

CHAPTER 525

PROBATE PROCEEDINGS

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		525.925	Repealed.
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		525.94	Repealed.

525.5501 RIGHT TO COUNSEL.

[For text of subd 1, see M.S.1990]

Subd. 2. **Filing fee surcharge.** A person who pays a filing fee for a petition or application under this chapter and chapter 524 shall pay a surcharge of \$20, in addition to the filing fee and other surcharges imposed by law. The court administrator shall transmit the surcharge to the county treasurer for deposit in the county treasury.

[For text of subds 3 and 4, see M.S.1990]

History: 1991 c 281 s 3

525.56 GUARDIAN'S OR CONSERVATOR'S POWERS AND DUTIES.

[For text of subds 1 to 4, see M.S.1990]

Subd. 5. **Transaction set aside.** If a ward or conservatee has made a financial transaction or gift or entered into a contract during the two-year period before establishment of the guardianship or conservatorship, the guardian or conservator may petition for court review of the transaction, gift, or contract. If the court finds that the ward or conservatee was incompetent or subject to duress, coercion, or undue influence when the transaction, gift, or contract was made, the court may declare the transaction, gift, or contract void except as against a bona fide transferee for value and order reimbursement or other appropriate relief. This subdivision does not affect any other right or remedy that may be available to the ward or conservatee with respect to the transaction, gift, or contract.

History: 1991 c 118 s 1

525.921 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 525.921 to 525.9224 the terms defined in this section have the meanings given them.

Subd. 1a. **Anatomical gift.** "Anatomical gift" means a donation of all or part of a human body to take effect upon or after death.

Subd. 2. [Repealed, 1991 c 202 s 42]

Subd. 3. **Decedent.** "Decedent" means a deceased individual and includes a still-born infant or an embryo or fetus that has died of natural causes in utero.

Subd. 3a. **Document of gift.** "Document of gift" means a card, a statement attached to or imprinted on a motor vehicle operator's or chauffeur's license, a will, or other writing used to make an anatomical gift.

Subd. 4. **Donor.** "Donor" means an individual who makes an anatomical gift of all or part of the individual's body.

Subd. 4a. **Enucleator.** "Enucleator" means an individual 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.

Subd. 5. **Hospital.** "Hospital" means a facility licensed, accredited, or approved as a hospital under the laws of any state or a facility operated as a hospital by the United States government, a state, or a subdivision of a state.

[For text of subs 6 and 7, see M.S.1990]

Subd. 8. **Physician or surgeon.** "Physician" or "surgeon" means an individual licensed or otherwise authorized to practice medicine and surgery or osteopathy and surgery under the laws of any state.

Subd. 8a. **Procurement organization.** "Procurement organization" means a person licensed, accredited, or approved under the laws of any state for procurement, distribution, or storage of human bodies or parts.

[For text of subd 9, see M.S.1990]

Subd. 10. **Technician.** "Technician" means an individual who is appropriately trained to remove or process a part.

History: 1991 c 202 s 18-27

525.9211 MAKING, AMENDING, REVOKING, AND REFUSING TO MAKE ANATOMICAL GIFTS BY INDIVIDUAL.

(a) An individual who is at least 18 years of age, or a minor with the written consent of a parent or legal guardian, may (i) make an anatomical gift for any of the purposes stated in section 525.9215, paragraph (a), (ii) limit an anatomical gift to one or more of those purposes, or (iii) refuse to make an anatomical gift.

(b) An anatomical gift may be made by a will or by a document of gift signed by the donor. If the donor cannot sign, the document of gift must be signed by another individual and by two witnesses, all of whom have signed at the direction and in the presence of the donor and of each other, and state that it has been so signed.

(c) If a document of gift is attached to or imprinted on a donor's motor vehicle operator's or chauffeur's license, the document of gift must comply with paragraph (b). Revocation, suspension, expiration, or cancellation of the license does not invalidate the anatomical gift.

(d) A document of gift may designate a particular physician or surgeon to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the anatomical gift may employ or authorize any physician, surgeon, technician, or enucleator to carry out the appropriate procedures.

(e) An anatomical gift by will takes effect upon death of the testator, whether or not the will is probated. If, after death, the will is declared invalid for testamentary purposes, the validity of the anatomical gift is unaffected.

(f) A donor may amend or revoke an anatomical gift, not made by will, only by:

- (1) a signed statement;
- (2) an oral statement made in the presence of two individuals;
- (3) any form of communication during a terminal illness or injury addressed to a health care professional or member of the clergy; or
- (4) the delivery of a signed statement to a specified donee to whom a document of gift had been delivered.

(g) The donor of an anatomical gift made by will may amend or revoke the gift in the manner provided for amendment or revocation of wills, or as provided in paragraph (f).

(h) An anatomical gift that is not revoked by the donor before death is irrevocable and does not require the consent or concurrence of any person after the donor's death.

(i) An individual may refuse to make an anatomical gift of the individual's body or part by (i) a writing signed in the same manner as a document of gift, or (ii) any other writing used to identify the individual as refusing to make an anatomical gift. During a terminal illness or injury, the refusal may be an oral statement or other form of communication.

(j) In the absence of contrary indications by the donor, an anatomical gift of a part is neither a refusal to give other parts nor a limitation on an anatomical gift under section 525.9212 or on a removal or release of other parts under section 525.9213.

(k) In the absence of contrary indications by the donor, a revocation or amendment of an anatomical gift is not a refusal to make another anatomical gift. If the donor intends a revocation to be a refusal to make an anatomical gift, the donor shall make the refusal pursuant to paragraph (i).

History: 1991 c 202 s 28

525.9212 MAKING, REVOKING, AND OBJECTING TO ANATOMICAL GIFTS, BY OTHERS.

(a) Any member of the following classes of persons, in the order of priority listed, may make an anatomical gift of all or a part of the decedent's body for an authorized purpose, unless the decedent has made a refusal to make that anatomical gift that is unrevoked at the time of death:

- (1) the spouse of the decedent;
- (2) an adult son or daughter of the decedent;
- (3) either parent of the decedent;
- (4) an adult brother or sister of the decedent;
- (5) a grandparent of the decedent; and
- (6) a guardian of the person of the decedent at the time of death.

(b) An anatomical gift may not be made by a person listed in paragraph (a) if:

(1) a person in a prior class is available at the time of death to make an anatomical gift;

(2) the person proposing to make an anatomical gift knows of a refusal or contrary indications by the decedent; or

(3) the person proposing to make an anatomical gift knows of an objection to making an anatomical gift by a member of the person's class or a prior class.

(c) An anatomical gift by a person authorized under paragraph (a) must be made by (i) a document of gift signed by the person, or (ii) the person's telegraphic, recorded telephonic, or other recorded message, or other form of communication from the person that is contemporaneously reduced to writing and signed by the recipient.

(d) An anatomical gift by a person authorized under paragraph (a) may be revoked by any member of the same or a prior class if, before procedures have begun for the removal of a part from the body of the decedent, the physician, surgeon, technician, or enucleator removing the part knows of the revocation.

(e) A failure to make a decision as to an anatomical gift under paragraph (a) is not an objection to the making of an anatomical gift.

History: 1991 c 202 s 29

525.9213 AUTHORIZATION BY CORONER OR MEDICAL EXAMINER OR LOCAL PUBLIC HEALTH OFFICIAL.

(a) The coroner or medical examiner may release and permit the removal of a part from a body within that official's custody, for transplantation or therapy, if:

(1) the official has received a request for the part from a hospital, physician, surgeon, or procurement organization;

(2) the official has made a reasonable effort, taking into account the useful life of the part, to locate and examine the decedent's medical records and inform persons listed in section 525.9212, paragraph (a), of their option to make, or object to making, an anatomical gift;

(3) the official does not know of a refusal or contrary indication by the decedent or objection by a person having priority to act as listed in section 525.9212, paragraph (a);

(4) the removal will be by a physician, surgeon, or technician; but in the case of eyes, by one of them or by an enucleator;

(5) the removal will not interfere with any autopsy or investigation; and

(6) the removal will be in accordance with accepted medical standards.

(b) If the body is not within the custody of the coroner or medical examiner, the local public health officer may release and permit the removal of any part from a body in the local public health officer's custody for transplantation or therapy if the requirements of paragraph (a) are met.

(c) An official releasing and permitting the removal of a part shall maintain a permanent record of the name of the decedent, the person making the request, the date and purpose of the request, the part requested, and the person to whom it was released.

History: 1991 c 202 s 30

525.9214 ROUTINE INQUIRY AND REQUIRED REQUEST; SEARCH AND NOTIFICATION.

(a) If, at or near the time of death of a patient, there is no documentation in the medical record that the patient has made or refused to make an anatomical gift, the hospital administrator or a representative designated by the administrator shall discuss with the patient or a relative of the patient the option to make or refuse to make an anatomical gift and may request the making of an anatomical gift pursuant to section 525.9211 or 525.9212. The request must be made with reasonable discretion and sensitivity to the circumstances of the family. A request is not required if the gift is not suitable, based upon accepted medical standards, for a purpose specified in section 525.9215. An entry must be made in the medical record of the patient, stating the name of the individual making the request, and the name, response, and relationship to the patient of the person to whom the request was made.

(b) The following persons shall make a reasonable search for a document of gift or other information identifying the bearer as a donor or as an individual who has refused to make an anatomical gift:

(1) a law enforcement officer, firefighter, paramedic, or other emergency rescuer finding an individual who the searcher believes is dead or near death;

(2) a hospital or emergency care facility, upon the admission or presentation of an individual at or near the time of death, if there is not immediately available any other source of that information; and

(3) a medical examiner or coroner upon receipt of a body.

(c) If a document of gift or evidence of refusal to make an anatomical gift is located by the search required by paragraph (b), clause (1), and the individual or body to whom it relates is taken to a hospital, the hospital must be notified of the contents and the document or other evidence must be sent to the hospital.

(d) If, at or near the time of death of a patient, a hospital knows that an anatomical gift has been made pursuant to section 525.9212, paragraph (a), or a release and removal of a part has been permitted pursuant to section 525.9213, or that a patient or an individual identified as in transit to the hospital is a donor, the hospital shall notify the donee if one is named and known to the hospital; if not, it shall notify an appropriate procurement organization. The hospital shall cooperate in the implementation of the anatomical gift or release and removal of a part.

(e) A person who fails to discharge the duties imposed by this section is not subject to criminal or civil liability.

History: 1991 c 202 s 31

525.9215 PERSONS WHO MAY BECOME DONEES; PURPOSES FOR WHICH ANATOMICAL GIFTS MAY BE MADE.

(a) The following persons may become donees of anatomical gifts for the purposes stated:

(1) a hospital, nonprofit organization in medical education and research, physician, surgeon, or procurement organization, for transplantation, therapy, medical or dental education, research, or advancement of medical or dental science;

(2) an accredited medical or dental school, college, or university for education, research, advancement of medical or dental science;

(3) an approved chiropractic college for education; or

(4) a designated individual for transplantation or therapy needed by that individual.

(b) An anatomical gift may be made to a designated donee or without designating a donee. If a donee is not designated or if the donee is not available or rejects the anatomical gift, the anatomical gift may be accepted by any hospital or procurement organization.

(c) If the donee knows of the decedent's refusal or contrary indications to make an anatomical gift or that an anatomical gift by a member of a class having priority to act is opposed by a member of the same class or a prior class under section 525.9212, paragraph (a), the donee may not accept the anatomical gift.

History: 1991 c 202 s 32

525.9216 DELIVERY OF DOCUMENT OF GIFT.

(a) Delivery of a document of gift during the donor's lifetime is not required for the validity of an anatomical gift.

(b) If an anatomical gift is made to a designated donee, the document of gift, or a copy, may be delivered to the donee to expedite the appropriate procedures after death. The document of gift, or a copy, may be deposited in any hospital, procurement organization, or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of an interested person, upon or after the donor's death, the person in possession shall allow the interested person to examine or copy the document of gift.

History: 1991 c 202 s 33

525.9217 RIGHTS AND DUTIES AT DEATH.

(a) Rights of a donee created by an anatomical gift are superior to rights of others except with respect to autopsies under section 525.9221, paragraph (b). A donee may accept or reject an anatomical gift. If a donee accepts an anatomical gift of an entire body, the donee, subject to the terms of the gift, may allow embalming and use of the body in funeral services. If the gift is of a part of a body, the donee, upon the death of the donor and before embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the person under obligation to dispose of the body.

(b) The time of death must be determined by a physician or surgeon who attends the donor at death or, if none, the physician or surgeon who certifies the death. Neither the physician or surgeon who attends the donor at death nor the physician or surgeon who determines the time of death may participate in the procedures for removing or transplanting a part unless the document of gift designates a particular physician or surgeon pursuant to section 525.9211, paragraph (d).

(c) If there has been an anatomical gift, a technician may remove any donated parts and an enucleator may remove any donated eyes or parts of eyes, after determination of death by a physician or surgeon.

History: 1991 c 202 s 34

525.9218 COORDINATION OF PROCUREMENT AND USE.

The procurement organizations, after consultation with hospitals, shall establish agreements or affiliations for coordination of procurement and use of human bodies and parts.

History: 1991 c 202 s 35

525.9219 SALE OR PURCHASE OF PARTS PROHIBITED.

(a) A person may not knowingly, for valuable consideration, purchase or sell a part for transplantation or therapy, if removal of the part is intended to occur after the death of the decedent.

(b) Valuable consideration does not include reasonable payment for the removal, processing, disposal, preservation, quality control, storage, transportation, or implantation of a part.

(c) A person who violates this section is guilty of a felony and upon conviction is subject to a fine not exceeding \$50,000 or imprisonment not exceeding five years, or both.

History: 1991 c 202 s 36

525.922 [Repealed, 1991 c 202 s 42]**525.9221 EXAMINATION, AUTOPSY, LIABILITY.**

(a) An anatomical gift authorizes any reasonable examination necessary to assure medical acceptability of the gift for the purposes intended.

(b) The provisions of sections 525.921 to 525.9224 are subject to the laws of this state governing autopsies.

(c) A hospital, physician, surgeon, coroner, medical examiner, local public health officer, enucleator, technician, or other person, who acts in accordance with sections 525.921 to 525.9224 or with the applicable anatomical gift law of another state or a foreign country or attempts in good faith to do so is not liable for that act in a civil action or criminal proceeding.

(d) An individual who makes an anatomical gift pursuant to section 525.921, subdivision 3 or 3a, and the individual's estate are not liable for any injury or damage that may result from the making or the use of the anatomical gift.

History: 1991 c 202 s 37

525.9222 TRANSITIONAL PROVISIONS.

Sections 525.921 to 525.9224 apply to a document of gift, revocation, or refusal to make an anatomical gift signed by the donor or a person authorized to make or object to making an anatomical gift before, on, or after the effective date of sections 525.921 to 525.9224.

History: 1991 c 202 s 38

525.9223 UNIFORMITY OF APPLICATION AND CONSTRUCTION.

Sections 525.921 to 525.9224 shall be applied and construed to effectuate their general purpose to make uniform the law with respect to the subject of sections 525.921 to 525.9224 among states enacting it.

History: 1991 c 202 s 39

525.9224 SHORT TITLE.

Sections 525.921 to 525.9224 may be cited as the "uniform anatomical gift act (1987)."

History: 1991 c 202 s 40

- 525.923** [Repealed, 1991 c 202 s 42]
- 525.924** [Repealed, 1991 c 202 s 42]
- 525.925** [Repealed, 1991 c 202 s 42]
- 525.926** [Repealed, 1991 c 202 s 42]
- 525.927** [Repealed, 1991 c 202 s 42]
- 525.928** [Repealed, 1991 c 202 s 42]
- 525.929** [Repealed, 1991 c 202 s 42]
- 525.93** [Repealed, 1991 c 202 s 42]
- 525.94** [Repealed, 1991 c 202 s 42]