

**SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION**

S.F. No. 2167

(SENATE AUTHORS: RELPH)

DATE
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OFFICIAL STATUS
Introduction and first reading
Referred to Judiciary and Public Safety Finance and Policy

1.1 A bill for an act
1.2 relating to civil law; enacting the Uniform Recognition of Substitute
1.3 Decision-Making Documents Act; proposing coding for new law in Minnesota
1.4 Statutes, chapter 523.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. [523.30] SHORT TITLE.

1.7 Sections 523.30 to 523.38 may be cited as the "Uniform Recognition of Substitute
1.8 Decision-Making Documents Act."

1.9 Sec. 2. [523.31] DEFINITIONS.

1.10 (a) The terms used in sections 523.30 to 523.38 have the meanings given them in this
1.11 section.

1.12 (b) "Decision maker" means a person authorized to act for an individual under a substitute
1.13 decision-making document, whether denominated a decision maker, agent, attorney-in-fact,
1.14 proxy, representative, or by another title. The term includes an original decision maker, a
1.15 co-decision maker, a successor decision maker, and a person to which a decision maker's
1.16 authority is delegated.

1.17 (c) "Good faith" means honesty in fact.

1.18 (d) "Health care" means a service or procedure to maintain, diagnose, treat, or otherwise
1.19 affect an individual's physical or mental condition.

1.20 (e) "Person" means an individual, estate, business or nonprofit entity, public corporation,
1.21 government or governmental subdivision, agency, or instrumentality, or other legal entity.

2.1 (f) "Personal care" means an arrangement or service to provide an individual shelter,
 2.2 food, clothing, transportation, education, recreation, social contact, or assistance with the
 2.3 activities of daily living.

2.4 (g) "Property" means anything that may be subject to ownership, whether real or personal
 2.5 or legal or equitable, or any interest or right therein.

2.6 (h) "Record" means information that is inscribed on a tangible medium or that is stored
 2.7 in an electronic or other medium and is retrievable in perceivable form.

2.8 (i) "Substitute decision-making document" means a record created by an individual to
 2.9 authorize a decision maker to act for the individual with respect to property, health care, or
 2.10 personal care.

2.11 **Sec. 3. [523.32] VALIDITY OF SUBSTITUTE DECISION-MAKING DOCUMENT.**

2.12 (a) A substitute decision-making document for property executed outside this state is
 2.13 valid in this state if, when the document was executed, the execution complied with the law
 2.14 of the jurisdiction indicated in the document or, if no jurisdiction is indicated, the law of
 2.15 the jurisdiction in which the document was executed.

2.16 (b) A substitute decision-making document for health care or personal care executed
 2.17 outside this state is valid in this state if, when the document was executed, the execution
 2.18 complied with:

2.19 (1) the law of the jurisdiction indicated in the document or, if no jurisdiction is indicated,
 2.20 the law of the jurisdiction in which the document was executed; or

2.21 (2) the law of this state other than sections 523.30 to 523.38.

2.22 (c) Except as otherwise provided by law of this state other than sections 523.30 to 523.38,
 2.23 a photocopy or electronically transmitted copy of an original substitute decision-making
 2.24 document has the same effect as the original.

2.25 **Sec. 4. [523.33] MEANING AND EFFECT OF SUBSTITUTE DECISION-MAKING**
 2.26 **DOCUMENT.**

2.27 The meaning and effect of a substitute decision-making document and the authority of
 2.28 the decision maker are determined by the law of the jurisdiction indicated in the document
 2.29 or, if no jurisdiction is indicated, the law of the jurisdiction in which the document was
 2.30 executed.

3.1 Sec. 5. **[523.34] RELIANCE ON SUBSTITUTE DECISION-MAKING DOCUMENT.**

3.2 (a) Except as otherwise provided by sections 145C.11 and 523.19, a person that in good
3.3 faith accepts a substitute decision-making document without actual knowledge that the
3.4 document is void, invalid, or terminated, or that the authority of the purported decision
3.5 maker is void, invalid, or terminated, may assume without inquiry that the document is
3.6 genuine, valid, and still in effect and that the decision maker's authority is genuine, valid,
3.7 and still in effect.

3.8 (b) A person that is asked to accept a substitute decision-making document may request
3.9 and without further investigation rely on:

3.10 (1) the decision maker's assertion of a fact concerning the individual for whom a decision
3.11 will be made, the decision maker, or the document;

3.12 (2) a translation of the document if the document contains, in whole or in part, language
3.13 other than English; and

3.14 (3) an opinion of counsel regarding any matter of law concerning the document if the
3.15 person provides in a record the reason for the request.

3.16 Sec. 6. **[523.35] OBLIGATION TO ACCEPT SUBSTITUTE DECISION-MAKING**
3.17 **DOCUMENT.**

3.18 (a) Except as otherwise provided in paragraph (b) or by law of this state other than
3.19 sections 523.30 to 523.38, a person that is asked to accept a substitute decision-making
3.20 document shall accept within a reasonable time a document that purportedly meets the
3.21 validity requirements of section 523.32. The person may not require an additional or different
3.22 form of document for authority granted in the document presented.

3.23 (b) A person that is asked to accept a substitute decision-making document is not required
3.24 to accept the document if:

3.25 (1) the person otherwise would not be required in the same circumstances to act if
3.26 requested by the individual who executed the document;

3.27 (2) the person has actual knowledge of the termination of the decision maker's authority
3.28 or the document;

3.29 (3) the person's request under section 523.34, paragraph (b), for the decision maker's
3.30 assertion of fact, a translation, or an opinion of counsel is refused;

3.31 (4) the person in good faith believes that the document is not valid or the decision maker
3.32 does not have the authority to request a particular transaction or action; or

4.1 (5) the person makes, or has actual knowledge that another person has made, a report
4.2 to the Minnesota adult abuse reporting center or a county office of adult protection stating
4.3 a belief that the individual for whom a decision will be made may be subject to abuse,
4.4 neglect, exploitation, or abandonment by the decision maker or a person acting for or with
4.5 the decision maker.

4.6 (c) A person that in violation of this section refuses to accept a substitute decision-making
4.7 document is subject to:

4.8 (1) a court order mandating acceptance of the document; and

4.9 (2) liability for reasonable attorney fees and costs incurred in an action or proceeding
4.10 that mandates acceptance of the document.

4.11 **Sec. 7. [523.36] REMEDIES UNDER OTHER LAW.**

4.12 The remedies under sections 523.30 to 523.38 are not exclusive and do not abrogate any
4.13 right or remedy under law of this state other than sections 523.30 to 523.38.

4.14 **Sec. 8. [523.37] UNIFORMITY OF APPLICATION AND CONSTRUCTION.**

4.15 In applying and construing this uniform act, consideration must be given to the need to
4.16 promote uniformity of the law with respect to its subject matter among the states that enact
4.17 it.

4.18 **Sec. 9. [523.38] RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND**
4.19 **NATIONAL COMMERCE ACT.**

4.20 Sections 523.30 to 523.38 modify, limit, or supersede the Electronic Signatures in Global
4.21 and National Commerce Act, United States Code, title 15, section 7001 et seq., but do not
4.22 modify, limit, or supersede section 101(c) of that act, United States Code, title 15, section
4.23 7001(c), or authorize electronic delivery of any of the notices described in section 103(b)
4.24 of that act, United States Code, title 15, section 7003(b).

4.25 **Sec. 10. EFFECTIVE DATE.**

4.26 Sections 1 to 9 apply to a substitute decision-making document created before, on, or
4.27 after August 1, 2019.