

CHAPTER 525

PROBATE PROCEEDINGS

525.033 Fees for filing petitions.
 525.06 Annual assemblage.
 525.56 Guardian's or conservator's powers and duties.

525.712 Requisites.
 525.94 Establishment of protocol to obtain organs for transplantation.

525.033 FEES FOR FILING PETITIONS.

The probate court shall collect a fee as established by section 357.021, subdivision 2, clause (1), for filing a petition to commence a proceeding under this chapter and chapter 524. The fee for copies of all documents in probate proceedings must be the same as the fee established for certified copies in civil proceedings under section 357.021, subdivision 2.

History: 1987 c 11 s 1

525.06 ANNUAL ASSEMBLAGE.

The judges of the probate courts shall assemble each year at such places and times as may be designated by the probate judges' according to rule governing their meetings, and any 30 of them constitute a quorum.

History: 1987 c 377 s 11

525.56 GUARDIAN'S OR CONSERVATOR'S POWERS AND DUTIES.

[For text of subs 1 and 2, see M.S.1986]

Subd. 3. The court may appoint a guardian of the person if it determines that all the powers and duties listed in this subdivision are needed to provide for the needs of the incapacitated person. The court may appoint a conservator of the person if it determines that a conservator is needed to provide for the needs of the incapacitated person through the exercise of some, but not all, of the powers and duties listed in this subdivision. The duties and powers of a guardian or those which the court may grant to a conservator of the person include, but are not limited to:

(1) The power to have custody of the ward or conservatee and the power to establish a place of abode within or without the state, except as otherwise provided in this clause. The ward or conservatee or any person interested in the ward's or conservatee's welfare may petition the court to prevent or to initiate a change in abode. A ward or conservatee may not be admitted to a regional treatment center by the guardian or conservator except (1) after a hearing pursuant to chapter 253B; (2) for outpatient services; or (3) for the purpose of receiving temporary care for a specific period of time not to exceed 90 days in any calendar year.

(2) The duty to provide for the ward's or conservatee's care, comfort and maintenance needs, including food, clothing, shelter, health care, social and recreational requirements, and, whenever appropriate, training, education, and habilitation or rehabilitation. The guardian or conservator has no duty to pay for these requirements out of personal funds. Whenever possible and appropriate, the guardian or conservator should meet these requirements through governmental benefits or services to which the ward or conservatee is entitled, rather than from the ward's or conservatee's estate. Failure to satisfy the needs and requirements of this clause shall be grounds for removal of a private guardian or conservator, but the guardian or conservator shall have no personal or monetary liability.

(3) The duty to take reasonable care of the ward's or conservatee's clothing, furniture, vehicles, and other personal effects, and, if other property requires protection, the power to seek appointment of a guardian or conservator of the estate. The guardian or conservator must give notice in the manner required and to those persons

specified in section 525.55 prior to the disposition of the ward's or conservatee's clothing, furniture, vehicles, or other personal effects. The notice must inform the person of the right to object to the disposition of the property within ten days and to petition the court for a review of the guardian's or conservator's proposed actions. Notice of the objection must be served by mail or personal service on the guardian or conservator and the ward or conservatee unless the ward or conservatee be the objector. The guardian or conservator served with notice of an objection to the disposition of the property may not dispose of the property unless the court approves the disposition after a hearing.

(4)(a) The power to give any necessary consent to enable the ward or conservatee to receive necessary medical or other professional care, counsel, treatment or service, except that no guardian or conservator may give consent for psychosurgery, electroshock, sterilization, or experimental treatment of any kind unless the procedure is first approved by order of the court as provided in this clause. The guardian or conservator shall not consent to any medical care for the ward or conservatee which violates the known conscientious, religious, or moral belief of the ward or conservatee.

(b) A guardian or conservator who believes a procedure described in clause (4)(a) requiring prior court approval to be necessary for the proper care of the ward or conservatee shall petition the court for an order and, in the case of a public guardianship or conservatorship under chapter 252A, obtain the written recommendation of the commissioner of human services. The court shall fix the time and place for the hearing and shall give notice to the ward or conservatee and to the other persons specified in section 525.55, subdivision 1. The notice shall comply with the requirements of, and be served in the manner provided in section 525.55, subdivision 2. The court shall appoint an attorney to represent the ward or conservatee who is not represented by counsel. In every case the court shall determine if the procedure is in the best interests of the ward or conservatee. In making its determination, the court shall consider a written medical report which specifically considers the medical risks of the procedure, whether alternative, less restrictive methods of treatment could be used to protect the best interests of the ward or conservatee, and any recommendation of the commissioner of human services for a public ward or conservatee. The standard of proof is that of clear and convincing evidence.

(c) In the case of a petition for sterilization of a mentally retarded ward or conservatee, the court shall appoint a licensed physician, a psychologist who is qualified in the diagnosis and treatment of mental retardation, and a social worker who is familiar with the ward's or conservatee's social history and adjustment or the case manager for the ward or conservatee to examine or evaluate the ward or conservatee and to provide written reports to the court. The reports shall indicate why sterilization is being proposed, whether sterilization is necessary and is the least intrusive method for alleviating the problem presented, and whether it is in the best interests of the ward or conservatee. The medical report shall specifically consider the medical risks of sterilization, the consequences of not performing the sterilization, and whether alternative methods of contraception could be used to protect the best interests of the ward or conservatee.

(d) Any conservatee whose right to consent to a sterilization has not been restricted under this section or section 252A.101, may be sterilized only if the conservatee consents in writing or there is a sworn acknowledgment by an interested person of a nonwritten consent by the conservatee. The consent must certify that the conservatee has received a full explanation from a physician or registered nurse of the nature and irreversible consequences of the sterilization operation.

(e) A guardian or conservator or the public guardian's designee who acts within the scope of authority conferred by letters of guardianship under section 252A.101, subdivision 7, and according to the standards established in this chapter or in chapter 252A shall not be civilly or criminally liable for the provision of any necessary medical care, including but not limited to, the administration of psychotropic medication or the implementation of aversive and deprivation procedures to which the guardian or conservator or the public guardian's designee has consented.

(5) The power to approve or withhold approval of any contract, except for necessities, which the ward or conservatee may make or wish to make.

(6) The duty and power to exercise supervisory authority over the ward or conservatee in a manner which limits civil rights and restricts personal freedom only to the extent necessary to provide needed care and services.

[For text of subd 4, see M.S.1986]

History: 1987 c 185 art 2 s 4; 1987 c 403 art 2 s 152

525.712 REQUISITES.

The appeal may be taken by any person aggrieved within 30 days after service of notice of the filing of the order, judgment, or decree appealed from, or if no notice be served, within six months after the filing of the order, judgment, or decree. Except as provided in this section, the appeal shall be perfected and determined upon the record as provided in sections 484.63 and the rules of appellate procedure.

History: 1987 c 346 s 17

525.94 ESTABLISHMENT OF PROTOCOL TO OBTAIN ORGANS FOR TRANSPLANTATION.

Subdivision 1. **Requirement to establish organ procurement protocol.** A hospital licensed under sections 144.50 to 144.58 must establish written protocols for the identification of potential organ donors for transplantation to:

(1) assure that families of potential organ donors are made aware of the option of organ and tissue donation and their option to decline;

(2) require that an organ procurement agency be notified of potential organ donors; and

(3) establish medical criteria and practical considerations concerning the suitability and feasibility of organ donation for transplantations.

For purposes of this subdivision, the term "organ" or "tissue" includes but is not limited to a human kidney, liver, heart, lung, pancreas, skin, bone, ligament, tendon, eye, and cornea.

Subd. 2. **Notification requirement.** If an individual dies in a hospital or is identified by an appropriate hospital staff member as having a terminal condition and is further identified as a suitable candidate for organ or tissue donation based on medical criteria established in the written protocol, in accordance with the hospital's protocol, the hospital administrator or the administrator's designated representative shall notify any of the following persons listed below in order of priority, of the option of organ or tissue donation and their option to decline:

(1) the spouse;

(2) an adult child;

(3) either parent;

(4) an adult brother or sister; or

(5) a guardian of the decedent's person at the time of death.

The hospital administrator or the designated representative shall attempt to locate the person's driver's license, organ donation card, or other documentation of the person's desire to be an organ donor. If documentation of the person's desire to be a donor is located, it constitutes consent if there is no objection from the relative or guardian in clauses (1) to (5) or if no relative or guardian can be located.

If a person listed in clauses (1) to (5) wishes to consent to the gift of all or part of the decedent's body for transplantation, consent may be obtained by either the hospital administrator's representative or the organ procurement agency's representative. Consent or refusal must be obtained only from the available person highest on the list in clauses (1) to (5).

Subd. 3. **Documentation.** Notification under subdivision 1, as well as any identified contradiction to organ donation, must be documented in the patient's medical record, which must include the name of the person notified and the person's relationship to the decedent.

Subd. 4. **Financial liability.** The family of an individual whose organ is donated for transplantation is not financially liable for costs related to the evaluation of donor organ suitability or retrieval of the organ.

Subd. 5. **Compliance with uniform anatomical gift act.** A gift made pursuant to the request required under this section must be executed according to the uniform anatomical gift act.

Subd. 6. **Training.** The commissioner of health shall work with hospital representatives and other interested persons to develop guidelines for training hospital employees who may notify persons of the option to make an anatomical gift and the procedure to be used in executing the gift and for ensuring that each tissue or organ is tested for possible disease before being made available for transplantation.

History: 1987 c 32 s 1