

CHAPTER 525

PROBATE PROCEEDINGS

POWERS OF COURT		525.483	RECORDING DECREE.
525.031	FEEES FOR COPIES.	525.484	PROPERTY OF DECEASED PERSONS TO BE TRANSFERRED TO REPRESENTATIVES OF FOREIGN COUNTRIES IN CERTAIN CASES.
525.033	FEEES FOR FILING PETITIONS.		
PERSONNEL		525.486	TERMINATION OF TRUSTS; DISTRIBUTION.
525.041	WRITTEN DECISION SHALL BE FILED WITHIN 90 DAYS; MANDATORY.	525.491	ATTORNEY'S LIEN.
525.05	JUDGE OR REFEREE; GROUNDS FOR DISQUALIFICATION.	525.515	BASIS FOR ATTORNEY'S FEES.
525.091	DESTRUCTION AND REPRODUCTION OF PROBATE RECORDS.	525.528	FEDERAL ESTATE TAX; MARITAL DEDUCTION.
525.092	COURT ADMINISTRATOR MAY DESTROY CERTAIN PAPERS.		
525.095	COURT ADMINISTRATOR MAY ISSUE ORDERS UNDER DIRECTION OF THE COURT.	525.532	DISCLAIMER OF INTERESTS PASSING BY WILL, INTESTATE SUCCESSION OR UNDER CERTAIN POWERS OF APPOINTMENT.
525.10	REFEREE; APPOINTMENT; BOND; OFFICE ABOLISHED.		
525.101	COMPENSATION OF REFEREE.		
525.102	REFERENCE.	525.71	APPEALABLE ORDERS.
525.103	DELIVERY OF BOOKS AND RECORDS.	525.712	REQUISITES.
525.11	REPORTER; APPOINTMENT AND DUTIES.	525.714	SUSPENSION BY APPEAL.
525.111	COMPENSATION; TRANSCRIPT FEES.	525.73	AFFIRMANCE; REVERSAL.
525.112	COURT REPORTERS FOR HENNEPIN COUNTY COURT.	525.731	JUDGMENT; EXECUTION.
525.113	ADDITIONAL EMPLOYEES.		
525.12	AUDITOR; APPOINTMENT.	525.80	REPRESENTATIVE.
525.121	POWERS.	525.83	NOTICE.
525.122	COMPENSATION OF AUDITOR.	525.831	NOTICE TO ATTORNEY GENERAL OF DEVICES FOR CHARITABLE PURPOSES.
INTESTATE SUCCESSION		525.84	ERRONEOUS ESCHEAT.
525.13	ESTATE.	525.841	ESCHEAT RETURNED.
525.14	DESCENT OF CEMETERY LOT.	525.85	DISCLOSURE PROCEEDINGS.
525.152	AWARD OF PROPERTY WITH SENTIMENTAL VALUE TO CHILDREN.	525.88	STATE PATENTS.
525.161	NO SURVIVING SPOUSE OR KINDRED. NOTICES TO ATTORNEY GENERAL.	525.881	FEDERAL PATENTS.
		525.91	LETTERS. CONTENTS.
WILLS			
525.21	QUANTITY OF ESTATE DEVISED.	525.921	DEFINITIONS.
525.2221	WILLS NOT AFFECTED.	525.9211	MAKING, AMENDING, REVOKING, AND REFUSING TO MAKE ANATOMICAL GIFTS BY INDIVIDUAL.
PROBATE OF WILLS		525.9212	MAKING, REVOKING, AND OBJECTING TO ANATOMICAL GIFTS, BY OTHERS.
525.242	SECONDARY EVIDENCE.	525.9213	AUTHORIZATION BY CORONER OR MEDICAL EXAMINER OR LOCAL PUBLIC HEALTH OFFICIAL.
525.253	SALE OF DEVISED PROPERTY.	525.9214	ROUTINE INQUIRY AND REQUIRED REQUEST; SEARCH AND NOTIFICATION.
DETERMINATION OF DESCENT		525.9215	PERSONS WHO MAY BECOME DONEES; PURPOSES FOR WHICH ANATOMICAL GIFTS MAY BE MADE.
525.31	ESSENTIALS.	525.9216	DELIVERY OF DOCUMENT OF GIFT.
525.311	CONTENTS OF PETITION.	525.9217	RIGHTS AND DUTIES AT DEATH.
525.312	DECREE OF DESCENT.	525.9218	COORDINATION OF PROCUREMENT AND USE.
525.313	CLEARANCE FOR MEDICAL ASSISTANCE CLAIMS.	525.9219	SALE OR PURCHASE OF PARTS PROHIBITED.
PROPERTY DISPOSITION		525.9221	EXAMINATION, AUTOPSY, APPLICABLE LAW, LIABILITY.
525.37	FORECLOSURE OF MORTGAGES.	525.9222	TRANSITIONAL PROVISIONS.
525.38	REALTY ACQUIRED.	525.9223	UNIFORMITY OF APPLICATION AND CONSTRUCTION.
525.391	PROPERTY FRAUDULENTLY CONVEYED.	525.9224	SHORT TITLE.
525.392	PROPERTY CONVERTED.	525.95	FIDUCIARY POWERS, SUSPENSION DURING WAR SERVICE.
525.393	DISPOSAL BY CORONER.		
ACCOUNTING, DISTRIBUTION			
525.475	DORMANT ESTATE; REMOVAL OF REPRESENTATIVE OR ATTORNEY.		
525.48	FINAL ACCOUNT, ATTORNEY FEES AND REPRESENTATIVE FEES.		

POWERS OF COURT

525.01 [Renumbered 487.01]

525.0105 [Repealed, 1971 c 951 s 44]

525.011 [Repealed, 2006 c 260 art 5 s 54]

525.012 Subdivision 1. [Repealed, 1989 c 335 art 3 s 57 subd 2; 2006 c 260 art 5 s 54]

Subd. 2. [Repealed, 1989 c 335 art 3 s 57 subd 2; 2006 c 260 art 5 s 54]

Subd. 3. [Repealed, 1989 c 335 art 3 s 57 subd 2; 2006 c 260 art 5 s 54]

Subd. 4. [Repealed, 1989 c 335 art 3 s 57 subd 2; 2006 c 260 art 5 s 54]

Subd. 5. [Repealed, 2006 c 260 art 5 s 54]

525.013 Subdivision 1. [Repealed, 2006 c 260 art 5 s 54]

Subd. 2. [Repealed, 1977 c 201 s 2]

Subd. 2a. [Repealed, 2006 c 260 art 5 s 54]

Subd. 3. [Repealed, 1977 c 201 s 2]

Subd. 4. [Repealed, 2006 c 260 art 5 s 54]

Subd. 5. [Repealed, 2006 c 260 art 5 s 54]

Subd. 6. [Repealed, 2006 c 260 art 5 s 54]

Subd. 7. [Repealed, 2006 c 260 art 5 s 54]

Subd. 8. [Repealed, 2006 c 260 art 5 s 54]

525.014 [Repealed, 2006 c 260 art 5 s 54]

525.015 [Repealed, 2006 c 260 art 5 s 54]

525.02 [Repealed, 2006 c 260 art 5 s 54]

525.03 [Repealed, 2006 c 260 art 5 s 54]

525.031 FEES FOR COPIES.

The fees for copies of all documents shall be the same as the fee established for such copies on civil proceedings under section 357.021, subdivision 2.

History: (8992-4) 1935 c 72 s 4; 1967 c 128 s 1; 1986 c 442 s 13

525.033 FEES FOR FILING PETITIONS.

The district court shall collect a fee as established by section 357.021, subdivision 2, clause (1), for filing a petition to commence a proceeding under this chapter and chapter 524. The fee for copies of all documents in probate proceedings must be the same as the fee established for certified copies in civil proceedings under section 357.021, subdivision 2. Fees collected under this section and section 525.031 must be forwarded to the commissioner of finance for deposit in the state treasury and credited to the general fund.

History: 1978 c 730 s 3; 1986 c 442 s 14; 1987 c 11 s 1; 1989 c 335 art 3 s 35; 1995 c 189 s 8; 1996 c 277 s 1; 2003 c 112 art 2 s 50

PERSONNEL

525.04 [Repealed, 1Sp1981 c 4 art 3 s 8]

525.041 WRITTEN DECISION SHALL BE FILED WITHIN 90 DAYS; MANDATORY.

The decision of every issue of law or fact shall be in writing and shall be filed within 90 days after submission unless prevented by illness or casualty.

Upon the filing of any appealable order, judgment, or decree, except in uncontested matters or where the final decision was announced at the hearing, the court shall give notice by mail of such filing to each party, or the attorney, who appeared of record at the hearing.

History: (8992-6) 1935 c 72 s 6; 1967 c 317 s 1; 1986 c 444

525.05 JUDGE OR REFEREE; GROUNDS FOR DISQUALIFICATION.

The following shall be grounds for disqualification of any judge or referee from acting in any matter: (1) That the judge or the judge's spouse or any of either of their kin nearer than first cousin is interested as representative, heir, devisee, legatee, ward, or creditor in the estate involved therein; (2) that it involves the validity or interpretation of a will drawn or witnessed by the judge; (3) that the judge may be a necessary witness in the matter; (4) that it involves a property right in respect to which the judge has been engaged or is engaged as an attorney; or (5) that the judge was engaged in a joint enterprise for profit with the decedent at the time of death or that the judge is then engaged in a joint enterprise for profit with any person interested in the matter as representative, heir, devisee, legatee, ward, or creditor. When grounds for disqualification exist, the judge may, and upon proper petition of any person interested in the estate must, request another judge or a judge who has retired to act in the judge's stead in the matter.

History: (8992-7) 1935 c 72 s 7; 1961 c 6 s 1; 1981 c 31 s 12; 1986 c 444; 1995 c 189 s 8; 1996 c 277 s 1; 2006 c 271 art 11 s 47

525.051 [Repealed, 2006 c 260 art 5 s 54]

525.052 [Repealed, 2006 c 260 art 5 s 54]

525.053 [Repealed, 2006 c 260 art 5 s 54]

525.06 [Repealed, 2006 c 260 art 5 s 54]

525.07 [Repealed, 2006 c 260 art 5 s 54]

525.08 [Repealed, 2006 c 260 art 5 s 54]

525.081 Subdivision 1. [Repealed, 1977 c 432 s 49; 2006 c 260 art 5 s 54]

Subd. 2. [Repealed, 1977 c 432 s 49; 2006 c 260 art 5 s 54]

Subd. 3. [Repealed, 1977 c 432 s 49; 2006 c 260 art 5 s 54]

Subd. 4. [Repealed, 1977 c 432 s 49; 2006 c 260 art 5 s 54]

Subd. 5. [Repealed, 1977 c 432 s 49; 2006 c 260 art 5 s 54]

Subd. 6. [Repealed, 1977 c 432 s 49; 2006 c 260 art 5 s 54]

Subd. 7. [Repealed, 2006 c 260 art 5 s 54]

Subd. 8. [Repealed, 1977 c 432 s 49; 2006 c 260 art 5 s 54]

Subd. 9. [Repealed, 1977 c 432 s 49; 2006 c 260 art 5 s 54]

525.082 [Repealed, 2006 c 260 art 5 s 54]

525.09 [Repealed, 2006 c 260 art 5 s 54]

525.091 DESTRUCTION AND REPRODUCTION OF PROBATE RECORDS.

Subdivision 1. **Original documents.** The court administrator of any county upon order of the judge exercising probate jurisdiction may destroy all the original documents in any probate proceeding of record in the office five years after the file in such proceeding has been closed provided the original or a Minnesota state archives commission approved photographic, photostatic, microphotographic, microfilmed, or similarly reproduced copy of the original of the following enumerated documents in the proceeding are on file in the 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; 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 estate 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 court administrator may destroy all other original documents in any probate proceeding without retaining any reproduction of the document. For the purpose of this subdivision, a proceeding 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 safekeeping and those containing wills of decedents not adjudicated upon.

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

Enumerated original record books:

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

Subd. 3. **Effect of copies.** A photographic, photostatic, microphotographic, microfilmed, or similarly reproduced record is of the same force and effect as the original and may be used as the original document or book of record in all proceedings.

Subd. 4. **Exception.** 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.

History: 1965 c 883 s 1; 1971 c 484 s 1; 1973 c 582 s 3; 1975 c 347 s 85-87; 1979 c 303 art 3 s 35,36; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1995 c 189 s 8; 1996 c 277 s 1

525.092 COURT ADMINISTRATOR MAY DESTROY CERTAIN PAPERS.

Subdivision 1. **Certain vouchers and receipts.** The court administrator of the district court is hereby authorized to destroy all vouchers or receipts filed in estates and guardianship proceedings of record in the office after such estates or guardianships have been closed for a period of 25 years, or more, except receipts for any federal or state taxes.

Subd. 2. **Certain guardianships excepted.** The provisions of this section shall not apply to guardianships of incompetent or insane persons, nor to guardianships of minors until one year after the minor has become 18 years old.

History: 1947 c 117 s 1,2; 1949 c 409 s 1; 1951 c 21 s 1; 1973 c 725 s 75; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1995 c 189 s 8; 1996 c 277 s 1

525.094 [Repealed, 1965 c 883 s 2]

525.095 COURT ADMINISTRATOR MAY ISSUE ORDERS UNDER DIRECTION OF THE COURT.

The judge may authorize the court administrator or any deputy court administrator to issue orders for hearing petitions for general administration, for the probate of any will, for determination of descent, for sale, lease, mortgage, or conveyance of real estate, for the settlement and allowance of any account, for partial or final distribution, for commitment, orders limiting the time to file claims and fixing the time and place for the hearing thereon, and to issue notice of the entry of any order. The issuance of any such order or notice by the

court administrator or deputy court administrator shall be prima facie evidence of authority to issue it.

History: (8992-15) 1935 c 72 s 15; 1937 c 435 s 5; 1986 c 444; 1Sp1986 c 3 art 1 s 82

525.10 REFEREE; APPOINTMENT; BOND; OFFICE ABOLISHED.

Subdivision 1. **Office abolished.** The office of referee is abolished. No vacancy in the office of referee shall be filled, nor new office created.

Subd. 2. **Incumbents.** Persons holding the office of referee on June 30, 1980, in the Second and August 15, 1980, in the Fourth Judicial District may continue to serve at the pleasure of the chief judge of the district under the terms and conditions of their appointment. All referees are subject to the administrative authority and assignment power of the chief judge of the district as provided in section 484.69, subdivision 3, and are not limited to assignment to probate court. All referees are subject to the provisions of section 484.70. Part time referees holding office in the Second Judicial District pursuant to this subdivision shall cease to hold office on July 31, 1984.

Subd. 3. **Referees.** Each referee in probate court shall be an attorney at law duly admitted in this state. The appointment shall be in writing and filed in the court. The referee has the power to take acknowledgments and administer oaths.

History: (8992-16) 1935 c 72 s 16; 1937 c 435 s 6; 1957 c 212 s 1; 1973 c 524 s 14; 1974 c 165 s 1; 1974 c 387 s 1; 1976 c 181 s 2; 1981 c 272 s 6

525.101 COMPENSATION OF REFEREE.

Such referee shall receive from the county as compensation \$3,600 per annum in counties having more than 500,000 inhabitants, payable from the general funds of the county not otherwise appropriated, at the same time and in the same manner and subject to the provisions of law applicable to the compensation of the judge. The county shall furnish a suitable office in the courthouse or in some other suitable place or places designated by the judge. The judge may assign to the referee from the court's clerks and employees such clerical help as may be necessary to properly discharge the duties.

History: (8992-17) 1935 c 72 s 17; 1957 c 212 s 2; 1971 c 471 s 1; 1986 c 444

525.102 REFERENCE.

After such appointment the judge by order may refer to the referee any matter, cause, or proceeding pending in such court. In all matters so referred the referee shall find the facts and report the findings to the judge. In all matters referred and reported the referee may append the referee's signature to the order or decree of the court; and whenever this signature shall be so appended, it shall constitute conclusive evidence that the matter was referred, heard, and reported in the manner required by law and the order of the court therein, provided that the failure of the referee to append the referee's signature to any such order or decree shall not affect its validity.

History: (8992-18) 1935 c 72 s 18; 1986 c 444

525.103 DELIVERY OF BOOKS AND RECORDS.

When the term of office of such referee expires or is terminated, the referee shall deliver to the successor or to the judge all books and papers in the referee's possession relating to the office. Upon failure to do so within five days after demand by the successor or the judge, the referee shall be guilty of a gross misdemeanor.

History: (8992-19) 1935 c 72 s 19; 1986 c 444

525.11 REPORTER; APPOINTMENT AND DUTIES.

The judge may appoint a competent stenographer as reporter and secretary in all matters pertaining to official duties to hold office during the judge's pleasure. Such reporter shall

make a complete record of all testimony given and all proceedings had before the court upon the trial of issue of fact except that in commitment proceedings a tape recording of the proceedings may be kept in lieu of a stenographic record. The reporter shall inscribe all questions in the exact language thereof, all answers thereto precisely as given by the witness or sworn interpreter, all objections made and the grounds thereof as stated by counsel, all rulings thereon, all exceptions taken, all admissions made, all oral stipulations, and all oral motions and orders. When directed by the judge, the reporter shall make a record of any matter or proceeding and without charge shall read to or transcribe for such judge any record made or any tape recording made in a commitment proceeding. Upon completion of every trial or proceeding, such reporter shall file the stenographic record or tape recording in the manner directed by the judge. Upon request of any person and payment of fees by such person, the reporter shall furnish a transcript. The reporter may take acknowledgments, administer oaths, and certify copies of the stenographic record or transcript of either such record or tape recording made in a commitment proceeding.

History: (8992-20) 1935 c 72 s 20; 1974 c 482 s 8; 1986 c 444

525.111 COMPENSATION; TRANSCRIPT FEES.

Where the salary of the reporter is not provided for by law, compensation shall be paid by the representative as an expense of administration or guardianship, or by the party or parties presenting or contesting the proceedings reported, as the court may determine. In addition to the salary fixed by law or compensation fixed by the court, the reporter shall receive for transcripts furnished such fees as may be fixed by the court not exceeding those allowed by law to the district court reporters of the same county.

History: (8992-21) 1935 c 72 s 21; 1986 c 444

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 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.

History: (8992-21a) 1935 c 373 s 1; 1941 c 179 s 1; 1975 c 347 s 88

525.113 ADDITIONAL EMPLOYEES.

The reporter and clerk mentioned in section 525.112 shall be employed and appointed in addition to the court administrator, deputy court administrators, and employees now provided by law, to hold office during the pleasure of the judge of probate and shall perform the duties imposed by law and such judge, and their salary shall be paid from the county funds in the same manner as prescribed for the payment of other employees of such court.

History: (8992-21b) 1935 c 373 s 2; 1Sp1986 c 3 art 1 s 82

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.

History: (8992-22) 1935 c 72 s 22; 1975 c 347 s 89

525.121 POWERS.

The auditor shall have the same power as the court to set hearings, grant adjournments, compel the attendance of witnesses or the production of books, papers, and documents, and

MINNESOTA STATUTES 2006

525.121 PROBATE PROCEEDINGS

15108

to hear all proper evidence relating to such matter. The auditor shall report findings of fact to the court.

History: (8992-23) 1935 c 72 s 23; 1986 c 444

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.

History: (8992-24) 1935 c 72 s 24; 1975 c 347 s 90

INTESTATE SUCCESSION

525.13 ESTATE.

As used in sections 525.13 to 525.161, the word "estate" includes every right and interest of a decedent in property, real or personal, except such as are terminated or otherwise extinguished by the death.

History: (8992-25) 1935 c 72 s 25; 1985 c 250 s 24; 1986 c 444

525.14 DESCENT OF CEMETERY LOT.

Subject to the right of interment of the decedent therein, a cemetery lot or burial plot, unless disposed of as provided in section 306.29, shall descend free of all debts as follows:

(1) To the decedent's surviving spouse, a life estate with right of interment of the spouse therein, and remainder over to the person who would be entitled to the fee if there were no spouse, provided, however, if no person entitled to the remainder of the fee survives, then the entire fee to the surviving spouse with right of interment therein;

(2) If there is no surviving spouse, then to the decedent's eldest surviving child;

(3) If there is no surviving child, then to the decedent's youngest surviving sibling;

(4) If there is no surviving spouse, child or sibling of the decedent, then, if not sold during administration of decedent's estate, to the cemetery association or private cemetery in trust as a burial lot for the decedent and such of the decedent's relatives as the governing body thereof shall deem proper.

The cemetery association or private cemetery, or, with its consent, any person to whom the lot shall descend may grant and convey the lot to any of the decedent's parents, siblings or descendants.

A crypt or group of crypts or burial vaults owned by one person in a public or community mausoleum shall be deemed a cemetery lot.

Grave markers, monuments, memorials and all structures lawfully installed or erected on any cemetery lot or burial plot shall be deemed to be a part of and shall descend with the lot or plot.

History: (8992-26) 1935 c 72 s 26; 1969 c 852 s 1; 1981 c 25 s 1

525.145 [Repealed, 1995 c 130 s 21]

525.15 [Repealed, 1994 c 472 s 64]

525.151 [Repealed, 1994 c 472 s 64]

525.152 AWARD OF PROPERTY WITH SENTIMENTAL VALUE TO CHILDREN.

Subdivision 1. **Definitions.** (a) "Eligible child" means a child of the decedent who:

(1) is not the child of the surviving spouse, if any;

(2) if there is no surviving spouse, is not a minor, and has a different parent than minor children of the decedent; and

(3) if the decedent dies testate, is a devisee under the decedent's will.

(b) "Sentimental value" means significant emotional or nostalgic value arising out of the relationship of an individual with the decedent or arising out of the relationship of the eligible child with the individual who is the nondecedent parent of the eligible child.

Subd. 2. **Ineligible property.** The following property is not eligible for an award under this section:

(1) real property;

(2) personal property that is the subject of a specific devise under the decedent's will where the will was executed before August 1, 1989, and where the devise specifically identifies the particular item of property, unless the property is selected under section 524.2-403;

(3) personal property that is the subject of a specific devise under a separate writing under section 524.2-513, unless the property is selected under section 524.2-403; and

(4) personal property disposed of by a premarital agreement.

Subd. 3. **Notice to eligible children; petition.** At the time of an allowance selection under section 524.2-403, the person making the selection shall serve personally or by mail a written itemized notice of the property selected to every eligible child of the decedent. This requirement does not apply if an award of property with sentimental value already has been made under this section. Within 30 days of receipt of the notice of selection, an eligible child may petition the court to award property with sentimental value contained in the notice, or other property with sentimental value that belonged to the decedent, to the eligible child.

Subd. 4. **Court decision.** The court shall award property with sentimental value to an eligible child if it finds that the property's sentimental value to the child outweighs its sentimental value to the person entitled to the allowance selection. If more than one eligible child petitions the court for an award of the same property, the court shall award the property to the child for whom the property has the greatest sentimental value. In awarding property with sentimental value to an eligible child, the court shall give weight to the following factors:

(1) the relationship of the eligible child to the acquisition and use of the property;

(2) whether the property was acquired prior to the decedent's marriage to the surviving spouse or prior to the birth of minor children who are entitled to an allowance selection; and

(3) whether the property belonged to the individual who is the nondecedent parent of the eligible child.

Subd. 5. **Payment to estate.** (a) As a condition of an award of sentimental property under this section, the court shall order that the eligible child pay the value of the property to the estate or that the value of the property be deducted from the eligible child's share of the estate. The surviving spouse or minor children may make an additional allowance selection in place of property with sentimental value awarded to an eligible child.

(b) If the court awards property under subdivision 4, the court shall appoint an appraiser who shall determine the value of the property. The value of the property is its appraised value as of the date of the decedent's death without reference to its sentimental value to the eligible child or any other person.

History: 1988 c 417 s 3; 1989 c 219 s 2; 1997 c 7 art 1 s 166-168

525.16 [Repealed, 1985 c 250 s 27]

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

MINNESOTA STATUTES 2006

the commissioner of finance who shall immediately credit the moneys received to the general fund. The commissioner of finance 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 11A.04, clause (9). 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 16B.281 to 16B.287.

History: 1955 c 194 s 1; 1957 c 861 s 1; 1969 c 399 s 1; 1973 c 492 s 14; 1975 c 347 s 93; 1980 c 607 art 14 s 46; 2003 c 112 art 2 s 48; 2004 c 262 art 1 s 39

525.17 [Repealed, 1985 c 250 s 27]

525.171 [Repealed, 1985 c 250 s 27]

525.172 [Repealed, 1985 c 250 s 27]

525.173 [Repealed, 1985 c 250 s 27]

WILLS

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]

525.20 [Repealed, 1985 c 250 s 27]

525.201 [Repealed, 1985 c 250 s 27]

525.202 [Repealed, 1985 c 250 s 27]

525.203 [Repealed, 1975 c 347 s 144]

525.21 QUANTITY OF ESTATE DEVISED.

Every devise of real estate shall convey all the estate of the testator therein subject to liens and encumbrances thereon unless a different intention appears from the will.

History: (8992-45) 1935 c 72 s 45

525.211 [Repealed, 1975 c 347 s 144]

525.212 [Repealed, 1985 c 250 s 27]

525.213 [Repealed, 1985 c 250 s 27]

525.214 [Repealed, 1985 c 250 s 27]

525.215 [Repealed, 1985 c 250 s 27]

525.216 [Repealed, 1985 c 250 s 27]

525.22 [Repealed, 1994 c 472 s 64]

525.221 [Repealed, 1994 c 472 s 64]

525.222 [Repealed, 1974 c 442 art 8 s 524.8-102]

525.2221 WILLS NOT AFFECTED.

Notwithstanding any other provision of law to the contrary, the provisions of any will executed prior to June 1, 1973 relating to ones "minority" or "majority" or other related terms

shall be governed by the definitions of such terms existing at the time of the execution of the will.

History: 1973 c 725 s 86

525.223 [Repealed, 1994 c 472 s 64]

PROBATE OF WILLS

525.23 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.231 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.24 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.241 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.242 SECONDARY EVIDENCE.

If no subscribing witness competent to testify resides in the state at the time appointed for proving the will, the court may admit the testimony of other witnesses to prove the capacity of the testator and the execution of the will, and as evidence of such execution may admit proof of the handwriting of the testator and of the subscribing witnesses.

History: (8992–55) 1935 c 72 s 55

525.243 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.244 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.25 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.251 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.252 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.253 SALE OF DEVISED PROPERTY.

Subdivision 1. **General rule.** 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.

Subd. 2. **Applicability.** This section shall be applicable to estates of decedents dying after June 5, 1969.

History: 1969 c 944 s 1,2; 1975 c 347 s 99

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]

525.273 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.28 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.281 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.282 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.29 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.291 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.292 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.30 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.301 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.302 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.303 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.304 [Repealed, 1974 c 442 art 8 s 524.8–102]

DETERMINATION OF DESCENT

525.31 MS 1971 [Repealed, 1974 c 442 art 8 s 524.8–102]

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 or assignee or successor of an 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 persons entitled thereto.

History: 1975 c 347 s 100; 1976 c 161 s 15

525.311 MS 1971 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.311 CONTENTS OF PETITION.

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

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

(2) The names, ages, and addresses of 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 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 successors and assigns possess the property devised in accordance with the will, any heir or a 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 this section and sections 525.31 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.

History: 1975 c 347 s 100; 1986 c 444

525.312 MS 1971 [Repealed, 1974 c 442 art 8 s 524.8–102]

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. Notice of the hearing, in the form prescribed by court rule, shall also be given under direction of the court administrator by publication once a week for two consecutive weeks in a legal newspaper in the county where the hearing is to be held, the last publication of which is to be at least ten days before the time set for hearing. 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; and if a clearance for medical assistance claims is on file in the proceeding and any medical assistance claims are paid or satisfied, 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 decree of descent shall operate to assign the property free and clear of any and all claims for medical assistance arising under section 525.313 without regard to the final disposition of those claims. The court may appoint two or more disinterested persons to appraise the property.

History: 1975 c 347 s 100; 1977 c 207 s 1; 1979 c 303 art 3 s 37; 1Sp1986 c 3 art 1 s 82; 2000 c 400 s 7

525.313 CLEARANCE FOR MEDICAL ASSISTANCE CLAIMS.

(a) The court shall not enter a decree of descent until the petitioner has filed a clearance for medical assistance claims under this section, and until any medical assistance claims filed under this section have been paid, settled, or otherwise finally disposed of.

(b) After filing the petition, the petitioner or the petitioner's attorney shall apply to the county agency in the county in which the petition is pending for a clearance of medical assistance claims. The application must state the decedent's name, date of birth, and Social Security number; the name, date of birth, and Social Security number of any predeceased spouse of the decedent; the names and addresses of the devisees and heirs; and the name, address, and telephone number of the petitioner or the attorney making the application on behalf of the petitioner, and include a copy of the notice of hearing.

(c) The county agency shall determine whether the decedent or any of the decedent's predeceased spouses received medical assistance under chapter 256B or general assistance medical care under chapter 256D giving rise to a claim under section 256B.15. If there are no claims, the county agency shall issue the petitioner a clearance for medical assistance claims stating no medical assistance claims exist. If there is a claim, the county agency shall issue the petitioner a clearance for medical assistance claims stating that a claim exists and the total amount of the claim. The county agency shall mail the completed clearance for medical assistance claims to the applicant within 15 working days after receiving the application without cost to the applicant or others.

(d) The petitioner or attorney shall file the certificate in the proceedings for the decree of descent as soon as practicable after it is received. Notwithstanding any rule or law to the contrary, if a medical assistance claim appears in a clearance for medical assistance claims, then:

(1) the claim shall be a claim against the decedent's property which is the subject of the petition. The county agency issuing the certificate shall be the claimant. The filing of the clearance for medical assistance claims in the proceeding for a decree of descent constitutes presentation of the claim;

MINNESOTA STATUTES 2006

(2) the claim shall be an unbarred and undischarged claim and shall be payable, in whole or in part, from the decedent's property which is the subject of the petition, including the net sale proceeds from any sale of property free and clear of the claim under this section;

(3) the claim may be allowed, denied, appealed, and bear interest as provided for claims in estates under chapter 524; and

(4) the county agency may collect, compromise, or otherwise settle the claim with the estate, the petitioner, or the assignees of the property on whatever terms and conditions are deemed appropriate.

(e) Any of the decedent's devisees, heirs, successors, assigns, or their successors and assigns, may apply for a partial decree of descent to facilitate the good faith sale of their interest in any real or personal property described in the petition free and clear of any medical assistance claim any time before the entry of a decree of descent under section 525.312. The applicant must prove an interest in the property as provided under section 525.312. The court may enter a partial decree of descent any time after it could hear and decide the petition for a decree of descent. A partial decree of descent shall assign the interests in the real and personal property described in the application to the parties entitled to the property free and clear of any and all medical assistance claims. The net sale proceeds from the sale shall be:

- (1) substituted in the estate according to this section for the property sold;
- (2) paid over to and held by the petitioner pending the entry of a decree of descent;
- (3) used for payment of medical assistance claims; and
- (4) distributed according to the decree of descent after any medical assistance claims are paid.

(f) The clearance for medical assistance claims must:

- (1) include the case name, case number, and district court in which the proceeding for a decree of descent is pending;
- (2) include the name, date of birth, and Social Security number of the decedent and any of the decedent's predeceased spouses;
- (3) state whether there are medical assistance claims against the decedent, or a predeceased spouse, and the total amount of each claim; and
- (4) include the name, address, and telephone number of the county agency giving the clearance for medical assistance claims. The certificate shall be signed by the director of the county agency or the director's designee. The signature of the director or the director's designee does not require an acknowledgment.

(g) All recoveries under this section are recoveries under section 256B.15.

(h) For purposes of this section and chapter 256B, all property identified in the petition and all subsequent amendments to the petition shall constitute an estate.

(i) No clearance for medical assistance claims is required under this section and section 525.312 in an action for a decree of descent proceeding in which all of the following apply to the decedent whose property is the subject of the proceeding:

- (1) the decedent's estate was previously probated in this state;
- (2) the previous probate was not a special administration or summary proceeding; and
- (3) the decedent's property, which is the subject of the petition for a decree of descent, was omitted from the previous probate.

History: 2000 c 400 s 8; 2002 c 347 s 4

525.314 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.315 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.316 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.32 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.321 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.322 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.323 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.324 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.33 [Repealed, 1975 c 347 s 144]

525.331 [Repealed, 1974 c 442 art 8 s 524.8–102]

PROPERTY DISPOSITION

525.34 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.35 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.36 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.37 MS 1971 [Repealed, 1974 c 442 art 8 s 524.8–102]

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 may complete any such proceeding commenced by such ward or conservatee.

History: 1975 c 347 s 101; 1986 c 444

525.38 MS 1971 [Repealed, 1974 c 442 art 8 s 524.8–102]

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.

History: 1975 c 347 s 102

525.39 [Repealed, 1975 c 347 s 144]

525.391 PROPERTY FRAUDULENTLY CONVEYED.

When the property available for the payment of debts is insufficient to pay the same in full, the representative may recover any property which the decedent may have disposed of with intent to defraud creditors, or by conveyance or transfer which for any reason is void as to them. Upon the application of any creditor and upon making the payment of or providing security for the expenses thereof as directed by the court, the representative shall prosecute all actions necessary to recover the property.

History: (8992–95) 1935 c 72 s 95; 1986 c 444

525.392 PROPERTY CONVERTED.

If any person embezzles, alienates, or converts to personal use any of the personal estate of a decedent or ward before the appointment of a representative, such person shall be liable for double the value of the property so embezzled, alienated, or converted.

History: (8992–96) 1935 c 72 s 96; 1986 c 444

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 fingerprint 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. The coroner 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 the coroner 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.

History: (8992–97) 1935 c 72 s 97; Ex1936 c 48; 1975 c 347 s 103; 1986 c 444

525.40 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.401 [Repealed, 1974 c 442 art 8 s 524.8–102]

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]

ACCOUNTING, DISTRIBUTION

525.47 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.475 MS 1974 [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 the attorney to show good cause why an order of complete settlement of the estate or a decree has not been entered.

(b) If good cause is not shown the court shall order the removal of the personal representative, instruct the personal representative to dismiss the 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 representa-

tive 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 the 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 the 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 the 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 the 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 the services and that the benefits warrant the payment of the requested fee.

History: 1975 c 347 s 104; 1986 c 444

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.

History: (8992–114) 1935 c 72 s 114; 1974 c 442 art 9 s 2; 1975 c 347 s 105

525.481 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.482 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.483 RECORDING DECREE.

A certified copy of any decree of distribution may be filed for record in the office of the county recorder of any county. It shall not be necessary to pay real estate taxes in order to record such certified copy, but the same shall be first presented to the county auditor for entry upon the transfer record and shall have noted thereon "Transfer entered" over that person's official signature. Upon request, the court shall furnish a certified copy of any decree of distribution, omitting the description of any property except that specified in the request, but indicating omissions by the words "other property omitted." Such copy and its record shall have the same force and effect as to property therein described as though the entire decree had been so certified and recorded.

History: (8992–117) 1935 c 72 s 117; 1976 c 181 s 2; 1986 c 444

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 a warrant to the county treasurer to pay such money or deliver such property to such accredited diplomatic or consular representative, and the personal representative of such estate or the county treasurer shall be discharged from that person's 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.

History: 1943 c 477 s 1,2; 1975 c 347 s 106; 1986 c 444

525.485 [Repealed, 1974 c 442 art 8 s 524.8-102]

525.486 MS 1971 [Repealed, 1974 c 442 art 8 s 524.8-102]

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.

History: 1975 c 347 s 107

525.49 MS 1957 [Repealed, 1961 c 265 s 3]

525.49 MS 1971 [Repealed, 1974 c 442 art 8 s 524.8-102]

525.491 MS 1957 [Repealed, 1961 c 265 s 3]

525.491 ATTORNEY'S LIEN.

When any attorney at law has been retained to appear for any heir or devisee, such attorney may perfect a lien upon the client's interest in the estate for compensation for such services as may have been rendered respecting such interest, by serving upon the personal representative before distribution is made, a notice of intent to claim a lien for agreed compensation, or the reasonable value of 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.

History: 1961 c 265 s 2; 1975 c 347 s 108; 1986 c 444

525.50 [Repealed, 1974 c 442 art 8 s 524.8-102]

525.501 [Repealed, 1974 c 442 art 8 s 524.8-102]

525.502 [Repealed, 1974 c 442 art 8 s 524.8-102]

525.503 [Repealed, 1974 c 442 art 8 s 524.8-102]

525.504 MS 1971 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.504 MS 1980 [Repealed, 1981 c 313 s 26]

525.51 [Repealed, 1995 c 130 s 21]

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.

History: 1971 c 497 s 8; Ex1971 c 48 s 50; 1974 c 442 art 9 s 3; 1975 c 347 s 111; 1976 c 2 s 146

525.52 [Repealed, 1974 c 442 art 8 s 524.8–102]

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]

525.528 FEDERAL ESTATE TAX; MARITAL DEDUCTION.

Whenever the decedent leaves a surviving spouse or by law the spouse is presumed to have survived and the representative of the decedent's estate, and the decedent's trustee or any other fiduciary is permitted or required to exercise a discretion, even though stated as sole, absolute or uncontrolled, to select assets in kind at values other than their values at the date or dates of distribution thereof, including values to be determined in the discretion of the representative, trustee or other fiduciary and even though such discretion is stated as sole, absolute or uncontrolled, to satisfy a bequest or transfer within the meaning of the marital deduction provisions of section 2056 of the United States Internal Revenue Code or such cognate provisions of federal law as may hereafter be applicable, such representative, trustee or other fiduciary shall be subject to the general fiduciary obligation of fairness and pursuant thereto shall select assets fairly representative of appreciation or depreciation in the value of all property available on the date or dates of distribution for selection and distribution in satisfaction of such bequest or transfer, unless other language of the will or trust instrument expressly refers to this section and states that it shall not be applicable. This section shall apply

to the estates of decedents dying after May 26, 1965, to trusts created after May 26, 1965, and to trusts, whenever created, which are revocable after May 26, 1965.

History: 1965 c 765 s 1

ADVANCEMENTS

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.

Subdivision 1. **Definitions.** As used in this section, unless otherwise clearly required by the context:

(a) "Beneficiary" means and includes any person entitled, but for that person's disclaimer, to take an interest: by intestate succession; by devise; by legacy or bequest; by succession to a disclaimed interest by will, intestate succession or through the exercise or nonexercise of a testamentary power of appointment; by virtue of a renunciation and election to take against a will; as beneficiary of a testamentary trust; pursuant to the exercise or nonexercise of a testamentary power of appointment; as donee of a power of appointment created by testamentary instrument; or otherwise under a testamentary instrument;

(b) "Interest" means and includes the whole of any property, real or personal, legal or equitable, or any fractional part, share or particular portion or specific assets thereof or any estate in any such property or power to appoint, consume, apply or expend property or any other right, power, privilege or immunity relating thereto;

(c) "Disclaimer" means a written instrument which declines, refuses, releases, renounces or disclaims an interest which would otherwise be succeeded to by a beneficiary, which instrument defines the nature and extent of the interest disclaimed thereby and which must be signed, witnessed and acknowledged by the disclaimant in the manner provided for deeds of real estate.

Subd. 2. **Right to disclaim.** A beneficiary may disclaim any interest in whole or in part, or with reference to specific parts, shares or assets thereof, by filing a disclaimer in court in the manner hereinafter provided. A guardian, executor, administrator or other personal representative of the estate of a minor, incompetent or deceased beneficiary, if that person deems it in the best interests of those interested in the estate of such beneficiary and of those who take the beneficiary's interest by virtue of the disclaimer and not detrimental to the best interests of the beneficiary, with or without an order of the probate court, may execute and file a disclaimer on behalf of the beneficiary within the time and in the manner in which the beneficiary could disclaim if living, of legal age and competent. A beneficiary likewise may execute and file a disclaimer by agent or attorney so empowered.

Subd. 3. **Filing deadline.** Such disclaimer shall be filed at any time after the creation of the interest, but in all events within nine months after the death of the person by whom the interest was created or from whom it would have been received, or, if the disclaimant is not finally ascertained as a beneficiary or the interest has not become indefeasibly fixed both in quality and quantity as of the death of such person, then such disclaimer shall be filed not later than nine months after the event which would cause the disclaimant so to become finally ascertained and the interest to become indefeasibly fixed both in quality and quantity.

Subd. 4. **Effectiveness; procedures.** 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 commenced. 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 court administrator of the court wherein the same has been filed, shall be filed in the office of the county recorder 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 county recorder. 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. Descent of disclaimed property. 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 the disclaimant to become finally ascertained as a beneficiary and the 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 nonresiduary gift, devise or bequest shall not be excluded, unless the 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.

Subd. 6. Limitation. The right to disclaim otherwise conferred by this section shall be barred if the beneficiary is insolvent at the time of the event giving rise to the right to disclaim. Any voluntary assignment or transfer of, or contract to assign or transfer, an interest in real or personal property, or written waiver of the right to disclaim the succession to an interest in real or personal property, by any beneficiary, or any sale or other disposition of an interest in real or personal property pursuant to judicial process, made before the beneficiary has filed a disclaimer, as herein provided, bars the right otherwise hereby conferred on such beneficiary to disclaim as to such interest.

Subd. 7. Spendthrift and similar provisions. The right to disclaim granted by this section shall exist irrespective of any limitation imposed on the interest of the disclaimant in the nature of an express or implied spendthrift provision or similar restriction. A disclaimer, when filed as provided in this section, or a written waiver of the right to disclaim, shall be binding upon the disclaimant or beneficiary so waiving and all parties thereafter claiming by, through or under that person, except that a beneficiary so waiving may thereafter transfer, assign or release the interest if such is not prohibited by an express or implied spendthrift provision. If an interest in real estate is disclaimed and the disclaimer is duly filed in accordance with the provisions of subdivision 4, the spouse of the disclaimant, if such spouse has consented to the disclaimer in writing, shall thereupon be automatically debarred from any spouse's statutory or common law right or estate by curtesy or in dower or otherwise in such real estate to which such spouse, except for such disclaimer, would have been entitled.

Subd. 8. Rights under other law. This section shall not abridge the right of any person, apart from this section, under any existing or future statute or rule of law, to disclaim any interest or to assign, convey, release, renounce or otherwise dispose of any interest.

Subd. 9. Interests existing on May 22, 1965. Any interest which exists on May 22, 1965 but which has not then become indefeasibly fixed both in quality and quantity, or the taker of which has not then become finally ascertained, may be disclaimed after May 22, 1965 in the manner provided herein.

History: 1965 c 552 s 1; 1975 c 347 s 112,113; 1976 c 181 s 2; 1980 c 439 s 33; 1986 c 444; 1Sp1986 c 3 art 1 s 82

525.539 [Repealed, 2003 c 12 art 2 s 8]

525.54 [Repealed, 2003 c 12 art 2 s 8]

MINNESOTA STATUTES 2006

PROBATE PROCEEDINGS

15122

- 525.541 [Repealed, 2003 c 12 art 2 s 8]
- 525.542 [Repealed, 2003 c 12 art 2 s 8]
- 525.543 [Repealed, 2003 c 12 art 2 s 8]
- 525.544 [Repealed, 2003 c 12 art 2 s 8]
- 525.545 [Repealed, 2003 c 12 art 2 s 8]
- 525.55 [Repealed, 2003 c 12 art 2 s 8]
- 525.5501 [Repealed, 2003 c 12 art 2 s 8]
- 525.551 [Repealed, 2003 c 12 art 2 s 8]
- 525.5515 [Repealed, 2003 c 12 art 2 s 8]
- 525.552 [Repealed, 2003 c 12 art 2 s 8]
- 525.56 [Repealed, 2003 c 12 art 2 s 8]
- 525.561 [Repealed, 2003 c 12 art 2 s 8]
- 525.562 [Repealed, 2003 c 12 art 2 s 8]
- 525.57 [Repealed, 2003 c 12 art 2 s 8]
- 525.58 [Repealed, 2003 c 12 art 2 s 8]
- 525.581 [Repealed, 2003 c 12 art 2 s 8]
- 525.582 [Repealed, 2003 c 12 art 2 s 8]
- 525.583 [Repealed, 2003 c 12 art 2 s 8]
- 525.59 [Repealed, 2003 c 12 art 2 s 8]
- 525.591 [Repealed, 2003 c 12 art 2 s 8]
- 525.60 [Repealed, 2003 c 12 art 2 s 8]
- 525.61 [Repealed, 2003 c 12 art 2 s 8]
- 525.611 [Repealed, 1980 c 493 s 40]
- 525.612 [Repealed, 1980 c 493 s 40]
- 525.613 [Repealed, 1980 c 493 s 40]
- 525.614 [Repealed, 1980 c 493 s 40]
- 525.615 [Repealed, 2003 c 12 art 2 s 8]
- 525.6155 [Repealed, 2003 c 12 art 2 s 8]
- 525.616 [Repealed, 2003 c 12 art 2 s 8]
- 525.6165 [Repealed, 2003 c 12 art 2 s 8]
- 525.617 [Repealed, 2003 c 12 art 2 s 8]
- 525.6175 [Repealed, 2003 c 12 art 2 s 8]
- 525.618 [Repealed, 2003 c 12 art 2 s 8]
- 525.6185 [Repealed, 2003 c 12 art 2 s 8]
- 525.619 [Repealed, 2003 c 12 art 2 s 8]
- 525.6192 [Repealed, 2003 c 12 art 2 s 8]

- 525.6194 [Repealed, 2003 c 12 art 2 s 8]
525.6195 [Repealed, 2003 c 12 art 2 s 8]
525.6196 [Repealed, 2003 c 12 art 2 s 8]
525.6197 [Repealed, 2003 c 12 art 2 s 8]
525.6198 [Repealed, 2003 c 12 art 2 s 8]
525.6199 [Repealed, 2003 c 12 art 2 s 8]
525.62 [Repealed, 2003 c 12 art 2 s 8]
525.621 [Repealed, 1980 c 493 s 40]
525.63 [Repealed, 2003 c 12 art 2 s 8]
525.64 [Repealed, 2003 c 12 art 2 s 8]
525.641 [Repealed, 2003 c 12 art 2 s 8]
525.642 [Repealed, 2003 c 12 art 2 s 8]
525.65 [Repealed, 2003 c 12 art 2 s 8]
525.651 [Repealed, 2003 c 12 art 2 s 8]
525.652 [Repealed, 2003 c 12 art 2 s 8]
525.66 [Repealed, 2003 c 12 art 2 s 8]
525.661 [Repealed, 2003 c 12 art 2 s 8]
525.662 [Repealed, 2003 c 12 art 2 s 8]
525.67 [Repealed, 2003 c 12 art 2 s 8]
525.68 [Repealed, 2003 c 12 art 2 s 8]
525.69 [Repealed, 2003 c 12 art 2 s 8]
525.691 [Repealed, 2003 c 12 art 2 s 8]
525.692 [Repealed, 2003 c 12 art 2 s 8]
525.693 [Repealed, 1975 c 347 s 144]
525.70 [Repealed, 2003 c 12 art 2 s 8]
525.701 [Repealed, 1975 c 347 s 144]
525.702 [Repealed, 2003 c 12 art 2 s 8]
525.703 [Repealed, 2003 c 12 art 2 s 8]
525.705 [Repealed, 2003 c 12 art 2 s 8]

APPEALS

525.71 APPEALABLE ORDERS.

(a) 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 this chapter or chapter 524:

- (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, temporary or emergency guardian, agent, or conservator;
- (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;

MINNESOTA STATUTES 2006

(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.

(b) Appeals to the Court of Appeals may also be taken from any other properly appealable order pursuant to the Rules of Civil Appellate Procedure.

(c) An order appointing, refusing to appoint, removing, or refusing to remove a temporary or emergency guardian under sections 524.5–204, paragraphs (b) and (c), 524.5–311, and 524.5–312, or temporary or emergency conservator or agent under sections 524.5–406, paragraph (f), and 524.5–412, or a special administrator under section 524.3–614, is not an appealable order under this section or the Rules of Civil Appellate Procedure.

History: (8992–164) 1935 c 72 s 164; 1939 c 270 s 9; 1941 c 411 s 1; 1963 c 740 s 24; 1974 c 447 s 4; 1975 c 347 s 135; 1979 c 303 art 3 s 38; 1983 c 247 s 186; 2004 c 146 art 2 s 8

525.711 [Repealed, 1983 c 247 s 219]

525.712 REQUISITES.

The appeal may be taken under the Rules of Appellate Procedure by any person aggrieved after service by any party of written notice of the filing of the order, judgment, or decree appealed from, or if no written notice is served, within six months after the filing of the order, judgment, or decree. Except as provided in this section, the appeal shall be perfected and determined upon the record as provided in the Rules of Appellate Procedure.

History: (8992–166) 1935 c 72 s 166; 1937 c 435 s 21; 1953 c 476 s 1; 1980 c 344 s 1; 1987 c 346 s 17; 1996 c 305 art 1 s 116; 2000 c 362 s 4

525.713 [Repealed, 1980 c 344 s 2]

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 Ap-

peals may require the appellant to give additional bond for the payment of damages which may be awarded against the appellant in consequence of the suspension, on the appellant's failure 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: (8992–168) 1935 c 72 s 168; 1983 c 247 s 187; 1986 c 444

525.72 [Repealed, 1980 c 344 s 2]

525.73 AFFIRMANCE; REVERSAL.

When the appellant fails to prosecute the 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 court. Upon the filing in the court of a certified transcript of the judgment, the 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 court with directions to proceed in conformity with its decision. Upon the filing in the court of a certified transcript of the judgment, it shall proceed as directed by the Court of Appeals.

History: (8992–170) 1935 c 72 s 170; 1983 c 247 s 188; 1986 c 444; 1995 c 189 s 8; 1996 c 277 s 1

525.731 JUDGMENT; EXECUTION.

The party prevailing on the appeal shall be entitled to costs and disbursements to be taxed as in a civil action. If judgment be rendered against the estate, they shall be an adjudicated claim against it. If judgment be rendered against an appellant other than the state, the Veterans' Administration, or representative appealing on behalf of the estate, judgment shall be entered against the appellant and the sureties on the appeal bond and execution may issue thereon.

History: (8992–171) 1935 c 72 s 171; 1986 c 444

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

525.749 [Repealed, 1967 c 638 s 22]

525.75 [Repealed, 1967 c 638 s 22]

525.751 [Repealed, 1967 c 638 s 22]

525.752 [Repealed, 1967 c 638 s 22]

525.753 [Repealed, 1967 c 638 s 22]

525.754 [Repealed, 1967 c 638 s 22]

525.76 [Repealed, 1967 c 638 s 22]

525.761 [Repealed, 1967 c 638 s 22]

525.762 [Repealed, 1967 c 638 s 22]

525.763 [Repealed, 1967 c 638 s 22]

525.77 [Repealed, 1967 c 638 s 22]

525.78 [Repealed, 1967 c 638 s 22]

525.79 [Repealed, 1967 c 638 s 22]

GENERAL PROVISIONS

525.80 MS 1971 [Repealed, 1974 c 442 art 8 s 524.8–102]

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.

History: 1975 c 347 s 136

525.805 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.81 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.82 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.83 NOTICE.

When notice of hearing is required by any provision of this chapter by reference to this section, the 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 the county; or, if the city of the decedent's residence is situated in more than one county, in any legal newspaper in the 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, the petitioner's attorney or agent, shall in guardianship or conservatorship mail a copy of the notice to the ward or conservatee, and other persons as the court may direct and in decedents' estates shall mail a copy of the notice to each heir, devisee, and legatee whose name and address are known.

Proof of 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.

History: (8992–188) 1935 c 72 s 188; 1941 c 422 s 1; 1957 c 30 s 1; 1971 c 497 s 7; 1973 c 123 art 5 s 7; 1973 c 404 s 1; 1975 c 347 s 137; 1980 c 493 s 25; 1986 c 444

525.831 NOTICE TO ATTORNEY GENERAL OF DEVISES FOR CHARITABLE PURPOSES.

Whenever a will provides for a devise for a charitable purpose, as defined in section 501B.35, subdivision 2, the personal representative shall provide the attorney general with the notices or documents, if any, required by section 501B.41, subdivision 5.

History: 1978 c 601 s 28; 1989 c 340 art 2 s 5

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.

History: (8992–189) 1935 c 72 s 189; 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 estate tax, the commissioner of finance shall draw a warrant or execute a proper conveyance to the persons designated in such order. In the event any escheated property has been sold pursuant to sections 11A.04, clause (9), and 11A.10, subdivision 2, or 16B.281 to 16B.287, 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.

History: (8992–190) 1935 c 72 s 190; 1957 c 861 s 8; 1973 c 492 s 14; 1975 c 347 s 139; 1979 c 303 art 3 s 40; 1980 c 607 art 14 s 46; 1986 c 444; 2003 c 112 art 2 s 49; 2004 c 262 art 1 s 40

525.85 DISCLOSURE PROCEEDINGS.

Upon the filing of a petition by the representative or any person interested in the estate, alleging that any person has concealed, converted, embezzled, or disposed of any property belonging to the estate of a decedent or that any person has possession or knowledge of any will or codicil of such decedent, or of any instruments in writing relating to such property, the court, upon such notice as it may direct may order such person to appear before it for disclosure. Refusal to appear or submit to examination, or failure to obey any lawful order based thereon shall constitute contempt of court.

History: (8992–191) 1935 c 72 s 191

525.86 [Repealed, 1975 c 347 s 144]

525.87 [Repealed, 1975 c 347 s 144]

525.88 STATE PATENTS.

Where patents for public lands have been or may be issued, in pursuance of any law of this state, to a person who has died before the date of such patent, the title to the land designated therein shall inure to and become vested in the heirs, devisees, or assignees of such deceased patentees as if the patent had been issued to the deceased person during life.

History: (8992–194) 1935 c 72 s 194

525.881 FEDERAL PATENTS.

When any person holding a homestead or tree claim entry under the laws of the United States has died before making final proof and final proof has afterwards been made by the heirs, devisees, or representatives, and a patent has been granted to the "heirs" or "devisees," the district court of the county in which the real estate so patented is situated, may determine who are such heirs or devisees, and may determine their respective shares in such homestead or tree claim. The provisions of the Code of Civil Procedure relating to the determination of adverse claims to real estate in so far as the same may be applicable, shall pertain to and govern the procedure in the action provided for in this section.

History: (8992–195) 1921 c 36 s 2; 1935 c 72 s 195; 1986 c 444

525.89 [Repealed, 1974 c 442 art 8 s 524.8–102]

525.90 [Renumbered 524.2–702]

525.91 MS 1971 [Repealed, 1974 c 442 art 8 s 524.8–102]

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.

History: 1975 c 347 s 140

UNIFORM ANATOMICAL GIFT ACT**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 stillborn 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.

Subd. 6. **Part.** "Part" means organs, tissues, eyes, bones, arteries, blood, other fluids and any other portions of a human body.

Subd. 7. **Person.** "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

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.

Subd. 9. **State.** "State" includes any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America.

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

History: 1969 c 79 s 1; 1986 c 444; 1991 c 202 s 18-27

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

Subdivision 1. **Title.** This section may be cited as the "Darlene Luther Anatomical Gift Act."

Subd. 2. **Requirements.** (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. An anatomical gift designation made by a will, a designation on a driver's license or Minnesota identification card made under section 171.07, subdivision 5, or a health care directive under chapter 145C, and not revoked, establishes the intent of the person making the designation and may not be overridden by any other person. For a donor's revocation of an anatomical gift made by a document of gift to be valid, the donor must use one of the methods of revocation in paragraph (f).

(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; 2002 c 349 s 2

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 decedent at the time of death or a health care agent or proxy appointed by the decedent under a health care directive as defined in section 145C.01, a living will under chapter 145B, or other similar document executed in another state and enforceable under the laws of this state.

(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; 1998 c 399 s 36; 2005 c 10 art 4 s 23

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. If a body is taken to a morgue, the person who discovered the body must notify the person's dispatcher. A dispatcher notified under this section must notify the state's federally designated organ procurement organization and inform the organization of the deceased's name, donor status, and location.

(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; 2006 c 260 art 3 s 22

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 re-

ject 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, APPLICABLE LAW, 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 525.9211 or 525.9212, 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.

(e) The provision or use of any part of a human body, including blood, blood components, bone marrow, or solid organs from living donors, for the purpose of injection, transfusion, or transplantation in the human body is the rendition of a health care service by each person participating in the provision or use and is not a sale of goods, as that term is defined in section 336.2-105, paragraph (1), or a sale of a product.

History: 1991 c 202 s 37; 1993 c 13 art 1 s 46; 1993 c 256 s 1

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]

525.95 FIDUCIARY POWERS, SUSPENSION DURING WAR SERVICE.

Subdivision 1. **Definitions.** The definitions in this subdivision apply to this section.

(a) "War service" includes the following, during a period when the United States is engaged in war or other major military engagement with a foreign nation:

(1) active membership in the military forces of the United States or any of its allies;

(2) acceptance for membership in the military forces of the United States or any of its allies and awaiting induction into that service;

(3) participation in work abroad in connection with a governmental agency of the United States or any of its allies, with the Red Cross, or with a similar service;

(4) internment by an enemy or absence from the United States and inability to return;

and

(5) service arising out of or in connection with the war or other major military engagement, which in the opinion of the court prevents the fiduciary from giving the proper attention to duties.

(b) "Fiduciary" refers to a trustee of a testamentary trust or of an express trust, a guardian of a person or conservator of a person's estate, an executor of a will, an administrator of the estate of the decedent, a custodian under the Minnesota Uniform Transfers to Minors Act, or an advisor or consultant in a testamentary or express trust.

Subd. 2. **Powers of fiduciary may be suspended; petition.** A fiduciary who contemplates entering war service, a fiduciary who is engaged in war service, a cofiduciary, or an interested person may petition the proper court having jurisdiction in matters of that nature

MINNESOTA STATUTES 2006

for the suspension of the powers and duties of the fiduciary during the period of war service and until the further order of the court, and may petition for the reinstatement of the fiduciary upon the fiduciary's return.

Subd. 3. **Notice of hearing.** Notice of the hearing on a petition under subdivision 2 must be given to persons and in the manner the court directs.

Subd. 4. **Hearing; order.** After a hearing on a petition under subdivision 2 or in the case of an executor, administrator, or guardian on the court's own motion, the court may:

(1) order the suspension of the powers and duties of the fiduciary who is in war service for the period of the war service and until the further order of the court;

(2) appoint a successor fiduciary to serve for the period of suspension of the powers and duties of the fiduciary and until the further order of the court, if upon suspension of powers and duties, there is no fiduciary to exercise the powers and duties of the fiduciary who is in war service, or if in the opinion of the court the appointment of a cofiduciary is advisable;

(3) decree that the ownership and title to the trust property vests in the successor fiduciary or cofiduciary, as the case may be, and that the duties, powers, and discretions, or those of the powers and discretions that are not personal to the fiduciary, may be exercised by the cofiduciary or successor fiduciary;

(4) make other orders the court considers advisable with respect to the trust estate or its administration, and authorize a reasonable compensation to the successor fiduciary; or

(5) reserve jurisdiction for the entry of further orders and for the reinstatement of the fiduciary.

Upon petition, the court shall order the reinstatement of the fiduciary when the fiduciary's war service has terminated if it appears that the trust is not fully executed or administration of the estate is not completed.

Subd. 5. **Responsibility of fiduciary.** The fiduciary has no responsibility for the acts and doings of the cofiduciary or successor fiduciary during the period of the suspension of the fiduciary's powers and duties, but is not relieved of responsibility for the fiduciary's own acts or doings in the administration of the trust fund or estate. A successor fiduciary appointed under this section is not responsible for the acts of the predecessor fiduciary.

History: 1989 c 340 art 1 s 75; 2005 c 10 art 4 s 24