

(f) The commissioner must limit the number of demonstration projects under this subdivision to five projects.

(g) Approval of the application for the demonstration project is deemed to be in compliance with sections 62E.03 and 62E.06, subdivisions 1, paragraph (a), 2, and 3.

(h) Subdivisions 2 to 7 apply to demonstration projects under this subdivision. Waivers permitted under subdivision 1 do not apply to demonstration projects under this subdivision.

(i) If a demonstration project under this subdivision works in conjunction with a purchasing alliance formed under chapter 62T, that chapter will apply to the purchasing alliance except to the extent that chapter 62T is inconsistent with this subdivision.

**Sec. 2. EFFECTIVE DATE.**

Section 1 is effective the day following final enactment.

Presented to the governor April 18, 2002

Signed by the governor April 19, 2002, 9:47 a.m.

**CHAPTER 347—S.F.No. 2540**

*An act relating to property; changing certain probate and power of appointment provisions; amending Minnesota Statutes 2000, sections 501A.01; 524.2-804; 525.313; Minnesota Statutes 2001 Supplement, section 524.3-1201.*

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

Section 1. Minnesota Statutes 2000, section 501A.01, is amended to read:

**501A.01 WHEN NONVESTED INTEREST, POWERS OF APPOINTMENT ARE INVALID; EXCEPTIONS.**

(a) A nonvested property interest is invalid unless:

(1) when the interest is created, it is certain to vest or terminate no later than 21 years after the death of an individual then alive; or

(2) the interest either vests or terminates within 90 years after its creation.

(b) A general power of appointment not presently exercisable because of a condition precedent is invalid unless:

(1) when the power is created, the condition precedent is certain to be satisfied or become impossible to satisfy no later than 21 years after the death of an individual then alive; or

(2) the condition precedent either is satisfied or becomes impossible to satisfy within 90 years after its creation.

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(c) A nongeneral power of appointment or a general testamentary power of appointment is invalid unless:

(1) when the power is created, it is certain to be irrevocably exercised or otherwise to terminate no later than 21 years after the death of an individual then alive; or

(2) the power is irrevocably exercised or otherwise terminates within 90 years after its creation.

(d) In determining whether a nonvested property interest or a power of appointment is valid under subsection paragraph (a), clause (1), paragraph (b), clause (1), or paragraph (c), clause (1), the possibility that a child will be born to an individual after the individual's death is disregarded.

(e) If, in measuring a period from the creation of a trust or other property arrangement, language in a governing instrument seeks to:

(1) disallow the vesting or termination of any interest trust beyond;

(2) postpone the vesting or termination of any interest or trust until; or

(3) operate in effect in any similar fashion upon,

the later of the expiration of a period of time not exceeding 21 years after the death of the survivor of specified lives in being at the creation of the trust or other property arrangement, or the expiration of a period of time that exceeds or might exceed 21 years after the death of the survivor of lives in being at the creation of the trust or other property arrangement;

that language is inoperative to the extent it produces a period of time that exceeds 21 years after the death of the survivor of the specified lives.

Sec. 2. Minnesota Statutes 2000, section 524.2-804, is amended to read:

**\*524.2-804 REVOCATION BY DISSOLUTION OF MARRIAGE; NO REVOCATION BY OTHER CHANGES OF CIRCUMSTANCES.**

If after executing a will the testator's marriage is dissolved or annulled, the dissolution or annulment revokes any disposition or appointment of property made by the will to the former spouse, any provision conferring a general or special power of appointment on the former spouse, and any nomination of the former spouse as executor, trustee, conservator, or guardian, unless the will expressly provides otherwise. Property prevented from passing to a former spouse because of revocation by dissolution of marriage or annulment passes as if the former spouse failed to survive the decedent, and other provisions conferring some power or office on the former spouse are interpreted as if the spouse failed to survive the decedent. If provisions are revoked solely by this section, they are revived by testator's remarriage to the former spouse. For purposes of this chapter and chapter 525, dissolution of marriage includes divorce. A decree of separation which does not terminate the status of husband and wife is not a dissolution of marriage for purposes of this section. No change of circumstances other than as described in this section revokes a will. Subdivision 1. REVOCATION UPON DISSOLUTION. Except as provided by the express terms of

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a governing instrument, other than a trust instrument under section 501B.90, executed prior to the dissolution or annulment of an individual's marriage, a court order, a contract relating to the division of the marital property made between individuals before or after their marriage, dissolution, or annulment, or a plan document governing a qualified or nonqualified retirement plan, the dissolution or annulment of a marriage revokes any revocable:

(1) disposition, beneficiary designation, or appointment of property made by an individual to the individual's former spouse in a governing instrument;

(2) provision in a governing instrument conferring a general or nongeneral power of appointment on an individual's former spouse; and

(3) nomination in a governing instrument, nominating an individual's former spouse to serve in any fiduciary or representative capacity, including a personal representative, executor, trustee, conservator, agent, or guardian.

**Subd. 2. EFFECT OF REVOCATION.** Provisions of a governing instrument are given effect as if the former spouse died immediately before the dissolution or annulment.

**Subd. 3. REVIVAL IF DISSOLUTION NULLIFIED.** Provisions revoked solely by this section are revived by the individual's remarriage to the former spouse or by a nullification of the dissolution or annulment.

**Subd. 4. NO REVOCATION FOR OTHER CHANGE OF CIRCUMSTANCES.** No change of circumstances other than as described in this section and in section 524.2-803 effects a revocation.

**Subd. 5. PROTECTION OF PAYORS AND OTHER THIRD PARTIES.** (a) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by a dissolution, annulment, or remarriage, or for having taken any other action in good faith reliance on the validity of the governing instrument, before the payor or other third party received written notice of the dissolution, annulment, or remarriage. A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written notice of a claimed forfeiture or revocation under this section.

(b) Written notice of the dissolution, annulment, or remarriage under paragraph (a) must be delivered to the payor's or other third party's main office or home. Upon receipt of written notice of the dissolution, annulment, or remarriage, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate or, if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents' estates located in the county of the decedent's residence. The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement or transfer in accordance with the determination. Payments, transfers, or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

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Sec. 3. Minnesota Statutes 2001 Supplement, section 524.3-1201, is amended to read:

**524.3-1201 COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT.**

(a) Thirty days after the death of a decedent, (i) any person indebted to the decedent, (ii) any person having possession of tangible personal property or an instrument evidencing a debt, obligation, stock, or chose in action belonging to the decedent, or (iii) any safe deposit company, as defined in section 55.01, controlling the right of access to decedent's safe deposit box shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock, or chose in action or deliver the entire contents of the safe deposit box to a person claiming to be the successor of the decedent, or a state or county agency with a claim authorized by section 256B.15, upon being presented a certified death record of the decedent and an affidavit, in duplicate, made by or on behalf of the successor stating that:

(1) the value of the entire probate estate, determined as of the date of death, wherever located, including specifically any contents of a safe deposit box, less liens and encumbrances, does not exceed \$20,000;

(2) 30 days have elapsed since the death of the decedent or, in the event the property to be delivered is the contents of a safe deposit box, 30 days have elapsed since the filing of an inventory of the contents of the box pursuant to section 55.10, paragraph (h);

(3) no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction;

(4) if presented, by a state or county agency with a claim authorized by section 256B.15, to a financial institution with a multiple-party account in which the decedent had an interest at the time of death, the amount of the affiant's claim and a good faith estimate of the extent to which the decedent was the source of funds or beneficial owner of the account; and

(5) the claiming successor is entitled to payment or delivery of the property.

(b) A transfer agent of any security shall change the registered ownership on the books of a corporation from the decedent to the successor or successors upon the presentation of an affidavit as provided in subsection (a).

(c) The claiming successor or state or county agency shall disburse the proceeds collected under this section to any person with a superior claim under section 524.2-403 or 524.3-805.

(d) A motor vehicle registrar shall issue a new certificate of title in the name of the successor upon the presentation of an affidavit as provided in subsection (a).

(e) The person controlling access to decedent's safe deposit box need not open the box or deliver the contents of the box if:

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(1) the person has received notice of a written or oral objection from any person or has reason to believe that there would be an objection; or

(2) the lessee's key or combination is not available.

Sec. 4. Minnesota Statutes 2000, section 525.313, is amended to read:

**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;

(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

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(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

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(3) the decedent's property, which is the subject of the petition for a decree of descent, was omitted from the previous probate.

**Sec. 5. EFFECTIVE DATE.**

Section 4 applies to proceedings for a decree of descent commenced after July 31, 2002.

Presented to the governor April 18, 2002

Signed by the governor April 19, 2002, 9:46 a.m.

**CHAPTER 348—S.F.No. 2460**

*An act relating to crimes; providing criminal penalties for persons who promote, advocate, and take responsibility for criminal acts under certain circumstances; providing for civil liability against persons who destroy field crops and organisms grown for research purposes; amending Minnesota Statutes 2001 Supplement, section 609.495, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 604.*

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

**Section 1. [604.13] DESTRUCTION OF FIELD CROP PRODUCTS, ANIMALS, ORGANISMS, OR CELLS; CIVIL LIABILITY.**

Subdivision 1. LIABILITY. No person other than the owner, designee, or agent may willfully and knowingly damage or destroy any field crop, animal, organism, or cell that is grown for testing or research purposes in conjunction or coordination with a private research facility or a university or a federal, state, or local government agency. A person who violates this subdivision is liable for three times the value of the crop, animal, organism, or cell damaged or destroyed, as provided in subdivisions 2 and 3. This section does not apply to crops, animals, organisms, or cells damaged or destroyed by emergency vehicles and personnel acting in a reasonable and prudent manner.

Subd. 2. DAMAGES; FACTORS TO CONSIDER. In awarding damages under this section, the court shall consider the market and research value of the crop, animal, organism, or cell prior to damage or destruction, and production, research, testing, replacement, and development costs directly related to the crop, animal, organism, or cell that has been damaged or destroyed as part of the value.

Subd. 3. DAMAGES; LIMIT. Damages available under this section are limited to:

(1) three times the market and research value of the crop, animal, organism, or cell prior to damage or destruction plus three times the actual damages involving production, research, testing, replacement, and development costs directly related to the crop, animal, organism, or cell that has been damaged or destroyed; and

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