619 Powers and duties of guardian of minor.
 525.71 Appealable orders.

525.711 Repealed.
 525.714 Suspension by appeal.
 525.73 Affirmance; reversal.
 525.74 Repealed.

525.172 CERTAIN CHILDREN AS HEIRS.

A child born to a mother who was not married to the child's father when the child was conceived nor when the child was born shall inherit from his mother the same as if the child was conceived or born to her while she was married, and also from the person who in writing and before a competent witness shall have declared himself to be his father, provided such writing or an authenticated copy thereof shall be produced in the proceeding in which it is asserted or from the person who has been determined to be the father of such child in a paternity proceeding before a court of competent jurisdiction; but such child shall not inherit from the kindred of the father by right of representation.

History: 1983 c 7 s 13; 1983 c 243 s 5 subd 11

525.173 HEIRS TO CERTAIN CHILDREN.

If any child born to a mother who was not married to the child's father when the child was conceived nor when the child was born dies intestate and without spouse or issue who inherit under the law, his estate shall descend to his mother, or in case of her prior decease to her heirs other than such child.

History: 1983 c 7 s 14; 1983 c 243 s 5 subd 12

525.58 FILING OF ACCOUNTS; FILING OF AFFIDAVIT.

[For text of subs 1 to 3, see M.S.1982]

Subd. 4. Annual report of the guardian of the person. Except where expressly waived by the court, every guardian or conservator of the person shall annually file a report under oath with the court within 30 days of the anniversary date of the appointment of the guardian or conservator. The report shall contain the guardian's or conservator's good faith evaluation of the following information for the preceding year:

- (a) changes in the medical condition of the ward or conservatee;
- (b) changes in the living conditions of the ward or conservatee;
- (c) changes in the mental and emotional condition of the ward or conservatee;
- (d) a listing of hospitalizations of the ward or conservatee; and
- (e) if the ward or conservatee is institutionalized, an evaluation of the care and treatment received by the ward or conservatee.

The court or its designee shall annually review the court file to insure that the report has been filed and that the report contains the information required by this subdivision. If a report has not been filed or if the report does not contain the information required by this subdivision, the court shall order the guardian or conservator to file an appropriate report.

History: 1983 c 51 s 1

525.619 POWERS AND DUTIES OF GUARDIAN OF MINOR.

A guardian of a minor has the powers and responsibilities of a parent who has not been deprived of custody of his minor and unemancipated child, except that a guardian is not legally obligated to provide from his own funds for the ward. In particular, and without qualifying the foregoing, a guardian has the following powers and duties:

(a) He must take reasonable care of his ward's personal effects and commence protective proceedings if necessary to protect other property of the ward.

(b) He may receive money payable for the support of the ward to the ward's parent, guardian or custodian under the terms of any statutory benefit or insurance system, or any private contract, devise, trust, conservatorship or custodianship. He also may receive money or property of the ward paid or delivered by virtue of section 525.6196. Any sums so received shall be applied to the ward's current needs for support, care and education. He must exercise due care to conserve any excess for the ward's future needs unless a conservator has been appointed for the estate of the ward, in which case the excess shall be paid over at least annually to the conservator. Sums so received by the guardian are not to be used for compensation for his services except as approved by order of court or as determined by a duly appointed conservator other than the guardian. A guardian may institute proceedings to compel the performance by any person of a duty to support the ward or to pay sums for the welfare of the ward.

(c) The guardian is empowered to facilitate the ward's education, social, or other activities and to authorize medical or other professional care, treatment or advice. A ward may not be committed to any state institution except pursuant to chapter 253B and no guardian may give consent for psychosurgery, electroshock, sterilization or experimental treatment of any kind unless the procedure is first approved by the order of the court, after a hearing as prescribed by section 525.56, subdivision 2.

A guardian is not liable by reason of his consent for injury to the ward resulting from the negligence or acts of third persons unless it would have been illegal for a parent to have consented, or unless he fails to comply with the requirements of this section which provide that a court order is necessary for commitment and for certain types of medical procedures. A guardian may consent to the marriage or adoption of his ward.

(d) A guardian must report the condition of his ward and of the ward's estate which has been subject to his possession or control, as ordered by the court on its own motion or on petition of any person interested in the minor's welfare and as required by court rule.

History: 1983 c 216 art 1 s 75

525.71 APPEALABLE ORDERS.

Appeals to the court of appeals 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 of it when the amount in controversy exceeds \$100;

(10) an order adjudging a person in contempt;

(11) an order vacating, or 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 appeal;

(16) an order, judgment, or decree relating to or affecting estate taxes or refusing to amend, modify, or vacate such an order, judgment, or decree; and

(17) an order extending the time for the settlement of the estate beyond five years from the date of the appointment of the representative.

History: 1983 c 247 s 186

525.711 [Repealed, 1983 c 247 s 219]

525.714 SUSPENSION BY APPEAL.

The appeal shall suspend the operation of the order, judgment, or decree appealed from until the appeal is determined or the court of appeals orders otherwise. The court of appeals may require the appellant to give additional bond for the payment of damages which may be awarded against him in consequence of the suspension, in case he fails to obtain a reversal of the order, judgment, or decree appealed from. Nothing herein contained shall prevent the probate court from appointing special representatives nor prevent special representatives from continuing to act as such.

History: 1983 c 247 s 187

525.73 AFFIRMANCE; REVERSAL.

When the appellant fails to prosecute his appeal, or the order, judgment, or decree appealed from or reviewed is sustained, judgment shall be entered in the court of appeals affirming the decision of the probate court. Upon the filing in the probate court of a certified transcript of the judgment, the probate court shall proceed as if no appeal had been taken. If the order, judgment, or decree

reviewed is reversed or modified, the court of appeals shall remand the case to the probate court with directions to proceed in conformity with its decision. Upon the filing in the probate court of a certified transcript of the judgment, it shall proceed as directed by the court of appeals.

History: *1983 c 247 s 188*

525.74 [Repealed, 1982 c 501 s 26; 1983 c 247 s 219]