

## CHAPTER 525

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### POWERS OF COURT

**525.01** [Renumbered 487.01]

**525.0105** [Repealed, 1971 c 951 s 44]

**525.011** [Repealed, 2006 c 260 art 5 s 54]

**525.012** Subdivision 1. [Repealed, 1989 c 335 art 3 s 57 subd 2; 2006 c 260 art 5 s 54]

Subd. 2. [Repealed, 1989 c 335 art 3 s 57 subd 2; 2006 c 260 art 5 s 54]

Subd. 3. [Repealed, 1989 c 335 art 3 s 57 subd 2; 2006 c 260 art 5 s 54]

Subd. 4. [Repealed, 1989 c 335 art 3 s 57 subd 2; 2006 c 260 art 5 s 54]

Subd. 5. [Repealed, 2006 c 260 art 5 s 54]

**525.013** Subdivision 1. [Repealed, 2006 c 260 art 5 s 54]

Subd. 2. [Repealed, 1977 c 201 s 2]

Subd. 2a. [Repealed, 2006 c 260 art 5 s 54]

Subd. 3. [Repealed, 1977 c 201 s 2]

Subd. 4. [Repealed, 2006 c 260 art 5 s 54]

Subd. 5. [Repealed, 2006 c 260 art 5 s 54]

Subd. 6. [Repealed, 2006 c 260 art 5 s 54]

Subd. 7. [Repealed, 2006 c 260 art 5 s 54]

Subd. 8. [Repealed, 2006 c 260 art 5 s 54]

**525.014** [Repealed, 2006 c 260 art 5 s 54]

**525.015** [Repealed, 2006 c 260 art 5 s 54]

**525.02** [Repealed, 2006 c 260 art 5 s 54]

**525.03** [Repealed, 2006 c 260 art 5 s 54]

**525.031 FEES FOR COPIES.**

The fees for copies of all documents shall be the same as the fee established for such copies on civil proceedings under section 357.021, subdivision 2.

**History:** (8992-4) 1935 c 72 s 4; 1967 c 128 s 1; 1986 c 442 s 13

**525.033 FEES FOR FILING PETITIONS.**

The district 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. Fees collected under this section and section 525.031 must be forwarded to the commissioner of management and budget for deposit in the state treasury and credited to the general fund.

**History:** 1978 c 730 s 3; 1986 c 442 s 14; 1987 c 11 s 1; 1989 c 335 art 3 s 35; 1995 c 189 s 8; 1996 c 277 s 1; 2003 c 112 art 2 s 50; 2009 c 101 art 2 s 109

**PERSONNEL**

**525.04** [Repealed, 1Sp1981 c 4 art 3 s 8]

**525.041 WRITTEN DECISION SHALL BE FILED WITHIN 90 DAYS; MANDATORY.**

The decision of every issue of law or fact shall be in writing and shall be filed within 90 days after submission unless prevented by illness or casualty.

Upon the filing of any appealable order, judgment, or decree, except in uncontested matters or where the final decision was announced at the hearing, the court shall give notice by mail of such filing to each party, or the attorney, who appeared of record at the hearing.

**History:** (8992-6) 1935 c 72 s 6; 1967 c 317 s 1; 1986 c 444

**525.05 JUDGE OR REFEREE; GROUNDS FOR DISQUALIFICATION.**

The following shall be grounds for disqualification of any judge or referee from acting in any matter: (1) That the judge or the judge's spouse or any of either of their kin nearer than first cousin is interested as representative, heir, devisee, legatee, ward, or creditor in the estate involved therein; (2) that it involves the validity or interpretation of a will drawn or witnessed by the judge; (3) that the judge may be a necessary witness in the matter; (4) that it involves a property right in respect to which the judge has been engaged or is engaged as an attorney; or (5) that the judge was engaged in a joint enterprise for profit with the decedent at the time of death or that the judge is then engaged in a joint enterprise for profit with any person interested in the matter as representative, heir, devisee, legatee, ward, or creditor. When grounds for disqualification exist, the judge may, and upon proper petition of any person interested in the estate must, request another judge or a judge who has retired to act in the judge's stead in the matter.

**History:** (8992-7) 1935 c 72 s 7; 1961 c 6 s 1; 1981 c 31 s 12; 1986 c 444; 1995 c 189 s 8; 1996 c 277 s 1; 2006 c 271 art 11 s 47

**525.051** [Repealed, 2006 c 260 art 5 s 54]

**525.052** [Repealed, 2006 c 260 art 5 s 54]

**525.053** [Repealed, 2006 c 260 art 5 s 54]

**525.06** [Repealed, 2006 c 260 art 5 s 54]

**525.07** [Repealed, 2006 c 260 art 5 s 54]

**525.08** [Repealed, 2006 c 260 art 5 s 54]

**525.081** Subdivision 1. [Repealed, 1977 c 432 s 49; 2006 c 260 art 5 s 54]

Subd. 2. [Repealed, 1977 c 432 s 49; 2006 c 260 art 5 s 54]

Subd. 3. [Repealed, 1977 c 432 s 49; 2006 c 260 art 5 s 54]

Subd. 4. [Repealed, 1977 c 432 s 49; 2006 c 260 art 5 s 54]

Subd. 5. [Repealed, 1977 c 432 s 49; 2006 c 260 art 5 s 54]

Subd. 6. [Repealed, 1977 c 432 s 49; 2006 c 260 art 5 s 54]

Subd. 7. [Repealed, 2006 c 260 art 5 s 54]

Subd. 8. [Repealed, 1977 c 432 s 49; 2006 c 260 art 5 s 54]

Subd. 9. [Repealed, 1977 c 432 s 49; 2006 c 260 art 5 s 54]

**525.082** [Repealed, 2006 c 260 art 5 s 54]

**525.09** [Repealed, 2006 c 260 art 5 s 54]

**525.091 DESTRUCTION AND REPRODUCTION OF PROBATE RECORDS.**

Subdivision 1. **Original documents.** (a) The court administrator of any county upon order of the judge exercising probate jurisdiction may destroy all the original documents in any probate proceeding of record in the office provided a Minnesota state archives commission approved photographic, photostatic, microphotographic, microfilmed, digitally imaged, electronic, or similarly reproduced copy of the original are on file in the office. After the file in the proceeding has been closed, only the following enumerated documents need to be retained:

(1) in estates, the jurisdictional petition and proof of publication of the notice of hearing thereof; will and certificate of probate; letters; inventory and appraisal; orders directing and confirming sale, mortgage, lease, or for conveyance of real estate; order setting apart statutory selection; receipts for federal estate taxes and state estate taxes; orders of distribution and general protection; decrees of distribution; federal estate tax closing letter, consent to discharge by commissioner of revenue and order discharging representative; and any amendment of the listed documents. When an estate is deemed closed as provided in paragraph (b), the enumerated documents shall include all claims of creditors;

(2) in guardianships or conservatorships, the jurisdictional petition and order for hearing thereof with proof of service; letters; orders directing and confirming sale, mortgage, lease or for conveyance of real estate; order for restoration to capacity and order discharging guardian; and any amendment of the listed documents; and

(3) in mental, inebriety, and indigent matters, the jurisdictional petition; report of examination; warrant of commitment; notice of discharge from institution, or notice of death and order for restoration to capacity; and any amendment of the listed documents.

(b) Except for the enumerated documents described in this subdivision, the court administrator may destroy all other documents in any probate proceeding without retaining any reproduction of the document. For the purpose of this subdivision, a proceeding is deemed closed if no document has been filed in the proceeding for a period of 15 years, except in the cases of wills filed for safekeeping and those containing wills of decedents not adjudicated upon.

Subd. 2. [Repealed, 2008 c 277 art 1 s 98]

Subd. 3. **Effect of copies.** A photographic, photostatic, microphotographic, microfilmed, digitally imaged, electronic, or similarly reproduced record is of the same force and effect as the original and may be used as the original document or book of record in all proceedings.

Subd. 4. **Exception.** This section does not apply to the court of any county until the county board of the county adopts a resolution authorizing the destruction of probate records pursuant to the provisions of this section. When the county board has complied with this subdivision, section 525.092 and any act amendatory thereof shall no longer apply to the probate court of that county.

**History:** 1965 c 883 s 1; 1971 c 484 s 1; 1973 c 582 s 3; 1975 c 347 s 85-87; 1979 c 303 art 3 s 35,36; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1995 c 189 s 8; 1996 c 277 s 1; 2009 c 83 art 2 s 34; 2011 c 116 art 1 s 9,10

**525.092 COURT ADMINISTRATOR MAY DESTROY CERTAIN PAPERS.**

Subdivision 1. **Certain vouchers and receipts.** The court administrator of the district court is hereby authorized to destroy all vouchers or receipts filed in estates and guardianship proceedings of record in the office after such estates or guardianships have been closed for a period of 25 years, or more, except receipts for any federal or state taxes.

Subd. 2. **Certain guardianships excepted.** The provisions of this section shall not apply to guardianships of persons adjudicated as lacking mental capacity, nor to guardianships of minors until one year after the minor has become 18 years old.

**History:** 1947 c 117 s 1,2; 1949 c 409 s 1; 1951 c 21 s 1; 1973 c 725 s 75; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1995 c 189 s 8; 1996 c 277 s 1; 2013 c 59 art 3 s 12

**525.094** [Repealed, 1965 c 883 s 2]

**525.095 COURT ADMINISTRATOR MAY ISSUE ORDERS UNDER DIRECTION OF THE COURT.**

The judge may authorize the court administrator or any deputy court administrator to issue orders for hearing petitions for general administration, for the probate of any will, for determination of descent, for sale, lease, mortgage, or conveyance of real estate, for the settlement and allowance of any account, for partial or final distribution, for commitment, orders limiting the time to file claims and fixing the time and place for the hearing thereon, and to issue notice of the entry of any order. The issuance of any such order or notice by the court administrator or deputy court administrator shall be prima facie evidence of authority to issue it.

**History:** (8992-15) 1935 c 72 s 15; 1937 c 435 s 5; 1986 c 444; 1Sp1986 c 3 art 1 s 82

**525.10 REFEREE; APPOINTMENT; BOND; OFFICE ABOLISHED.**

Subdivision 1. **Office abolished.** The office of referee is abolished. No vacancy in the office of referee shall be filled, nor new office created.

Subd. 2. **Incumbents.** Persons holding the office of referee on June 30, 1980, in the Second and August 15, 1980, in the Fourth Judicial District may continue to serve at the pleasure of the chief judge of the district under the terms and conditions of their appointment. All referees are subject to the administrative authority and assignment power of the chief judge of the district as provided in section 484.69, subdivision 3, and are not limited to assignment to probate court. All referees are subject to the provisions of section 484.70. Part time referees holding office in the Second Judicial District pursuant to this subdivision shall cease to hold office on July 31, 1984.

Subd. 3. **Referees.** Each referee in probate court shall be an attorney at law duly admitted in this state. The appointment shall be in writing and filed in the court. The referee has the power to take acknowledgments and administer oaths.

**History:** (8992-16) 1935 c 72 s 16; 1937 c 435 s 6; 1957 c 212 s 1; 1973 c 524 s 14; 1974 c 165 s 1; 1974 c 387 s 1; 1976 c 181 s 2; 1981 c 272 s 6

**525.101 COMPENSATION OF REFEREE.**

Such referee shall receive from the county as compensation \$3,600 per annum in counties having more than 500,000 inhabitants, payable from the general funds of the county not otherwise appropriated, at the same time and in the same manner and subject to the provisions of law applicable to the compensation of

the judge. The county shall furnish a suitable office in the courthouse or in some other suitable place or places designated by the judge. The judge may assign to the referee from the court's clerks and employees such clerical help as may be necessary to properly discharge the duties.

**History:** (8992-17) 1935 c 72 s 17; 1957 c 212 s 2; 1971 c 471 s 1; 1986 c 444

#### **525.102 REFERENCE.**

After such appointment the judge by order may refer to the referee any matter, cause, or proceeding pending in such court. In all matters so referred the referee shall find the facts and report the findings to the judge. In all matters referred and reported the referee may append the referee's signature to the order or decree of the court; and whenever this signature shall be so appended, it shall constitute conclusive evidence that the matter was referred, heard, and reported in the manner required by law and the order of the court therein, provided that the failure of the referee to append the referee's signature to any such order or decree shall not affect its validity.

**History:** (8992-18) 1935 c 72 s 18; 1986 c 444

#### **525.103 DELIVERY OF BOOKS AND RECORDS.**

When the term of office of such referee expires or is terminated, the referee shall deliver to the successor or to the judge all books and papers in the referee's possession relating to the office. Upon failure to do so within five days after demand by the successor or the judge, the referee shall be guilty of a gross misdemeanor.

**History:** (8992-19) 1935 c 72 s 19; 1986 c 444

#### **525.11 REPORTER; APPOINTMENT AND DUTIES.**

The judge may appoint a competent stenographer as reporter and secretary in all matters pertaining to official duties to hold office during the judge's pleasure. Such reporter shall make a complete record of all testimony given and all proceedings had before the court upon the trial of issue of fact except that in commitment proceedings a tape recording of the proceedings may be kept in lieu of a stenographic record. The reporter shall inscribe all questions in the exact language thereof, all answers thereto precisely as given by the witness or sworn interpreter, all objections made and the grounds thereof as stated by counsel, all rulings thereon, all exceptions taken, all admissions made, all oral stipulations, and all oral motions and orders. When directed by the judge, the reporter shall make a record of any matter or proceeding and without charge shall read to or transcribe for such judge any record made or any tape recording made in a commitment proceeding. Upon completion of every trial or proceeding, such reporter shall file the stenographic record or tape recording in the manner directed by the judge. Upon request of any person and payment of fees by such person, the reporter shall furnish a transcript. The reporter may take acknowledgments, administer oaths, and certify copies of the stenographic record or transcript of either such record or tape recording made in a commitment proceeding.

**History:** (8992-20) 1935 c 72 s 20; 1974 c 482 s 8; 1986 c 444

#### **525.111 COMPENSATION; TRANSCRIPT FEES.**

Where the salary of the reporter is not provided for by law, compensation shall be paid by the representative as an expense of administration or guardianship, or by the party or parties presenting or contesting the proceedings reported, as the court may determine. In addition to the salary fixed by law or

compensation fixed by the court, the reporter shall receive for transcripts furnished such fees as may be fixed by the court not exceeding those allowed by law to the district court reporters of the same county.

**History:** (8992-21) 1935 c 72 s 21; 1986 c 444

**525.112** [Repealed, 2017 c 95 art 2 s 19]

**525.113 ADDITIONAL EMPLOYEES.**

The reporter and clerk mentioned in section 525.112 shall be employed and appointed in addition to the court administrator, deputy court administrators, and employees now provided by law, to hold office during the pleasure of the judge of probate and shall perform the duties imposed by law and such judge, and their salary shall be paid from the county funds in the same manner as prescribed for the payment of other employees of such court.

**History:** (8992-21b) 1935 c 373 s 2; 1Sp1986 c 3 art 1 s 82

**525.12 AUDITOR; APPOINTMENT.**

The court may appoint an auditor in any matter involving an annual, partial, or final account, or the amount due on a claim or an offset thereto. Such appointment may be made with or without notice and on the court's own motion or upon the petition of the personal representative or of any person interested in the estate or guardianship.

**History:** (8992-22) 1935 c 72 s 22; 1975 c 347 s 89

**525.121 POWERS.**

The auditor shall have the same power as the court to set hearings, grant adjournments, compel the attendance of witnesses or the production of books, papers, and documents, and to hear all proper evidence relating to such matter. The auditor shall report findings of fact to the court.

**History:** (8992-23) 1935 c 72 s 23; 1986 c 444

**525.122 COMPENSATION OF AUDITOR.**

The auditor shall be allowed such reasonable fees, disbursements, and expenses as may be determined by the court and shall be paid by the personal representative as expenses of administration, guardianship or conservatorship or by the person applying for such audit as the court may determine.

**History:** (8992-24) 1935 c 72 s 24; 1975 c 347 s 90

**INTESTATE SUCCESSION**

**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 the death.

**History:** (8992-25) 1935 c 72 s 25; 1985 c 250 s 24; 1986 c 444

**525.14 DESCENT OF CEMETERY LOT.**

Subject to the right of interment of the decedent therein, a cemetery lot or burial plot, unless disposed of as provided in section 306.29, shall descend free of all debts as follows:

(1) to the decedent's surviving spouse, a life estate with right of interment of the spouse therein, and remainder over to the person who would be entitled to the fee if there were no spouse, provided, however, if no person entitled to the remainder of the fee survives, then the entire fee to the surviving spouse with right of interment therein;

(2) if there is no surviving spouse, then to the decedent's eldest surviving child;

(3) if there is no surviving child, then to the decedent's youngest surviving sibling;

(4) if there is no surviving spouse, child or sibling of the decedent, then, if not sold during administration of decedent's estate, to the cemetery association or private cemetery in trust as a burial lot for the decedent and such of the decedent's relatives as the governing body thereof shall deem proper.

The cemetery association or private cemetery, or, with its consent, any person to whom the lot shall descend may grant and convey the lot to any of the decedent's parents, siblings or descendants.

A crypt or group of crypts or burial vaults owned by one person in a public or community mausoleum shall be deemed a cemetery lot.

Grave markers, monuments, memorials and all structures lawfully installed or erected on any cemetery lot or burial plot shall be deemed to be a part of and shall descend with the lot or plot.

**History:** (8992-26) 1935 c 72 s 26; 1969 c 852 s 1; 1981 c 25 s 1

**525.145** [Repealed, 1995 c 130 s 21]

**525.15** [Repealed, 1994 c 472 s 64]

**525.151** [Repealed, 1994 c 472 s 64]

**525.152 AWARD OF PROPERTY WITH SENTIMENTAL VALUE TO CHILDREN.**

Subdivision 1. **Definitions.** (a) "Eligible child" means a child of the decedent who:

(1) is not the child of the surviving spouse, if any;

(2) if there is no surviving spouse, is not a minor, and has a different parent than minor children of the decedent; and

(3) if the decedent dies testate, is a devisee under the decedent's will.

(b) "Sentimental value" means significant emotional or nostalgic value arising out of the relationship of an individual with the decedent or arising out of the relationship of the eligible child with the individual who is the nondecedent parent of the eligible child.

Subd. 2. **Ineligible property.** The following property is not eligible for an award under this section:

(1) real property;



(2) personal property that is the subject of a specific devise under the decedent's will where the will was executed before August 1, 1989, and where the devise specifically identifies the particular item of property, unless the property is selected under section 524.2-403;

(3) personal property that is the subject of a specific devise under a separate writing under section 524.2-513, unless the property is selected under section 524.2-403; and

(4) personal property disposed of by a premarital agreement.

Subd. 3. **Notice to eligible children; petition.** At the time of an allowance selection under section 524.2-403, the person making the selection shall serve personally or by mail a written itemized notice of the property selected to every eligible child of the decedent. This requirement does not apply if an award of property with sentimental value already has been made under this section. Within 30 days of receipt of the notice of selection, an eligible child may petition the court to award property with sentimental value contained in the notice, or other property with sentimental value that belonged to the decedent, to the eligible child.

Subd. 4. **Court decision.** The court shall award property with sentimental value to an eligible child if it finds that the property's sentimental value to the child outweighs its sentimental value to the person entitled to the allowance selection. If more than one eligible child petitions the court for an award of the same property, the court shall award the property to the child for whom the property has the greatest sentimental value. In awarding property with sentimental value to an eligible child, the court shall give weight to the following factors:

(1) the relationship of the eligible child to the acquisition and use of the property;

(2) whether the property was acquired prior to the decedent's marriage to the surviving spouse or prior to the birth of minor children who are entitled to an allowance selection; and

(3) whether the property belonged to the individual who is the nondecedent parent of the eligible child.

Subd. 5. **Payment to estate.** (a) As a condition of an award of sentimental property under this section, the court shall order that the eligible child pay the value of the property to the estate or that the value of the property be deducted from the eligible child's share of the estate. The surviving spouse or minor children may make an additional allowance selection in place of property with sentimental value awarded to an eligible child.

(b) If the court awards property under subdivision 4, the court shall appoint an appraiser who shall determine the value of the property. The value of the property is its appraised value as of the date of the decedent's death without reference to its sentimental value to the eligible child or any other person.

**History:** 1988 c 417 s 3; 1989 c 219 s 2; 1997 c 7 art 1 s 166-168

**525.16** [Repealed, 1985 c 250 s 27]

### **525.161 NO SURVIVING SPOUSE OR KINDRED, NOTICES TO ATTORNEY GENERAL.**

When it appears from the petition or application for administration of the estate, or otherwise, in a proceeding in the court that the intestate left surviving no spouse or kindred, the court shall give notice of such fact and notice of all subsequent proceedings in such estate to the attorney general forthwith; and the attorney general shall protect the interests of the state during the course of administration. The residue which escheats to the state shall be transmitted to the attorney general. All moneys, stocks, bonds, notes, mortgages and other securities, and all other personal property so escheated shall then be given into the custody of the commissioner of management and budget who shall immediately credit the moneys received to the general

fund. The commissioner of management and budget shall hold such stocks, bonds, notes, mortgages and other securities, and all other personal property, subject to such investment, sale or other disposition as the State Board of Investment may direct pursuant to section 11A.04, clause (9). The attorney general shall immediately report to the State Executive Council all real property received in the individual escheat, and any sale or disposition of such real estate shall be made in accordance with sections 16B.281 to 16B.287.

**History:** *1955 c 194 s 1; 1957 c 861 s 1; 1969 c 399 s 1; 1973 c 492 s 14; 1975 c 347 s 93; 1980 c 607 art 14 s 46; 2003 c 112 art 2 s 48; 2004 c 262 art 1 s 39; 2009 c 101 art 2 s 109*

**525.17** [Repealed, 1985 c 250 s 27]

**525.171** [Repealed, 1985 c 250 s 27]

**525.172** [Repealed, 1985 c 250 s 27]

**525.173** [Repealed, 1985 c 250 s 27]

**525.18** [Repealed, 1975 c 347 s 144]

**525.181** [Repealed, 1975 c 347 s 144]

**525.182** [Repealed, 1975 c 347 s 144]

**525.183** [Repealed, 1975 c 347 s 144]

**525.184** [Repealed, 1975 c 347 s 144]

**525.19** [Repealed, 1975 c 347 s 144]

**525.191** [Repealed, 1975 c 347 s 144]

**525.20** [Repealed, 1985 c 250 s 27]

**525.201** [Repealed, 1985 c 250 s 27]

**525.202** [Repealed, 1985 c 250 s 27]

**525.203** [Repealed, 1975 c 347 s 144]

## WILLS

### **525.21 QUANTITY OF ESTATE DEVISED.**

Every devise of real estate shall convey all the estate of the testator therein subject to liens and encumbrances thereon unless a different intention appears from the will.

**History:** *(8992-45) 1935 c 72 s 45*

**525.211** [Repealed, 1975 c 347 s 144]

**525.212** [Repealed, 1985 c 250 s 27]

**525.213** [Repealed, 1985 c 250 s 27]

**525.214** [Repealed, 1985 c 250 s 27]

**525.215** [Repealed, 1985 c 250 s 27]

**525.216** [Repealed, 1985 c 250 s 27]

**525.22** [Repealed, 1994 c 472 s 64]

**525.221** [Repealed, 1994 c 472 s 64]

**525.222** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.2221 WILLS NOT AFFECTED.**

Notwithstanding any other provision of law to the contrary, the provisions of any will executed prior to June 1, 1973 relating to ones "minority" or "majority" or other related terms shall be governed by the definitions of such terms existing at the time of the execution of the will.

**History:** *1973 c 725 s 86*

**525.223** [Repealed, 1994 c 472 s 64]

**525.23** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.231** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.24** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.241** [Repealed, 1974 c 442 art 8 s 524.8-102]

## PROBATE OF WILLS

**525.242 SECONDARY EVIDENCE.**

If no subscribing witness competent to testify resides in the state at the time appointed for proving the will, the court may admit the testimony of other witnesses to prove the capacity of the testator and the execution of the will, and as evidence of such execution may admit proof of the handwriting of the testator and of the subscribing witnesses.

**History:** *(8992-55) 1935 c 72 s 55*

**525.243** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.244** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.25** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.251** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.252** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.253 SALE OF DEvised PROPERTY.**

Subdivision 1. **General rule.** Unless a contrary intent appears from the will, an agreement made by a testator for the sale or transfer of real property disposed of by the will previously made, does not revoke or adeem such disposal; but all the right, title, and interest of the decedent in such property and in said agreement shall pass, according to the terms of the will. Such an agreement shall be enforceable and subject to the same

remedies for specific performance or otherwise against the devisees as exists against a decedent's successors if the same passed by succession.

Subd. 2. **Applicability.** This section shall be applicable to estates of decedents dying after June 5, 1969.

**History:** 1969 c 944 s 1,2; 1975 c 347 s 99

**525.26** [Repealed, 1975 c 347 s 144]

**525.261** [Repealed, 1975 c 347 s 144]

**525.262** [Repealed, 1975 c 347 s 144]

**525.27** [Repealed, 1975 c 347 s 144]

**525.271** [Repealed, 1975 c 347 s 144]

**525.272** [Repealed, 1975 c 347 s 144]

**525.273** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.28** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.281** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.282** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.29** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.291** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.292** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.30** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.301** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.302** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.303** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.304** [Repealed, 1974 c 442 art 8 s 524.8-102]

## DETERMINATION OF DESCENT

**525.31** MS 1971 [Repealed, 1974 c 442 art 8 s 524.8-102]

### **525.31 ESSENTIALS.**

Whenever any person has been dead for more than three years and has left real or personal property, or any interest therein, and no will or authenticated copy of a will probated outside this state in accordance with the laws in force in the place where probated has been probated nor proceedings had in this state, any interested person or assignee or successor of an interested person may petition the court of the county of the

decedent's residence or of the county wherein such real or personal property, or any part thereof, is situated to determine the descent of such property and to assign such property to the persons entitled thereto.

**History:** *1975 c 347 s 100; 1976 c 161 s 15*

**525.311** MS 1971 [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.311 CONTENTS OF PETITION.**

Such petition shall show so far as known to the petitioner:

(1) the name of the decedent, the place of residence, the date and place of death, the age and address at such date, and whether the decedent died testate or intestate;

(2) the names, ages, and addresses of heirs, personal representatives, and devisees;

(3) that no will or authenticated copy of a will probated outside of this state in accordance with the laws in force in the place where probated has been probated nor proceedings had in this state;

(4) a description of the real or personal property, or interest therein and if a homestead, designated as such, the interest therein of the decedent, the value thereof at the date of death, and the interest therein of the petitioner;

(5) if the decedent left a will which has not been probated in this state, such will or authenticated copy of a will probated outside of this state in accordance with the laws in force in the place where probated shall be filed and the petition shall contain a prayer for its probate;

(6) that the devisee or successors and assigns possess the property devised in accordance with the will, any heir or a successor and assigns possess such property which passes to such heir under the laws of intestate succession in force at the decedent's death, or such property was not possessed or claimed by anyone by virtue of the decedent's title during the time period for testacy proceedings;

(7) in any such proceeding wherein it appears that the property affected descends through several decedents under circumstances qualifying for a descent proceeding under this section in each case, the court in its discretion may consolidate the proceedings into one and may accept the filing of one petition for the several decedents where no interests are prejudiced thereby. The notice and other requirements of this section and sections 525.31 and 525.312 shall be complied with, and the matter shall be then adjudicated under one title combining the names of the several decedents and making appropriate findings for each decedent and determining heirship.

**History:** *1975 c 347 s 100; 1986 c 444*

**525.312** MS 1971 [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.312 DECREE OF DESCENT.**

Upon the filing of such petition, the court shall fix the time and place for the hearing thereof, notice of which shall be given pursuant to section 524.1-401. Notice of the hearing, in the form prescribed by court rule, shall also be given under direction of the court administrator by publication once a week for two consecutive weeks in a legal newspaper in the county where the hearing is to be held, the last publication of which is to be at least ten days before the time set for hearing. Upon proof of the petition and of the will if there be one; or upon proof of the petition and of an authenticated copy of a will duly proved and allowed outside of this state in accordance with the laws in force in the place where proved, if there be one; and if a

clearance for medical assistance claims is on file in the proceeding and any medical assistance claims are paid or satisfied, the court shall allow the same and enter its decree of descent assigning the real or personal property, or any interest therein, to the persons entitled thereto pursuant to the will or such authenticated copy, if there be one, otherwise pursuant to the laws of intestate succession in force at the time of the decedent's death. The decree of descent shall operate to assign the property free and clear of any and all claims for medical assistance arising under section 525.313 without regard to the final disposition of those claims. The court may appoint two or more disinterested persons to appraise the property.

**History:** 1975 c 347 s 100; 1977 c 207 s 1; 1979 c 303 art 3 s 37; 1Sp1986 c 3 art 1 s 82; 2000 c 400 s 7

### **525.313 CLEARANCE FOR MEDICAL ASSISTANCE CLAIMS.**

(a) The court shall not enter a decree of descent until the petitioner has filed a clearance for medical assistance claims under this section, and until any medical assistance claims filed under this section have been paid, settled, or otherwise finally disposed of.

(b) After filing the petition, the petitioner or the petitioner's attorney shall apply to the county agency in the county in which the petition is pending for a clearance of medical assistance claims. The application must state the decedent's name, date of birth, and Social Security number; the name, date of birth, and Social Security number of any predeceased spouse of the decedent; the names and addresses of the devisees and heirs; and the name, address, and telephone number of the petitioner or the attorney making the application on behalf of the petitioner, and include a copy of the notice of hearing.

(c) The county agency shall determine whether the decedent or any of the decedent's predeceased spouses received medical assistance under chapter 256B or general assistance medical care formerly codified under chapter 256D giving rise to a claim under section 256B.15. If there are no claims, the county agency shall issue the petitioner a clearance for medical assistance claims stating no medical assistance claims exist. If there is a claim, the county agency shall issue the petitioner a clearance for medical assistance claims stating that a claim exists and the total amount of the claim. The county agency shall mail the completed clearance for medical assistance claims to the applicant within 15 working days after receiving the application without cost to the applicant or others.

(d) The petitioner or attorney shall file the certificate in the proceedings for the decree of descent as soon as practicable after it is received. Notwithstanding any rule or law to the contrary, if a medical assistance claim appears in a clearance for medical assistance claims, then:

(1) the claim shall be a claim against the decedent's property which is the subject of the petition. The county agency issuing the certificate shall be the claimant. The filing of the clearance for medical assistance claims in the proceeding for a decree of descent constitutes presentation of the claim;

(2) the claim shall be an unbarred and undischarged claim and shall be payable, in whole or in part, from the decedent's property which is the subject of the petition, including the net sale proceeds from any sale of property free and clear of the claim under this section;

(3) the claim may be allowed, denied, appealed, and bear interest as provided for claims in estates under chapter 524; and

(4) the county agency may collect, compromise, or otherwise settle the claim with the estate, the petitioner, or the assignees of the property on whatever terms and conditions are deemed appropriate.

(e) Any of the decedent's devisees, heirs, successors, assigns, or their successors and assigns, may apply for a partial decree of descent to facilitate the good faith sale of their interest in any real or personal property described in the petition free and clear of any medical assistance claim any time before the entry of a decree of descent under section 525.312. The applicant must prove an interest in the property as provided under section 525.312. The court may enter a partial decree of descent any time after it could hear and decide the petition for a decree of descent. A partial decree of descent shall assign the interests in the real and personal property described in the application to the parties entitled to the property free and clear of any and all medical assistance claims. The net sale proceeds from the sale shall be:

- (1) substituted in the estate according to this section for the property sold;
- (2) paid over to and held by the petitioner pending the entry of a decree of descent;
- (3) used for payment of medical assistance claims; and
- (4) distributed according to the decree of descent after any medical assistance claims are paid.

(f) The clearance for medical assistance claims must:

(1) include the case name, case number, and district court in which the proceeding for a decree of descent is pending;

(2) include the name, date of birth, and Social Security number of the decedent and any of the decedent's predeceased spouses;

(3) state whether there are medical assistance claims against the decedent, or a predeceased spouse, and the total amount of each claim; and

(4) include the name, address, and telephone number of the county agency giving the clearance for medical assistance claims. The certificate shall be signed by the director of the county agency or the director's designee. The signature of the director or the director's designee does not require an acknowledgment.

(g) All recoveries under this section are recoveries under section 256B.15.

(h) For purposes of this section and chapter 256B, all property identified in the petition and all subsequent amendments to the petition shall constitute an estate.

(i) No clearance for medical assistance claims is required under this section and section 525.312 in an action for a decree of descent proceeding in which all of the following apply to the decedent whose property is the subject of the proceeding:

- (1) the decedent's estate was previously probated in this state;
- (2) the previous probate was not a special administration or summary proceeding; and
- (3) the decedent's property, which is the subject of the petition for a decree of descent, was omitted from the previous probate.

**History:** 2000 c 400 s 8; 2002 c 347 s 4; 2016 c 158 art 2 s 118

**525.314** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.315** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.316** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.32** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.321** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.322** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.323** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.324** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.33** [Repealed, 1975 c 347 s 144]

**525.331** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.34** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.35** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.36** [Repealed, 1974 c 442 art 8 s 524.8-102]

### **PROPERTY DISPOSITION**

**525.37** MS 1971 [Repealed, 1974 c 442 art 8 s 524.8-102]

#### **525.37 FORECLOSURE OF MORTGAGES.**

The guardian or conservator shall have the same right to foreclose a mortgage, lien, or pledge or collect the debt secured thereby as the ward or conservatee would have had, if competent, and may complete any such proceeding commenced by such ward or conservatee.

**History:** *1975 c 347 s 101; 1986 c 444*

**525.38** MS 1971 [Repealed, 1974 c 442 art 8 s 524.8-102]

#### **525.38 REALTY ACQUIRED.**

When a foreclosure sale or a sale on execution for the recovery of a debt due the estate is had or redemption is made the personal representative shall receive the money paid and execute the necessary satisfaction or release. If bid in by the personal representative or if bid in by the decedent or ward and the redemption period expired during the administration of the estate or guardianship or conservatorship without redemption, the real estate shall be treated as personal property. If not so sold, mortgaged, or leased, the real estate or, if so sold, mortgaged, or leased, the proceeds shall be assigned or distributed to the same persons and in the same proportions as if it had been part of the personal estate of the decedent, unless otherwise provided in the will.

**History:** *1975 c 347 s 102*

**525.39** [Repealed, 1975 c 347 s 144]

#### **525.391 PROPERTY FRAUDULENTLY CONVEYED.**

When the property available for the payment of debts is insufficient to pay the same in full, the representative may recover any property which the decedent may have disposed of with intent to defraud creditors, or by conveyance or transfer which for any reason is void as to them. Upon the application of any



creditor and upon making the payment of or providing security for the expenses thereof as directed by the court, the representative shall prosecute all actions necessary to recover the property.

**History:** (8992-95) 1935 c 72 s 95; 1986 c 444

#### **525.392 PROPERTY CONVERTED.**

If any person embezzles, alienates, or converts to personal use any of the personal estate of a decedent or ward before the appointment of a representative, such person shall be liable for double the value of the property so embezzled, alienated, or converted.

**History:** (8992-96) 1935 c 72 s 96; 1986 c 444

#### **525.393 DISPOSAL BY CORONER.**

When personal property of a decedent has come into the custody of any coroner and has not been surrendered as hereinafter provided and no will has been admitted to probate or no administration has been had within three months after the decedent's death, the coroner, after the expiration of said time, shall file in the court an inventory of all such property and a fingerprint of each finger of each hand of the decedent. Wearing apparel and such other property as the coroner determines to be of nominal value, may be surrendered by the coroner to the spouse or to any blood relative of the decedent. If no will is admitted to probate nor administration had within six months after death, the coroner shall sell the same at public auction upon such notice and in such manner as the court may direct. The coroner shall be allowed reasonable expenses for the care and sale of the property, and shall deposit the net proceeds of such sale with the county treasurer in the name of the decedent, if known. The treasurer shall give the coroner duplicate receipts therefor, one of which the coroner shall file with the county auditor and the other in the court. If a representative shall qualify within six years from the time of such deposit, the treasurer shall pay the same to such representative.

**History:** (8992-97) 1935 c 72 s 97; Ex1936 c 48; 1975 c 347 s 103; 1986 c 444

**525.40** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.401** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.41** [Repealed, 1975 c 347 s 144]

**525.411** [Repealed, 1975 c 347 s 144]

**525.412** [Repealed, 1975 c 347 s 144]

**525.413** [Repealed, 1975 c 347 s 144]

**525.42** [Repealed, 1975 c 347 s 144]

**525.421** [Repealed, 1975 c 347 s 144]

**525.43** [Repealed, 1975 c 347 s 144]

**525.431** [Repealed, 1975 c 347 s 144]

**525.44** [Repealed, 1975 c 347 s 144]

**525.441** [Repealed, 1975 c 347 s 144]

**525.442** [Repealed, 1975 c 347 s 144]

**525.45** [Repealed, 1975 c 347 s 144]

**525.46** [Repealed, 1975 c 347 s 144]

**525.47** [Repealed, 1974 c 442 art 8 s 524.8-102]

### **ACCOUNTING, DISTRIBUTION**

**525.475** MS 1974 [Repealed, 1975 c 347 s 144]

#### **525.475 DORMANT ESTATE; REMOVAL OF REPRESENTATIVE OR ATTORNEY.**

(1) In a supervised administration under sections 524.3-501 to 524.3-505:

(a) If an order of complete settlement of the estate or a decree, as provided in section 524.3-1001, is not entered within 18 months after appointment of the personal representative, the court shall order the personal representative and the attorney to show good cause why an order of complete settlement of the estate or a decree has not been entered.

(b) If good cause is not shown the court shall order the removal of the personal representative, instruct the personal representative to dismiss the attorney and employ another attorney, if necessary, to complete the administration of the estate, or shall order such other or further relief as may be appropriate. In addition, the court may refer a record of the proceeding to the state Board of Professional Responsibility. If removal of the personal representative is ordered, the court shall also direct by order the disposition of the assets remaining in the name of, or under the control of, the personal representative being removed.

(c) If good cause is shown, the court shall order that the time for administration of the estate be extended for an additional period not to exceed one year. If an order of complete settlement of the estate or a decree, as provided in section 524.3-1001, is not entered within such extended period, the court shall again order the personal representative and the attorney to show cause why an order of complete settlement or a decree has not been entered. If good cause is not shown, the provisions of paragraph (b) of this section shall be applicable. If good cause is shown, the court shall order that the time for administration of the estate be again extended for an additional period not to exceed one year and the provisions of this paragraph (c) of this section shall be applicable to such additional extension.

(2) In an administration other than a supervised administration under sections 524.3-501 to 524.3-505:

(a) Upon the petition of an interested person and upon showing of probable cause for relief, the court shall order the personal representative and the attorney to show cause why the estate has not been closed pursuant to the provisions of sections 524.3-1001 to 524.3-1003.

(b) If good cause is not shown, the court shall order the removal of the personal representative, instruct the personal representative to dismiss the attorney and employ another attorney, if necessary, to complete the administration of the estate or shall order such other or further relief as may be appropriate. In addition, the court may refer a record of the proceeding to the state Board of Professional Responsibility. If removal of the personal representative is ordered, the court shall also direct by order the disposition of the assets remaining in the name of, or under the control of, the personal representative being removed.

(c) If good cause is shown, the court shall enter an order so finding. An interested party may thereafter again petition the court for an order directing the personal representative and the attorney to show cause why the estate has not been closed pursuant to the provisions of sections 524.3-1001 to 524.3-1003.

(3) An attorney dismissed pursuant to this section and who is seeking attorney fees for services rendered to the estate has the burden of affirmatively proving that the estate has benefited from the services and that the benefits warrant the payment of the requested fee.

**History:** *1975 c 347 s 104; 1986 c 444*

#### **525.48 FINAL ACCOUNT, ATTORNEY FEES AND REPRESENTATIVE FEES.**

Any full or final account to distributees shall include a statement of attorney fees and representative fees. This statement shall include the total fees charged to date and estimated future fees to be charged.

**History:** *(8992-114) 1935 c 72 s 114; 1974 c 442 art 9 s 2; 1975 c 347 s 105*

**525.481** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.482** [Repealed, 1974 c 442 art 8 s 524.8-102]

#### **525.483 RECORDING DECREE.**

A certified copy of any decree of distribution may be filed for record in the office of the county recorder of any county. It shall not be necessary to pay real estate taxes in order to record such certified copy, but the same shall be first presented to the county auditor for entry upon the transfer record and shall have noted thereon "Transfer entered" over that person's official signature. Upon request, the court shall furnish a certified copy of any decree of distribution, omitting the description of any property except that specified in the request, but indicating omissions by the words "other property omitted." Such copy and its record shall have the same force and effect as to property therein described as though the entire decree had been so certified and recorded.

**History:** *(8992-117) 1935 c 72 s 117; 1976 c 181 s 2; 1986 c 444*

#### **525.484 PROPERTY OF DECEASED PERSONS TO BE TRANSFERRED TO REPRESENTATIVES OF FOREIGN COUNTRIES IN CERTAIN CASES.**

Whenever any person who is entitled to any property in an estate is a citizen of and a resident in any foreign country with the government of which the United States maintains diplomatic relations, the personal representative of the estate may deliver or pay such property to an accredited diplomatic or consular representative of the government of such foreign country for delivery or payment to such person, or, if such property has been deposited with the county treasurer pursuant to section 524.3-914, the court upon application as therein provided shall grant its order authorizing and directing the county auditor to issue a warrant to the county treasurer to pay such money or deliver such property to such accredited diplomatic or consular representative, and the personal representative of such estate or the county treasurer shall be discharged from that person's trust and all further liability thereunder upon filing the receipt of such diplomatic or consular representative for such property with such court, provided that such diplomatic or consular representative has been licensed by proper federal authority to receive such property of the nationals of such country, where such license is required.

This section shall not apply where such citizen of and resident in any such foreign country has appeared in person or by duly authorized representative other than such diplomatic or consular representative.

**History:** *1943 c 477 s 1,2; 1975 c 347 s 106; 1986 c 444*

**525.485** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.486** MS 1971 [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.486 TERMINATION OF TRUSTS; DISTRIBUTION.**

In any administration of an estate in probate, wherein the decedent died testate and has established a testamentary trust, and it appears to the court that the operative events have occurred whereby said trust is terminated prior to distribution in whole or in part, the court shall have jurisdiction in its discretion to adjudge and determine that said trust be terminated in whole or in part without further proceedings in any other court of general jurisdiction and may make its decree or order of distribution accordingly to the extent that the trust is no longer operative.

**History:** *1975 c 347 s 107*

**525.49** MS 1957 [Repealed, 1961 c 265 s 3]

**525.49** MS 1971 [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.491** MS 1957 [Repealed, 1961 c 265 s 3]

**525.491 ATTORNEY'S LIEN.**

When any attorney at law has been retained to appear for any heir or devisee, such attorney may perfect a lien upon the client's interest in the estate for compensation for such services as may have been rendered respecting such interest, by serving upon the personal representative before distribution is made, a notice of intent to claim a lien for agreed compensation, or the reasonable value of services. The perfecting of such a lien, as herein provided, shall have the same effect as the perfecting of a lien as provided in section 481.13, and such lien may be enforced and the amount thereupon determined in the manner therein provided.

**History:** *1961 c 265 s 2; 1975 c 347 s 108; 1986 c 444*

**525.50** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.501** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.502** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.503** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.504** MS 1971 [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.504** MS 1980 [Repealed, 1981 c 313 s 26]

**525.51** [Repealed, 1995 c 130 s 21]

**525.515 BASIS FOR ATTORNEY'S FEES.**

(a) Notwithstanding any law to the contrary, an attorney performing services for the estate at the instance of the personal representative, guardian or conservator shall have such compensation therefor out of the estate as shall be just and reasonable. This section shall apply to all probate proceedings.

(b) In determining what is a fair and reasonable attorney's fee effect shall be given to a prior agreement in writing by a testator concerning attorney fees. Where there is no prior agreement in writing with the testator consideration shall be given to the following factors in determining what is a fair and reasonable attorney's fee:

- (1) the time and labor required;
- (2) the experience and knowledge of the attorney;
- (3) the complexity and novelty of problems involved;
- (4) the extent of the responsibilities assumed and the results obtained; and
- (5) the sufficiency of assets properly available to pay for the services.

(c) An interested person who desires that the court review attorney fees shall seek review of attorney fees in the manner provided in section 524.3-721. In determining the reasonableness of the attorney fees, consideration shall be given to all the factors listed in clause (b) and the value of the estate shall not be the controlling factor.

**History:** *1971 c 497 s 8; Ex1971 c 48 s 50; 1974 c 442 art 9 s 3; 1975 c 347 s 111; 1976 c 2 s 146*

**525.52** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.521** [Repealed, 1975 c 347 s 144]

**525.522** [Repealed, 1975 c 347 s 144]

**525.523** [Repealed, 1975 c 347 s 144]

**525.524** [Repealed, 1975 c 347 s 144]

**525.525** [Repealed, 1975 c 347 s 144]

**525.526** [Repealed, 1975 c 347 s 144]

**525.527** [Repealed, 1975 c 347 s 144]

**525.528 FEDERAL ESTATE TAX; MARITAL DEDUCTION.**

Whenever the decedent leaves a surviving spouse or by law the spouse is presumed to have survived and the representative of the decedent's estate, and the decedent's trustee or any other fiduciary is permitted or required to exercise a discretion, even though stated as sole, absolute or uncontrolled, to select assets in kind at values other than their values at the date or dates of distribution thereof, including values to be determined in the discretion of the representative, trustee or other fiduciary and even though such discretion is stated as sole, absolute or uncontrolled, to satisfy a bequest or transfer within the meaning of the marital deduction provisions of section 2056 of the United States Internal Revenue Code or such cognate provisions of federal law as may hereafter be applicable, such representative, trustee or other fiduciary shall be subject to the general fiduciary obligation of fairness and pursuant thereto shall select assets fairly representative of appreciation or depreciation in the value of all property available on the date or dates of distribution for selection and distribution in satisfaction of such bequest or transfer, unless other language of the will or trust instrument expressly refers to this section and states that it shall not be applicable. This section shall apply to the estates of decedents dying after May 26, 1965, to trusts created after May 26, 1965, and to trusts, whenever created, which are revocable after May 26, 1965.

**History:** *1965 c 765 s 1*

**525.53** [Repealed, 1975 c 347 s 144]

**525.531** [Repealed, 1975 c 347 s 144]

**525.532** [Repealed, 2009 c 67 s 17]  
**525.539** [Repealed, 2003 c 12 art 2 s 8]  
**525.54** [Repealed, 2003 c 12 art 2 s 8]  
**525.541** [Repealed, 2003 c 12 art 2 s 8]  
**525.542** [Repealed, 2003 c 12 art 2 s 8]  
**525.543** [Repealed, 2003 c 12 art 2 s 8]  
**525.544** [Repealed, 2003 c 12 art 2 s 8]  
**525.545** [Repealed, 2003 c 12 art 2 s 8]  
**525.55** [Repealed, 2003 c 12 art 2 s 8]  
**525.5501** [Repealed, 2003 c 12 art 2 s 8]  
**525.551** [Repealed, 2003 c 12 art 2 s 8]  
**525.5515** [Repealed, 2003 c 12 art 2 s 8]  
**525.552** [Repealed, 2003 c 12 art 2 s 8]  
**525.56** [Repealed, 2003 c 12 art 2 s 8]  
**525.561** [Repealed, 2003 c 12 art 2 s 8]  
**525.562** [Repealed, 2003 c 12 art 2 s 8]  
**525.57** [Repealed, 2003 c 12 art 2 s 8]  
**525.58** [Repealed, 2003 c 12 art 2 s 8]  
**525.581** [Repealed, 2003 c 12 art 2 s 8]  
**525.582** [Repealed, 2003 c 12 art 2 s 8]  
**525.583** [Repealed, 2003 c 12 art 2 s 8]  
**525.59** [Repealed, 2003 c 12 art 2 s 8]  
**525.591** [Repealed, 2003 c 12 art 2 s 8]  
**525.60** [Repealed, 2003 c 12 art 2 s 8]  
**525.61** [Repealed, 2003 c 12 art 2 s 8]  
**525.611** [Repealed, 1980 c 493 s 40]  
**525.612** [Repealed, 1980 c 493 s 40]  
**525.613** [Repealed, 1980 c 493 s 40]  
**525.614** [Repealed, 1980 c 493 s 40]  
**525.615** [Repealed, 2003 c 12 art 2 s 8]

**525.6155** [Repealed, 2003 c 12 art 2 s 8]  
**525.616** [Repealed, 2003 c 12 art 2 s 8]  
**525.6165** [Repealed, 2003 c 12 art 2 s 8]  
**525.617** [Repealed, 2003 c 12 art 2 s 8]  
**525.6175** [Repealed, 2003 c 12 art 2 s 8]  
**525.618** [Repealed, 2003 c 12 art 2 s 8]  
**525.6185** [Repealed, 2003 c 12 art 2 s 8]  
**525.619** [Repealed, 2003 c 12 art 2 s 8]  
**525.6192** [Repealed, 2003 c 12 art 2 s 8]  
**525.6194** [Repealed, 2003 c 12 art 2 s 8]  
**525.6195** [Repealed, 2003 c 12 art 2 s 8]  
**525.6196** [Repealed, 2003 c 12 art 2 s 8]  
**525.6197** [Repealed, 2003 c 12 art 2 s 8]  
**525.6198** [Repealed, 2003 c 12 art 2 s 8]  
**525.6199** [Repealed, 2003 c 12 art 2 s 8]  
**525.62** [Repealed, 2003 c 12 art 2 s 8]  
**525.621** [Repealed, 1980 c 493 s 40]  
**525.63** [Repealed, 2003 c 12 art 2 s 8]  
**525.64** [Repealed, 2003 c 12 art 2 s 8]  
**525.641** [Repealed, 2003 c 12 art 2 s 8]  
**525.642** [Repealed, 2003 c 12 art 2 s 8]  
**525.65** [Repealed, 2003 c 12 art 2 s 8]  
**525.651** [Repealed, 2003 c 12 art 2 s 8]  
**525.652** [Repealed, 2003 c 12 art 2 s 8]  
**525.66** [Repealed, 2003 c 12 art 2 s 8]  
**525.661** [Repealed, 2003 c 12 art 2 s 8]  
**525.662** [Repealed, 2003 c 12 art 2 s 8]  
**525.67** [Repealed, 2003 c 12 art 2 s 8]  
**525.68** [Repealed, 2003 c 12 art 2 s 8]  
**525.69** [Repealed, 2003 c 12 art 2 s 8]

**525.691** [Repealed, 2003 c 12 art 2 s 8]

**525.692** [Repealed, 2003 c 12 art 2 s 8]

**525.693** [Repealed, 1975 c 347 s 144]

**525.70** [Repealed, 2003 c 12 art 2 s 8]

**525.701** [Repealed, 1975 c 347 s 144]

**525.702** [Repealed, 2003 c 12 art 2 s 8]

**525.703** [Repealed, 2003 c 12 art 2 s 8]

**525.705** [Repealed, 2003 c 12 art 2 s 8]

## APPEALS

### **525.71 APPEALABLE ORDERS.**

(a) Appeals to the Court of Appeals may be taken from any of the following orders, judgments, and decrees issued by a judge of the court under this chapter or chapter 524:

- (1) an order admitting, or refusing to admit, a will to probate;
- (2) an order appointing, or refusing to appoint, or removing, or refusing to remove, a representative other than a special administrator, temporary or emergency guardian, agent, or conservator;
- (3) an order authorizing, or refusing to authorize, the sale, mortgage, or lease of real estate, or confirming, or refusing to confirm, the sale or lease of real estate;
- (4) an order directing, or refusing to direct, a conveyance or lease of real estate under contract;
- (5) an order permitting, or refusing to permit, the filing of a claim, or allowing or disallowing a claim or counterclaim, in whole or in part, when the amount in controversy exceeds \$100;
- (6) an order setting apart, or refusing to set apart, property, or making, or refusing to make, an allowance for the spouse or children;
- (7) an order determining, or refusing to determine, venue; an order transferring, or refusing to transfer, venue;
- (8) an order directing, or refusing to direct, the payment of a bequest or distributive share when the amount in controversy exceeds \$100;
- (9) an order allowing, or refusing to allow, an account of a representative or any part of it when the amount in controversy exceeds \$100;
- (10) an order adjudging a person in contempt;
- (11) an order vacating, or refusing to vacate, a previous appealable order, judgment, or decree alleged to have been procured by fraud or misrepresentation, or through surprise or excusable inadvertence or neglect;
- (12) a judgment or decree of partial or final distribution or an order determining or confirming distribution or any order of general protection;



(13) an order entered pursuant to section 578.17;

(14) an order granting or denying restoration to capacity;

(15) an order made directing, or refusing to direct, the payment of representative's fees or attorneys' fees, and in such case the representative and the attorney shall each be deemed an aggrieved party and entitled to appeal;

(16) an order, judgment, or decree relating to or affecting estate taxes or refusing to amend, modify, or vacate such an order, judgment, or decree; and

(17) an order extending the time for the settlement of the estate beyond five years from the date of the appointment of the representative.

(b) Appeals to the Court of Appeals may also be taken from any other properly appealable order pursuant to the Rules of Civil Appellate Procedure.

(c) An order appointing, refusing to appoint, removing, or refusing to remove a temporary or emergency guardian under sections 524.5-204, paragraphs (b) and (c), 524.5-311, and 524.5-312, or temporary or emergency conservator or agent under sections 524.5-406, paragraph (g), and 524.5-412, or a special administrator under section 524.3-614, is not an appealable order under this section or the Rules of Civil Appellate Procedure.

**History:** (8992-164) 1935 c 72 s 164; 1939 c 270 s 9; 1941 c 411 s 1; 1963 c 740 s 24; 1974 c 447 s 4; 1975 c 347 s 135; 1979 c 303 art 3 s 38; 1983 c 247 s 186; 2004 c 146 art 2 s 8; 2012 c 143 art 3 s 38

**525.711** [Repealed, 1983 c 247 s 219]

#### **525.712 REQUISITES.**

The appeal may be taken under the Rules of Appellate Procedure by any person aggrieved after service by any party of written notice of the filing of the order, judgment, or decree appealed from, or if no written notice is 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 the Rules of Appellate Procedure.

**History:** (8992-166) 1935 c 72 s 166; 1937 c 435 s 21; 1953 c 476 s 1; 1980 c 344 s 1; 1987 c 346 s 17; 1996 c 305 art 1 s 116; 2000 c 362 s 4

**525.713** [Repealed, 1980 c 344 s 2]

#### **525.714 SUSPENSION BY APPEAL.**

The appeal shall suspend the operation of the order, judgment, or decree appealed from until the appeal is determined or the Court of Appeals orders otherwise. The Court of Appeals may require the appellant to give additional bond for the payment of damages which may be awarded against the appellant in consequence of the suspension, on the appellant's failure to obtain a reversal of the order, judgment, or decree appealed from. Nothing herein contained shall prevent the probate court from appointing special representatives nor prevent special representatives from continuing to act as such.

**History:** (8992-168) 1935 c 72 s 168; 1983 c 247 s 187; 1986 c 444

**525.72** [Repealed, 1980 c 344 s 2]

**525.73 AFFIRMANCE; REVERSAL.**

When the appellant fails to prosecute the appeal, or the order, judgment, or decree appealed from or reviewed is sustained, judgment shall be entered in the Court of Appeals affirming the decision of the court. Upon the filing in the court of a certified transcript of the judgment, the court shall proceed as if no appeal had been taken. If the order, judgment, or decree reviewed is reversed or modified, the Court of Appeals shall remand the case to the court with directions to proceed in conformity with its decision. Upon the filing in the court of a certified transcript of the judgment, it shall proceed as directed by the Court of Appeals.

**History:** (8992-170) 1935 c 72 s 170; 1983 c 247 s 188; 1986 c 444; 1995 c 189 s 8; 1996 c 277 s 1

**525.731 JUDGMENT; EXECUTION.**

The party prevailing on the appeal shall be entitled to costs and disbursements to be taxed as in a civil action. If judgment be rendered against the estate, they shall be an adjudicated claim against it. If judgment be rendered against an appellant other than the state, the Veterans' Administration, or representative appealing on behalf of the estate, judgment shall be entered against the appellant and the sureties on the appeal bond and execution may issue thereon.

**History:** (8992-171) 1935 c 72 s 171; 1986 c 444

**525.74** [Repealed, 1982 c 501 s 26; 1983 c 247 s 219]

**525.749** [Repealed, 1967 c 638 s 22]

**525.75** [Repealed, 1967 c 638 s 22]

**525.751** [Repealed, 1967 c 638 s 22]

**525.752** [Repealed, 1967 c 638 s 22]

**525.753** [Repealed, 1967 c 638 s 22]

**525.754** [Repealed, 1967 c 638 s 22]

**525.76** [Repealed, 1967 c 638 s 22]

**525.761** [Repealed, 1967 c 638 s 22]

**525.762** [Repealed, 1967 c 638 s 22]

**525.763** [Repealed, 1967 c 638 s 22]

**525.77** [Repealed, 1967 c 638 s 22]

**525.78** [Repealed, 1967 c 638 s 22]

**525.79** [Repealed, 1967 c 638 s 22]

**GENERAL PROVISIONS**

**525.80** MS 1971 [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.80 REPRESENTATIVE.**

As used in this chapter, the word "representative," unless the context otherwise indicates, includes personal representatives as that term is defined in chapter 524, guardians, and conservators.

**History:** *1975 c 347 s 136*

**525.805** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.81** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.82** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.83 NOTICE.**

When notice of hearing is required by any provision of this chapter by reference to this section, the notice shall be given once a week for three consecutive weeks in a legal newspaper designated by the petitioner in the county wherein the proceedings are pending; or, if no such designation be made, in any legal newspaper in the county; or, if the city of the decedent's residence is situated in more than one county, in any legal newspaper in the city. The first publication shall be had within two weeks after the date of the order fixing the time and place for the hearing.

At least 14 days prior to the date fixed for hearing the petitioner, the petitioner's attorney or agent, shall in guardianship or conservatorship mail a copy of the notice to the ward or conservatee, and other persons as the court may direct and in decedents' estates shall mail a copy of the notice to each heir, devisee, and legatee whose name and address are known.

Proof of publication and mailing shall be filed before the hearing. No defect in any notice nor in the publication or service thereof shall invalidate any proceedings.

**History:** *(8992-188) 1935 c 72 s 188; 1941 c 422 s 1; 1957 c 30 s 1; 1971 c 497 s 7; 1973 c 123 art 5 s 7; 1973 c 404 s 1; 1975 c 347 s 137; 1980 c 493 s 25; 1986 c 444*

**525.831 NOTICE TO ATTORNEY GENERAL OF DEVISES FOR CHARITABLE PURPOSES.**

Whenever a will provides for a devise for a charitable purpose, as defined in section 501B.35, subdivision 2, the personal representative shall provide the attorney general with the notices or documents, if any, required by section 501B.41, subdivision 5.

**History:** *1978 c 601 s 28; 1989 c 340 art 2 s 5*

**525.84 ERRONEOUS ESCHEAT.**

When any property has escheated to the state because the decedent left surviving no spouse nor kindred or because of the failure of a devisee or legatee to receive under a will admitted to probate, or when application is made to prove a will disposing of property escheated to the state, upon the petition of the representative or any person interested in the estate and upon 20 days' notice to the attorney general and to such other persons as the court may direct, the court may admit the will to probate as provided by law, or make its determination of heirship and enter its order assigning the escheated property to the persons entitled thereto.

**History:** *(8992-189) 1935 c 72 s 189; 1975 c 347 s 138*

**525.841 ESCHEAT RETURNED.**

In all such cases the commissioner of management and budget shall be furnished with a certified copy of the court's order assigning the escheated property to the persons entitled thereto, and upon notification of payment of the estate tax, the commissioner of management and budget shall draw a warrant or execute a proper conveyance to the persons designated in such order. In the event any escheated property has been sold pursuant to sections 11A.04, clause (9), and 11A.10, subdivision 2, or 16B.281 to 16B.287, then the warrant shall be for the appraised value as established during the administration of the decedent's estate. There is hereby annually appropriated from any moneys in the state treasury not otherwise appropriated an amount sufficient to make payment to all such designated persons. No interest shall be allowed on any amount paid to such persons.

**History:** (8992-190) 1935 c 72 s 190; 1957 c 861 s 8; 1973 c 492 s 14; 1975 c 347 s 139; 1979 c 303 art 3 s 40; 1980 c 607 art 14 s 46; 1986 c 444; 2003 c 112 art 2 s 49; 2004 c 262 art 1 s 40; 2009 c 101 art 2 s 109

**525.85 DISCLOSURE PROCEEDINGS.**

Upon the filing of a petition by the representative or any person interested in the estate, alleging that any person has concealed, converted, embezzled, or disposed of any property belonging to the estate of a decedent or that any person has possession or knowledge of any will or codicil of such decedent, or of any instruments in writing relating to such property, the court, upon such notice as it may direct may order such person to appear before it for disclosure. Refusal to appear or submit to examination, or failure to obey any lawful order based thereon shall constitute contempt of court.

**History:** (8992-191) 1935 c 72 s 191

**525.86** [Repealed, 1975 c 347 s 144]

**525.87** [Repealed, 1975 c 347 s 144]

**525.88 STATE PATENTS.**

Where patents for public lands have been or may be issued, in pursuance of any law of this state, to a person who has died before the date of such patent, the title to the land designated therein shall inure to and become vested in the heirs, devisees, or assignees of such deceased patentees as if the patent had been issued to the deceased person during life.

**History:** (8992-194) 1935 c 72 s 194

**525.881 FEDERAL PATENTS.**

When any person holding a homestead or tree claim entry under the laws of the United States has died before making final proof and final proof has afterwards been made by the heirs, devisees, or representatives, and a patent has been granted to the "heirs" or "devisees," the district court of the county in which the real estate so patented is situated, may determine who are such heirs or devisees, and may determine their respective shares in such homestead or tree claim. The provisions of the Code of Civil Procedure relating to the determination of adverse claims to real estate in so far as the same may be applicable, shall pertain to and govern the procedure in the action provided for in this section.

**History:** (8992-195) 1921 c 36 s 2; 1935 c 72 s 195; 1986 c 444

**525.89** [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.90** MS 1992 [Renumbered 524.2-702]

**525.91** MS 1971 [Repealed, 1974 c 442 art 8 s 524.8-102]

**525.91 LETTERS, CONTENTS.**

All letters issued by the courts to representatives of estates of deceased persons shall state the date of death of the deceased.

**History:** *1975 c 347 s 140*

**525.921** Subdivision 1. MS 2006 [Repealed, 2007 c 120 art 2 s 5]

Subd. 1a. MS 2006 [Repealed, 2007 c 120 art 2 s 5]

Subd. 2. [Repealed, 1991 c 202 s 42]

Subd. 3. MS 2006 [Repealed, 2007 c 120 art 2 s 5]

Subd. 3a. MS 2006 [Repealed, 2007 c 120 art 2 s 5]

Subd. 4. MS 2006 [Repealed, 2007 c 120 art 2 s 5]

Subd. 4a. MS 2006 [Repealed, 2007 c 120 art 2 s 5]

Subd. 5. MS 2006 [Repealed, 2007 c 120 art 2 s 5]

Subd. 6. MS 2006 [Repealed, 2007 c 120 art 2 s 5]

Subd. 7. MS 2006 [Repealed, 2007 c 120 art 2 s 5]

Subd. 8. MS 2006 [Repealed, 2007 c 120 art 2 s 5]

Subd. 8a. MS 2006 [Repealed, 2007 c 120 art 2 s 5]

Subd. 9. MS 2006 [Repealed, 2007 c 120 art 2 s 5]

Subd. 10. MS 2006 [Repealed, 2007 c 120 art 2 s 5]

**525.9211** [Repealed, 2007 c 120 art 1 s 26; art 2 s 5]

**525.9212** [Repealed, 2007 c 120 art 1 s 26; art 2 s 5]

**525.9213** [Repealed, 2007 c 120 art 1 s 26; art 2 s 5]

**525.9214** [Repealed, 2007 c 120 art 1 s 26; art 2 s 5]

**525.9215** [Repealed, 2007 c 120 art 1 s 26; art 2 s 5]

**525.9216** [Repealed, 2007 c 120 art 1 s 26; art 2 s 5]

**525.9217** [Repealed, 2007 c 120 art 1 s 26; art 2 s 5]

**525.9218** [Repealed, 2007 c 120 art 1 s 26; art 2 s 5]

**525.9219** [Repealed, 2007 c 120 art 1 s 26; art 2 s 5]

**525.922** [Repealed, 1991 c 202 s 42]

**525.9221** [Repealed, 2007 c 120 art 1 s 26; art 2 s 5]

**525.9222** [Repealed, 2007 c 120 art 1 s 26; art 2 s 5]

**525.9223** [Repealed, 2007 c 120 art 1 s 26; art 2 s 5]

**525.9224** [Repealed, 2007 c 120 art 1 s 26; art 2 s 5]

**525.923** [Repealed, 1991 c 202 s 42]

**525.924** [Repealed, 1991 c 202 s 42]

**525.925** [Repealed, 1991 c 202 s 42]

**525.926** [Repealed, 1991 c 202 s 42]

**525.927** [Repealed, 1991 c 202 s 42]

**525.928** [Repealed, 1991 c 202 s 42]

**525.929** [Repealed, 1991 c 202 s 42]

**525.93** [Repealed, 1991 c 202 s 42]

**525.94** [Repealed, 1991 c 202 s 42]

#### **525.95 FIDUCIARY POWERS, SUSPENSION DURING WAR SERVICE.**

Subdivision 1. **Definitions.** The definitions in this subdivision apply to this section.

(a) "War service" includes the following, during a period when the United States is engaged in war or other major military engagement with a foreign nation:

(1) active membership in the military forces of the United States or any of its allies;

(2) acceptance for membership in the military forces of the United States or any of its allies and awaiting induction into that service;

(3) participation in work abroad in connection with a governmental agency of the United States or any of its allies, with the Red Cross, or with a similar service;

(4) internment by an enemy or absence from the United States and inability to return; and

(5) service arising out of or in connection with the war or other major military engagement, which in the opinion of the court prevents the fiduciary from giving the proper attention to duties.

(b) "Fiduciary" refers to a trustee of a testamentary trust or of an express trust, a guardian of a person or conservator of a person's estate, an executor of a will, an administrator of the estate of the decedent, a custodian under the Minnesota Uniform Transfers to Minors Act, or an advisor or consultant in a testamentary or express trust.

Subd. 2. **Powers of fiduciary may be suspended; petition.** A fiduciary who contemplates entering war service, a fiduciary who is engaged in war service, a cofiduciary, or an interested person may petition the proper court having jurisdiction in matters of that nature for the suspension of the powers and duties of the fiduciary during the period of war service and until the further order of the court, and may petition for the reinstatement of the fiduciary upon the fiduciary's return.

Subd. 3. **Notice of hearing.** Notice of the hearing on a petition under subdivision 2 must be given to persons and in the manner the court directs.

Subd. 4. **Hearing; order.** After a hearing on a petition under subdivision 2 or in the case of an executor, administrator, or guardian on the court's own motion, the court may:

(1) order the suspension of the powers and duties of the fiduciary who is in war service for the period of the war service and until the further order of the court;

(2) appoint a successor fiduciary to serve for the period of suspension of the powers and duties of the fiduciary and until the further order of the court, if upon suspension of powers and duties, there is no fiduciary to exercise the powers and duties of the fiduciary who is in war service, or if in the opinion of the court the appointment of a cofiduciary is advisable;

(3) decree that the ownership and title to the trust property vests in the successor fiduciary or cofiduciary, as the case may be, and that the duties, powers, and discretions, or those of the powers and discretions that are not personal to the fiduciary, may be exercised by the cofiduciary or successor fiduciary;

(4) make other orders the court considers advisable with respect to the trust estate or its administration, and authorize a reasonable compensation to the successor fiduciary; or

(5) reserve jurisdiction for the entry of further orders and for the reinstatement of the fiduciary.

Upon petition, the court shall order the reinstatement of the fiduciary when the fiduciary's war service has terminated if it appears that the trust is not fully executed or administration of the estate is not completed.

Subd. 5. **Responsibility of fiduciary.** The fiduciary has no responsibility for the acts and doings of the cofiduciary or successor fiduciary during the period of the suspension of the fiduciary's powers and duties, but is not relieved of responsibility for the fiduciary's own acts or doings in the administration of the trust fund or estate. A successor fiduciary appointed under this section is not responsible for the acts of the predecessor fiduciary.

**History:** 1989 c 340 art 1 s 75; 2005 c 10 art 4 s 24