524.3-801 NOTICE TO CREDITORS.

(a) Unless notice has already been given under this section, upon appointment of a general personal representative in informal proceedings or upon the filing of a petition for formal appointment of a general personal representative, notice thereof, in the form prescribed by court rule, shall be given under the direction of the court administrator by publication once a week for two successive weeks in a legal newspaper in the county wherein the proceedings are pending giving the name and address of the general personal representative and notifying creditors of the estate to present their claims within four months after the date of the court administrator's notice which is subsequently published or be forever barred, unless they are entitled to further service of notice under paragraph (b) or (c).

(b) The personal representative shall, within three months after the date of the first publication of the notice, serve a copy of the notice upon each then known and identified creditor in the manner provided in paragraph (c). If the decedent or a predeceased spouse of the decedent received assistance for which a claim could be filed under section 246.53, 256B.15, 256D.16, or 261.04, notice to the commissioner of human services or Direct Care and Treatment executive board, as applicable, must be given under paragraph (d) instead of under this paragraph or paragraph (c). A creditor is "known" if: (i) the personal representative knows that the creditor has asserted a claim that arose during the decedent's life against either the decedent or the decedent's estate; (ii) the creditor has asserted a claim that arose during the decedent's life and the fact is clearly disclosed in accessible financial records known and available to the personal representative; or (iii) the claim of the creditor would be revealed by a reasonably diligent search for creditors of the decedent in accessible financial records known and available to the personal representative. Under this section, a creditor is "identified" if the personal representative's knowledge of the name and address of the creditor will permit service of notice to be made under paragraph (c).

(c) Unless the claim has already been presented to the personal representative or paid, the personal representative shall serve a copy of the notice required by paragraph (b) upon each creditor of the decedent who is then known to the personal representative and identified either by delivery of a copy of the required notice to the creditor, or by mailing a copy of the notice to the creditor by certified, registered, or ordinary first class mail addressed to the creditor at the creditor's office or place of residence.

(d)(1) Effective for decedents dying on or after July 1, 1997, if the decedent or a predeceased spouse of the decedent received assistance for which a claim could be filed under section 246.53, 256B.15, 256D.16, or 261.04, the personal representative or the attorney for the personal representative shall serve the commissioner or executive board, as applicable, with notice in the manner prescribed in paragraph (c), or electronically in a manner prescribed by the commissioner or executive board, as soon as practicable after the appointment of the personal representative. The notice must state the decedent's full name, date of birth, and Social Security number and, to the extent then known after making a reasonably diligent inquiry, the full name, date of birth, and Social Security number for each of the decedent's predeceased spouses. The notice may also contain a statement that, after making a reasonably diligent inquiry, the personal representative has determined that the decedent did not have any predeceased spouses or that the personal representative has been unable to determine one or more of the previous items of information for a predeceased spouse of the decedent. A copy of the notice to creditors must be attached to and be a part of the notice to the commissioner or executive board.

(2) Notwithstanding a will or other instrument or law to the contrary, except as allowed in this paragraph, no property subject to administration by the estate may be distributed by the estate or the personal representative until 70 days after the date the notice is served on the commissioner or executive board as provided in paragraph (c), unless the local agency consents as provided for in clause (6). This restriction on distribution does not apply to the personal representative's sale of real or personal property, but does apply

to the net proceeds the estate receives from these sales. The personal representative, or any person with personal knowledge of the facts, may provide an affidavit containing the description of any real or personal property affected by this paragraph and stating facts showing compliance with this paragraph. If the affidavit describes real property, it may be filed or recorded in the office of the county recorder or registrar of titles for the county where the real property is located. This paragraph does not apply to proceedings under sections 524.3-1203 and 525.31, or when a duly authorized agent of a county is acting as the personal representative of the estate.

(3) At any time before an order or decree is entered under section 524.3-1001 or 524.3-1002, or a closing statement is filed under section 524.3-1003, the personal representative or the attorney for the personal representative may serve an amended notice on the commissioner or executive board to add variations or other names of the decedent or a predeceased spouse named in the notice, the name of a predeceased spouse omitted from the notice, to add or correct the date of birth or Social Security number of a decedent or predeceased spouse named in the notice, or to correct any other deficiency in a prior notice. The amended notice must state the decedent's name, date of birth, and Social Security number, the case name, case number, and district court in which the estate is pending, and the date the notice being amended was served on the commissioner or executive board. If the amendment adds the name of a predeceased spouse omitted from the notice, it must also state that spouse's full name, date of birth, and Social Security number. The amended notice must be served on the commissioner or executive board in the same manner as the original notice. Upon service, the amended notice relates back to and is effective from the date the notice it amends was served, and the time for filing claims arising under section 246.53, 256B.15, 256D.16 or 261.04 is extended by 60 days from the date of service of the amended notice. Claims filed during the 60-day period are undischarged and unbarred claims, may be prosecuted by the entities entitled to file those claims in accordance with section 524.3-1004, and the limitations in section 524.3-1006 do not apply. The personal representative or any person with personal knowledge of the facts may provide and file or record an affidavit in the same manner as provided for in clause (1).

(4) Within one year after the date an order or decree is entered under section 524.3-1001 or 524.3-1002 or a closing statement is filed under section 524.3-1003, any person who has an interest in property that was subject to administration by the estate may serve an amended notice on the commissioner or executive board to add variations or other names of the decedent or a predeceased spouse named in the notice, the name of a predeceased spouse omitted from the notice, to add or correct the date of birth or Social Security number of a decedent or predeceased spouse named in the notice, or to correct any other deficiency in a prior notice. The amended notice must be served on the commissioner or executive board in the same manner as the original notice and must contain the information required for amendments under clause (3). If the amendment adds the name of a predeceased spouse omitted from the notice, it must also state that spouse's full name, date of birth, and Social Security number. Upon service, the amended notice relates back to and is effective from the date the notice it amends was served. If the amended notice adds the name of an omitted predeceased spouse or adds or corrects the Social Security number or date of birth of the decedent or a predeceased spouse already named in the notice, then, notwithstanding any other laws to the contrary, claims against the decedent's estate on account of those persons resulting from the amendment and arising under section 246.53, 256B.15, 256D.16, or 261.04 are undischarged and unbarred claims, may be prosecuted by the entities entitled to file those claims in accordance with section 524.3-1004, and the limitations in section 524.3-1006 do not apply. The person filing the amendment or any other person with personal knowledge of the facts may provide and file or record an affidavit describing affected real or personal property in the same manner as clause (1).

(5) After one year from the date an order or decree is entered under section 524.3-1001 or 524.3-1002, or a closing statement is filed under section 524.3-1003, no error, omission, or defect of any kind in the

notice to the commissioner or executive board required under this paragraph or in the process of service of the notice on the commissioner or executive board, or the failure to serve the commissioner or executive board with notice as required by this paragraph, makes any distribution of property by a personal representative void or voidable. The distributee's title to the distributed property shall be free of any claims based upon a failure to comply with this paragraph.

(6) The local agency may consent to a personal representative's request to distribute property subject to administration by the estate to distributees during the 70-day period after service of notice on the commissioner or executive board. The local agency may grant or deny the request in whole or in part and may attach conditions to its consent as it deems appropriate. When the local agency consents to a distribution, it shall give the estate a written certificate evidencing its consent to the early distribution of assets at no cost. The certificate must include the name, case number, and district court in which the estate is pending, the name of the local agency, describe the specific real or personal property to which the consent applies, state that the local agency consents to the distribution of the specific property described in the consent during the 70-day period following service of the notice on the commissioner or executive board, state that the consent is unconditional or list all of the terms and conditions of the consent, be dated, and may include other contents as may be appropriate. The certificate must be signed by the director of the local agency or the director's designees and is effective as of the date it is dated unless it provides otherwise. The signature of the director or the director's designee does not require any acknowledgment. The certificate shall be prima facie evidence of the facts it states, may be attached to or combined with a deed or any other instrument of conveyance and, when so attached or combined, shall constitute a single instrument. If the certificate describes real property, it shall be accepted for recording or filing by the county recorder or registrar of titles in the county in which the property is located. If the certificate describes real property and is not attached to or combined with a deed or other instrument of conveyance, it shall be accepted for recording or filing by the county recorder or registrar of titles in the county in which the property is located. The certificate constitutes a waiver of the 70-day period provided for in clause (2) with respect to the property it describes and is prima facie evidence of service of notice on the commissioner or executive board. The certificate is not a waiver or relinquishment of any claims arising under section 246.53, 256B.15, 256D.16, or 261.04, and does not otherwise constitute a waiver of any of the personal representative's duties under this paragraph. Distributees who receive property pursuant to a consent to an early distribution shall remain liable to creditors of the estate as provided for by law.

(7) All affidavits provided for under this paragraph:

(i) shall be provided by persons who have personal knowledge of the facts stated in the affidavit;

(ii) may be filed or recorded in the office of the county recorder or registrar of titles in the county in which the real property they describe is located for the purpose of establishing compliance with the requirements of this paragraph; and

(iii) are prima facie evidence of the facts stated in the affidavit.

(8) This paragraph applies to the estates of decedents dying on or after July 1, 1997. Clause (5) also applies with respect to all notices served on the commissioner of human services before July 1, 1997, under Laws 1996, chapter 451, article 2, section 55. All notices served on the commissioner before July 1, 1997, pursuant to Laws 1996, chapter 451, article 2, section 55, shall be deemed to be legally sufficient for the purposes for which they were intended, notwithstanding any errors, omissions or other defects.

History: *1975 c 347 s 58; 1Sp1986 c 3 art 1 s 82; 1989 c 163 s 1; 1996 c 451 art 2 s 55; 1997 c 217 art 2 s 16; 2000 c 400 s 6; 2008 c 341 art 4 s 3; 2024 c 79 art 9 s 20; 2024 c 127 art 55 s 15*