

CHAPTER 497—S.F.No.1720

[Coded in Part]

An act relating to estates of decedents; revising descent of property; prescribing the form for notice of certain hearings; allowing proof of wills on written testimony in certain cases; shortening the period during which claims may be filed; removing the limit on the time during which the court may authorize late filing of claims; revising and expanding the provisions for summary administration; providing compensation for legal services; amending Minnesota Statutes 1969, Sections 525.16; 525.24; 525.282; 525.41; 525.411, Subdivision 1; 525.51, by adding a subdivision; and 525.83.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1969, Section 525.16, is amended to read:

525.16 PROBATE CODE; REVISION; DESCENT OF PROPERTY. Except as provided in sections 525.14 and 525.145, and subject to the allowances provided in section 525.15, and the payment of the expenses of administration, funeral expenses, expenses of last illness, taxes, and debts, the estate, real and personal, shall descend and be distributed as follows:

(1) Personal property: To the surviving spouse one-third thereof free from any testamentary disposition thereof to which such survivor shall not have consented in writing or by election to take under the will as provided by law;

(2) Real property: To the surviving spouse an undivided one-third of all real property of which the decedent at any time while married to such spouse was seized or possessed, to the disposition whereof by will or otherwise such survivor shall not have consented in writing or by election to take under the will as provided by law, except such as has been transferred or sold by judicial partition proceedings or appropriated to the payment of the decedent's debts by execution or judicial sale, by general assignment for the benefit of creditors, or by insolvency or bankruptcy proceedings, and subject to all judgment liens;

(3) If only a spouse, or a spouse and only one child or the issue of a deceased child survive, the share of the spouse under the provisions of clauses (1) and (2) shall be one-half instead of one-third;

(4) Subject to the preceding provisions of this section, the whole estate, real and personal, except as otherwise disposed of by will shall descend and be distributed as follows:

(a) In equal shares to the surviving children and to the issue of deceased children by right of representation;

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(b) If there be no surviving child nor issue of any deceased child, and if the intestate leave a surviving spouse, then to such spouse;

(c) If there be no surviving issue nor spouse, then to the father and mother in equal shares, or if but one survive, then to such survivor;

(d) If there be no surviving issue, spouse, father nor mother, then in equal shares to the surviving brothers and sisters, ~~if any,~~ and to the issue of ~~any deceased brother~~ brothers or and sister sisters by right of representation; in equal shares and if there be no surviving brothers or sisters, then in equal shares to the issue of deceased brothers and sisters if all are of equal degree and, if not, then in equal shares to those in the nearest degree and by right of representation to those in a more remote degree;

(e) If there be no surviving issue, spouse, father, mother, brother, sister, nor issue of any deceased brother or sister, then in equal shares to the next of kin in equal degree, except that when there are two or more collateral kindred in equal degree claiming through different ancestors, those who claim through the nearest ancestor shall take to the exclusion of those claiming through an ancestor more remote.

(5) If a minor die leaving no spouse nor issue surviving, all of his estate that came to him by inheritance or will from his parent shall descend and be distributed to the other children of the same parent, if any, and to the issue of any deceased child of such parent in equal shares if all are of equal degree and, if not, then in equal shares to those in the nearest degree and by right of representation to those in a more remote degree; failing all such, it shall descend and be distributed by intestate succession as in other cases;

(6) If the intestate leave no spouse nor kindred, the estate shall escheat to the state.

Sec. 2. Minnesota Statutes 1969, Section 525.24, is amended to read:

525.24 HEARING AND PROOF. 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 525.83. If probate is not contested, the court may admit the will on the testimony of one of the subscribing witnesses either by personal appearance before the court or by the testimony being reduced to writing and subscribed and sworn to before a notary public and filed with the court; but, if contested, all the subscribing witnesses who are within the state and competent and able to testify shall be produced and examined. If the instrument is not allowed as the last will and if the estate should be administered, the court shall grant administration to the person or persons entitled thereto.

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Sec. 3. Minnesota Statutes 1969, Section 525.282, is amended to read:

525.282 HEARING; NOTICE. Subdivision 1. 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 525.83. Any person interested in the estate may contest the petition or oppose the appointment of the person for whom letters are prayed by filing written objections stating the ground thereof, at or before the time of the hearing. Upon proof of the petition, the court shall appoint an administrator and fix the amount of his bond as required by law. Upon the filing of the oath, acceptance, and bond as required by law, letters shall issue.

Subd. 2. The notice required by this section shall be in the form and shall read substantially as follows:

STATE OF MINNESOTA

PROBATE COURT

COUNTY OF

FILE NO.

Re Estate of

ORDER FOR HEARING ON

PETITION FOR

Decedent.

IT IS ORDERED that the petition for (general administration) (admission of will to probate) filed herein and any objections filed thereto be heard on, 19, at o'clock ..m. by this court in the courthouse in, Minnesota. That, if proper, at said time and place a representative will be appointed to administer the estate, who shall collect all assets and file an inventory thereof, pay all legal debts, claims, and taxes, and expenses of administration, and sell such real and personal property as may be necessary and for the best interests of the estate. Upon completion of administration, the representative shall file a final account for allowance and shall distribute the estate to the persons thereunto entitled as ordered by the court and do all other acts to close the estate.

IT IS FURTHER ORDERED, that creditors of decedent file their claims in this court within sixty (60) days from the

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date hereof and that said claims be heard on
19. . . . , at o'clock . . m. by this court in the courthouse in
., Minnesota.

Dated this day of 19. . . .

Probate Judge

Attorney

Sec. 4. Minnesota Statutes 1969, Section 525.41, is amended to read:

525.41 NOTICE TO CREDITORS. In the order for hearing a petition for the probate of a will or for general administration or in a subsequent order, the court shall limit the time for creditors to file claims and fix the time and place for the hearing on such claims, notice of which shall be given pursuant to section 525.83. The time so limited shall be ~~four months~~ 60 days from the date of the filing of such order. If it appears from the petition that the decedent left no property except such as may be allowed to the spouse and children under section 525.15, or such as is exempt from the claims of creditors, or such as may be recovered in an action for death by wrongful act, or if more than five years have elapsed since the decedent's death, no order in respect to claims need be made.

Sec. 5. Minnesota Statutes 1969, Section 525.411, Subdivision 1, is amended to read:

525.411 FILING OF CLAIMS. Subdivision 1. All claims against a decedent arising upon contract, whether due or not due, shall be barred forever unless filed in court within the time limited. For cause shown and upon notice to the representative, unless such notice be waived by the representative in writing, and upon such further notice as the court may deem advisable, the court may at any time before the final settlement and allowance of the representative's account, permit the filing of a claim and hear and allow such claim provided that the same has been presented for filing before such final settlement and allowance ~~and within one year after the date of the filing of the order to file claims.~~

Sec. 6. Minnesota Statutes 1969, Section 525.51, is amended by adding a subdivision to read:

Subd. 5. In any summary, special, or general administration wherein it appears that the estate will not be exhausted in payment of the priority items enumerated in the foregoing subdivisions, the estate may nevertheless be summarily closed without further notice, and the property assigned to the proper persons, if the gross probate estate, exclusive of any exempt homestead as defined in section 525.145, does not exceed the value of \$15,000. Where such closing and distribution of assets is made pursuant to the terms of a will, no

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decree shall issue until a hearing has been held on the admission of the will to probate as provided in section 525.24.

No summary closing of an estate shall be made to any distributee under this subdivision, unless a showing is made by the representative or the petitioner, that all funeral expenses, expenses of last illness, taxes, debts, and claims have been paid, and provided, further, that a bond shall be filed by the representative or the petitioner, conditioned upon the fact that all such obligations have been paid and that all the facts shown on the petition are true, with sufficient surety approved by the court in an amount ample to cover the assets so distributed or disbursed.

In the event that an improper distribution or disbursement is made in a summary closing, in that not all of said obligations have been paid or that other facts as shown by the representative or the petitioner, are not true, resulting in damage to any party, the court may vacate its summary decree or closing order, and the petitioner or the representative, together with his surety, shall be liable for damages to any party determined to be injured thereby as herein provided. The representative, petitioner, or his surety, may seek reimbursement for damages so paid or incurred from any distributee or recipient of assets under summary decree or order, who shall be required to make a contribution to cover such damages upon a pro rata basis or as may be equitable to the extent of assets so received. The probate court is hereby granted complete and plenary jurisdiction of any and all such proceedings and may enter such orders and judgments as may be required to effectuate the purposes of this subdivision.

Any judgment rendered for damages or the recovery of assets in such proceedings shall be upon petition and only after hearing held thereon on 14 days' notice of hearing and a copy of petition served personally upon the representative and the surety and upon any distributee or recipient of assets where applicable. Any action for the recovery of moneys or damages under this subdivision shall be subject to the time and other limitations imposed by section 525.02.

Sec. 7. Minnesota Statutes 1969, Section 525.83, is amended to read:

525.83 NOTICE. When notice of hearing is required by any provision of this chapter by reference to this section, such 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 such county; or, if the city or village of the decedent's residence is situated in more than one county, in any legal newspaper in such city or village. The first publication shall be had within two weeks after the date of the order fixing the time and place for the hearing.

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At least 14 days prior to the date fixed for hearing the petitioner, his attorney or agent, shall in guardianship mail a copy of the notice to such persons as the court may direct and in estates shall mail a copy of the notice to each heir, devisee, and legatee whose name and address are known to him and, if the decedent ~~was born in any foreign country, or~~ left heirs, devisees, or legatees in any foreign country, to the consul or representative referred to in section 525.28, or, if there be none, to the chief diplomatic representative of such country at Washington, D.C., or to the secretary of state at St. Paul, Minnesota, who shall forward the same to such representative.

Proof of such 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.

Sec. 8. [525.492] BASIS FOR ATTORNEY'S FEES. Notwithstanding any law to the contrary, an attorney performing services for the estate at the instance of the representative shall have compensation therefor out of the estate as the court shall deem just and reasonable. In any proceeding under this section, fair and reasonable attorney's fees shall be based upon time spent, the complexity of any problems involved, and the value of the estate shall not be the controlling factor.

Approved May 25, 1971.

CHAPTER 498—S.F.No.1798

[Coded in Part]

An act relating to the city of St. Paul; amending the provisions relating to the issuance of the license for the sale of intoxicating liquor at the civic center; amending Laws 1969, Chapter 783, Section 1, Subdivision 1.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Laws 1969, Chapter 783, Section 1, Subdivision 1, is amended to read:

Section 1. **ST. PAUL, CITY OF; CIVIC CENTER; LIQUOR LICENSE.** Subdivision 1. In addition to the licenses now authorized by law, and notwithstanding any provision of law to the contrary contained in the charter or ordinances of such city, or statutes applicable to such city, the city of St. Paul is authorized to issue an "on sale" liquor license for the premises known and used as the St. Paul civic center. ~~The license so authorized shall be issued only to the person, firm or corporation holding a contract to provide food catering service at said civic center and shall terminate whenever the contract for food catering service is terminated.~~ The fee for such license shall be fixed by the governing body of the city of St. Paul.

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