

# MINNESOTA STATUTES 1979 SUPPLEMENT

## UNIFORM PROBATE CODE 524.3-105

### CHAPTER 524. UNIFORM PROBATE CODE

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#### 524.2-504 Self-proved will.

An attested will may at the time of its execution or at any subsequent date be made self-proved, by the acknowledgment thereof by the testator and the affidavits of the witnesses, each made before an officer authorized to administer oaths under the laws of this state, or under the laws of the state where execution occurs, and evidenced by the officer's certificate, under official seal, attached or annexed to the will in form and content substantially as follows:

THE STATE OF .....

COUNTY OF .....

We, ....., ....., and ....., the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that the testator signed and executed the instrument as his last will, that he signed it willingly or directed another to sign it for him, that he executed it as his free and voluntary act for the purposes therein expressed, and that each of the witnesses, in the presence and hearing of the testator, signed the will as witnesses, and that to the best of their knowledge the testator was at the time 18 or more years of age, of sound mind and under no constraint or undue influence.

.....  
 Testator  
 .....  
 Witness  
 .....  
 Witness

Subscribed, sworn to and acknowledged before me by ....., the testator, and subscribed and sworn to before me by ..... and ....., witnesses, this ..... day of ....., .....

(SEAL)

(Signed).....  
 .....  
 (Official capacity of officer)

[ 1979 c 240 s 1 ]

#### 524.3-105 Proceedings affecting devolution and administration; jurisdiction of subject matter.

Any interested person in a decedent's estate may apply to the registrar for determination in the informal proceedings provided in this article, and may petition the court for orders in formal proceedings within the court's jurisdiction including but not limited to those described in this article. Interim orders approving or directing partial distributions, sale of property or granting other relief, including, but not limited to, waiving the lien of inheritance taxes on specific property may be issued by the court at any time during the pendency of an administration on the petition of the personal representative or any interested person. The court has exclusive jurisdiction of proceedings, to determine how decedents' estates subject to the laws of this state are to be administered, expended and distributed. The court has concurrent jurisdiction of any other action or proceeding concerning a succession or to which an estate, through a personal representative, may be a party, including actions to determine title to property alleged to belong to the estate, and of any action or proceeding in which property distributed by a personal representative or its value is sought to be subjected to rights of creditors or successors of the decedent.

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The court shall not have jurisdiction of foreclosure of mechanic liens, or of any action under section 573.02.

[ 1979 c 132 s 1 ]

### 524.3-303 Informal probate; proof and findings required.

(a) In an informal proceeding for original probate of a will, the registrar shall determine whether:

- (1) the application is complete;
- (2) the applicant has made oath or affirmation that the statements contained in the application are true to the best of his knowledge and belief;
- (3) the applicant appears from the application to be an interested person as defined in section 524.1-201(20);
- (4) on the basis of the statements in the application, venue is proper;
- (5) an original, duly executed and apparently unrevoked will is in the registrar's possession;
- (6) any notice required by section 524.3-204 has been given; and
- (7) it appears from the application that the time limit for original probate has not expired.

(b) The application shall be denied if it indicates that a personal representative has been appointed in another county of this state or except as provided in subsection (d) below, if it appears that this or another will of the decedent has been the subject of a previous probate order.

(c) A will which appears to have the required signatures and which contains an attestation clause showing that requirements of execution under section 524.2-502 or 524.2-506 have been met shall be probated without further proof. In other cases, the registrar may assume execution if the will appears to have been properly executed, or he may accept a sworn statement or affidavit of any person having knowledge of the circumstances of execution, whether or not the person was a witness to the will.

(d) Informal probate of a will which has been previously probated elsewhere may be granted at any time upon written application by any interested person, together with deposit of an authenticated copy of the will and of the statement probating it from the office or court where it was first probated.

(e) A will from a place which does not provide for probate of a will after death and which is not eligible for probate under subsection (a) above, may be probated in this state upon receipt by the registrar of a duly authenticated copy of the will and a duly authenticated certificate of its legal custodian that the copy filed is a true copy and that the will has become operative under the law of the other place.

[ 1979 c 50 s 68 ]

### 524.3-611 Termination of appointment by removal; cause; procedure.

(a) A person interested in the estate may petition for removal of a personal representative for cause at any time. Upon filing of the petition, the court shall fix a time and place for hearing. Notice shall be given by the petitioner to the personal representative, and to other persons as the court may order. Except as otherwise ordered as provided in section 524.3-607, after receipt of notice of removal proceedings, the personal representative shall not act except to account, to correct maladministration or preserve the estate. If removal is ordered, the court also shall direct by order the disposition of the assets remaining in the name of, or under the control of, the personal representative being removed.

(b) Cause for removal exists when removal is in the best interests of the estate, or if it is shown that a personal representative or the person seeking his appointment intentionally misrepresented material facts in the proceedings leading to his appointment, or that the personal representative has disregarded an order of the court, has become incapable of discharging the duties of his office, or has mismanaged the estate or failed to perform any duty pertaining to the office. In determining the best interests of the estate,

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the personal representative's compensation and fees, and administrative expenses, shall also be considered. Unless the decedent's will directs otherwise, a personal representative appointed at the decedent's domicile, incident to securing appointment of himself or his nominee as ancillary personal representative, may obtain removal of another who was appointed personal representative in this state to administer local assets.

[ 1979 c 137 s 2 ]

**524.3-706 Duty of personal representative; inventory and appraisalment.**

Within three months after his appointment, a personal representative, who is not a special administrator or a successor to another representative who has previously discharged this duty, shall prepare and file with the court or registrar and mail to the surviving spouse, if there be one, and to all residuary distributees an inventory of property owned by the decedent at the time of his death, listing it with reasonable detail, and indicating as to each listed item, its fair market value as of the date of the decedent's death, and the type and amount of any encumbrance that may exist with reference to any item.

The personal representative shall also mail a copy of the inventory to interested persons or creditors who request it.

[ 1979 c 303 art 3 s 32 ]

**524.3-719 Compensation of personal representative.**

(a) A personal representative is entitled to reasonable compensation for his services. If a will provides for compensation of the personal representative and there is no contract with the decedent regarding compensation, he may renounce the provision before qualifying and be entitled to reasonable compensation. A personal representative also may renounce his right to all or any part of the compensation. A written renunciation of fee may be filed with the court.

(b) In determining what is reasonable compensation, the court shall give consideration to the following factors:

- (1) The time and labor required;
- (2) The complexity and novelty of problems involved; and
- (3) The extent of the responsibilities assumed and the results obtained.

[ 1979 c 137 s 3 ]

**524.3-916 Apportionment of estate taxes.**

(a) For purposes of this section:

(1) "estate" means the gross estate of a decedent as determined for the purpose of federal estate tax and the estate tax payable to this state;

(2) "person" means any individual, partnership, association, joint stock company, corporation, government, political subdivision, governmental agency, or local governmental agency;

(3) "person interested in the estate" means any person entitled to receive, or who has received, from a decedent or by reason of the death of a decedent any property or interest therein included in the decedent's estate. It includes a personal representative, conservator, and trustee;

(4) "state" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;

(5) "tax" means the federal estate tax and the state estate tax determined by the commissioner of revenue pursuant to chapter 291 and interest and penalties imposed in addition to the tax;

(6) "fiduciary" means personal representative or trustee.

(b) Unless the will or other written instrument otherwise provides, the tax shall be apportioned among all persons interested in the estate. The apportionment is to be made in the proportion that the value of the interest of each person interested in the estate

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bears to the total value of the interests of all persons interested in the estate. The values used in determining the tax are to be used for that purpose. If the decedent's will or other written instrument directs a method of apportionment of tax different from the method described in this code, the method described in the will or other written instrument controls.

(c)(1) The court in which venue lies for the administration of the estate of a decedent, on petition for the purpose may determine the apportionment of the tax.

(2) If the court finds that it is inequitable to apportion interest and penalties in the manner provided in subsection (b), because of special circumstances, it may direct apportionment thereof in the manner it finds equitable.

(3) If the court finds that the assessment of penalties and interest assessed in relation to the tax is due to delay caused by the negligence of the fiduciary, the court may charge him with the amount of the assessed penalties and interest.

(4) In any action to recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with this code the determination of the court in respect thereto shall be prima facie correct.

(d)(1) The personal representative or other person in possession of the property of the decedent required to pay the tax may withhold from any property distributable to any person interested in the estate, upon its distribution to him, the amount of tax attributable to his interest. If the property in possession of the personal representative or other person required to pay the tax and distributable to any person interested in the estate is insufficient to satisfy the proportionate amount of the tax determined to be due from the person, the personal representative or other person required to pay the tax may recover the deficiency from the person interested in the estate. If the property is not in the possession of the personal representative or the other person required to pay the tax, the personal representative or the other person required to pay the tax may recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with Laws 1975, Chapter 347.

(2) If property held by the personal representative is distributed prior to final apportionment of the tax, the distributee shall provide a bond or other security for the apportionment liability in the form and amount prescribed by the personal representative.

(e)(1) In making an apportionment, allowances shall be made for any exemptions granted, any classification made of persons interested in the estate and for any deductions and credits allowed by the law imposing the tax.

(2) Any exemption or deduction allowed by reason of the relationship of any person to the decedent or by reason of the purposes of the gift inures to the benefit of the person bearing such relationship or receiving the gift; but if an interest is subject to a prior present interest which is not allowable as a deduction, the tax apportionable against the present interest shall be paid from principal.

(3) Any deduction for property previously taxed and any credit for gift taxes or death taxes of a foreign country paid by the decedent or his estate inures to the proportionate benefit of all persons liable to apportionment.

(4) Any credit for inheritance, succession or estate taxes or taxes in the nature thereof applicable to property or interests includable in the estate, inures to the benefit of the persons or interests chargeable with the payment thereof to the extent proportionately that the credit reduces the tax.

(5) To the extent that property passing to or in trust for a surviving spouse or any charitable, public or similar gift or devisee is not an allowable deduction for purposes of the tax solely by reason of an estate tax imposed upon and deductible from the property, the property is not included in the computation provided for in subsection (b) hereof, and to that extent no apportionment is made against the property. The sentence immediately preceding does not apply to any case if the result would be to deprive the estate of a deduction otherwise allowable under section 2053(d) of the Internal Revenue Code of 1954, as amended, of the United States, relating to deduction for state death taxes on transfers for public, charitable, or religious uses.

(f) No interest in income and no estate for years or for life or other temporary interest in any property or fund is subject to apportionment as between the temporary in-

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terest and the remainder. The tax on the temporary interest and the tax, if any, on the remainder is chargeable against the corpus of the property or funds subject to the temporary interest and remainder.

(g) Neither the personal representative nor other person required to pay the tax is under any duty to institute any action to recover from any person interested in the estate the amount of the tax apportioned to the person until the expiration of the three months next following final determination of the tax. A personal representative or other person required to pay the tax who institutes the action within a reasonable time after the three month period is not subject to any liability or surcharge because any portion of the tax apportioned to any person interested in the estate was collectible at a time following the death of the decedent but thereafter became uncollectible. If the personal representative or other person required to pay the tax cannot collect from any person interested in the estate the amount of the tax apportioned to the person, the amount not recoverable shall be equitably apportioned among the other persons interested in the estate who are subject to apportionment.

(h) A personal representative acting in another state or a person required to pay the tax domiciled in another state may institute an action in the courts of this state and may recover a proportionate amount of the federal estate tax, of an estate tax payable to another state or of a death duty due by a decedent's estate to another state, from a person interested in the estate who is either domiciled in this state or who owns property in this state subject to attachment or execution. For the purposes of the action the determination of apportionment by the court having jurisdiction of the administration of the decedent's estate in the other state is prima facie correct.

[ 1979 c 303 art 3 s 33 ]

**524.3-1001 Formal proceedings terminating administration; testate or intestate; order of distribution, decree, and general protection.**

(a) (1) A personal representative or any interested person may petition for an order of complete settlement of the estate. The personal representative may petition at any time, and any other interested person may petition after one year from the appointment of the original personal representative except that no petition under this section may be entertained until the time for presenting claims which arose prior to the death of the decedent has expired. The petition may request the court to determine testacy, if not previously determined, to consider the final account or compel or approve an accounting and distribution, to construe any will or determine heirs and adjudicate the final settlement and distribution of the estate. After notice to all interested persons and hearing the court may enter an order or orders, on appropriate conditions, determining the persons entitled to distribution of the estate, and, as circumstances require, approving settlement and directing or approving distribution of the estate and discharging the personal representative from further claim or demand of any interested person.

(2) In such petition for complete settlement of the estate, the petitioner may apply for a decree. Upon the hearing, if in the best interests of interested persons, the court may issue its decree which shall determine the persons entitled to the estate and assign the same to them in lieu of ordering the assignment by the personal representative. The decree shall name the heirs and distributees, state their relationship to the decedent, describe the property, and state the proportions or part thereof to which each is entitled. In the estate of a testate decedent, no heirs shall be named in the decree unless all heirs be ascertained.

(3) In solvent estates, the hearing may be waived by written consent to the proposed account and decree of distribution or order of distribution by all heirs or distributees, and the court may then enter its order allowing the account and issue its decree or order of distribution.

(4) The court shall have the power in its decree or order of distribution to waive the lien of estate taxes, find that the taxes have been satisfied by payment or, decree the property subject to the lien; provided, however, where a decree or order for distribution is issued, the personal representative shall not be discharged until all property is paid or transferred to the persons entitled thereto, and has otherwise fully discharged his trust. If objections are filed with the court by the commissioner of revenue, no discharge shall be issued until the objections are determined. If no objection is filed, the court shall have

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the power to settle and distribute the estate and discharge the personal representative without regard to tax obligations.

(b) If one or more heirs or devisees were omitted as parties in, or were not given notice of, a previous formal testacy proceeding, the court, on proper petition for an order of complete settlement of the estate under this section, and after notice to the omitted or unnotified persons and other interested parties determined to be interested on the assumption that the previous order concerning testacy is conclusive as to those given notice of the earlier proceeding, may determine testacy as it affects the omitted persons and confirm or alter the previous order of testacy as it affects all interested persons as appropriate in the light of the new proofs. In the absence of objection by an omitted or unnotified person, evidence received in the original testacy proceeding shall constitute prima facie proof of due execution of any will previously admitted to probate, or of the fact that the decedent left no valid will if the prior proceedings determined this fact.

[ 1979 c 303 art 3 s 34 ]

## CHAPTER 525. PROBATE PROCEEDINGS

Sec.		Sec.	
525.011	Civil and criminal jurisdiction.	525.551	Hearing; appointment; bond; prosecution; notice.
525.013	Jury trials.	525.61	Restoration to capacity.
525.014	Pleading, practice, procedure, and appeals.	525.71	Appealable orders.
525.091	Destruction and reproduction of probate records.	525.74	Direct appeal to supreme court.
525.172	Illegitimate as heir.	525.841	Escheat returned.
525.312	Decree of descent.		

### 525.011 Civil and criminal jurisdiction.

Subdivision 1. Except in the counties of Hennepin and Ramsey the probate court shall also exercise the powers, duties and jurisdiction conferred upon courts by chapters 487, 491, 492, and 493.

[For text of subs 2 and 3, see M.S.1978]

[ 1979 c 41 s 7 ]

### 525.013 Jury trials.

Subdivision 1. Except as otherwise provided in chapter 487, the laws relating to jury trials in the district court apply to jury trials in a probate court under sections 525.011 to 525.015.

[For text of subs 2a to 7, see M.S.1978]

Subd. 8. Whenever a petit jury is desired by a party to a proceeding in probate court under sections 525.011 to 525.015, and such jury is permitted by law, such party shall request such jury, in writing, when the case is set for trial and pay the fees prescribed by chapter 487. The court, by order, may waive the payment of jury fees in a criminal case if it appears that the defendant is unable to make such payment.

[ 1979 c 41 s 8,9 ]

### 525.014 Pleading, practice, procedure, and appeals.

Subdivision 1. Pleading, practice, procedure, and the forms thereof in civil actions shall be the same in probate court as in the county court under chapter 487.

Subd. 2. Appeals from any judgment of a probate court exercising the powers, duties, and jurisdiction in certain civil and criminal cases under sections 525.011 to 525.015, shall be made in the same manner as in the county courts under chapter 487.

[ 1979 c 41 s 10 ]