

# MINNESOTA STATUTES 1953 ANNOTATIONS

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PROBATE GENERAL PROVISIONS 526.04

525.89 Unnecessary.

## 525.90 DISPOSITION OF PROPERTY OF PERSONS DYING SIMULTANEOUSLY

Where there are simultaneous deaths of husband and wife and property of the kind which, while includible in decedent's gross estate, nevertheless, under the Uniform Act passes under the spouse's will or to her heirs there is survivorship for the purposes of the marital deduction under the federal estate tax with regard to the property. 36 MLR 50, 53.

## 525.91 LETTERS, CONTENTS

HISTORY. 1951 c 140 s 1.

## CHAPTER 526

### PROBATE GENERAL PROVISIONS

#### 526.01 INSANE PERSONS' SUPPORT

HISTORY. 1917 c 294 s 4; 1931 c 301 s 1; 1941 c 313 s 1; 1953 c 732 s 6.

A contract between the father of an inmate and the director of public institutions by which the father paid a lump sum and was released from further contribution would not be valid. OAG Aug. 5, 1948 (88-A-4).

Laws 1947, Chapter 534, Section 4, coded as section 246.31, supersedes the provisions of section 526.01 relating to payment or refundment of the \$10 per month charged for maintenance of an inmate of a state institution. OAG Dec. 9, 1947 (248).

As respects collection of the per capita cost of maintenance of persons in mental hospitals sections 526.01 to 526.07 will not conflict with section 246.31, subdivision 4; and the enforcement of a claim under sections 526.01 to 526.07 permits discretion on the part of the director as to enforcement of the claim. OAG July 3, 1947 (248).

A person committed to the school for feeble-minded on Feb. 5, 1935, was transferred to the hospital for the insane on Feb. 27, 1942. The patient's guardian, having paid the monthly amount chargeable while the patient was an inmate of the school for the feeble-minded, the said school has no further claim. The inmate having been permanently transferred to the hospital for the insane, any charge must be determined by the provisions of section 526.01. This section does not provide for a claim against a county of the settlement of the inmate. Laws 1947, Chapter 534, has no application. OAG Feb. 27, 1948 (248-A-1).

The guardian of an insane person receiving rental from the patient's homestead and other lands cannot resist state's claim for reimbursement under the claim that such funds are exempt from execution and attachment. OAG May 12, 1948 (248-A-1).

Under the provisions of Laws 1947, Chapter 534, Section 4, the county which actually makes the commitment to the home school for girls at Sauk Centre and not the county of the inmate's residence is the committing county within the meaning of section 4. OAG Oct. 27, 1947 (248-D-3).

#### 526.04 PETITION FOR RELEASE OR MODIFICATION OF ORDER

NOTE: Under section 245.04 the powers and duties of the director of public institutions are transferred to the commissioner of public welfare.

# MINNESOTA STATUTES 1953 ANNOTATIONS

## 526.05 PROBATE GENERAL PROVISIONS

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### 526.05 COMMISSIONER OF PUBLIC WELFARE, INVESTIGATOR POWERS

HISTORY. 1917 c 294 s 8; 1953 c 732 s 8.

### 526.06 APPEAL

HISTORY. 1917 c 294 s 9; 1953 c 732 s 4.

### 526.07 PROCEDURE FOR RECEIVING AND DISBURSING OF MONEY SO PAID OR PAID VOLUNTARILY

A final determination fixing the rate of charge for the maintenance of a person in a state hospital cannot be changed retroactively except under extenuating facts. OAG Feb. 25, 1948 (248-A-1).

526.08 Repealed, 1943 c 636 s 1.

### 526.09 PSYCHOPATHIC PERSONALITY

The probate court has no jurisdiction in habeas corpus proceedings. An intervenor has no right to change the issue between the original parties. A petition labeled as a petition to vacate the order of commitment of a person found by the probate court to be a psychopathic personality, and to restore him to capacity, but which contained no allegations applicable to a petition for restoration and merely asked for vacation of commitment order and a warrant of commitment on the ground that the probate court lacked jurisdiction to make the order, was a petition for habeas corpus of which the probate court had no jurisdiction. *State ex rel v Willson*, 230 M 156, 40 NW(2d) 910.

Laws applicable to persons found to be dangerously insane apply to persons found to have a psychopathic personality as defined by sections 526.09 to 526.11. OAG Oct. 27, 1948 (248-B-11).

A committed psychopathic personality may be released by the committing board only after a hearing, as provided by section 525.78. OAG July 11, 1953 (248-B-11).

Where a prisoner is sentenced to prison and the sentence suspended while he is committed to the state hospital at St. Peter as a psychopathic, upon return to the sheriff who delivers him to the state prison, the time which the prisoner served as a psychopathic at St. Peter, may be deducted in computing the length of his term. OAG July 26, 1950 (341-K-10).

### 526.10 LAWS RELATING TO INSANE PERSONS TO APPLY TO PSYCHOPATHIC PERSONALITIES

The authority of the probate court is granted by the constitution and cannot be divested by the legislature. Such authority extends to insane persons who are subject to guardianship. The laws relating to insane persons apply to persons having a psychopathic personality. All laws applicable to persons found to be dangerously insane apply to psychopathic personalities. No patient found by the committing court to be dangerous to the public shall be released except upon an order of a court of competent jurisdiction. OAG Sept. 13, 1949 (248-B-11).

### 526.12 SALARIES OF JUDGE OF PROBATE IN CERTAIN COUNTIES

HISTORY. 1911 c 334 s 1; 1913 c 192 s 1; GS 1913 s 7215; 1915 c 136 s 1; 1917 c 328 s 1; 1923 c 86 s 1; GS 1923 s 8707; 1925 c 288 s 1; 1927 c 63, 402; 1935 c 72 s 196.

The salary of a judge of the probate court is compensation for all services rendered by the judge unless an exception is found in a law enabling him to retain certain fees. OAG Sept. 22, 1949 (347-I).

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PROBATE GENERAL PROVISIONS 526.19

## **526.124 SCHEDULE OF SALARIES IN CERTAIN COUNTIES**

HISTORY. 1945 c 515 s 1, 2, 4, 5; 1949 c 397 s 1.

Where the probate court appoints the director of social welfare guardian of the person of an infant, it is not the duty of the county welfare board to furnish a certificate of guardianship to the guardian. If the judge of probate furnishes a certified copy, he is entitled to pay for such service. OAG July 3, 1951 (347-E).

In ascertaining the retirement compensation to be paid to the judge of a probate court the amount of his fees collected under subdivision 4 of section 526.124 must be added to his salary. OAG March 4, 1949 (347-I).

The salary of a judge of the probate court is compensation for all services rendered by the judge unless an exception is found in a law enabling him to retain certain fees. OAG Sept. 22, 1949 (347-I).

## **526.125 SALARIES INCREASED OR DECREASED**

HISTORY. 1949 c 397 s 2.

## **526.126 APPLICATION OF SECTIONS 526.124 TO 526.126**

HISTORY. 1949 c 397 s 3.

**526.127** Repealed, 1951 c 327 s 6.

## **526.19 CLERKS AND EMPLOYEES IN PROBATE COURT OF RAMSEY COUNTY; SALARY**

HISTORY. Amended, 1949 c 70 s 1.