

CHAPTER 525

PROBATE PROCEEDINGS

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525.13 ESTATE.

As used in sections 525.13 to 525.161, the word "estate" includes every right and interest of a decedent in property, real or personal, except such as are terminated or otherwise extinguished by his death.

History: 1985 c 250 s 24

NOTE: This section, as amended by Laws 1985, chapter 250, section 24, is effective for estates of decedents dying after December 31, 1986. See Laws 1985, chapter 250, section 28.

525.145 DESCENT OF HOMESTEAD.

(1) Where there is a surviving spouse the homestead, including a manufactured home which is the family residence, shall descend free from any testamentary or other disposition thereof to which the spouse has not consented in writing or by election to take under the will as provided by law, as follows:

- (a) if there be no surviving child or issue of any deceased child, to the spouse;
- (b) if there be children or issue of deceased children surviving, then to the spouse for the term of the spouse's natural life and the remainder in equal shares to the children and the issue of deceased children by right of representation.

(2) Where there is no surviving spouse and the homestead has not been disposed of by will it shall descend as other real estate.

(3) Where the homestead passes by descent or will to the spouse or children or issue of deceased children, it shall be exempt from all debts which were not valid charges thereon at the time of decedent's death except that the homestead shall be subject to a claim filed pursuant to section 246.53 for state hospital care or 256B.15 for medical assistance benefits. If the homestead passes to a person other than a spouse or child or issue of a deceased child, it shall be subject to the payment of the items mentioned in section 524.2-101. No lien or other charge against any homestead which is so exempted shall be enforced in the probate court, but the claimant may enforce the lien or charge by an appropriate action in the district court.

History: 1985 c 250 s 25

NOTE: This section, as amended by Laws 1985, chapter 250, section 25, is effective for estates of decedents dying after December 31, 1986. See Laws 1985, chapter 250, section 28.

525.619 POWERS AND DUTIES OF GUARDIAN OF MINOR.

A guardian of a minor has the powers and responsibilities of a parent who has not been deprived of custody of his minor and unemancipated child, except that a guardian is not legally obligated to provide from his own funds for the ward. In particular, and without qualifying the foregoing, a guardian has the following powers and duties:

- (a) He must take reasonable care of his ward's personal effects and commence protective proceedings if necessary to protect other property of the ward.

(b) He may receive money payable for the support of the ward to the ward's parent, guardian or custodian under the terms of any statutory benefit or insurance system, or any private contract, devise, trust, conservatorship or custodianship. He also may receive money or property of the ward paid or delivered by virtue of section 525.6196. Any sums so received shall be applied to the ward's current needs for support, care and education. He must exercise due care to conserve any excess for the ward's future needs unless a conservator has been appointed for the estate of the ward, in which case the excess shall be paid over at least annually to the conservator. Sums so received by the guardian are not to be used for compensation for his services except as approved by order of court or as determined by a duly appointed conservator other than the guardian. A guardian may institute proceedings to compel the performance by any person of a duty to support the ward or to pay sums for the welfare of the ward.

(c) The guardian is empowered to facilitate the ward's education, social, or other activities and to authorize medical or other professional care, treatment or advice. A ward who is less than 16 years of age may be admitted to a treatment facility as an informal patient according to section 253B.04 but may not be committed to any state institution except pursuant to chapter 253B. No guardian may give consent for psychosurgery, electroshock, sterilization or experimental treatment of any kind unless the procedure is first approved by the order of the court, after a hearing as prescribed by section 525.56, subdivision 3.

A guardian is not liable by reason of his consent for injury to the ward resulting from the negligence or acts of third persons unless it would have been illegal for a parent to have consented, or unless he fails to comply with the requirements of this section which provide that a court order is necessary for commitment and for certain types of medical procedures. A guardian may consent to the marriage or adoption of his ward.

(d) A guardian must report the condition of his ward and of the ward's estate which has been subject to his possession or control, as ordered by the court on its own motion or on petition of any person interested in the minor's welfare and as required by court rule.

History: 1985 c 248 s 66

525.703 COSTS.

Subdivision 1. **In forma pauperis.** The court may authorize a proceeding under sections 525.54 to 525.702 to proceed in forma pauperis, as provided in chapter 563.

Subd. 2. **Lawyer or health professional.** In proceedings under sections 525.54 to 525.702 a lawyer or health professional rendering necessary services with regard to the appointment of a guardian or conservator, the administration of the ward's or conservatee's estate or personal affairs or the restoration of his capacity, shall be entitled to reasonable compensation from the estate of the ward or conservatee or from the county having jurisdiction over the proceedings if the ward or conservatee is indigent. When the court determines that other necessary services have been provided for the benefit of the ward or conservatee by a lawyer or health professional, the court may order reasonable fees to be paid from the estate of the ward or conservatee or from the county having jurisdiction over the proceedings if the ward or conservatee is indigent. If, however, the court determines that a petitioner, guardian or conservator has not acted in good faith, the court shall order some or all of the fees or costs incurred in the proceedings to be borne by the petitioner, guardian, or conservator not acting in good faith.

Subd. 3. **Guardian or conservator.** (a) When the court determines that a guardian or conservator of the person or the estate has rendered necessary services or has incurred necessary expenses for the benefit of the ward or conservatee, the court may order reimbursement or reasonable compensation to be paid from the estate of the ward or conservatee or from the county having jurisdiction over the guardianship or conservatorship if the ward or conservatee is indigent. The court may not deny an award of fees solely because the ward or conservatee is a recipient of medical assistance.

(b) The court shall order reimbursement or reasonable compensation if the guardian or conservator requests payment and the guardian or conservator was nominated by the court or by the county adult protection unit because no suitable relative or other person was available to provide guardianship or conservatorship services necessary to prevent abuse or neglect of a vulnerable adult, as defined in section 626.557.

(c) When a county employee serves as a guardian or conservator as part of his or her employment duties, the court shall order reasonable compensation if the guardian or conservator performs necessary services that are not compensated by the county. The court may order reimbursement to the county from the ward's or conservatee's estate for reasonable compensation paid by the county for services rendered by a guardian or conservator who is a county employee but only if the county shows that after a diligent effort it was unable to arrange for an independent guardian or conservator.

History: 1985 c 250 s 26

525.922 PERSONS WHO MAY EXECUTE AN ANATOMICAL GIFT.

Subdivision 1. Any individual of sound mind and 18 years of age or more, or any minor, with written consent of both parents, a legal guardian, or the parent or parents with legal custody may give all or any part of the individual's body for any purpose specified in section 525.923, the gift to take effect upon death.

[For text of subds 2 to 5, see M.S.1984]

History: 1985 c 123 s 1

525.924 MANNER OF EXECUTING ANATOMICAL GIFTS.

[For text of subds 1 and 2, see M.S.1984]

Subd. 2a. A gift of all or part of the body under section 525.922, subdivision 1, may be made by a minor, in a document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, must: (1) be signed by the minor donor and both of the minor donor's parents, a legal guardian, or the parent or parents with legal custody; (2) give the minor donor's date of birth; (3) give the address of the minor donor; and (4) contain the following words: "In hope that I may help others to live, I hereby make this anatomical gift, if medically acceptable, to take effect upon my death. I give (organ name) for the purpose of transplantation." If the minor cannot sign, the card may not be signed for the minor. Delivery of the gift document during the minor donor's lifetime is not necessary to make the gift valid.

[For text of subds 3 to 7, see M.S.1984]

History: 1985 c 123 s 2