

CHAPTER 525

PROBATE PROCEEDINGS

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525.539 DEFINITIONS.

[For text of subd 1, see M.S.1992]

Subd. 2. "Guardian" means a person or entity who is appointed by the court to exercise all of the powers and duties designated in section 525.56 for the care of an incapacitated person or that person's estate, or both.

[For text of subds 3 to 7, see M.S.1992]

History: *1Sp1993 c 1 art 3 s 40*

525.54 ADULTS SUBJECT TO GUARDIANSHIP AND CONSERVATORSHIP.

Subdivision 1. **Adults subject to guardianship and conservatorship.** Upon petition as provided in this chapter, the court, if satisfied of the need therefor, may appoint one or more persons suitable and competent to discharge the trust as guardians of the person or estate or of both or as conservators of the person or the estate or of both, of any incapacitated person. The county human services agency may create a screening committee to review a petition involving an indigent person. The screening committee must be made up of individuals selected by the agency with knowledge of the availability of alternatives that are less restrictive than guardianships or conservatorships. If the agency has created a screening committee, the court shall make its decision after the screening committee has reviewed the petition. For indigent persons, the court may appoint a guardian or conservator under contract with the county to provide these services.

[For text of subd 2, see M.S.1992]

Subd. 3. **Guardianship or conservatorship of the estate.** Appointment of a guardian or conservator may be made in relation to the estate and financial affairs of an adult person: (a) voluntarily, upon the person's petition or consent in writing if the court is satisfied of the need thereof; (b) involuntarily, upon the court's determination that (1) the person is unable to manage the person's property and affairs effectively because the person is an incapacitated person, and (2) the person has property which will be dissipated unless proper management is provided, or that funds are needed for the support, care and welfare of the person or those entitled to be supported by the person, and (3) a guardian or conservator is necessary to adequately protect the person's estate or financial affairs; or (c) involuntarily, upon the court's determination that an indigent incapacitated person is institutionalized and has a demonstrated need for guardianship or conservatorship services beyond financial services available through the institution as required by chapter 144A and sections 256B.35 and 256B.36, or through the county human services agency, to the extent the agency provides these services. The need for a guardian or conservator may not be based solely on the fact that the ward or conservatee is a recipient of medical assistance or is institutionalized. "Incapacitated person" means, in the case of guardianship or conservatorship of the estate of an adult, any adult person who is impaired to the extent that the person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning the person's

estate or financial affairs, and who has demonstrated deficits in behavior which evidence an inability to manage the estate, or who is unable to manage the estate or financial affairs effectively by reason of detention by a foreign power or disappearance.

[For text of subs 4 to 7, see M.S.1992]

History: 1993 c 118 s 1,2

525.544 NOMINATION OR APPOINTMENT OF GUARDIAN OR CONSERVATOR.

[For text of subd 1, see M.S.1992]

Subd. 2. **Other cases.** If the proposed ward or conservatee lacks capacity or fails to nominate a conservator or guardian, the court may appoint a qualified person after review by a screening committee as provided in section 525.54, subdivision 1, if any, if the court finds that the person's appointment is in the best interests of the proposed ward or conservatee. A proposed guardian or conservator need not reside in this state if the proposed guardian or conservator is able to maintain a current understanding of the ward's or conservatee's physical and mental status and needs. If the proposed ward or conservatee lacks capacity or fails to give instructions, the court may give the guardian or conservator powers as required in accordance with section 525.56. If the proposed ward or conservatee is indigent, the court may appoint a guardian or conservator under contract with the county, or a public or private agency under contract with the county, to provide these services.

History: 1993 c 118 s 3

525.551 HEARING; APPOINTMENT; BOND; PROSECUTION; NOTICE.

[For text of subs 1 to 6, see M.S.1992]

Subd. 7. **Notification.** If a patient of a state hospital, regional center, or any state-operated service has a guardianship or conservatorship established, modified, or terminated, the head of the state hospital, regional center, or state-operated service shall be notified. If a ward or conservatee is under the guardianship or conservatorship of the commissioner of human services as mentally retarded or dependent and neglected or is under the temporary custody of the commissioner of human services, the court shall notify the commissioner of human services if the public guardianship or conservatorship is established, modified, or terminated.

History: 1Sp1993 c 1 art 3 s 41

525.58 FILING OF ACCOUNTS; FILING OF AFFIDAVIT.

[For text of subs 1 to 3, see M.S.1992]

Subd. 4. **Annual report of the guardian of the person.** Except where expressly waived by the court, every guardian or conservator of the person shall annually file a report under oath with the court within 30 days of the anniversary date of the appointment of the guardian or conservator. The report shall contain the guardian's or conservator's good faith evaluation of the following information for the preceding year:

- (a) changes in the medical condition of the ward or conservatee;
- (b) changes in the living conditions of the ward or conservatee;
- (c) changes in the mental and emotional condition of the ward or conservatee;
- (d) a listing of hospitalizations of the ward or conservatee; and
- (e) if the ward or conservatee is institutionalized, an evaluation of the care and treatment received by the ward or conservatee, and if the ward or conservatee is indigent, a review of the continued need for guardian or conservator services beyond those provided by the institution or the county human services agency. The court shall

request the assistance of the county human services agency to assist in making this need determination. If a continued need for guardian or conservator services exists, the county may contract for these services with other public or private agencies.

The court or its designee shall annually review the court file to insure that the report has been filed and that the report contains the information required by this subdivision. If a report has not been filed or if the report does not contain the information required by this subdivision, the court shall order the guardian or conservator to file an appropriate report.

History: 1993 c 118 s 4

525.6199 GUARDIANSHIP, CONSERVATORSHIP; WORKERS' COMPENSATION PROCEEDINGS.

Subdivision 1. Referral. When a matter is referred under section 176.092, subdivision 3, the court shall determine whether the employee or dependent is a minor or an incapacitated person, shall appoint a guardian or conservator if the employee or dependent is a minor or an incapacitated person, and shall return the matter to the source of referral.

Subd. 2. Court oversight. The court shall oversee the use of monetary benefits paid to a guardian or conservator as provided in this chapter or under rule 145 of the general rules of practice for the district courts. There is a rebuttable presumption that a settlement or award approved by the commissioner of the department of labor and industry or a compensation judge is reasonable and fair to the employee or dependent.

Subd. 3. Costs. Subject to the approval of the court, the insurer or self-insured employer shall pay the costs and a reasonable attorney fee of the employee or dependent associated with the appointment of a guardian or conservator required under section 176.092.

History: 1993 c 194 s 9

525.703 COSTS.

[For text of subd 1, see M.S.1992]

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 that person's 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. In determining reasonable compensation for a guardian or conservator of an indigent person, the court shall consider a fee schedule recommended by the board of county commissioners. The fee schedule may also include a maximum compensation based on the living arrangements of the ward or conservatee. If these services are provided by a public or private agency, the county may contract on a fee for service basis with that agency.

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 conser-

vatorship 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. In determining reasonable compensation for a guardian or conservator of an indigent person, the court shall consider a fee schedule recommended by the board of county commissioners. The fee schedule may also include a maximum compensation based on the living arrangements of the ward or conservatee. If these services are provided by a public or private agency, the county may contract on a fee for service basis with that agency.

(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. In determining reasonable compensation for a guardian or conservator of an indigent person, the court shall consider a fee schedule recommended by the board of county commissioners. The fee schedule may also include a maximum compensation based on the living arrangements of the ward or conservatee. If these services are provided by a public or private agency, the county may contract on a fee for service basis with that agency.

(c) When a county employee serves as a guardian or conservator as part of 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: 1993 c 118 s 5,6

525.9221 EXAMINATION, AUTOPSY, APPLICABLE LAW, LIABILITY.

(a) An anatomical gift authorizes any reasonable examination necessary to assure medical acceptability of the gift for the purposes intended.

(b) The provisions of sections 525.921 to 525.9224 are subject to the laws of this state governing autopsies.

(c) A hospital, physician, surgeon, coroner, medical examiner, local public health officer, enucleator, technician, or other person, who acts in accordance with sections 525.921 to 525.9224 or with the applicable anatomical gift law of another state or a foreign country or attempts in good faith to do so is not liable for that act in a civil action or criminal proceeding.

(d) An individual who makes an anatomical gift pursuant to section 525.9211 or 525.9212, and the individual's estate are not liable for any injury or damage that may result from the making or the use of the anatomical gift.

(e) The provision or use of any part of a human body, including blood, blood components, bone marrow, or solid organs from living donors, for the purpose of injection, transfusion, or transplantation in the human body is the rendition of a health care service by each person participating in the provision or use and is not a sale of goods, as that term is defined in section 336.2-105, paragraph (1), or a sale of a product.

History: 1993 c 13 art 1 s 46; 1993 c 256 s 1