

purpose and shall not be construed to violate any law.

Sec. 3. Section 2 shall be effective upon approval by the governing body of the city of Pine City pursuant to section 645.021. The remainder of this act is effective the day following its final enactment.

Approved March 28, 1978.

CHAPTER 601-H.F.No.1246

[Coded in Part]

An act relating to charitable trusts; regulating the solicitation of charitable funds; clarifying and revising registration, filing and reporting requirements; coordinating charitable solicitations with general trust provisions; defining terms; amending Minnesota Statutes 1976, Sections 309.50, Subdivisions 3, 4 and 10, and by adding subdivisions; 309.515, Subdivision 1; 309.52, Subdivisions 1a and 4; 309.53, Subdivisions 1, 3 and 4; 309.555; 309.56, Subdivision 1; 501.74; 501.75; 501.76; 501.77; 501.78, Subdivisions 1, 2 and 4; 501.79, Subdivisions 2, 3, and 5; 501.81, Subdivisions 3 and 4; and Chapters 309, by adding sections; 524, by adding a section; and 525, by adding a section; repealing Minnesota Statutes 1976, Sections 309.52, Subdivisions 5, 6, and 8; 309.53, Subdivision 5; and 501.81, Subdivisions 1 and 2.

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

Section 1. Minnesota Statutes 1976, Section 309.50, Subdivision 3, is amended to read:

Subd. 3. "Charitable purpose" means ~~and includes~~ any charitable, benevolent, philanthropic, patriotic, religious, social service, welfare, educational, or eleemosynary, cultural, artistic, or public interest purpose, either actual or purported.

Sec. 2. Minnesota Statutes 1976, Section 309.50, Subdivision 4, is amended to read:

Subd. 4. "Charitable organization" means any person who engages in or purports to engage in solicitation for a charitable purpose and includes ~~each local county or area division within the state of such charitable organization; provided such local county or area division has authority and discretion to disburse funds or property otherwise than by transfer to any parent organization~~ a chapter, branch, area office or similar affiliate or any person soliciting contributions within the state for a parent charitable organization, but does not include an organization whose primary purpose is supporting or opposing any candidate for elective office, or influencing the nomination for election or the election of any candidate for elective office.

Sec. 3. Minnesota Statutes 1976, Section 309.50, Subdivision 10, is amended to read:

Subd. 10. "Solicit" and "solicitation" mean the request directly or indirectly for any ~~Changes or additions indicated by underline deletions by strikeout~~

contribution, regardless of which party initiates communication, on the plea or representation that such contribution will or may be used for any charitable purpose, and ~~also mean and~~ include any of the following methods of securing contributions:

(1) Oral or written request;

(2) The distribution, circulation, mailing, posting, or publishing of any handbill, *written advertisement, or publication*;

(3) The making of any announcement to the press, over the radio, by television, by telephone, or telegraph concerning an appeal, assemblage, athletic or sports event, bazaar, benefit, campaign, contest, dance, drive, entertainment, exhibition, exposition, party, performance, picnic, sale, or social gathering, which the public is requested to patronize or to which the public is requested to make a contribution;

(4) The sale of, offer, or attempt to sell, any advertisement, advertising space, book, card, magazine, merchandise, subscription, ticket of admission, or any other thing, or the use of the name of any charitable person in any offer or sale as an inducement or reason for purchasing any such item, or the making of any statement in connection with any such sale, that the whole or any part of the proceeds from any such sale will be used for any charitable purpose. A "solicitation" as ~~defined herein~~ shall be deemed completed when made, whether or not the person making the same receives any contribution or makes any such sale.

Sec. 4. Minnesota Statutes 1976, Section 309.50, is amended by adding subdivisions to read:

Subd. 11. "Management and general costs" means costs determined to be management and general by generally accepted accounting principles.

Subd. 12. "Fund raising costs" means costs determined to be fund raising by generally accepted accounting principles.

Sec. 5. Minnesota Statutes 1976, Section 309.515, Subdivision 1, is amended to read:

309.515 **EXEMPTIONS.** Subdivision 1. Subject to the provisions of subdivisions 2 and 3, sections 309.52 and 309.53 shall not apply to any of the following:

(a) Charitable organizations:

(1) which did not receive total contributions in excess of ~~\$2,000~~ \$10,000 from the public within or without this state during the accounting year last ended, and

(2) which do not plan to receive total contributions in excess of such amount from the public within or without this state during any accounting year, and

(3) whose functions and activities, including fund raising, are performed wholly by

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persons who are unpaid for their services, and

(4) none of whose assets or income inure to the benefit of or are paid to any officer.

For purposes of this chapter, a charitable organization shall be deemed to receive in addition to such contributions as are solicited from the public by it, such contributions as are solicited from the public by any other person and transferred to it. Any organization constituted for a charitable purpose receiving an allocation from a community chest, united fund or similar organization shall be deemed to have solicited that allocation from the public.

(b) ~~Any group or association serving a bona fide religious purpose when the solicitation is connected with such a religious purpose; nor shall such sections apply when the solicitation for such a purpose is conducted for the benefit of such a group or association by any other person with the consent of such group or association. Nothing contained in sections 309.50 to 309.61 shall prevent such a group or association or any such other person from voluntarily filing a registration statement or annual report under sections 309.52 and 309.53. A religious society or organization which received more than half of the contributions it received in the accounting year last ended (1) from persons who are members of the organization; or (2) from a parent organization or affiliated organization; or (3) from a combination of the sources listed in clauses (1) and (2). A religious society or organization which solicits from its religious affiliates who are qualified under this subdivision and who are represented in a body or convention is exempt from the requirements of sections 309.52 and 309.53. The term "member" shall not include those persons who are granted a membership upon making a contribution as a result of a solicitation.~~

(c) Any educational institution which is under the general supervision of the state board of education, the state university board, the state board for community colleges, or the university of Minnesota or any educational institution which is accredited by the university of Minnesota or the North Central association of colleges and secondary schools, or by any other national or regional accrediting association.

(d) A fraternal, patriotic, social, educational, alumni, professional, trade or learned society which limits solicitation of contributions to persons who have a right to vote as a member. The term "member" shall not include those persons who are granted a membership upon making a contribution as the result of a solicitation.

(e) A charitable organization soliciting contributions for any person specified by name at the time of the solicitation if all of the contributions received are transferred to the person named with no restrictions on his expenditure of it and with no deductions whatsoever.

(f) A private foundation, as defined in section 509(a) of the Internal Revenue Code of 1954, which did not solicit contributions from more than 100 persons during the accounting year last ended.

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Sec. 6. Minnesota Statutes 1976, Section 309.52, Subdivision 1a, is amended to read:

Subd. 1a. A charitable organization whose total contributions received during any accounting year are in excess of ~~\$2,000~~ \$10,000 shall file a registration statement with the department within 30 days after the date on which the organization's total contributions exceeded ~~\$2,000~~ \$10,000. The registration shall exist unless revoked by a court of competent jurisdiction, or the department, or as provided in subdivision 7. This subdivision shall not apply to a charitable organization which had filed a registration statement pursuant to this section for the accounting year last ended or to organizations described in section 309.515, subdivision 1.

Sec. 7. Minnesota Statutes 1976, Section 309.52, Subdivision 4, is amended to read:

Subd. 4. Where any ~~local county or area division~~ chapter, branch, area office or similar affiliate of a charitable organization is supervised and controlled by a ~~superior or parent organization~~ located within or outside the state, ~~such local county or area division shall not be required to register under this section if the superior or parent organization files a registration statement on behalf of the local county or area division the affiliate may file a registration statement on behalf of the parent organization in addition to or as part of its own registration statement, or the parent organization may file a registration statement on behalf of the affiliate in addition to or as part of its own registration statement.~~

Sec. 8. Minnesota Statutes 1976, Section 309.53, Subdivision 1, is amended to read:

309.53 ANNUAL REPORT. Subdivision 1. Except as otherwise provided in subdivision 1a of this section, every charitable organization required to file a registration statement pursuant to section 309.52 shall file an annual report with the department of commerce upon forms provided by the department or on forms identical thereto on or before June 30 of each year if its books are kept on a calendar year basis, or within six months after the close of its fiscal year if its books are kept on a fiscal year basis. For cause shown the department may extend the time for filing the annual report for a period not to exceed three months. ~~The annual report shall be accompanied by a filing fee of \$10 which shall be deposited in the state treasury.~~

Sec. 9. Minnesota Statutes 1976, Section 309.53, Subdivision 3, is amended to read:

Subd. 3. ~~Such~~ The financial statement shall include a balance sheet, ~~and~~ statement of income and expense, and statement of functional expenses, shall be consistent with forms furnished by the department, and shall be prepared in accordance with generally accepted accounting principles so as to make a full disclosure of the following, including necessary allocations between each item and the basis of such allocations:

(a) Total receipts and total income from all sources; ~~broken down into total receipts and income from each separate solicitation project or source;~~

(b) Cost of administration management and general;

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(c) Cost of ~~solicitation~~ fund raising;

(d) Cost of ~~programs designed to inform or educate the public~~ education;

(e) Funds or properties transferred out of state, with explanation as to recipient and purpose;

(f) Total net amount disbursed or dedicated within this state, broken down into total amounts disbursed or dedicated for each major purpose, charitable or otherwise;

(g) Names of professional fund raisers used during the accounting year and the financial compensation or profit resulting to each professional fund raiser. Unless otherwise required by this subdivision, the financial statement need not be certified.

A financial statement of a charitable organization which has solicited from the public within or outside this state total contributions in excess of \$25,000 for the 12 months of operation covered by the statement shall be accompanied by an opinion signed by a certified public accountant that such statement fairly represents the financial operations of the charitable organization in sufficient detail to permit public evaluation of its operations. In giving such opinion the certified public accountant shall take into consideration capital, endowment or other reserve funds, if any, controlled by the charitable organization. The opinion need not conform to the wording of the opinion form of the annual report forms provided by the department.

Sec. 10. Minnesota Statutes 1976, Section 309.53, Subdivision 4, is amended to read:

Subd. 4. Where a registration statement has been filed by a ~~superior or~~ parent organization or affiliate as provided in section 309.52, subdivision 4, ~~it shall the registered parent organization may~~ file the annual report required under this section on behalf of the ~~local county or area division chapter, branch, area office, similar affiliate or person~~ in addition to or as part of its own report, ~~but or the registered affiliate may file the annual report required under this section on behalf of the parent organization in addition to or as part of its own report.~~ The accounting information required under this section shall be set forth separately and not in consolidated form with respect to every local county or area division chapter, branch, area office, similar affiliate or person within the state which raises or expends more than \$5,000 \$10,000. The department of commerce may permit any chapter, branch, area office, similar affiliate or person to file a consolidated statement with any other chapter, branch, area office, similar affiliate or person or parent organization if the attorney general determines that the interests of the charitable beneficiaries will not be prejudiced thereby and that separate accounting information is not required for proper supervision.

Sec. 11. Minnesota Statutes 1976, Chapter 309, is amended by adding a section to read:

[309.53] INVESTIGATIONS; PROCEEDINGS. Subdivision 1. The commissioner in his discretion:

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(a) may make public or private investigations within or outside the state as he deems necessary to determine whether any person has violated or is about to violate any provision of sections 309.50 to 309.61 or any rule or order thereunder, or to aid in the enforcement of sections 309.50 to 309.61 in the prescribing of rules and forms thereunder, and may publish information, concerning the violation of sections 309.50 to 309.61 or any rule or order thereunder.

(b) may require or permit any person to file a statement in writing, under oath or otherwise as the commissioner determines, as to all facts and circumstances concerning the matter being investigated.

Subd. 2. For the purpose of any investigation or proceeding under sections 309.50 to 309.61, the commissioner or any person designated by him may administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, agreements or other documents or records which the commissioner deems relevant or material to the inquiry.

Subd. 3. No person is excused from attending and testifying or from producing any document or record before the commissioner, in obedience to the subpoena of the commissioner or any person designated by him in any proceedings instituted by the commissioner, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture, but no individual may be prosecuted or subjected to any penalty or forfeiture for an account of any transaction, matter or thing concerning which he is compelled, after claiming his privilege against self incrimination, to testify or produce evidence, except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

Subd. 4. In case of contumacy by, or refusal to obey a subpoena to, any person, the district court, upon application by the commissioner, may issue to the person an order directing him to appear before the commissioner or the officer designated by him, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.

Sec. 12. Minnesota Statutes 1976, Chapter 309, is amended by adding a section to read:

[309.534] CEASE AND DESIST ORDERS; INJUNCTIONS; RECEIVERS.
Subdivision 1. Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of this chapter or any rule or order hereunder:

(a) He shall have the power to issue and cause to be served upon the person an order requiring him to cease and desist from violations of sections 309.50 to 309.61. The order shall be calculated to give reasonable notice of the rights of the person to request a hearing thereon and shall state the reason for the entry of the order. A hearing shall be held not later than seven days after the request for the hearing is received by the

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commissioner after which and within 20 days of the date of the hearing the commissioner shall issue a further order vacating the cease and desist order or making it permanent as the facts require. All hearings shall be conducted in accordance with the provisions of chapter 15. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person shall be deemed in default, and the proceeding may be determined against him upon consideration of the cease and desist order, the allegations of which may be deemed to be true. The commissioner may adopt rules of procedure concerning all proceedings conducted pursuant to this subdivision.

(b) He may bring an action in the district court in the appropriate county to enjoin the acts or practices and to enforce compliance with sections 309.50 to 309.61 or any rule or order thereunder and he may refer the matter to the attorney general. This section shall in no way alter the authority of the attorney general to prosecute violations as set forth in sections 309.57 and 309.59. Upon a proper showing, a permanent or temporary injunction, restraining order or writ of mandamus shall be granted and a receiver may be appointed for the defendant or the defendant's assets. The court may not require the commissioner to post a bond.

Subd. 2. In any proceeding under the provisions of sections 309.50 to 309.61 in relation to injunction or receivership, the same may be brought on for hearing and disposition upon an order to show cause returnable upon not more than eight days notice to the defendant therein. The cases shall have precedence over other cases upon the court calendar, and shall not be continued without the consent of the state, except upon good cause shown to the court, and then only for the reasonable length of time necessary in the opinion of the court to protect the rights of the defendant party.

Sec. 13. Minnesota Statutes 1976, Section 309.555, is amended to read:

309.555 LIMITATIONS ON CHARITABLE EXPENDITURES. Subdivision 4. Except as provided in subdivision 2, no charitable organization shall pay or agree to pay to any professional fund raiser as compensation for his services or as reimbursement for expenses, or both, an amount in excess of 30 percent of the gross amount of moneys, funds, pledges or other property raised or received by such professional fund raiser in the name of the charitable organization.

Subdivision 1a. Any charitable organization which is required to register pursuant to section 309.52 and which expends or agrees to expend an unreasonable amount for management and general costs and fund raising costs shall not be eligible to maintain registration with the department. An amount expended or agreed to be expended by a charitable organization for management and general costs and fund raising costs in excess of 30 percent of total income and revenue is presumed to be an unreasonable amount. An amount expended or agreed to be expended by a charitable organization for management and general costs and fund raising costs of 30 percent or less of total income and revenue may be challenged as unreasonable by the department or the attorney general. Any expenditures made in violation of this provision shall be recoverable from the charitable organization by the attorney general.

Subd. 1b. Any professional fund raiser who receives or agrees to receive an
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unreasonable amount for management and general costs and fund raising costs shall not be eligible to maintain a license with the department. An amount received or agreed to be received by a professional fund raiser for management and general costs and fund raising costs in excess of 30 percent of the total contributions raised or received by reason of any solicitation activities is an unreasonable amount. An amount received or agreed to be received by a professional fund raiser for management and general costs and fund raising costs of 30 percent or less of the total contribution raised or received by reason of any solicitation activities may be challenged as unreasonable by the department or the attorney general. Any expenditures made in violation of this provision shall be recoverable by the attorney general from the charitable organization or professional fund raiser or both.

Subd. 2. In the event that goods or services are provided to the public in connection with charitable solicitation, ~~when a professional fund raiser is employed~~, no charitable organization ~~or professional fund raiser~~ shall pay or agree to pay to any professional fund raiser as compensation for his services or as reimbursement for expenses, or both, expend or agree to expend an unreasonable amount for management and general costs and fund raising costs, which is presumed to be an amount in excess of 30 percent of the difference between the cost to the charitable organization of all goods and services sold ~~by the professional fund raiser~~ and the amount for which said goods and services are sold.

Subd. 3. ~~Compensation paid or agreed to be paid to a professional fund raiser shall include the reasonable cost of any expense, whether in money or in kind, incurred by a charitable organization pursuant to an agreement or contract with a professional fund raiser for the solicitation of charitable contributions. Expenditures made or agreed to be made for management and general costs or fund raising costs shall include payments made or agreed to be made to professional fund raisers as compensation for services or reimbursement for expenses, or both.~~ A charitable organization shall be deemed to have paid expended or agreed to pay expend any portion of such moneys, funds, pledges or other properties contributions retained by the professional fund raiser pursuant to a contract with the charitable organization. Expenditures made or agreed to be made for management and general costs or fund raising costs shall also include payments made or agreed to be made to employees of the charitable organization and other persons.

Subd. 4. No person shall use the name of a charitable organization for financial compensation or profit unless the charitable organization has consented to the use of its name in a contract with the person. The contract shall:

(a) be in writing, and a copy thereof shall be filed with the department within seven days of the date of execution;

(b) disclose the amount of financial compensation or profit to be retained by the person;

(c) disclose the percentage of the total gross amount of moneys, funds, pledges or other property raised or received or to be raised or received in connection with the use of the name of the charitable organization which will be given to the charitable organization.

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Subd. 5. In an action brought by the department or the attorney general pursuant to sections 309.532 or 309.57, a charitable organization may interpose as a defense to a violation of section 309.555 that fund raising costs and management and general costs in excess of 30 percent are reasonable because of extenuating or mitigating circumstances.

Sec. 14. Minnesota Statutes 1976, Section 309.56, Subdivision 1, is amended to read:

309.56 SERVICE OF PROCESS. Subdivision 1. Any charitable organization or professional fund raiser which solicits contributions in this state, but does not maintain an office within the state shall be subject to service of process, as follows:

(a) By service thereof on its registered agent within the state, or if there be no such registered agent, then upon the person who has been designated in the registration statement as having custody of books and records within this state; where service is effected upon the person so designated in the registration statement a copy of the process shall, in addition, be mailed to the charitable organization or professional fund raiser at its last known address;

(b) When a charitable organization or professional fund raiser has solicited contributions in this state, but maintains no office within the state, has no registered agent within the state, and no designated person having custody of its books and records within the state, or when a registered agent or person having custody of its books and records within the state cannot be found as shown by the return of the sheriff of the county in which such registered agent or person having custody of books and records has been represented by the charitable organization or professional fund raiser as maintaining an office, service may be made by ~~delivering to and leaving with the commissioner of securities of the department of commerce three copies thereof and a fee of \$6 leaving a copy of the process in the office of the commissioner.~~ Service upon the commissioner is not effective unless (a) the plaintiff, who may be the commissioner in a suit, action, or proceeding instituted by him, forthwith sends notice of the service and a copy of the process by registered mail to the defendant or respondent at his last known address or takes other steps which are reasonably calculated to give actual notice, and (b) the plaintiff's affidavit of compliance with this subdivision is filed in the case on or before the return day of the process, if any, or within a further time the court allows.

(c) ~~Following service upon the commissioner of securities of the department of commerce the provisions of law relating to service of process on foreign corporations contained in Minnesota Statutes 1957, Section 303.13, Subdivisions 2, 3, 4, and 5, shall thereafter govern.~~

Sec. 15. Minnesota Statutes 1976, Section 501.74, is amended to read:

501.74 EXCLUSIONS. The registration and reporting provisions of sections 501.75 and 501.76 shall not apply to

(a) A charitable trust administered by the United States, any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto

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Rico or to any of their agencies or subdivisions.

(b) An educational institution which is under the general supervision of the state board of education, the state university board, the state board for community colleges, or the university of Minnesota or the north central association of colleges and secondary schools, or by any other national or regional accrediting association, and all charitable trusts organized and operated exclusively for educational purposes which are administered by any such institution.

(c) Religious associations organized pursuant to chapters 315 and 317 and all charitable trusts organized and operated exclusively for religious purposes which are administered by any such religious association.

(d) Institutions and corporations organized and operated as hospitals or as medical centers engaged in medical care, education and research.

(e) An organization described in section 509(a) (3) of the Internal Revenue Code of 1954 which is operated, supervised or controlled by or in connection with one or more organizations described in clauses (b) to (d) of this section, a pooled income fund as defined in section 642(c) (5) of the Internal Revenue Code of 1954 which is maintained by an organization described in clauses (b) to (d) of this section, and a charitable remainder annuity trust or unitrust, as defined in section 664 of the Internal Revenue Code of 1954; ~~of which the trustee is an organization described in clauses (b) to (d) of this section.~~

(f) A trust in which the only charitable interest is a contingent interest for which no charitable deduction has been allowed for Minnesota income, inheritance or gift tax purposes and a trust not all of the unexpired interests in which are devoted to one or more charitable purposes and in which the only charitable interest is an annuity or an income interest with respect to which a charitable deduction is allowed the trust under applicable Minnesota income tax laws.

(g) An organization which does not have at least ~~\$5,000~~ \$10,000 of gross assets at any time during a taxable year ~~and which normally receives more than two-thirds of its support each year from the general public or from the United States, any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any of their agencies.~~

(h) Any organization which is subject to the requirements of sections 309.50 to 309.61.

(i) A trust for individual and charitable beneficiaries which is described in section 4947(a)(2) of the Internal Revenue Code of 1954, also known as a split-interest trust.

(j) A charitable gift, bequest or devise not held and continued by a private express trust or corporation even though the gift, bequest or devise creates a fiduciary relationship, unless there is no named charitable beneficiary in existence or unless a named charitable beneficiary elects in a writing filed with the attorney general and with the fiduciary to come within the provisions of sections 501.75 and 501.76.

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Sec. 16. Minnesota Statutes 1976, Section 501.75, is amended to read:

501.75 REGISTER OF TRUSTS AND TRUSTEES. Subdivision 1. The secretary of state securities division of the department of commerce shall establish and maintain a register of charitable trusts and trustees subject to the provisions of sections 501.71 to 501.81. All registrations, annual reports and other filings made pursuant to sections 501.71 to 501.81 shall be transferred by the secretary of state to the securities division of the department of commerce. All registrations and annual reports filed with the secretary of state shall remain in effect as if there had been no transfer in the register.

Subd. 2. Every charitable trust subject to the provisions of sections 501.71 to 501.81 shall register and file with the secretary of state securities division a copy of the instrument creating the charitable trust, including any amendments thereto, within three months after the charitable trust first receives possession or control of any property authorized or required to be applied, either at present or in the future, for charitable purposes. ~~If a trustee holds any property on August 1, 1975, which is authorized or required to be applied, either at present or in the future, for charitable purposes, the filing and registration shall be made within three months after August 1, 1975.~~

Sec. 17. Minnesota Statutes 1976, Section 501.76, is amended to read:

501.76 FILING OF ANNUAL REPORTS. Subdivision 1. Every charitable trust subject to the provisions of sections 501.71 to 501.81 shall, in addition to filing copies of the instruments previously required, file with the secretary of state securities division of the department of commerce annual written reports setting forth any information as described in section the trust is required to report pursuant to sections 6056(b), 6033, 6034 and 6056 of the Internal Revenue Code of 1954. These reports shall be filed annually on or before the fifteenth day of the fifth month following the close of the charitable trust's taxable year as established for federal tax purposes. The time for filing may be extended by application to the secretary of state securities division, but no such extension shall be for more than six months. A charitable trust which files the information required under this subdivision with the securities division is not required to file the same information with the commissioner of revenue.

Subd. 2. The secretary of state securities division may suspend the filing of reports as to a particular charitable trust for a reasonable, specifically designated time upon written application of the trustee filed with the secretary of state securities division and after the attorney general has filed in the register of charitable trusts a written statement that the interests of the beneficiaries will not be prejudiced thereby and that annual reports are not required for proper supervision by his office.

Sec. 18. Minnesota Statutes 1976, Section 501.77, is amended to read:

501.77 PUBLIC INSPECTION OF RECORDS. The register, copies of instruments, and the reports filed with the secretary of state securities division of the department of commerce shall be open to public inspection.

Sec. 19. Minnesota Statutes 1976, Section 501.78, Subdivision 1, is amended to
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read:

501.78 INVESTIGATORY POWERS OF THE ATTORNEY GENERAL; CUSTODIANS TO FURNISH COPIES OF RECORDS. Subdivision 1. The attorney general may conduct investigations reasonably necessary for the administration of sections 501.71 to 501.81 and for the purpose of determining whether the property held for charitable purposes is properly administered. ~~He may require any agent, trustee, fiduciary, beneficiary, institution, association, or corporation or other person, to answer written interrogatories reasonably related to the administration of a charitable trust, or to appear, at a reasonable time and place as the attorney general may designate, to give information under oath and to produce books, memoranda, papers, documents of title, and evidence of assets, liabilities, receipts or disbursements in the possession or control of the person ordered to appear. In connection with an investigation under this section the attorney general may obtain discovery from any agent, trustee, fiduciary, beneficiary, institution, association, corporation or other person regarding any matter, fact or circumstance, not privileged, which is relevant to the subject matter involved in the investigation, in accordance with the provisions of this subdivision. The discovery may be obtained without commencement of a civil action and without leave of court, except as expressly required by the provisions of subdivision 2. The applicable protective provisions of rules 26.02, 30.02, 30.04 and 31.04 of the rules of civil procedure for the district court shall apply to any discovery procedures instituted pursuant to this section. The attorney general or any person to whom discovery is directed may apply to and obtain leave of the district court in order to reduce or extend the time requirements of this subdivision, and upon a showing of good cause the district court shall order a reduction or extension. In order to obtain discovery, the attorney general may:~~

(a) Serve written interrogatories on any person. Within 20 days after service of interrogatories, separate written answers and objections to each interrogatory shall be mailed to the attorney general.

(b) Upon reasonable written notice of no less than 15 days, require any person to produce for inspection and copying any documents, papers, books, accounts, letters, photographs, objects, or tangible things which are in his possession, custody, or control.

(c) Upon reasonable written notice of no less than 15 days, take the testimony of any person by deposition as to any fact or opinion relevant to the subject matter involved in the pending investigation.

Sec. 20. Minnesota Statutes 1976, Section 501.78, Subdivision 2, is amended to read:

Subd. 2. When the attorney general requires the attendance of any person, as provided in subdivision 1, he shall issue an order setting forth the time when and the place where attendance is required and shall cause the same to be delivered to or sent by registered mail to the person at least 14 days before the date fixed for attendance. The order shall have the same force and effect as a subpoena and, upon application of the attorney general, obedience to the order may be enforced by any court having jurisdiction of charitable trusts in the county where the person receiving it resides or is found, in the

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same manner as though the notice were a subpoena. The court, after hearing, for cause, and upon application of any person aggrieved by the order, shall have the right to alter, amend, revise, suspend or postpone all or any part of its provisions: If any person fails or refuses to answer interrogatories, to produce materials, or to be examined under oath, as required by the provisions of subdivision 1, the attorney general may give notice that he will apply to the district court in the county where the person receiving it resides or is found, and the court, on a showing by the attorney general of cause therefor, may issue an order as may be required to compel compliance with the discovery procedures authorized by this section.

Sec. 21. Minnesota Statutes 1976, Section 501.78, Subdivision 4, is amended to read:

Subd. 4. Every officer, agency, board or commission of this state receiving applications for exemption from taxation of any charitable trust subject to sections 501.71 to 501.81 shall annually file with the secretary of state securities division of the department of commerce a list of all applications received during the year and shall notify the secretary of state division of any suspension or revocation of a tax exempt status previously granted.

Sec. 22. Minnesota Statutes 1976, Section 501.79, Subdivision 2, is amended to read:

Subd. 2. ~~Except as provided in subdivision 3,~~ The attorney general shall be notified of and has the right to participate as a party in all court proceedings:

- (a) To terminate a charitable trust or to liquidate or distribute its assets, or
- (b) To modify or depart from the objects or purposes of a charitable trust as are set forth in the instrument governing the trust, including any proceeding for the application of the doctrine of cy pres, or
- (c) To construe the provisions of an instrument with respect to a charitable trust, or
- (d) To review an accounting of a charitable trust submitted by a trustee, or
- (e) Any other proceeding involving a charitable trust when the interests of the uncertain or indefinite charitable beneficiaries may be affected.

Sec. 23. Minnesota Statutes 1976, Section 501.79, Subdivision 3, is amended to read:

Subd. 3. ~~No~~ The notice required by subdivision 2 need not be provided to the attorney general of a charitable gift, devise under a will for which no charitable trust is created, or bequest (1) for which the donor or testator has named as a charitable beneficiary an organization which is then in existence; or (2) which is not held and continued by a private express trust or corporation, whether or not the gift, devise, or bequest creates a fiduciary relationship.

Changes or additions indicated by underline deletions by ~~strikeout~~

This subdivision shall not affect any other notice to the attorney general required by this chapter.

Sec. 24. Minnesota Statutes 1976, Section 501.79, Subdivision 5, is amended to read:

Subd. 5. ~~Whenever a will provides for a bequest or devise to a charitable trust ;~~ The personal representative shall send to the attorney general a copy of the petition or application for probate together with a copy of the last will and testament, including any codicils which have been admitted to probate. ;

(a) when a will provides for a bequest or devise for a charitable purpose for which there is no named charitable beneficiary, or there is then in existence no named charitable beneficiary; or

(b) when a will provides for bequests or devises for charitable purposes in excess of \$60,000; or

(c) when a will provides for a bequest or devise to a named charitable beneficiary which is in receivership; or

(d) upon a written request served on the personal representative by any named charitable beneficiary prior to the order allowing the final account or, in unsupervised proceedings, within 30 days after service of the final account on the charitable beneficiary.

The personal representative shall serve the documents on the attorney general and shall file with the appropriate court a copy of the affidavit of service on the attorney general. If the personal representative was requested to notify the attorney general of the probate proceedings pursuant to clause (d), the party so requesting shall file with the court a copy of the request and the affidavit of service on the personal representative.

Whenever objections are filed to any will or codicil containing any bequest or devise to a charitable trust, the person filing ~~such the~~ objections, at least 14 days prior to the hearing thereon, shall send to the attorney general a copy of ~~such the~~ objections, together with a copy of the petition or application for probate and a copy of the will, together with any codicils thereto which have been offered for probate.

Any notice or documents required to be sent to the attorney general pursuant to this section shall be served by certified mail, return receipt requested. Upon receiving any ~~such~~ notice or documents pursuant to this subdivision the attorney general may become a party in the estate proceedings.

Sec. 25. Minnesota Statutes 1976, Section 501.81, Subdivision 3, is amended to read:

Subd. 3. In any proceeding brought by the attorney general, or in which the attorney general intervenes, pursuant to sections 501.71 to 501.81, the judgment or order

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may provide that the trustee shall pay the reasonable expenses necessarily incurred by the attorney general in the investigation and prosecution of such action, including attorneys' fees, if it shall also be determined in such proceeding that the trustee has been guilty of an intentional or grossly negligent breach of trust as defined in section 501.79, subdivision 5, or as otherwise provided by law.

Sec. 26. Minnesota Statutes 1976, Section 501.81, Subdivision 4, is amended to read:

Subd. 4. All moneys received by the attorney general and the secretary of state pursuant to this section shall be deposited in the state treasury and shall be credited to the general fund.

Sec. 27. Minnesota Statutes 1976, Chapter 524, is amended by adding a section to read:

[524.1-404.] NOTICE TO CHARITABLE BENEFICIARIES. If a will includes a gift, devise or bequest to a named charitable beneficiary, the initial written notice of the probate proceedings given to the beneficiary shall state that the beneficiary may request notice of the probate proceedings be given to the attorney general pursuant to section 501.79, subdivision 5.

Sec. 28. Minnesota Statutes 1976, Chapter 525, is amended by adding a section to read:

[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 501.73, subdivision 2, the personal representative shall provide the attorney general with the notices or documents, if any, required by section 501.79, subdivision 5.

Sec. 29. **REPEALER.** Minnesota Statutes 1976, Sections 309.52, Subdivisions 5, 6, and 8; 309.53, Subdivision 5; and 501.81, Subdivisions 1 and 2, are repealed.

Sec. 30. Sections 1 to 12 and sections 14, 24 and 29 are effective the day after final enactment; section 13 is effective June 30, 1979.

Approved March 28, 1978.

CHAPTER 602-H.F.No.1317

[Coded in Part]

An act relating to children; requiring the preparation of case plans for children placed in foster care; permitting termination of parental rights as to children who are neglected and in foster care; amending Minnesota Statutes 1976, Sections 259.29; 260.015, by adding a subdivision; 260.111, Subdivision 1; 260.131, Subdivision 1; 260.155, by adding a subdivision;

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