CHAPTER 524

UNIFORM PROBATE CODE

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524.1-100 MS 2006 [Renumbered 15.001]

Article 1
GENERAL PROVISIONS, DEFINITIONS AND PROBATE JURISDICTION OF COURT
Part 1
CITATION, CONSTRUCTION, GENERAL PROVISIONS

524.1-101 CITATION AND NUMBERING SYSTEM.

This chapter shall be known and may be cited as the "Uniform Probate Code." It is arranged and numbered, subject however to the provisions of section 3C.10, subdivision 1, so that the enacted chapter may be compiled in the next published edition of Minnesota Statutes without change and in conformity with the official numbering of the Uniform Probate Code. The articles of Laws 1974, Chapter 442 are numbered out of sequence to facilitate the possible inclusion of other articles of the probate code in one chapter.

History: *1974 c 442 art 1 s 524.1-101; 1984 c 480 s 19; 1984 c 655 art 2 s 19 subd 7*

524.1-102 PURPOSES; RULE OF CONSTRUCTION.

(a) This chapter and chapter 525 shall be liberally construed and applied to promote the underlying purposes and policies.

(b) The underlying purposes and policies of this chapter and chapter 525 are:

(1) to simplify and clarify the law concerning the affairs of decedents, missing persons, protected persons, minors and incapacitated persons;

(2) to discover and make effective the intent of a decedent in distribution of property;

(3) to promote a speedy and efficient system for liquidating the estate of the decedent and making distribution to successors;

(4) to make uniform the law among the various jurisdictions.

History: *1974 c 442 art 1 s 524.1-102; 1975 c 347 s 12; 1986 c 444*

524.1-103 SUPPLEMENTARY GENERAL PRINCIPLES OF LAW APPLICABLE.

Unless displaced by the particular provisions of this chapter, the principles of law and equity supplement its provisions.

History: *1974 c 442 art 1 s 524.1-103*

524.1-104 SEVERABILITY.

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

History: *1974 c 442 art 1 s 524.1-104*

524.1-105 MS 1974 [Repealed, 1975 c 347 s 144]

524.1-106 EFFECT OF FRAUD AND EVASION.

Whenever fraud has been perpetrated in connection with any proceeding or in any statement filed under this chapter or if fraud is used to avoid or circumvent the provisions or purposes of this chapter, any person injured thereby may obtain appropriate relief against the perpetrator of the fraud or restitution from any person, other than a bona fide purchaser, benefiting from the fraud, whether innocent or not. Any proceeding must be commenced within two years after the discovery of the fraud, but no proceeding may be brought against one not a perpetrator of the fraud later than five years after the time of commission of the fraud. This section has no bearing on remedies relating to fraud practiced on a decedent while living which affects the succession of the estate.

History: *1974 c 442 art 1 s 524.1-106; 1986 c 444*

524.1-107 EVIDENCE AS TO DEATH OR STATUS.

In proceedings under chapter 524 the Rules of Evidence in courts of general jurisdiction including any relating to simultaneous deaths, are applicable unless specifically displaced by this chapter. In addition, the following rules relating to determination of death and status are applicable:

(1) a certified or authenticated copy of a death record purporting to be issued by an official or agency of the place where the death purportedly occurred is prima facie proof of the fact, place, date and time of death and the identity of the decedent;

(2) a certified or authenticated copy of any record or report of a governmental agency, domestic or foreign, that a person is missing, detained, dead, or alive is prima facie evidence of the status and of the dates, circumstances and places disclosed by the record or report;

(3) the provisions of section 578.16 shall govern the presumption of death of a person whose absence is not satisfactorily explained.

History: *1974 c 442 art 1 s 524.1-107; 1975 c 347 s 13; 1Sp2001 c 9 art 15 s 32; 2012 c 143 art 3 s 38*

524.1-108 ACTS BY HOLDER OF GENERAL POWER.

For the purpose of granting consent or approval with regard to the acts or accounts of a personal representative or trustee, including relief from liability or penalty for failure to post bond or to perform other duties, and for purposes of consenting to modification or termination of a trust or to deviation from its terms, the sole holder or all coholders of a presently exercisable general power of appointment, including one in the form of a power of amendment or revocation, are deemed to act for beneficiaries to the extent their interests as objects, takers in default, or otherwise, are subject to the power.

History: *1974 c 442 art 1 s 524.1-108; 1975 c 347 s 14*

Part 2
DEFINITIONS

524.1-201 GENERAL DEFINITIONS.

Subject to additional definitions contained in the subsequent articles which are applicable to specific articles or parts, and unless the context otherwise requires, in chapters 524 and 525:

(1) "Adoptee" means an individual who is adopted.

(2) "Application" means a written request to the registrar for an order of informal probate or appointment under article III, part 3.

(3) "Assisted reproduction" means a method of causing pregnancy other than sexual intercourse.

(4) "Beneficiary," as it relates to trust beneficiaries, includes a person who has any present or future interest, vested or contingent, and also includes the owner of an interest by assignment or other transfer and as it relates to a charitable trust, includes any person entitled to enforce the trust.

(5) "Birth mother" means a woman who gives birth to a child, including a woman who is the child's genetic mother and including a woman who gives birth to a child of assisted reproduction. "Birth mother" does not include a woman who gives birth pursuant to a gestational agreement.

(6) "Child" includes any individual entitled to take as a child under law by intestate succession from the parent whose relationship is involved and excludes any person who is only a stepchild, a foster child, a grandchild or any more remote descendant.

(7) "Child of assisted reproduction" means a child conceived by means of assisted reproduction by a woman other than a child conceived pursuant to a gestational agreement.

(8) "Claims" includes liabilities of the decedent whether arising in contract or otherwise and liabilities of the estate which arise after the death of the decedent including funeral expenses and expenses of administration. The term does not include taxes, demands or disputes regarding title of a decedent to specific assets alleged to be included in the estate, tort claims, foreclosure of mechanic's liens, or to actions pursuant to section 573.02.

(9) "Court" means the court or branch having jurisdiction in matters relating to the affairs of decedents. This court in this state is known as the district court.

(10) "Conservator" means a person who is appointed by a court to manage the estate of a protected person.

(11) "Descendant" of an individual means all of the individual's descendants of all generations, with the relationship of parent and child at each generation being determined by the definition of child and parent contained in this section.

(12) "Devise," when used as a noun, means a testamentary disposition of real or personal property and when used as a verb, means to dispose of real or personal property by will.

(13) "Devisee" means any person designated in a will to receive a devise. In the case of a devise to an existing trust or trustee, or to a trustee on trust described by will, the trust or trustee is the devisee and the beneficiaries are not devisees.

(14) "Disability" means cause for appointment of a conservator as described in section 524.5-401, or a protective order as described in section 524.5-412.

(15) "Distributee" means any person who has received or who will receive property of a decedent from the decedent's personal representative other than as a creditor or purchaser. A testamentary trustee is a distributee with respect to property which the trustee has received from a personal representative only to the extent of distributed assets or their increment remaining in the trustee's hands. A beneficiary of a testamentary trust to whom the trustee has distributed property received from a personal representative is a distributee of the personal representative. For purposes of this provision, "testamentary trustee" includes a trustee to whom assets are transferred by will, to the extent of the devised assets.

(16) "Divorce" includes an annulment, dissolution, and declaration of invalidity of marriage.

(17) "Electronic will" means a will or codicil that (i) is created, signed, or maintained in an electronic, digital, magnetic, wireless, optical, electromagnetic, or other similar medium, (ii) is retrievable in perceivable form, and (iii) is capable of verification that the writing of the electronic will has not been altered after its signing.

(18) "Estate" includes all of the property of the decedent, trust, or other person whose affairs are subject to this chapter as originally constituted and as it exists from time to time during administration.

(19) "Fiduciary" includes personal representative, guardian, conservator and trustee.

(20) "Foreign personal representative" means a personal representative of another jurisdiction.

(21) "Formal proceedings" means those conducted before a judge with notice to interested persons.

(22) "Functioned as a parent of the child" means behaving toward a child in a manner consistent with being the child's parent and performing functions that are customarily performed by a parent, including fulfilling parental responsibilities toward the child, recognizing or holding out the child as the individual's child, materially participating in the child's upbringing, and residing with the child in the same household as a regular member of that household.

(23) "Genetic father" means the man whose sperm fertilized the egg of a child's genetic mother. If the father-child relationship is established under the presumption of paternity under chapter 257, "genetic father" means only the man for whom that relationship is established.

(24) "Genetic mother" means the woman whose egg was fertilized by the sperm of a child's genetic father.

(25) "Genetic parent" means a child's genetic father or genetic mother.

(26) "Gestational agreement" means an agreement for assisted reproduction in which a woman agrees to carry a child to birth for an intended parent or intended parents.

(27) "Governing instrument" means a deed; will; trust; insurance or annuity policy; account with POD designation; security registered in beneficiary form (TOD); transfer on death (TOD) deed; pension, profit-sharing, retirement, or similar benefit plan; instrument creating or exercising a power of appointment or a power of attorney; or a dispositive, appointive, or nominative instrument of any similar type.

(28) "Guardian" means a person who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment, but excludes one who is merely a guardian ad litem.

(29) "Heirs" means those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.

(30) "Incapacitated person" is as described in section 524.5-102, subdivision 6, other than a minor.

(31) "Incapacity" when used in sections 524.2-114 to 524.2-120 means the inability of an individual to function as a parent of a child because of the individual's physical or mental condition.

(32) "Informal proceedings" means those conducted by the judge, the registrar, or the person or persons designated by the judge for probate of a will or appointment of a personal representative in accordance with sections 524.3-301 to 524.3-311.

(33) "Intended parent" means an individual who entered into a gestational agreement providing that the individual will be the parent of a child born to a woman by means of assisted reproduction, including an individual who has a genetic relationship with the child.

(34) "Interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries and any others having a property right in or claim against the estate of a decedent, ward or protected person which may be affected by the proceeding. It also includes persons having priority for appointment as personal representative, and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding.

(35) "Lease" includes an oil, gas, or other mineral lease.

(36) "Letters" includes letters testamentary, letters of guardianship, letters of administration, and letters of conservatorship.

(37) "Mortgage" means any conveyance, agreement or arrangement in which property is used as security.

(38) "Nonresident decedent" means a decedent who was domiciled in another jurisdiction at the time of death.

(39) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal entity.

(40) "Person" means an individual, a corporation, an organization, or other legal entity.

(41) "Personal representative" includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status. "General personal representative" excludes special administrator.

(42) "Petition" means a written request to the court for an order after notice.

(43) "Presence" or "conscious presence" for purposes of sections 524.2-501 to 524.2-517 means either:

(i) an individual being in a physical location in relation to the testator that allows the individual to see and hear the testator; or

(ii) an individual being in a state and communicating simultaneously with the testator by means of an electronic device or process by sight and sound to substantially the same extent as if the individual were in a physical location in relation to the testator that would allow an individual to see and hear the testator, allowing for reasonable accommodation for individuals with hearing, vision, or speech impairments as necessary.

(44) "Proceeding" includes action at law and suit in equity.

(45) "Property" includes both real and personal property or any interest therein and means anything that may be the subject of ownership.

(46) "Protected person" is as described in section 524.5-102, subdivision 14.

(47) "Registrar" refers to the judge of the court or the person designated by the court to perform the functions of registrar as provided in section 524.1-307.

(48) "Relative" means a grandparent or a descendant of a grandparent.

(49) "Security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing.

(50) "Settlement," in reference to a decedent's estate, includes the full process of administration, distribution and closing.

(51) "Signed" or "signing" for testators and witnesses for purposes of sections 524.2-501 to 524.2-517 means either:

(i) the physical act of applying a signature or mark on the tangible medium upon which a writing is located; or

(ii) to affix to or to logically associate with a writing an electronic symbol, signature, mark, or process with the intent to execute, witness, or authenticate the writing.

(52) "Special administrator" means a personal representative as described by sections 524.3-614 to 524.3-618.

(53) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

(54) "Successor personal representative" means a personal representative, other than a special administrator, who is appointed to succeed a previously appointed personal representative.

(55) "Successors" means those persons, other than creditors, who are entitled to property of a decedent under the decedent's will, this chapter or chapter 525. "Successors" also means a funeral director or county government that provides the funeral and burial of the decedent, or a state or county agency with a claim authorized under section 256B.15.

(56) "Supervised administration" refers to the proceedings described in sections 524.3-501 to 524.3-505.

(57) "Testacy proceeding" means a proceeding to establish a will or determine intestacy.

(58) "Third-party donor" means an individual who produces eggs or sperm used for assisted reproduction, whether or not for consideration. The term does not include:

(i) a spouse who provides sperm, or a spouse who provides eggs, that are used for assisted reproduction by the spouse;

(ii) the birth mother of a child of assisted reproduction; or

(iii) a man who has been determined under section 524.2-120, subdivision 4 or 5, to have a parent-child relationship with a child of assisted reproduction.

(59) "Trust" includes any express trust, private or charitable, with additions thereto, wherever and however created. It also includes a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust. "Trust" excludes other constructive trusts, and it excludes resulting trusts, conservatorships, personal representatives, trust accounts as defined in chapter

528, custodial arrangements pursuant to sections 149A.97, 318.01 to 318.06, 527.21 to 527.44, business trusts providing for certificates to be issued to beneficiaries, common trust funds, voting trusts, security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind, and any arrangement under which a person is nominee or escrowee for another.

(60) "Trustee" includes an original, additional, or successor trustee, whether or not appointed or confirmed by court.

(61) "Ward" is as described in section 524.5-102, subdivision 17.

(62) "Will" includes an electronic will, any codicil to a will or electronic will, and any testamentary instrument which merely appoints an executor or revokes or revises another will, electronic will, or codicil.

(63) "Witnessing" for purposes of sections 524.2-501 to 524.2-517 means observing or authenticating the testator's signing or acknowledgment of signing a will by individuals in the presence of the testator at the time of the testator's signing or acknowledgment of signing the will.

(64) "Writing," "written instrument," or "written statement," for purposes of sections 524.1-201 and 524.2-501 to 524.2-517, means any reasonably permanent record that is readable as text at the time of signing and is retrievable in perceivable form, including any information that is: (i) inscribed on a tangible medium; or (ii) stored in an electronic, digital, magnetic, wireless, optical, electromagnetic, or other similar medium.

History: *1974 c 442 art 1 s 524.1-201; 1975 c 347 s 15; 1978 c 525 s 1; 1986 c 444; 1987 c 384 art 2 s 1; 1992 c 423 s 2; 1994 c 472 s 1; 1995 c 130 s 11; 1995 c 186 s 119; 1995 c 189 s 8; 1996 c 277 s 1; 1997 c 215 s 45; 1997 c 217 art 2 s 15; 2004 c 146 art 3 s 40; 2010 c 334 s 5; 2016 c 135 art 2 s 21; 2023 c 21 s 1; 2024 c 101 art 3 s 2*

Part 3
SCOPE, JURISDICTION AND COURTS

524.1-301 TERRITORIAL APPLICATION.

Except as otherwise provided in this chapter, this chapter and chapter 525 apply to (1) the affairs and estates of decedents, missing persons, and persons to be protected, domiciled in this state, and (2) the property of nonresident decedents located in this state or property coming into the control of a fiduciary who is subject to the laws of this state.

History: *1974 c 442 art 1 s 524.1-301; 1975 c 347 s 16*

524.1-302 SUBJECT MATTER JURISDICTION.

(a) To the full extent permitted by the Constitution, the court has jurisdiction over all subject matter relating to estates of decedents, including construction of wills and determination of heirs and successors of decedents.

(b) The court has full power to make orders, judgments and decrees and take all other action necessary and proper to administer justice in the matters which come before it.

History: *1974 c 442 art 1 s 524.1-302; 1975 c 347 s 17*

524.1-303 VENUE; MULTIPLE PROCEEDINGS; TRANSFER.

(a) Where a proceeding under this chapter could be maintained in more than one place in this state, the court in which the proceeding is first commenced has the exclusive right to proceed.

(b) If proceedings concerning the same estate, protected person, conservatee, or ward are commenced in more than one court of this state, the court in which the proceeding was first commenced shall continue to hear the matter, and the other courts shall hold the matter in abeyance until the question of venue is decided, and if the ruling court determines that venue is properly in another court, it shall transfer the proceeding to the other court.

(c) If a court finds that in the interest of justice a proceeding or a file should be located in another court of this state, the court making the finding may transfer the proceeding or file to the other court.

History: *1974 c 442 art 1 s 524.1-303; 1975 c 347 s 18*

524.1-304 MS 1974 [Repealed, 1975 c 347 s 144]

524.1-304 PRACTICE IN COURT.

(a) Unless inconsistent with the provisions of this chapter or chapter 525, pleadings, practice, procedure and forms in all probate proceedings shall be governed insofar as practicable by Rules of Civil Procedure provided for in section 484.81 and adopted pursuant thereto.

(b) Notwithstanding paragraph (a), and in addition to its general powers, the court shall have power to correct, modify, vacate, or amend its records, orders, and decrees:

(1) at any time, for the correction of clerical error or pursuant to the provisions of section 524.3-413;

(2) within the time for taking an appeal, for the correction of judicial error;

(3) within two years after petitioner's discovery thereof, for fraud, whether intrinsic or extrinsic, or misrepresentation unless petitioner be a party to such fraud; or

(4) within two years after the date of filing of any record, order, or decree, for excusable neglect, inadvertence, or mistake.

In any case, the petitioner must proceed with due diligence and may be barred by laches or the court may deny relief where it appears that the granting thereof would be inequitable in view of all the facts and circumstances appearing.

History: *1977 c 157 s 1; 2009 c 117 art 1 s 1; 2011 c 76 art 1 s 62*

524.1-305 MS 1974 [Repealed, 1975 c 347 s 144]

524.1-306 JURY TRIAL.

(a) If duly demanded, a party is entitled to trial by jury in any proceeding in which any controverted question of fact arises as to which any party has a constitutional right to trial by jury.

(b) If there is no right to trial by jury under subsection (a) or the right is waived, the court in its discretion may call a jury to decide any issue of fact, in which case the verdict is advisory only.

History: *1974 c 442 art 1 s 524.1-306*

524.1-307 REGISTRAR; POWERS.

The acts and orders which this chapter specifies as performable by the registrar shall be performed by a judge of the court or by a person, including the court administrator, designated by the court by a written order filed and recorded in the office of the court.

In addition to acts specified in this chapter to be performed by the registrar, the registrar may take acknowledgments, administer oaths, fix and approve bonds, provide information on the various methods of transferring property of decedents under the laws of this state, issue letters in informal proceedings and perform such other acts as the court may by written order authorize as necessary or incidental to the conduct of informal proceedings. Letters, orders and documents issued by the registrar may be certified, authenticated or exemplified by the registrar or in the same manner as those issued by the court. All files shall be maintained by the court administrator. The probate registrar shall not render advice calling for the exercise of such professional judgment as constitutes the practice of law.

History: *1974 c 442 art 1 s 524.1-307; 1975 c 347 s 19; 1977 c 440 s 2; 1Sp1986 c 3 art 1 s 82*

524.1-310 VERIFICATION OF FILED DOCUMENTS.

Every document filed with the court under this chapter or chapter 525 shall be verified except where the requirement of verification is waived by rule and except in the case of a pleading signed by an attorney in accordance with the Rules of Civil Procedure. Whenever a document is required to be verified:

(1) such verification may be made by the unsworn written declaration of the party or parties signing the document that the representations made therein are known or believed to be true and that they are made under penalties for perjury, or

(2) such verification may be made by the affidavit of the party or parties signing the document that the representations made therein are true or believed to be true.

A party who makes a false material statement not believing it to be true in a document the party verifies in accordance with the preceding sentence and files with the court under this chapter or chapter 525 shall be subject to the penalties for perjury.

History: *1974 c 442 art 1 s 524.1-310; 1976 c 161 s 3; 1986 c 444*

Part 4
NOTICE, PARTIES AND REPRESENTATION IN ESTATE LITIGATION AND OTHER MATTERS

524.1-401 NOTICE; METHOD AND TIME OF GIVING.

(a) If notice of a hearing on any petition is required and except for specific notice requirements as otherwise provided, the petitioner shall cause notice of the time and place of hearing of any petition to be given to any interested person or the person's attorney if the person has appeared by attorney or requested that notice be sent to the attorney. Subject to paragraph (e), notice shall be given:

(1) by mailing a copy thereof at least 14 days before the time set for the hearing by certified, registered or ordinary first class mail addressed to the person being notified at the post office address given in the demand for notice, if any, or at the demander's office or place of residence, if known;

(2) by delivering a copy thereof to the person being notified personally at least 14 days before the time set for the hearing; or

(3) if the address, or identity of any person is not known and cannot be ascertained with reasonable diligence, by publishing once a week for two consecutive weeks, a copy thereof in a legal newspaper in the county where the hearing is to be held, the last publication of which is to be at least 10 days before the time set for the hearing.

(b) The court for good cause shown may provide for a different method or time of giving notice for any hearing.

(c) Proof of the giving of notice shall be made on or before the hearing and filed in the proceeding.

(d) No defect in any notice nor in publication or in service thereof shall limit or affect the validity of the appointment, powers, or other duties of the personal representative. Any of the notices required by this section and sections 524.3-306, 524.3-310, 524.3-403 and 524.3-801 may be combined into one notice.

(e) Except where personal service is required by statute for the petition to appoint a guardian under section 524.5-308 or conservator under section 524.5-404, service of all documents and notices under this chapter may, and where required by Supreme Court rule or order shall, be made by electronic means other than facsimile transmission if authorized by rule or order of the Supreme Court and if service is made in accordance with the rule or order.

History: *1974 c 442 art 1 s 524.1-401; 1975 c 347 s 20; 1986 c 444; 2014 c 204 s 5*

524.1-402 NOTICE; WAIVER.

A person, including a guardian ad litem, conservator, or other fiduciary, may waive notice by a writing signed by the person or the person's attorney and filed in the proceeding.

History: *1974 c 442 art 1 s 524.1-402; 1986 c 444*

524.1-403 PLEADINGS; WHEN PARTIES BOUND BY OTHERS; NOTICE.

In formal proceedings involving estates of decedents and in judicially supervised settlements, the following apply:

(1) Interests to be affected shall be described in pleadings which give reasonable information to owners by name or class, by reference to the instrument creating the interests, or in other appropriate manner.

(2) Persons are bound by orders binding others in the following cases:

(i) Orders binding the sole holder or all coholders of a power of revocation or a presently exercisable general power of appointment, including one in the form of a power of amendment, bind other persons to the extent their interests as objects, takers in default, or otherwise, are subject to the power.

(ii) To the extent there is no conflict of interest between them or among persons represented, orders binding a conservator bind the person whose estate the conservator controls; orders binding a guardian bind the ward if no conservator of the estate has been appointed; orders binding a trustee bind beneficiaries of the trust in proceedings to probate a will establishing or adding to a trust, to review the acts or accounts of a prior fiduciary and in proceedings involving creditors or other third parties; and orders binding a personal representative bind persons interested in the undistributed assets of a decedent's estate in actions or proceedings

by or against the estate. If there is no conflict of interest and no conservator or guardian has been appointed, a parent may represent the parent's minor child.

(iii) An unborn or unascertained person who is not otherwise represented is bound by an order to the extent that person's interest is adequately represented by another party having a substantially identical interest in the proceeding.

(3) Notice is required as follows:

(i) Notice as prescribed by section 524.1-401 shall be given to every interested person or to one who can bind an interested person as described in (2)(i) or (2)(ii). Notice may be given both to a person and to another who may bind the person.

(ii) Notice is given to unborn or unascertained persons, who are not represented under (2)(i) or (2)(ii), by giving notice to all known persons whose interests in the proceedings are substantially identical to those of the unborn or unascertained persons.

(4) At any point in a proceeding, a court may appoint a guardian ad litem to represent the interest of a minor, an incapacitated, unborn, or unascertained person, or a person whose identity or address is unknown, if the court determines that representation of the interest otherwise would be inadequate. If not precluded by conflict of interests, a guardian ad litem may be appointed to represent several persons or interests. The court shall set out its reasons for appointing a guardian ad litem as a part of the record of the proceeding.

History: *1974 c 442 art 1 s 524.1-403; 1975 c 347 s 21; 1986 c 444*

524.1-404 NOTICE TO CHARITABLE BENEFICIARIES.

If a will includes a gift, devise or bequest to a named charitable beneficiary, the initial written notice of the probate proceedings given to the beneficiary shall state that the beneficiary may request notice of the probate proceedings be given to the attorney general pursuant to section 501B.41, subdivision 5.

History: *1978 c 601 s 27; 1989 c 340 art 2 s 3*

Article 2
INTESTATE SUCCESSION AND WILLS
Part 1
INTESTATE SUCCESSION

524.2-101 INTESTATE ESTATE.

(a) The intestate estate of the decedent consists of any part of the decedent's estate not allowed to the decedent's spouse or descendants under sections 524.2-402, 524.2-403, and 524.2-404, and not disposed of by will. The intestate estate passes by intestate succession to the decedent's heirs as prescribed in this chapter, except as modified by the decedent's will.

(b) A decedent by will may expressly exclude or limit the right of an individual or class to succeed to property of the decedent passing by intestate succession. If that individual or a member of that class survives the decedent, the share of the decedent's intestate estate to which that individual or class would have succeeded passes as if that individual or each member of that class had disclaimed an intestate share.

History: *1985 c 250 s 1; 1994 c 472 s 2; 1999 c 171 s 1*

524.2-102 SHARE OF THE SPOUSE.

The intestate share of a decedent's surviving spouse is:

(1) the entire intestate estate if:

(i) no descendant of the decedent survives the decedent; or

(ii) all of the decedent's surviving descendants are also descendants of the surviving spouse and there is no other descendant of the surviving spouse who survives the decedent;

(2) the first $225,000, plus one-half of any balance of the intestate estate, if all of the decedent's surviving descendants are also descendants of the surviving spouse and the surviving spouse has one or more surviving descendants who are not descendants of the decedent, or if one or more of the decedent's surviving descendants are not descendants of the surviving spouse.

History: *1985 c 250 s 2; 1994 c 472 s 3; 2016 c 135 art 2 s 22*

524.2-103 SHARE OF HEIRS OTHER THAN SURVIVING SPOUSE.

Any part of the intestate estate not passing to the decedent's surviving spouse under section 524.2-102, or the entire intestate estate if there is no surviving spouse, passes in the following order to the individuals designated below who survive the decedent:

(1) to the decedent's descendants by representation;

(2) if there is no surviving descendant, to the decedent's parents equally if both survive, or to the surviving parent;

(3) if there is no surviving descendant or parent, to the descendants of the decedent's parents or either of them by representation;

(4) if there is no surviving descendant, parent, or descendant of a parent, but the decedent is survived by one or more grandparents or descendants of grandparents, half of the estate passes to the decedent's paternal grandparents equally if both survive, or to the surviving paternal grandparent, or to the descendants of the decedent's paternal grandparents or either of them if both are deceased, the descendants taking by representation; and the other half passes to the decedent's maternal relatives in the same manner; but if there is no surviving grandparent or descendant of a grandparent on either the paternal or the maternal side, the entire estate passes to the decedent's relatives on the other side in the same manner as the half;

(5) if there is no surviving descendant, parent, descendant of a parent, grandparent, or descendant of a grandparent, to the next of kin in equal degree, except that when there are two or more collateral kindred in equal degree claiming through different ancestors, those who claim through the nearest ancestor shall take to the exclusion of those claiming through an ancestor more remote.

History: *1985 c 250 s 3; 1994 c 472 s 4*

524.2-104 REQUIREMENT THAT HEIR SURVIVE DECEDENT FOR 120 HOURS.

An individual who fails to survive the decedent by 120 hours is deemed to have predeceased the decedent for purposes of homestead, exempt property, and intestate succession, and the decedent's heirs are determined accordingly. If it is not established that an individual who would otherwise be an heir survived the decedent

by 120 hours, it is deemed that the individual failed to survive for the required period. This section is not to be applied if its application would result in a taking of intestate estate by the state under section 524.2-105.

History: *1985 c 250 s 4; 1994 c 472 s 5*

524.2-105 NO TAKER.

If there is no taker under the provisions of this article, the intestate estate passes to the state.

History: *1985 c 250 s 5; 1994 c 472 s 6*

524.2-106 REPRESENTATION.

(a) **Application.** If representation is called for by this article, paragraphs (b) and (c) apply.

(b) **Decedent's descendants.** In the case of descendants of the decedent, the estate is divided into as many shares as there are surviving children of the decedent and deceased children who left descendants who survive the decedent, each surviving child receiving one share and the share of each deceased child being divided among its descendants in the same manner.

(c) **Descendants of parents or grandparents.** If, under section 524.2-103, clause (3) or (4), a decedent's intestate estate or a part thereof passes by "representation" to the descendants of the decedent's deceased parents or either of them or to the descendants of the decedent's deceased paternal or maternal grandparents or either of them, the estate or part thereof is divided in the following manner:

(1) In the case of descendants of the decedent's deceased parents or either of them, the estate or part thereof is divided into as many equal shares as there are (i) surviving descendants in the generation nearest the deceased parents or either of them, and (ii) deceased descendants in the same generation who left surviving descendants, if any. Each surviving descendant in the nearest generation is allocated one share, and the surviving descendants of each deceased descendant in the same generation are allocated one share, to be divided in the same manner as specified in paragraph (b).

(2) In the case of descendants of the decedent's deceased paternal or maternal grandparents or either of them, the estate or part thereof is divided into as many equal shares as there are surviving descendants in the generation nearest the deceased grandparents or either of them that contains one or more surviving descendants. Each surviving descendant in the nearest generation is allocated one share.

History: *1985 c 250 s 6; 1986 c 444; 1994 c 472 s 7*

524.2-107 DEGREE OF KINDRED AND KINDRED OF HALF BLOOD.

The degree of kindred shall be computed according to the rules of the civil law. Relatives of the half blood inherit the same share they would inherit if they were of the whole blood.

History: *1985 c 250 s 7*

524.2-108 AFTER-BORN HEIRS.

An individual in gestation at a particular time is treated as living at that time if the individual lives 120 hours or more after birth.

History: *1985 c 250 s 8; 1986 c 444; 1994 c 472 s 8*

524.2-109 ADVANCEMENTS.

(a) If an individual dies intestate as to all or a portion of an estate, property the decedent gave during the decedent's lifetime to an individual who, at the decedent's death, is an heir is treated as an advancement against the heir's intestate share only if:

(i) the decedent declared in a contemporaneous writing or the heir acknowledged in writing that the gift is an advancement; or

(ii) the decedent's contemporaneous writing or the heir's written acknowledgment otherwise indicates that the gift is to be taken into account in computing the division and distribution of the decedent's intestate estate.

(b) For purposes of paragraph (a), property advanced is valued as of the time the heir came into possession or enjoyment of the property or as of the time of the decedent's death, whichever first occurs.

(c) If the recipient of the property fails to survive the decedent, the property is not taken into account in computing the division and distribution of the decedent's intestate estate, unless the decedent's contemporaneous writing provides otherwise.

History: *1985 c 250 s 9; 1Sp1986 c 3 art 3 s 1; 1994 c 472 s 9*

524.2-110 DEBTS TO DECEDENT.

A debt owed to a decedent is not charged against the intestate share of any individual except the debtor. If the debtor fails to survive the decedent, the debt is not taken into account in computing the intestate share of the debtor's descendants.

History: *1975 c 347 s 22; 1986 c 444; 1994 c 472 s 10*

524.2-111 ALIENAGE.

No individual is disqualified to take as an heir because the individual or another through whom the individual claims is or has been an alien.

History: *1985 c 250 s 10; 1994 c 472 s 11*

524.2-112 MS 1994 [Repealed, 1994 c 472 s 64]

524.2-113 INDIVIDUALS RELATED TO DECEDENT THROUGH TWO LINES.

An individual who is related to the decedent through two lines of relationship is entitled to only a single share based on the relationship that would entitle the individual to the larger share.

History: *1985 c 250 s 12; 1994 c 472 s 12*

524.2-114 PARENT BARRED FROM INHERITING IN CERTAIN CIRCUMSTANCES.

(a) A parent is barred from inheriting from or through a child of the parent if:

(1) the parent's parental rights were terminated and the parent-child relationship was not judicially reestablished;

(2) the child died before reaching 18 years of age and there is clear and convincing evidence that immediately before the child's death the parental rights of the parent could have been terminated under law

of this state other than this chapter on the basis of nonsupport, abandonment, abuse, neglect, or other actions or inactions of the parent toward the child; or

(3) the child died after reaching 18 years of age and there is clear and convincing evidence that:

(i) during the years of the child's minority, the parental rights of the parent could have been terminated under laws of this state other than this chapter on the basis of nonsupport, abandonment, abuse, neglect, or other actions or inactions of the parent toward the child; and

(ii) in the year preceding the child's death, the parent and child were estranged. For purposes of this subdivision, "estranged" means having a relationship characterized by enmity, hostility, or indifference.

(b) For the purpose of intestate succession from or through the deceased child, a parent who is barred from inheriting under this section is treated as if the parent predeceased the child.

(c) This section does not apply to the probate of federal trust land under United States Code, title 25, sections 2205 to 2209, as amended, in a federal, state, or Tribal probate matter. Federal trust land has the meaning given under United States Code, title 24, section 2201(4)(i).

History: *1985 c 250 s 13; 1994 c 465 art 1 s 62; 1994 c 472 s 13; 1994 c 631 s 31; 2005 c 10 art 1 s 75; 2008 c 361 art 6 s 54; 2010 c 334 s 6; 2025 c 15 s 29*

524.2-115 [Renumbered 524.2-123]

524.2-116 EFFECT OF PARENT-CHILD RELATIONSHIP.

Except as otherwise provided in section 524.2-119, subdivisions 2 to 5, if a parent-child relationship exists or is established under this part, the parent is a parent of the child and the child is a child of the parent for the purpose of intestate succession.

History: *2010 c 334 s 7*

524.2-117 PARENT-CHILD RELATIONSHIP WITH GENETIC PARENTS.

Except as otherwise provided in section 524.2-114, 524.2-119, or 524.2-120, a parent-child relationship exists between a child and the child's genetic parents, regardless of the parents' marital status.

History: *2010 c 334 s 8*

524.2-118 ADOPTEE AND ADOPTEE'S ADOPTIVE PARENT OR PARENTS.

Subdivision 1. **Parent-child relationship between adoptee and adoptive parent or parents.** A parent-child relationship exists between an adoptee and the adoptee's adoptive parent or parents.

Subd. 2. **Individual in process of being adopted by married couple; stepchild in process of being adopted by stepparent.** For purposes of subdivision 1:

(1) an individual who is in the process of being adopted by a married couple when one of the spouses dies is treated as adopted by the deceased spouse if the adoption is subsequently granted to the decedent's surviving spouse; and

(2) a child of a genetic parent who is in the process of being adopted by a genetic parent's spouse when the spouse dies is treated as adopted by the deceased spouse if the genetic parent survives the deceased spouse by 120 hours.

Subd. 3. **Child of assisted reproduction in process of being adopted.** If, after a parent-child relationship is established between a child of assisted reproduction and a parent under section 524.2-120, the child is in the process of being adopted by the parent's spouse when that spouse dies, the child is treated as adopted by the deceased spouse for the purpose of subdivision 2, clause (2).

Subd. 4. **In the process of adoption.** An individual is "in the process of being adopted" if there exists clear and convincing evidence of the intention of the deceased spouse to adopt that individual.

History: *2010 c 334 s 9*

524.2-119 ADOPTEE AND ADOPTEE'S GENETIC PARENTS.

Subdivision 1. **Parent-child relationship between adoptee and genetic parents.** Except as otherwise provided in subdivisions 2 to 5, unless otherwise decreed, a parent-child relationship does not exist between an adoptee and the adoptee's genetic parents.

Subd. 2. **Stepchild adopted by stepparent.** A parent-child relationship exists between an individual who is adopted by the spouse of either genetic parent and the genetic parent whose spouse adopted the individual. No parent-child relationship exists between an individual and the other genetic parent unless the other genetic parent was deceased at the time of the child's adoption and then only for the purpose of the right of the adoptee or a descendant of the adoptee to inherit from or through that other genetic parent.

Subd. 3. **Individual adopted by relative of genetic parent.** A parent-child relationship exists between both genetic parents and an individual who is adopted by a relative of a genetic parent, or by the spouse or surviving spouse of a relative of a genetic parent, but only for the purpose of the right of the adoptee or a descendant of the adoptee to inherit from or through either genetic parent.

Subd. 4. **Individual adopted after death of both genetic parents.** A parent-child relationship exists between both genetic parents and an individual who is adopted after the death of both genetic parents, but only for the purpose of the right of the adoptee or a descendant of the adoptee to inherit through either genetic parent.

Subd. 5. **Child of assisted reproduction who is subsequently adopted.** If, after a parent-child relationship is established between a child of assisted reproduction and a parent or parents under section 524.2-120, the child is adopted by another or others, the child's parent or parents under section 524.2-120 are treated as the child's genetic parent or parents for the purpose of this section.

History: *2010 c 334 s 10*

524.2-120 CHILD CONCEIVED BY ASSISTED REPRODUCTION.

Subdivision 1. **Third-party donor.** A parent-child relationship does not exist between a child of assisted reproduction and a third-party donor.

Subd. 2. **Parent-child relationship with birth mother.** A parent-child relationship exists between a child of assisted reproduction and the child's birth mother.

Subd. 3. **Parent-child relationship with husband whose sperm were used during his lifetime by his wife for assisted reproduction.** Except as otherwise provided in subdivision 9, a parent-child relationship exists between a child of assisted reproduction and the husband of the child's birth mother if the husband provided the sperm that the birth mother used during his lifetime for assisted reproduction.

Subd. 4. **Official birth record; presumptive effect.** An official birth record identifying a man as the other parent of a child of assisted reproduction presumptively establishes a parent-child relationship between the child and that man.

Subd. 5. **Parent-child relationship with another.** Except as otherwise provided in subdivisions 6, 8, and 9, and unless a parent-child relationship is established under subdivision 4, a parent-child relationship is presumed to exist between a child of assisted reproduction and a man who consented to assisted reproduction by the birth mother with intent to be treated as the other parent of the child. Consent to assisted reproduction by the birth mother with intent to be treated as the other parent of the child is established if the man:

(1) before or after the child's birth, signed a record that, considering all the facts and circumstances, evidences the man's consent; or

(2) in the absence of a signed record under clause (1):

(i) functioned as the other parent of the child no later than two years after the child's birth; or

(ii) intended to function as the other parent of the child no later than two years after the child's birth but was prevented from carrying out that intent by death, incapacity, or other circumstances, if that intent is established by clear and convincing evidence.

Subd. 6. **Effect of record signed more than two years after the birth of the child.** For the purpose of subdivision 5, clause (1), neither a man who signed a record more than two years after the birth of the child, nor a relative of that man who is not also a relative of the birth mother, inherits from or through the child unless the man functioned as a parent of the child before the child reached 18 years of age.

Subd. 7. **Presumption; birth mother is married or surviving spouse.** (a) Paragraphs (b) and (c) apply to subdivision 5, clause (2).

(b) If the birth mother is married and no divorce proceeding is pending, in the absence of clear and convincing evidence to the contrary, her spouse satisfies subdivision 5, clause (2), item (i) or (ii).

(c) If the birth mother is a surviving spouse and at her deceased spouse's death no divorce proceeding was pending, in the absence of clear and convincing evidence to the contrary, her deceased spouse satisfies subdivision 5, clause (2), item (ii).

Subd. 8. **Divorce before placement of eggs, sperm, or embryos.** If a married couple is divorced before placement of eggs, sperm, or embryos, a child resulting from the assisted reproduction is not a child of the birth mother's former spouse, unless the former spouse consented in a record or such consent is established by clear and convincing evidence that if assisted reproduction were to occur after divorce, the child would be treated as the former spouse's child.

Subd. 9. **Withdrawal of consent before placement of eggs, sperm, or embryos.** If, in a record or through clear and convincing evidence, a man withdraws consent to assisted reproduction before placement of eggs, sperm, or embryos, a child resulting from the assisted reproduction is not a child of that man, unless the man subsequently satisfies subdivision 4 or 5.

Subd. 10. **Exclusion of posthumously conceived children.** Notwithstanding any other provision of this section and subject to section 524.2-108, a parent-child relationship does not exist between a child of assisted reproduction and another person unless the child of assisted reproduction is in gestation prior to the death of such person.

History: *2010 c 334 s 11*

524.2-121 NO EFFECT ON GESTATIONAL AGREEMENTS.

This chapter does not affect law of this state regarding gestational agreements.

History: *2010 c 334 s 12*

524.2-122 NO EFFECT ON EQUITABLE ADOPTION.

This chapter does not affect the doctrine of equitable adoption.

History: *2010 c 334 s 13*

524.2-123 INSTRUMENTS REFERENCING INTESTACY LAWS.

If a maker has executed a will or other instrument before January 1, 1996, which directs disposition of all or part of the estate pursuant to the intestacy laws of the state of Minnesota, the laws to be applied shall be in accordance with the laws of intestate succession in effect on the date of the will or other instrument, unless the will or instrument directs otherwise.

History: *1994 c 472 s 14; 2010 c 334 s 16*

Part 2
ELECTIVE SHARE OF SURVIVING SPOUSE

524.2-201 MS 1992 [Repealed, 1994 c 472 s 64]

524.2-201 DEFINITIONS.

In this part:

(1) As used in sections other than section 524.2-205, "decedent's nonprobate transfers to others" means the amounts that are included in the augmented estate under section 524.2-205.

(2) "Interest in property held with right of survivorship" means the severable interest owned by the person or persons whose interest is being determined in property held in joint tenancy or in other form of common ownership with a right of survivorship. The interest shall be identified and valued as of the time immediately prior to the death of the decedent or the date of the transfer which causes the property to be included in the augmented estate, as the case may be. In the case of an account described in article 6, part 2, the severable interest owned by the person is the amount which belonged to the person determined under section 524.6-203. In the case of property described in article 6, part 3, the severable interest owned by the person is the amount consistent with section 524.6-306.

(3) "Marriage," as it relates to a transfer by the decedent during marriage, means any marriage of the decedent to the decedent's surviving spouse.

(4) "Nonadverse party" means a person who does not have a substantial beneficial interest in the trust or other property arrangement that would be adversely affected by the exercise or nonexercise of the power that the person possesses respecting the trust or other property arrangement. A person having a general power of appointment over property is deemed to have a beneficial interest in the property.

(5) "Power" or "power of appointment" includes a power to designate the beneficiary of an insurance policy or other contractual arrangement.

(6) "Presently exercisable general power of appointment" means a power possessed by a person at the time in question to create a present or future interest in the person, in the person's creditors, in the person's estate, or in the creditor of the person's estate, whether or not the person then had the capacity to exercise the power. "General power of appointment" means a power, whether or not presently exercisable, possessed by a person to create a present or future interest in the person, in the person's creditors, in the person's estate, or in creditors of the person's estate.

(7) "Probate estate" means property that would pass by intestate succession if the decedent dies without a valid will.

(8) "Property" includes values subject to a beneficiary designation.

(9) "Right to income" includes a right to payments under a commercial or private annuity, an annuity trust, a unitrust, or a similar arrangement.

(10) "Transfer" includes: (i) the exercise, release, or lapse of a general power of appointment created by the decedent alone or in conjunction with any other person, or exercisable by a nonadverse party; and (ii) the exercise or release by the decedent of a presently exercisable general power of appointment created by someone other than the decedent. "Transfer" does not include the lapse, other than a lapse at death, of a power described in clause (ii).

(11) "Bona fide purchaser" means a purchaser for value in good faith and without notice or actual knowledge of an adverse claim, or a person who receives a payment or other item of property in partial or full satisfaction of a legally enforceable obligation in good faith without notice of an adverse claim. In the case of real property located in Minnesota purchased from a successor or successors in interest of a decedent, the purchaser is without notice of an adverse claim arising under this part or, if the decedent was not domiciled in Minnesota at the time of death, arising under similar provisions of the law of the decedent's domicile, unless the decedent's surviving spouse has filed a notice in the office of the county recorder of the county in which the real property is located or, if the property is registered land, in the office of the registrar of titles of the county in which the real property is located, containing the legal description of the property, a brief statement of the nature and extent of the interest claimed, and the venue, title, and file number of the proceeding for an elective share, if any has been commenced. The registrar of titles is authorized to accept for registration any such notice which relates to registered land.

History: *1994 c 472 s 15; 1999 c 11 art 1 s 71*

524.2-202 MS 1992 [Repealed, 1994 c 472 s 64]

524.2-202 ELECTIVE SHARE.

(a) **Elective share amount.** The surviving spouse of a decedent who dies domiciled in this state has a right of election, under the limitations and conditions stated in this part, to take an elective-share amount equal to the value of the elective-share percentage of the augmented estate, determined by the length of time the spouse and the decedent were married to each other, in accordance with the following schedule:

If the decedent and the spouse were married to each other:	The elective-share percentage is:
Less than one year	Supplemental amount only
One year but less than two years	Three percent of the augmented estate

Two years but less than three years	Six percent of the augmented estate
Three years but less than four years	Nine percent of the augmented estate
Four years but less than five years	12 percent of the augmented estate
Five years but less than six years	15 percent of the augmented estate
Six years but less than seven years	18 percent of the augmented estate
Seven years but less than eight years	21 percent of the augmented estate
Eight years but less than nine years	24 percent of the augmented estate
Nine years but less than ten years	27 percent of the augmented estate
Ten years but less than 11 years	30 percent of the augmented estate
11 years but less than 12 years	34 percent of the augmented estate
12 years but less than 13 years	38 percent of the augmented estate
13 years but less than 14 years	42 percent of the augmented estate
14 years but less than 15 years	46 percent of the augmented estate
15 years or more	50 percent of the augmented estate

(b) **Supplemental elective-share amount.** If the sum of the amounts described in sections 524.2-207, 524.2-209, paragraph (a), clause (1), and that part of the elective-share amount payable from the decedent's probate estate and nonprobate transfers to others under section 524.2-209, paragraphs (b) and (c), is less than $75,000, the surviving spouse is entitled to a supplemental elective-share amount equal to $75,000, minus the sum of the amounts described in those sections. The supplemental elective-share amount is payable from the decedent's probate estate and from recipients of the decedent's nonprobate transfers to others in the order of priority set forth in section 524.2-209, paragraphs (b) and (c).

(c) **Effect of election on statutory benefits.** If the right of election is exercised by or on behalf of the surviving spouse, the surviving spouse's homestead rights and other allowances under sections 524.2-402, 524.2-403 and 524.2-404, if any, are not charged against but are in addition to the elective-share and supplemental elective-share amounts.

(d) **Nondomiciliary.** The right, if any, of the surviving spouse of a decedent who dies domiciled outside this state to take an elective share in property in this state is governed by the law of the decedent's domicile at death.

History: *1994 c 472 s 16; 2016 c 135 art 2 s 23*

524.2-203 MS 1992 [Repealed, 1994 c 472 s 64]

524.2-203 COMPOSITION OF THE AUGMENTED ESTATE.

Subject to section 524.2-208, the value of the augmented estate, to the extent provided in sections 524.2-204, 524.2-205, 524.2-206, and 524.2-207, consists of the sum of the values of all property, whether real or personal, movable or immovable, tangible or intangible, wherever situated, that constitute the decedent's

net probate estate, the decedent's nonprobate transfers to others, the decedent's nonprobate transfers to the surviving spouse, and the surviving spouse's property and nonprobate transfers to others.

History: *1994 c 472 s 17*

524.2-204 MS 1992 [Repealed, 1994 c 472 s 64]

524.2-204 DECEDENT'S NET PROBATE ESTATE.

The value of the augmented estate includes the value of the decedent's probate estate, reduced by funeral and administration expenses, the homestead, family allowances and exemptions, liens, mortgages, and enforceable claims.

History: *1994 c 472 s 18*

524.2-205 MS 1992 [Repealed, 1994 c 472 s 64]

524.2-205 DECEDENT'S NONPROBATE TRANSFERS TO OTHERS.

The value of the augmented estate includes the value of the decedent's nonprobate transfers to others, other than the homestead, of any of the following types, in the amount provided respectively for each type of transfer.

(1) Property owned or owned in substance by the decedent immediately before death that passed outside probate at the decedent's death. Property included under this category consists of:

(i) Property over which the decedent alone, immediately before death, held a presently exercisable general power of appointment. The amount included is the value of the property subject to the power, to the extent the property passed at the decedent's death, by exercise, release, lapse, default, or otherwise, to or for the benefit of any person other than the decedent's estate or surviving spouse.

(ii) The decedent's interest in property held with the right of survivorship. The amount included is the value of the decedent's interest, to the extent the interest passed by right of survivorship at the decedent's death to someone other than the decedent's surviving spouse.

(iii) Proceeds of insurance, including accidental death benefits, on the life of the decedent, if the decedent owned the insurance policy immediately before death or if and to the extent the decedent alone and immediately before death held a presently exercisable general power of appointment over the policy or its proceeds. The amount included is the value of the proceeds, to the extent they were payable at the decedent's death to or for the benefit of any person other than the decedent's estate or surviving spouse.

(iv) The value payable after the decedent's death to or for the benefit of any person other than the decedent's surviving spouse of the proceeds of annuity contracts under which the decedent was the primary annuitant. The amount included is any amount over which the person has an immediate right of withdrawal after the decedent's death plus the commuted value of other amounts payable in the future.

(v) The value payable after the decedent's death to or for the benefit of any person other than the decedent's surviving spouse of amounts under any public or private pension, disability compensation, benefit, or retirement plan or account, excluding the federal Social Security system. The amount included is any amount over which the person has an immediate right of withdrawal after the decedent's death plus the commuted value of other amounts payable in the future.

(2) Property transferred in any of the following forms by the decedent during marriage, to the extent not included under paragraph (1):

(i) Any irrevocable transfer in which the decedent retained the right to the possession or enjoyment of, or to the income from, the property if and to the extent the decedent's right terminated at or continued beyond the decedent's death. The amount included is the value of the fraction of the property to which the decedent's right related, to the extent the fraction of the property passed outside probate to or for the benefit of any person other than the decedent's estate or surviving spouse.

(ii) Any transfer in which the decedent created a general power of appointment over income or property exercisable by the decedent alone or in conjunction with any other person, or exercisable by a nonadverse party. The amount included with respect to a power over property is the value of the property subject to the power, and the amount included with respect to a power over income is the value of the property that produces or produced the income, to the extent in either case that the property passed at the decedent's death to or for the benefit of any person other than the decedent's estate or surviving spouse. If the power is a power over both income and property and the preceding sentence produces different amounts, the amount included is the greater amount.

(3) Property that passed during marriage and during the two-year period next preceding the decedent's death as a result of a transfer by the decedent if the transfer was of any of the following types:

(i) Any property that passed as a result of the termination of a right or interest in, or power over, property that would have been included in the augmented estate under paragraph (1), clause (i), (ii), (iv), or (v), or under paragraph (2), if the right, interest, or power had not terminated until the decedent's death. The amount included is the value of the property that would have been included under those paragraphs if the property were valued at the time the right, interest, or power terminated, and is included only to the extent the property passed upon termination to or for the benefit of any person other than the decedent or the decedent's estate, spouse, or surviving spouse. As used in this paragraph, "termination," with respect to a right or interest in property, occurs when the power is terminated by exercise, release, default, or otherwise, but with respect to a power described in paragraph (1), clause (i), "termination" occurs when the power is terminated by exercise or release, but not otherwise.

(ii) Any transfer of or relating to an insurance policy on the life of the decedent if the proceeds would have been included in the augmented estate under paragraph (1), clause (iii), had the transfer not occurred. The amount included is the value of the insurance proceeds to the extent the proceeds were payable at the decedent's death to or for the benefit of any person other than the decedent's estate or surviving spouse.

(iii) Any transfer of property, to the extent not otherwise included in the augmented estate, made to or for the benefit of a person other than the decedent's surviving spouse. The amount included is the value of the transferred property to the extent the aggregate transfers to any one donee in either of the two years exceeded $10,000.

History: *1994 c 472 s 19*

524.2-206 MS 1992 [Repealed, 1994 c 472 s 64]

524.2-206 DECEDENT'S NONPROBATE TRANSFERS TO SURVIVING SPOUSE.

Excluding the homestead and property passing to the surviving spouse under the federal Social Security system, the value of the augmented estate includes the value of the decedent's nonprobate transfers to the decedent's spouse, which consists of all property that passed outside probate at the decedent's death from the decedent to the surviving spouse by reason of the decedent's death that would have been included in the

augmented estate under section 524.2-205, paragraph (1) or (2), had the property passed to or for the benefit of a person other than the decedent's spouse, the decedent, or the decedent's creditors, estate, or estate creditors.

History: *1994 c 472 s 20*

524.2-207 MS 1992 [Repealed, 1994 c 472 s 64]

524.2-207 SURVIVING SPOUSE'S PROPERTY AND NONPROBATE TRANSFERS TO OTHERS.

(a) **Included property.** Except to the extent included in the augmented estate under section 524.2-204 or 524.2-206, the value of the augmented estate includes the value of:

(1) property, other than the homestead, that was owned by the surviving spouse at the decedent's death, including the surviving spouse's interest in property held with right of survivorship; and

(2) property that would have been included in the surviving spouse's nonprobate transfers to others, other than the spouse's interest in property held with right of survivorship included under clause (1), had the spouse been the decedent.

(b) **Time of valuation.** Property included under this section is valued at the decedent's death, taking the fact that the decedent predeceased the spouse into account, but, for purposes of the surviving spouse's interest in property held with right of survivorship included under paragraph (a), clause (1), the value of the spouse's interest is determined immediately before the decedent's death if the decedent was then a joint tenant or a co-owner of the property or accounts. For purposes of paragraph (a), clause (2), proceeds of insurance that would have been included in the spouse's nonprobate transfers to others under section 524.2-205, paragraph (1), clause (iii), are not valued as if the spouse were deceased.

(c) **Reduction for enforceable claims.** The value of property included under this section is reduced by mortgages, liens, and enforceable claims against the property or against the surviving spouse.

History: *1994 c 472 s 21*

524.2-208 EXCLUSIONS, VALUATION, AND OVERLAPPING APPLICATION.

(a) **Exclusions.** The value of any property is excluded from the decedent's nonprobate transfers to others (i) to the extent the decedent received adequate and full consideration in money or money's worth for a transfer of the property, or (ii) if the property was transferred with the written joinder of, or if the transfer was consented to in writing by, the surviving spouse.

(b) **Protection of bona fide purchasers.** A bona fide purchaser who purchases property from a successor or successors in interest of the decedent or from a transferee of the decedent is neither obligated under this part to return the payment, item of property, or benefit nor is liable under this part for the amount of the payment or the value of the item of property or benefit.

(c) **Valuation.** The value of property:

(1) included in the augmented estate under section 524.2-205, 524.2-206, or 524.2-207 is reduced in each category by mortgages, liens, and enforceable claims against the included property; and

(2) includes the commuted value of any present or future interest and the commuted value of amounts payable under any trust, life insurance settlement option, annuity contract, public or private pension, disability compensation, death benefit or retirement plan, or any similar arrangement, exclusive of the federal Social

Security system. The commuted value of the surviving spouse's interest in a life estate or in any trust shall be calculated as if worth one-half of the total value of the property subject to the life estate, or of the trust estate, unless higher or lower values for these interests are established by proof.

(d) **Overlapping application; no double inclusion.** In case of overlapping application to the same property of portions of section 524.2-205, 524.2-206, or 524.2-207, the property is included in the augmented estate under the provision yielding the greatest value, and under only one overlapping provision if they all yield the same value.

History: *1994 c 472 s 22*

524.2-209 SOURCES FROM WHICH ELECTIVE SHARE PAYABLE.

(a) **Elective-share amount only.** In a proceeding for an elective share, the following are applied first to satisfy the elective-share amount and to reduce or eliminate any contributions due from the decedent's probate estate and recipients of the decedent's nonprobate transfers to others:

(1) amounts included in the augmented estate under section 524.2-204 which pass or have passed to the surviving spouse by testate or intestate succession and amounts included in the augmented estate under section 524.2-206;

(2) amounts included in the augmented estate which would have passed to the spouse but were disclaimed; and

(3) amounts included in the augmented estate under section 524.2-207 up to the applicable percentage thereof. For the purposes of this paragraph, the "applicable percentage" is twice the elective-share percentage set forth in the schedule in section 524.2-202, paragraph (a), appropriate to the length of time the spouse and the decedent were married to each other.

(b) **Unsatisfied balance of elective-share amount; supplemental elective-share amount.** If, after the application of paragraph (a), the elective-share amount is not fully satisfied or the surviving spouse is entitled to a supplemental elective-share amount, amounts included in the decedent's probate estate and in the decedent's nonprobate transfers to others, other than amounts included under section 524.2-205, paragraph (3), clause (i) or (iii), are applied first to satisfy the unsatisfied balance of the elective-share amount or the supplemental elective-share amount. The decedent's probate estate and that portion of the decedent's nonprobate transfers to others are so applied that liability for the unsatisfied balance of the elective-share amount or for the supplemental elective-share amount is equitably apportioned among the recipients of the decedent's probate estate and of that portion of the decedent's nonprobate transfers to others in proportion to the value of their interests therein.

(c) **Unsatisfied balance of elective-share and supplemental elective-share amounts.** If, after the application of paragraphs (a) and (b), the elective-share or supplemental elective-share amount is not fully satisfied, the remaining portion of the decedent's nonprobate transfers to others is so applied that liability for the unsatisfied balance of the elective-share or supplemental elective-share amount is equitably apportioned among the recipients of the remaining portion of the decedent's nonprobate transfers to others in proportion to the value of their interests therein.

History: *1994 c 472 s 23*

524.2-210 PERSONAL LIABILITY OF RECIPIENTS.

(a) Only original recipients of the decedent's nonprobate transfers to others, and the donees of the recipients of the decedent's nonprobate transfers to others, to the extent the donees have the property or its proceeds, are liable to make a proportional contribution toward satisfaction of the surviving spouse's elective-share or supplemental elective-share amount. A person liable to make contribution may choose to give up the proportional part that has been received of the decedent's nonprobate transfers or to pay the value of the amount for which the person is liable.

(b) If any section or part of any section of this part is preempted by federal law with respect to a payment, an item of property, or any other benefit included in the decedent's nonprobate transfers to others, a person who is not a bona fide purchaser and who receives the payment, item of property, or any other benefit is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of that item of property or benefit, as provided in section 524.2-209, to the person who would have been entitled to it were that section or part of that section not preempted.

History: *1994 c 472 s 24; 1995 c 186 s 96*

524.2-211 PROCEEDING FOR ELECTIVE SHARE; TIME LIMIT.

(a) Except as provided in paragraph (b), the election must be made by filing in the court and mailing or delivering to the personal representative, if any, a petition for the elective share within nine months after the date of the decedent's death, or within six months after the probate of the decedent's will, whichever limitation later expires. The surviving spouse must give notice of the time and place set for hearing to persons interested in the estate and to the distributees and recipients of portions of the augmented estate whose interests will be adversely affected by the taking of the elective share. Except as provided in paragraph (b), the decedent's nonprobate transfers to others are not included within the augmented estate for the purpose of computing the elective share, if the petition is filed more than nine months after the decedent's death.

(b) Within nine months after a decedent's death, the surviving spouse may petition the court for an extension of time for making an election. If, within nine months after the decedent's death, the spouse gives notice of the petition to all persons interested in the decedent's nonprobate transfers to others, the court for cause shown by the surviving spouse may extend the time for election. If the court grants the spouse's petition for an extension, the decedent's nonprobate transfers to others are not excluded from the augmented estate for the purpose of computing the elective-share and supplemental elective-share amounts, if the spouse makes an election by filing in the court and mailing or delivering to the personal representative, if any, a petition for the elective share within the time allowed by the extension.

(c) The surviving spouse may withdraw a demand for an elective share at any time before entry of a final determination by the court.

(d) After notice and hearing, the court shall determine the elective-share and supplemental elective-share amounts, and shall order its payment from the assets of the augmented estate or by contribution as appears appropriate under sections 524.2-209 and 524.2-210. If it appears that a fund or property included in the augmented estate has not come into the possession of the personal representative, or has been distributed by the personal representative, the court nevertheless shall fix the liability of any person who has any interest in the fund or property or who has possession thereof, whether as trustee or otherwise. The proceeding may be maintained against fewer than all persons against whom relief could be sought, but no person is subject to contribution in any greater amount than would have been the case under sections 524.2-209 and 524.2-210 had relief been secured against all persons subject to contribution.

(e) An order of judgment of the court may be enforced as necessary in suit for contribution or payment in other courts of this state or other jurisdictions.

(f) Whether or not an election has been made under paragraph (a), the surviving spouse may elect statutory rights in the homestead by filing in the manner provided in this section a petition in which the spouse asserts the rights provided in section 524.2-402, provided that:

(1) when the homestead is subject to a testamentary disposition, the filing must be within nine months after the date of death, or within six months after the probate of the decedent's will, whichever limitation last expires; or

(2) where the homestead is subject to other disposition, the filing must be within nine months after the date of death.

The court may extend the time for election in the manner provided in paragraph (b).

History: *1994 c 472 s 25*

524.2-212 RIGHT OF ELECTION PERSONAL TO SURVIVING SPOUSE.

The right of election of the surviving spouse may be exercised only during the surviving spouse's lifetime. In the case of a protected person, the right of election may be exercised only by order of the court in which protective proceedings as to the protected person's property are pending, after finding (1) that exercise is necessary to provide adequate support for the protected person during the protected person's probable life expectancy and (2) that the election will be consistent with the best interests of the natural bounty of the protected person's affection.

History: *1994 c 472 s 26*

524.2-213 WAIVER OF RIGHT TO ELECT AND OF OTHER RIGHTS.

The right of election of a surviving spouse and the rights of the surviving spouse to the homestead, exempt property, and family allowance, or any of them, may be waived, wholly or partially, after marriage, by a written contract, agreement, or waiver signed by the party waiving after fair disclosure. Unless it provides to the contrary, a waiver of "all rights," or equivalent language, in the property or estate of a spouse is a waiver only of the right to the elective share. Any waiver prior to marriage must be made pursuant to section 519.11.

History: *1994 c 472 s 27*

524.2-214 PROTECTION OF PAYORS AND OTHER THIRD PARTIES.

(a) Although under section 524.2-205 a payment, item of property, or other benefit is included in the decedent's nonprobate transfers to others, a payor or other third party is not liable for having made a payment or transferred an item of property or other benefit to a beneficiary designated in a governing instrument, or for having taken any other action in good faith reliance on the validity of a governing instrument, upon request and satisfactory proof of the decedent's death, before the payor or other third party received written notice from the surviving spouse or spouse's representative of an intention to file a petition for the elective share or that a petition for the elective share has been filed. A payor or other third party is liable for payments made or other actions taken after the payor or other third party received written notice of an intention to file a petition for the elective share or that a petition for the elective share has been filed.

(b) A written notice of intention to file a petition for the elective share or that a petition for the elective share has been filed must be mailed to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action. Upon receipt of written notice of intention to file a petition for the elective share or that a petition for the elective share has been filed, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate or, if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents' estates located in the county of the decedent's residence. The court shall hold the funds or item of property and, upon its determination under section 524.2-211, paragraph (d), shall order disbursement in accordance with the determination. If no petition is filed in the court within the specified time under section 524.2-211, paragraph (a), or, if filed, the demand for an elective share is withdrawn under section 524.2-211, paragraph (c), the court shall order disbursement to the designated beneficiary. Payments or transfers to the court or deposits made into court discharge the payor or other third party from all claims for amounts so paid or the value of property so transferred or deposited.

(c) Upon petition to the court described in paragraph (b) by the beneficiary designated in the governing instrument, the court may order that all or part of the property be paid to the beneficiary in an amount and subject to conditions consistent with this part.

History: *1994 c 472 s 28*

524.2-215 SURVIVING SPOUSE RECEIVING MEDICAL ASSISTANCE.

(a) Notwithstanding any law to the contrary, if a surviving spouse is receiving medical assistance under chapter 256B, when the person's spouse dies, then the provisions in paragraphs (b) to (f) apply.

(b) 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 surviving spouse may:

(1) exercise the right to take an elective share amount of the decedent's estate under section 524.2-211, in which case the decedent's nonprobate transfers to others shall be included in the augmented estate for purposes of computing the elective share and supplemental elective share amounts;

(2) petition the court for an extension of time for exercising the right to an elective share amount under section 524.2-211, in which case the decedent's nonprobate transfers to others shall be included in the augmented estate for purposes of computing the elective share and supplemental elective share amounts; or

(3) elect statutory rights in the homestead or petition the court for an extension of time to make the election as provided in section 524.2-211, paragraph (f).

(c) Notwithstanding any law or rule to the contrary, the personal representative of the estate of the surviving spouse may exercise the surviving spouse's right of election and statutory right to the homestead in the manner provided for making those elections or petition for an extension of time as provided for in this section.

(d) If choosing the elective share will result in the surviving spouse receiving a share of the decedent's estate greater in value than the share of the estate under the will or intestate succession, then the guardian or conservator for the surviving spouse shall exercise the surviving spouse's right to an elective share amount and a court order is not required.

(e) A party petitioning to establish a guardianship or conservatorship for the surviving spouse may file a certified copy of the petition in the decedent's estate proceedings and serve a copy of the petition on the personal representative or the personal representative's attorney. The filing of the petition shall toll all of the limitations provided in this section until the entry of a final order granting or denying the petition. The decedent's estate may not close until the entry of a final order granting or denying the petition.

(1) Distributees of the decedent's estate shall be personally liable to account for and turn over to the ward, the conservatee, or the estate of the ward or conservatee any and all amounts which the ward or conservatee is entitled to receive from the decedent's estate.

(2) No distributee shall be liable for an amount in excess of the value of the distributee's distribution as of the time of the distribution.

(3) The ward, conservatee, guardian, conservator, or personal representative may bring proceedings in district court to enforce the rights in this section.

(f) Notwithstanding any oral or written contract, agreement, or waiver made by the surviving spouse to waive in whole or in part the surviving spouse's right of election against the decedent's will, statutory right to the homestead, exempt property, or family allowance, the surviving spouse or the surviving spouse's guardian or conservator may exercise these rights to the full extent permitted by law. The surviving spouse's rights under this paragraph do not apply to the extent there is a valid antenuptial agreement between the surviving spouse and the decedent under which the surviving spouse has waived some or all of these rights.

History: *2000 c 400 s 5; 2016 c 158 art 2 s 117*

Part 3
SPOUSE AND CHILDREN UNPROVIDED FOR IN WILLS

524.2-301 ENTITLEMENT OF SPOUSE; PREMARITAL WILL.

(a) If a testator married after making a will and the spouse survives the testator, the surviving spouse shall receive a share of the estate of the testator equal in value to that which the surviving spouse would have received if the testator had died intestate, unless:

(1) provision has been made for, or waived by, the spouse by prenuptial or postnuptial agreement;

(2) the will or other written evidence discloses an intention not to make provision for the spouse;

(3) the person, who was the surviving spouse at death, was designated as a devisee, or is the beneficiary of a trust referenced, in the will; or

(4) the testator provided for the spouse by transfer outside the will and the intent that the transfer be in lieu of a testamentary provision is shown by the testator's written statements or may be reasonably inferred from the amount of the transfer or other evidence.

(b) In satisfying the share provided by this section, devises made by the will other than a devise to a child of the testator who was born before the testator married the surviving spouse and who is not a child

of the surviving spouse or a devise or substitute gift under section 524.2-603 or 524.2-604 to a descendant of such a child, abate first as otherwise provided in section 524.3-902.

History: *1985 c 250 s 21; 1986 c 444; 1994 c 472 s 29; 2002 c 379 art 1 s 101; 2008 c 341 art 4 s 1; 2016 c 135 art 2 s 24*

524.2-302 OMITTED CHILDREN.

(a) Except as provided in paragraph (b), if a testator's will fails to provide for any of the testator's children born or adopted after the execution of the will, the omitted after-born or after-adopted child receives a share in the estate as follows:

(1) If the testator had no child living when the will was executed, an omitted after-born or after-adopted child receives a share in the estate equal in value to that which the child would have received had the testator died intestate, unless the will devised all or substantially all the estate to the other parent of the omitted child and that other parent survives the testator and is entitled to take under the will.

(2) If the testator had one or more children living when the will was executed, and the will devised property or an interest in property to one or more of the then-living children, an omitted after-born or after-adopted child is entitled to share in the testator's estate as follows:

(i) The portion of the testator's estate in which the omitted after-born or after-adopted child is entitled to share is limited to devises made to the testator's then-living children under the will.

(ii) The omitted after-born or after-adopted child is entitled to receive the share of the testator's estate, as limited in item (i), that the child would have received had the testator included all omitted after-born and after-adopted children with the children to whom devises were made under the will and had given an equal share of the estate to each child.

(iii) To the extent feasible, the interest granted an omitted after-born or after-adopted child under this section must be of the same character, whether equitable or legal, present or future, as that devised to the testator's then-living children under the will.

(iv) In satisfying a share provided by this paragraph, devises to the testator's children who were living when the will was executed abate ratably. In abating the devises of the then-living children, the court shall preserve to the maximum extent possible the character of the testamentary plan adopted by the testator.

(b) Neither paragraph (a), clause (1) or (2), nor paragraph (c), applies if:

(1) it appears from the will that the omission was intentional; or

(2) the testator provided for the omitted after-born or after-adopted child by transfer outside the will and the intent that the transfer be in lieu of a testamentary provision is shown by the testator's statements or is reasonably inferred from the amount of the transfer or other evidence.

(c) If at the time of execution of the will the testator fails to provide in the will for a living child solely because the testator believes the child to be dead, the child receives a share in the estate equal in value to that which the child would have received had the testator died intestate, unless the will devised all or substantially all of the estate to the other parent of the child the testator believes to be dead and the other parent survives the testator and is entitled to take under the will.

(d) If a deceased omitted child would have been entitled to a share under this section if the omitted child had not predeceased the testator and the deceased omitted child leaves issue who survive the testator, the issue who represent the deceased omitted child are entitled to take the deceased omitted child's share.

(e) In satisfying a share provided by paragraph (a), clause (1), or (c), devises made by the will abate under section 524.3-902.

History: *1985 c 250 s 22; 1986 c 444; 1994 c 472 s 30; 2005 c 26 s 6*

Part 4
EXEMPT PROPERTY AND ALLOWANCES

524.2-401 APPLICABLE LAW.

This part applies to the estate of a decedent who dies domiciled in this state. Rights to homestead, exempt property, and family allowance for a decedent who dies not domiciled in this state are governed by the law of the decedent's domicile at death.

History: *1994 c 472 s 31*

524.2-402 DESCENT OF HOMESTEAD.

(a) If there is a surviving spouse, the homestead, including a manufactured home which is the family residence, descends free from any testamentary or other disposition of it to which the spouse has not consented in writing or as provided by law, as follows:

(1) if there is no surviving descendant of decedent, to the spouse; or

(2) if there are surviving descendants of decedent, then to the spouse for the term of the spouse's natural life and the remainder in equal shares to the decedent's descendants by representation.

(b) If there is no surviving spouse and the homestead has not been disposed of by will it descends as other real estate.

(c) If the homestead passes by descent or will to the spouse or decedent's descendants or to a trustee of a trust of which the spouse or the decedent's descendants are the sole current beneficiaries, it is exempt from all debts which were not valid charges on it at the time of decedent's death except that the homestead is subject to a claim filed pursuant to section 246.53 for state hospital care or 256B.15 for medical assistance benefits. If the homestead passes to a person other than a spouse or decedent's descendants or to a trustee of a trust of which the spouse or the decedent's descendants are the sole current beneficiaries, it is subject to the payment of expenses of administration, funeral expenses, expenses of last illness, taxes, and debts. The claimant may seek to enforce a lien or other charge against a homestead so exempted by an appropriate action in the district court.

(d) For purposes of this section, except as provided in section 524.2-301, the surviving spouse is deemed to consent to any testamentary or other disposition of the homestead to which the spouse has not previously consented in writing unless the spouse files in the manner provided in section 524.2-211, paragraph (f), a petition that asserts the homestead rights provided to the spouse by this section.

History: *1994 c 472 s 32; 1997 c 7 art 1 s 165; 1997 c 9 s 6; 2008 c 341 art 4 s 2*

524.2-403 EXEMPT PROPERTY.

(a) If there is a surviving spouse, then, in addition to the homestead and family allowance, the surviving spouse is entitled from the estate to:

(1) property not exceeding $15,000 in value in excess of any security interests therein, in household furniture, furnishings, appliances, and personal effects, subject to an award of sentimental value property under section 525.152; and

(2) one automobile, if any, without regard to value.

(b) If there is no surviving spouse, the decedent's children are entitled jointly to the same property as provided in paragraph (a), except that where it appears from the decedent's will a child was omitted intentionally, the child is not entitled to the rights conferred by this section.

(c) If encumbered chattels are selected and the value in excess of security interests, plus that of other exempt property, is less than $15,000, or if there is not $15,000 worth of exempt property in the estate, the surviving spouse or children are entitled to other personal property of the estate, if any, to the extent necessary to make up the $15,000 value.

(d) Rights to exempt property and assets needed to make up a deficiency of exempt property have priority over all claims against the estate, but the right to any assets to make up a deficiency of exempt property abates as necessary to permit earlier payment of the family allowance.

(e) The rights granted by this section are in addition to any benefit or share passing to the surviving spouse or children by the decedent's will, unless otherwise provided, by intestate succession or by way of elective share.

(f) No rights granted to a decedent's adult children under this section shall have precedence over a claim under section 246.53, 256B.15, 256D.16, 261.04, or 524.3-805, paragraph (a), clause (1), (2), or (3).

History: *1994 c 472 s 33; 1996 c 338 art 2 s 2; 1996 c 451 art 2 s 54; 1997 c 9 s 7; 1998 c 262 s 9; 2016 c 135 art 2 s 25*

524.2-404 FAMILY ALLOWANCE.

(a) In addition to the right to the homestead and exempt property, the decedent's surviving spouse and minor children whom the decedent was obligated to support, and children who were in fact being supported by the decedent, shall be allowed a reasonable family allowance in money out of the estate for their maintenance as follows:

(1) for one year if the estate is inadequate to discharge allowed claims; or

(2) for 18 months if the estate is adequate to discharge allowed claims.

(b) The amount of the family allowance may be determined by the personal representative in an amount not to exceed $2,300 per month.

(c) The family allowance is payable to the surviving spouse, if living; otherwise to the children, their guardian or conservator, or persons having their care and custody.

(d) The family allowance is exempt from and has priority over all claims.

(e) The family allowance is not chargeable against any benefit or share passing to the surviving spouse or children by the will of the decedent unless otherwise provided, by intestate succession or by way of elective share. The death of any person entitled to family allowance does not terminate the right of that person to the allowance.

(f) The personal representative or an interested person aggrieved by any determination, payment, proposed payment, or failure to act under this section may petition the court for appropriate relief, which may include a family allowance other than that which the personal representative determined or could have determined.

History: *1994 c 472 s 34; 2016 c 135 art 2 s 26*

524.2-405 SOURCE, DETERMINATION, AND DOCUMENTATION.

(a) If the estate is otherwise sufficient, property specifically devised may not be used to satisfy rights to exempt property. Subject to this restriction, the surviving spouse, guardians or conservators of minor children, or children who are adults may select property of the estate as exempt property. The personal representative may make those selections if the surviving spouse, the children, or the guardians of the minor children are unable or fail to do so within a reasonable time or there is no guardian of a minor child.

(b) The personal representative may execute an instrument or deed of distribution to establish the ownership of property taken as exempt property.

(c) The personal representative or an interested person aggrieved by any selection, determination, payment, proposed payment, or failure to act under this section may petition the court for appropriate relief, which may include a selection or determination under this section other than that which the surviving spouse, guardians or conservators of minor children, children who are adults, or the personal representative selected, could have selected, determined, or could have determined.

History: *1994 c 472 s 35*

Part 5
WILLS

524.2-501 WHO MAY MAKE A WILL.

Any person 18 or more years of age who is of sound mind may make a will.

History: *1975 c 347 s 22*

524.2-502 EXECUTION; WITNESSED WILLS.

Except as provided in sections 524.2-506 and 524.2-513, a will must be:

(1) in writing;

(2) signed by the testator or in the testator's name by some other individual in the testator's conscious presence and by the testator's direction or signed by the testator's conservator pursuant to a court order under section 524.5-411; and

(3) signed by at least two individuals, each of whom signed within a reasonable time after witnessing either the signing of the will as described in clause (2) or the testator's acknowledgment of that signature or acknowledgment of the will.

History: *1975 c 347 s 22; 1986 c 444; 1994 c 472 s 36; 2003 c 12 art 2 s 6*

524.2-503 HARMLESS ERROR.

(a) If a document or writing added upon a document was not executed in compliance with section 524.2-502, the document or writing is treated as if it had been executed in compliance with section 524.2-502 if the proponent of the document or writing establishes by clear and convincing evidence that the decedent intended the document or writing to constitute:

(1) the decedent's will;

(2) a partial or complete revocation of the will;

(3) an addition to or an alteration of the will; or

(4) a partial or complete revival of the decedent's formerly revoked will or of a formerly revoked portion of the will.

(b) This section applies to documents and writings executed on or after March 13, 2020.

History: *2020 c 74 art 1 s 2; 1Sp2021 c 11 art 3 s 27*

524.2-504 SELF-PROVED WILL.

(a) A will may be contemporaneously executed, attested, and made self-proved, by acknowledgment thereof by the testator and affidavits of the witnesses, each made in the presence of an officer authorized to administer oaths under the laws of the state in which execution occurs and evidenced by the officer's certificate, under official seal, in substantially the following form:

I, ..., the testator, sign my name to this instrument this ..... day of ....., and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am 18 years of age or older, of sound mind, and under no constraint or undue influence.

.....

Testator

We, ..., ..., the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the testator signs and executes this instrument as the testator's will and that the testator signs it willingly (or willingly directs another to sign for the testator), and that each of us, in the presence and hearing of the testator, hereby signs this will as witness to the testator's signing, and that to the best of our knowledge the testator is 18 years of age or older, of sound mind, and under no constraint or undue influence.

.....

Witness

.....

Witness

State of .....

County of .....

Subscribed, sworn to, and acknowledged in my presence by ....., the testator, and subscribed and sworn to in my presence by ....., and....., witnesses, this ..... day of ....., ...

(Seal)

(Signed) .....

.....

(Official capacity of officer)

(b) An attested will may be made self-proved at any time after its execution by the acknowledgment thereof by the testator and the affidavits of the witnesses, each made in the presence of an officer authorized to administer oaths under the laws of the state in which the acknowledgment occurs and evidenced by the officer's certificate, under the official seal, attached or annexed to the will in substantially the following form:

State of .....

County of .....

We, ..., ..., and ....., the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that the testator signed and executed the instrument as the testator's will and that the testator had signed willingly (or willingly directed another to sign for the testator), and that the testator executed it as the testator's free and voluntary act for the purposes therein expressed, and each of the witnesses, in the presence and hearing of the testator, signed the will as witness and that to the best of the witness' knowledge the testator was at the time 18 years of age or older, of sound mind, and under no constraint or undue influence.

.....

Testator

.....

Witness

.....

Witness

Subscribed, sworn to, and acknowledged in my presence by ....., the testator, and subscribed and sworn to in my presence by ....., and....., witnesses, this ..... day of ....., ...

(Seal)

(Signed) .....

.....

(Official capacity of officer)

(c) A signature affixed to a self-proving affidavit attached to a will is considered a signature affixed to the will, if necessary to prove the will's due execution.

History: *1975 c 347 s 22; 1979 c 240 s 1; 1986 c 444; 1994 c 472 s 37; 2023 c 21 s 2*

524.2-505 WHO MAY WITNESS.

(a) An individual generally competent to be a witness may act as a witness to a will.

(b) The signing of a will by an interested witness does not invalidate the will or any provision of it.

History: *1975 c 347 s 22; 1994 c 472 s 38*

524.2-506 CHOICE OF LAW AS TO EXECUTION.

A will is valid if executed in compliance with section 524.2-502 or if its execution complies with the law at the time of execution of the place where the testator executes the will, or of the law of the place where at the time of execution or at the time of death the testator is domiciled, has a place of abode, or is a national.

History: *1975 c 347 s 22; 2023 c 21 s 3*

524.2-507 REVOCATION BY WRITING OR BY ACT.

(a) A will or any part thereof is revoked:

(1) by executing a subsequent will that revokes the previous will or part expressly or by inconsistency; or

(2) by performing a revocatory act, if the testator performed the act with the intent and for the purpose of revoking the will or part or if another individual performed the act in the testator's conscious presence and by the testator's direction. For purposes of this clause, "revocatory act" includes burning, tearing, canceling, obliterating, or destroying the will or any part of it. A burning, tearing, or canceling may be a "revocatory act," whether or not the burn, tear, or cancellation touched any of the words on the will.

(b) If a subsequent will does not expressly revoke a previous will, the execution of the subsequent will wholly revokes the previous will by inconsistency if the testator intended the subsequent will to replace rather than supplement the previous will.

(c) The testator is presumed to have intended a subsequent will to replace rather than supplement a previous will if the subsequent will makes a complete disposition of the testator's estate. If this presumption arises and is not rebutted by clear and convincing evidence, the previous will is revoked; only the subsequent will is operative on the testator's death.

(d) The testator is presumed to have intended a subsequent will to supplement rather than replace a previous will if the subsequent will does not make a complete disposition of the testator's estate. If this presumption arises and is not rebutted by clear and convincing evidence, the subsequent will revokes the

previous will only to the extent the subsequent will is inconsistent with the previous will; each will is fully operative on the testator's death to the extent they are not inconsistent.

History: *1975 c 347 s 22; 1986 c 444; 1994 c 472 s 39; 2023 c 21 s 4*

524.2-508 REVOCATION BY CHANGES OF CIRCUMSTANCES.

Except as provided in sections 524.2-803 and 524.2-804, a change of circumstances does not revoke a will or any part of it.

History: *1975 c 347 s 22; 1994 c 472 s 40; 1995 c 130 s 12*

524.2-509 REVIVAL OF REVOKED WILL.

(a) If a subsequent will that wholly revoked a previous will is thereafter revoked by a revocatory act under section 524.2-507, paragraph (a), clause (2), the previous will remains revoked unless it is revived. The previous will is revived if it is evident from the circumstances of the revocation of the subsequent will or from the testator's contemporary or subsequent declarations that the testator intended the previous will to take effect as executed.

(b) If a subsequent will that partly revoked a previous will is thereafter revoked by a revocatory act under section 524.2-507, paragraph (a), clause (2), a revoked part of the previous will is revived unless it is evident from the circumstances of the revocation of the subsequent will or from the testator's contemporary or subsequent declarations that the testator did not intend the revoked part to take effect as executed.

(c) If a subsequent will that revoked a previous will in whole or in part is thereafter revoked by another later will, the previous will remains revoked in whole or in part, unless it or its revoked part is revived. The previous will or its revoked part is revived to the extent it appears from the terms of the later will that the testator intended the previous will to take effect.

History: *1975 c 347 s 22; 1986 c 444; 1994 c 472 s 41*

524.2-510 INCORPORATION BY REFERENCE.

Any writing in existence when a will is executed may be incorporated by reference if the language of the will manifests this intent and describes the writing sufficiently to permit its identification.

History: *1975 c 347 s 22*

524.2-511 TESTAMENTARY ADDITIONS TO TRUSTS.

(a) A will may validly devise property to the trustee of a trust established or to be established (i) during the testator's lifetime by the testator, by the testator and some other person, or by some other person, including a funded or unfunded life insurance trust, although the settlor has reserved any or all rights of ownership of the insurance contracts, or (ii) at the testator's death by the testator's devise to the trustee, if, in either case, the trust is identified in the testator's will and its terms are set forth in a written instrument, other than a will, executed before, concurrently with, or after the execution of the testator's will or in another individual's will if that other individual has predeceased the testator, regardless of the existence, size, or character of the corpus of the trust. The devise is not invalid because the trust is amendable or revocable, or because the trust was amended after the execution of the will or the testator's death.

(b) Unless the testator's will provides otherwise, property devised to a trust described in paragraph (a) is not held under a testamentary trust of the testator, but it becomes a part of the trust to which it is devised,

and must be administered and disposed of in accordance with the provisions of the governing instrument setting forth the terms of the trust, including any amendments thereto made before or after the testator's death.

(c) Unless the testator's will provides otherwise, a revocation or termination of the trust before the testator's death causes the devise to lapse.

(d) This section does not invalidate a devise made by a will executed before February 21, 1963.

History: *1994 c 472 s 42*

524.2-512 EVENTS OF INDEPENDENT SIGNIFICANCE.

A will may dispose of property by reference to acts and events that have significance apart from their effect upon the dispositions made by the will, whether they occur before or after the execution of the will or before or after the testator's death. The execution or revocation of another individual's will is such an event.

History: *1975 c 347 s 22; 1994 c 472 s 43*

524.2-513 SEPARATE WRITING IDENTIFYING BEQUEST OF TANGIBLE PROPERTY.

A will may refer to a written statement or list to dispose of items of tangible personal property not otherwise specifically disposed of by the will, other than money and coin collections, and property used in trade or business. To be admissible under this section as evidence of the intended disposition, the writing must be referred to in the will, must be either in the handwriting of the testator or be signed by the testator, and must describe the items and the devisees with reasonable certainty. The writing may be referred to as one to be in existence at the time of the testator's death; it may be prepared before or after the execution of the will; it may be altered by the testator after its preparation; and it may be a writing which has no significance apart from its effect upon the dispositions made by the will.

A writing may include multiple writings and if an item of tangible personal property is disposed of to different persons by different writings, the most recent writing controls the disposition of the item.

History: *1975 c 347 s 22; 1986 c 444; 2000 c 362 s 2*

524.2-514 CONTRACTS CONCERNING SUCCESSION.

A contract to make a will or devise, or not to revoke a will or devise, or to die intestate, if executed after January 1, 1976, may be established only by (i) provisions of a will stating material provisions of the contract, (ii) an express reference in a will to a contract and extrinsic evidence proving the terms of the contract, or (iii) a writing signed by the decedent evidencing the contract. The execution of a joint will or mutual wills does not create a presumption of a contract not to revoke the will or wills.

History: *1994 c 472 s 44*

524.2-515 DEPOSIT OF WILL WITH COURT IN TESTATOR'S LIFETIME.

A will may be deposited by the testator or the testator's agent with any court for safekeeping, under rules of the court. The will must be sealed and kept confidential. During the testator's lifetime, a deposited will must be delivered only to the testator or to a person authorized in writing signed by the testator to receive the will. A conservator or guardian may be allowed to examine a deposited will of a protected testator under procedures designed to maintain the confidential character of the document to the extent possible, and to

ensure that it will be resealed and kept on deposit after the examination. Upon being informed of the testator's death, the court may deliver the will to the appropriate court.

History: *1994 c 472 s 45*

524.2-516 DUTY OF CUSTODIAN OF WILL; LIABILITY.

After the death of a testator and on request of an interested person, a person having custody of a will of the testator shall deliver it with reasonable promptness to an appropriate court. A person who willfully fails to deliver a will is liable to any person aggrieved for any damages that may be sustained by the failure. A person who willfully refuses or fails to deliver a will after being ordered by the court in a proceeding brought for the purpose of compelling delivery is subject to penalty for contempt of court.

History: *1994 c 472 s 46*

524.2-517 PENALTY CLAUSE FOR CONTEST.

A provision in a will purporting to penalize an interested person for contesting the will or instituting other proceedings relating to the estate is unenforceable if probable cause exists for instituting proceedings.

History: *1994 c 472 s 47*

524.2-518 CERTIFICATION OF PAPER COPY.

An individual may create a certified paper copy of an electronic will by affirming under penalty of perjury that a paper copy of the electronic will is a complete, true, and accurate copy of the electronic will. If the electronic will is made self-proving, the certified paper copy of the will must include the self-proving affidavits. A certified paper copy of an electronic will may be substituted for an original will when an original will is required by this chapter.

History: *2023 c 21 s 5*

Part 6
RULES OF CONSTRUCTION APPLICABLE ONLY TO WILLS

524.2-601 SCOPE.

In the absence of a finding of a contrary intention, the rules of construction in this part control the construction of a will.

History: *1994 c 472 s 48*

524.2-602 WILL MAY PASS ALL PROPERTY AND AFTER-ACQUIRED PROPERTY.

A will may provide for the passage of all property the testator owns at death and all property acquired by the estate after the testator's death.

History: *1975 c 347 s 22; 1986 c 444; 1994 c 472 s 49*

524.2-603 MS 2000 [Repealed, 2001 c 15 s 14]

524.2-603 ANTILAPSE; DECEASED DEVISEE; CLASS GIFTS; WORDS OF SURVIVORSHIP.

Subdivision 1. **Deceased devisee.** If a devisee who is a grandparent or a lineal descendant of a grandparent of the testator is dead at the time of execution of the will, fails to survive the testator, or is treated as if the devisee predeceased the testator, the issue of the deceased devisee who survive the testator by 120 hours take in place of the deceased devisee. If they are all of the same degree of kinship to the devisee, they take equally. If they are of unequal degree, those of more remote degree take by representation. A person who would have been a devisee under a class gift if the person had survived the testator is treated as a devisee for purposes of this section, whether the death occurred before or after the execution of the will.

Subd. 2. **Definition.** For the purposes of section 524.2-601, words of survivorship, such as, in a devise to an individual, "if he or she survives me," or, in a class gift, to "my surviving children," are a sufficient indication of an intent contrary to the application of this section.

History: *2001 c 15 s 13*

524.2-604 FAILURE OF TESTAMENTARY PROVISION.

(a) Except as provided in section 524.2-603, a devise, other than a residuary devise, that fails for any reason becomes a part of the residue.

(b) Except as provided in section 524.2-603, if the residue is devised to two or more persons, the share of a residuary devisee that fails for any reason passes to the other residuary devisee, or to other residuary devisees in proportion to the interest of each in the remaining part of the residue.

History: *1975 c 347 s 22; 1986 c 444; 1994 c 472 s 51; 2002 c 379 art 1 s 102*

524.2-605 INCREASE IN SECURITIES; ACCESSIONS.

(a) If a testator executes a will that devises securities and the testator then owned securities that meet the description in the will, the devise includes additional securities owned by the testator at death to the extent the additional securities were acquired by the testator after the will was executed as a result of the testator's ownership of the described securities and are securities of any of the following types:

(1) securities of the same organization acquired by reason of action initiated by the organization or any successor, related, or acquiring organization, excluding any acquired by exercise of purchase options;

(2) securities of another organization acquired as a result of a merger, consolidation, reorganization, or other distribution by the organization or any successor, related, or acquiring organization; or

(3) securities of the same organization acquired as a result of a plan of reinvestment.

(b) Distributions in cash before death with respect to a described security are not part of the devise.

History: *1975 c 347 s 22; 1986 c 444; 1994 c 472 s 52*

524.2-606 NONADEMPTION OF SPECIFIC DEVISES; UNPAID PROCEEDS OF SALE, CONDEMNATION, OR INSURANCE; SALE BY CONSERVATOR OR GUARDIAN.

(a) A specific devisee has a right to the specifically devised property in the testator's estate at death and:

(1) any balance of the purchase price, together with any security agreement, owing from a purchaser to the testator at death by reason of sale of the property;

(2) any amount of a condemnation award for the taking of the property unpaid at death;

(3) any proceeds unpaid at death on fire or casualty insurance on or other recovery for injury to the property; and

(4) property owned by the testator at death and acquired as a result of foreclosure, or obtained in lieu of foreclosure, of the security interest for a specifically devised obligation.

(b) If specifically devised property is sold or mortgaged by a conservator or guardian, by an agent acting within the authority of a durable power of attorney for an incapacitated principal, or by the trustee of a revocable trust during the period of the settlor's incapacity, or if a condemnation award, insurance proceeds, or recovery for injury to the property are paid to a conservator or guardian, to an agent acting within the authority of a durable power of attorney for an incapacitated principal, or to the trustee of a revocable trust during the period of the settlor's incapacity, the specific devisee has the right to a general pecuniary devise equal to the net sale price, the amount of the unpaid loan, the condemnation award, the insurance proceeds, or the recovery.

(c) The right of a specific devisee under paragraph (b) is reduced by any right the devisee has under paragraph (a).

(d) For the purposes of the references in paragraph (b) to a conservator or guardian or an agent acting within the authority of a durable power of attorney or a trustee of a revocable trust during the period of the settlor's incapacity, paragraph (b) does not apply if after the sale, mortgage, condemnation, casualty, or recovery:

(1) in the case of a conservator or guardian, it was adjudicated that the testator's incapacity ceased and the testator survived the adjudication by one year;

(2) in the case of an agent acting within the authority of a durable power of attorney, the testator's incapacity ceased and the testator survived for one year after the incapacity ceased; or

(3) in the case of a trustee, the settlor's incapacity ceased and the settlor survived for one year after the incapacity ceased.

(e) For the purposes of the references in paragraph (b) to the trustee of a revocable trust during the period of the settlor's incapacity, paragraph (b) does not apply to a specific devise contained in a will if:

(1) the revocable trust provides for the transfer, devise, or distribution of all trust assets held as of the death of the settlor to persons or entities other than the settlor's estate; and

(2) the initial transfer of devised property into the trust occurred prior to the settlor's incapacity.

(f) For the purposes of the references in paragraph (b) to an agent acting within the authority of a durable power of attorney for an incapacitated principal or the trustee of a revocable trust during the period of the settlor's incapacity, (i) "incapacitated principal" means a principal who is an incapacitated person as defined in section 524.5-102, subdivision 6, and the "period of the settlor's incapacity" means a period when the settlor of a revocable trust is an incapacitated person as defined by the trust instrument, or, if the trust instrument is silent, as defined in section 524.5-102, subdivision 6, and (ii) a finding of the principal's or settlor's incapacity need not occur during the principal's or settlor's life.

History: *1975 c 347 s 22; 1986 c 444; 1994 c 472 s 53; 1997 c 9 s 8; 2004 c 146 art 3 s 41; 2016 c 135 art 2 s 27*

524.2-607 NONEXONERATION.

A specific devise passes subject to any mortgage or security interest existing at the date of death, without right of exoneration, regardless of a general directive in the will to pay debts.

History: *1975 c 347 s 22; 1994 c 472 s 54*

524.2-608 EXERCISE OF POWER OF APPOINTMENT.

A general residuary clause in a will, or a will making general disposition of all of the testator's property, does not exercise a power of appointment held by the testator unless the testator's will manifests an intention to include property subject to the power.

History: *1975 c 347 s 22; 1986 c 444; 1994 c 472 s 55*

524.2-609 ADEMPTION BY SATISFACTION.

(a) Property a testator, while living, gave to a person is treated as a satisfaction of a devise in whole or in part, only if (i) the will provides for deduction of the gift, (ii) the testator declared in a contemporaneous writing that the gift is in satisfaction of the devise or that its value is to be deducted from the value of the devise, or (iii) the devisee acknowledged in writing that the gift is in satisfaction of the devise or that its value is to be deducted from the value of the devise.

(b) For purposes of partial satisfaction, property given during lifetime is valued as of the time the devisee came into possession or enjoyment of the property or at the testator's death, whichever occurs first.

(c) If the devisee fails to survive the testator, the gift is treated as a full or partial satisfaction of the devise, as appropriate, in applying sections 524.2-603 and 524.2-604, unless the testator's contemporaneous writing provides otherwise.

History: *1975 c 347 s 22; 1994 c 472 s 56; 2002 c 379 art 1 s 103*

524.2-610 MS 1994 [Repealed, 1994 c 472 s 64]

524.2-612 MS 1994 [Repealed, 1994 c 472 s 64]

Part 7
RULES OF CONSTRUCTION APPLICABLE TO WILLS AND OTHER GOVERNING INSTRUMENTS

524.2-701 SCOPE.

In the absence of a finding of a contrary intention, the rules of construction in this part control the construction of a governing instrument. The rules of construction in this part apply to a governing instrument of any type, except as the application of a particular section is limited by its terms to a specific type or types of provision or governing instrument.

History: *1975 c 347 s 22; 1994 c 472 s 57*

524.2-702 REQUIREMENT OF SURVIVAL FOR 120 HOURS FOR DEVISEES, BENEFICIARIES OF CERTAIN TRUSTS, AND APPOINTEES OF CERTAIN POWERS OF APPOINTMENT; SIMULTANEOUS DEATH ACT FOR OTHER CASES.

(a) **Requirement of survival for 120 hours.** A beneficiary of a trust in which the grantor has reserved a power to alter, amend, revoke, or terminate the provisions of the trust who fails to survive the grantor by 120 hours, a devisee who fails to survive the testator by 120 hours, a beneficiary named in a transfer on death deed under section 507.071 who fails to survive by 120 hours the grantor owner upon whose death the conveyance to the beneficiary becomes effective, or an appointee of a power of appointment taking effect at the death of the holder of the power who fails to survive the holder of the power by 120 hours is deemed to have predeceased the grantor, grantor owner testator, or holder of the power for purposes of determining title to property passing by the trust instrument, by the testator's will, by the transfer on death deed, or by the exercise of the power of appointment.

(b)(1) **Title to property in other cases.** In cases not governed by section 524.2-104 or paragraph (a), where the title to property or the devolution thereof depends upon priority of death and there is no sufficient evidence that the persons have died otherwise than simultaneously, the property of each person shall be disposed of as if the person had survived, except as provided otherwise in this paragraph.

(2) **Death of multiple beneficiaries; division of property.** Where two or more beneficiaries are designated to take successively by reason of survivorship under another person's disposition of property and there is no sufficient evidence that these beneficiaries have died otherwise than simultaneously the property thus disposed of shall be divided into as many equal portions as there are successive beneficiaries and these portions shall be distributed respectively to those who would have taken in the event that each designated beneficiary had survived.

(3) **Death of joint tenants or tenants by the entirety; division of property.** Where there is no sufficient evidence that two joint tenants or tenants by the entirety have died otherwise than simultaneously the property so held shall be distributed one-half as if one had survived and one-half as if the other had survived. If there are more than two joint tenants and all of them have so died the property thus distributed shall be in the proportion that one bears to the whole number of joint tenants.

(4) **Death of insured and beneficiary; division of property.** Where the insured and the beneficiary in a policy of life or accident insurance have died and there is no sufficient evidence that they have died otherwise than simultaneously the proceeds of the policy shall be distributed as if the insured had survived the beneficiary.

(c) **Not retroactive.** This section does not apply to the distribution of the property of a person who has died before it takes effect. Paragraph (a) applies only to persons who die on or after August 1, 1999.

(d) **Application.** This section does not apply in the case of wills, trusts, deeds, contracts of insurance, or documents exercising powers of appointment wherein provision has been made for distribution of property different from the provisions of this section. Paragraph (a) does not apply to trusts which are part of a qualified or nonqualified retirement plan or individual retirement accounts.

History: *1943 c 248 s 1-7; 1986 c 444; 1994 c 472 s 63; 1999 c 171 s 2; 2008 c 341 art 2 s 8*

524.2-703 CHOICE OF LAW AS TO MEANING AND EFFECT OF GOVERNING INSTRUMENT.

The meaning and legal effect of a governing instrument is determined by the local law of the state selected in the governing instrument, unless the application of that law is contrary to the provisions relating

to the elective share described in part 2, the provisions relating to exempt property and allowances described in part 4, or any other public policy of this state otherwise applicable to the disposition.

History: *1994 c 472 s 58*

524.2-704 POWER OF APPOINTMENT; MEANING OF SPECIFIC REFERENCE REQUIREMENT.

If a governing instrument creating a power of appointment expressly requires that the power be exercised by a reference, an express reference, or a specific reference, to the power or its source, it is presumed that the donor's intention, in requiring that the donee exercise the power by making reference to the particular power or to the creating instrument, was to prevent an inadvertent exercise of the power and an attempt to exercise the power by a donee who had knowledge of and intended to exercise the power is effective.

History: *1994 c 472 s 59*

524.2-705 CLASS GIFTS CONSTRUED TO ACCORD WITH INTESTATE SUCCESSION.

Adopted individuals and individuals born out of wedlock, and their respective descendants if appropriate to the class, are included in class gifts and other terms of relationship in accordance with the rules for intestate succession. Terms of relationship that do not differentiate relationships by blood from those by affinity, such as "uncles," "aunts," "nieces," or "nephews," are presumed to exclude relatives by affinity. Terms of relationship that do not differentiate relationships by the half blood from those by the whole blood, such as "brothers," "sisters," "nieces," or "nephews," are presumed to include both types of relationships.

History: *1994 c 472 s 60*

524.2-708 CLASS GIFTS TO "DESCENDANTS," "ISSUE," OR "HEIRS OF THE BODY"; FORM OF DISTRIBUTION IF NONE SPECIFIED.

If a class gift in favor of "descendants," "issue," or "heirs of the body" does not specify the manner in which the property is to be distributed among the class members, the property is distributed among the class members who are living when the interest is to take effect in possession or enjoyment, in such shares as they would receive, under the applicable law of intestate succession, if the designated ancestor had then died intestate owning the subject matter of the class gift.

History: *1994 c 472 s 61*

524.2-709 REPRESENTATION; PER STIRPES; PER CAPITA AT EACH GENERATION.

(a) **Definitions.** In this section:

(1) "Deceased child" or "deceased descendant" means a child or a descendant who either predeceased the distribution date or is deemed to have predeceased the distribution date under section 524.2-702.

(2) "Distribution date," with respect to an interest, means the time when the interest is to take effect in possession or enjoyment. The distribution date need not occur at the beginning or end of a calendar day, but can occur at a time during the course of a day.

(3) "Surviving ancestor," "surviving child," or "surviving descendant" means an ancestor, a child, or a descendant who neither predeceased the distribution date nor is deemed to have predeceased the distribution date under section 524.2-702.

(b) **Representation; per stirpes.** If an applicable statute or governing instrument calls for property to be distributed by "representation" or "per stirpes," the property is divided into as many equal shares as there

are (i) surviving children of the designated ancestor and (ii) deceased children who left surviving descendants. Each surviving child, if any, is allocated one share. The share of each deceased child with surviving descendants is divided in the same manner, with subdivision repeating at each succeeding generation until the property is fully allocated among surviving descendants.

(c) **Per capita at each generation.** If a governing instrument calls for property to be distributed "per capita at each generation," the property is divided into as many equal shares as there are (i) surviving descendants in the generation nearest to the designated ancestor which contains one or more surviving descendants and (ii) deceased descendants in the same generation who left surviving descendants, if any. Each surviving descendant in the nearest generation is allocated one share. The remaining shares, if any, are combined and then divided in the same manner among the surviving descendants of the deceased descendants as if the surviving descendants who were allocated a share and their surviving descendants had predeceased the distribution date.

(d) **Deceased descendant with no surviving descendant disregarded.** For the purposes of paragraphs (b) and (c), an individual who is deceased and left no surviving descendant is disregarded, and an individual who leaves a surviving ancestor who is a descendant of the designated ancestor is not entitled to a share.

History: *1994 c 472 s 62*

524.2-711 FUTURE INTERESTS IN "HEIRS," "HEIRS AT LAW," OR "NEXT OF KIN."

If a governing instrument calls for a future distribution to or creates a future interest in a designated individual's "heirs," "heirs at law," or "next of kin," the property passes to those persons, including the state of Minnesota under section 524.2-105, and in such shares as would succeed to the designated individual's intestate estate under the laws of intestate succession of the state of Minnesota if the designated individual died when the disposition is to take effect in possession or enjoyment. If the designated individual's surviving spouse is living at the time the disposition is to take effect in possession or enjoyment, the surviving spouse is an heir of the designated individual for the purposes of this section, whether or not the surviving spouse is remarried.

History: *1997 c 9 s 9*

524.2-712 DECEDENTS DYING AFTER DECEMBER 31, 2009, AND BEFORE JANUARY 1, 2011; FORMULA CLAUSES TO BE CONSTRUED TO REFER TO FEDERAL ESTATE TAX AND FEDERAL GENERATION-SKIPPING TRANSFER TAX LAWS.

(a) A governing instrument, including a will or trust agreement, of a decedent who dies after December 31, 2009, and before January 1, 2011, that contains a formula or provision referring to the "unified credit," "estate tax exemption," "applicable exemption amount," "applicable credit amount," "applicable exclusion amount," "generation-skipping transfer tax exemption," "GST exemption," "marital deduction," "maximum marital deduction," "unlimited marital deduction," "inclusion ratio," "applicable fraction," or any section of the Internal Revenue Code relating to the federal estate tax or federal generation-skipping transfer tax, or that measures a share of an estate or trust by reference to federal estate taxes or federal generation-skipping transfer taxes, is deemed to refer to the federal estate tax and federal generation-skipping transfer tax laws as they applied with respect to the estates of decedents dying on December 31, 2009. This paragraph does not apply to a governing instrument, including a will or trust agreement, that manifests an intent that a contrary rule will apply if the decedent dies on a date on which there is no then-applicable federal estate or federal generation-skipping transfer tax.

(b) The personal representative, trustee, or any interested person under the governing instrument, including a will or trust agreement, may bring a proceeding to determine whether the decedent intended that a formula or provision described in paragraph (a) be construed with respect to the law as it existed after December 31, 2009. This proceeding must be commenced by December 31, 2011, and the court may consider extrinsic evidence that contradicts the plain meaning of the will, trust, or other governing instrument. The court may modify a provision of a will, trust, or other governing instrument that refers to the federal estate tax or generation-skipping transfer tax laws as described in paragraph (a) to conform the terms to the decedent's intention, or achieve the decedent's tax objectives in a manner that is not contrary to the decedent's probable intention. The court may provide that its decision, including any decision to modify a provision of a will, trust, or other governing instrument, is effective as of the date of the decedent's death.

History: *2010 c 334 s 14; 2011 c 66 s 3*

Part 8
GENERAL PROVISIONS CONCERNING PROBATE AND NONPROBATE TRANSFERS

524.2-802 EFFECT OF DISSOLUTION OF MARRIAGE, ANNULMENT, AND DECREE OF SEPARATION.

A person whose marriage to the decedent has been dissolved or annulled is not a surviving spouse unless, by virtue of a subsequent marriage, the person is married to the decedent at the time of death. A decree of separation which does not terminate the status of spouses is not a dissolution of marriage for purposes of this section.

History: *1975 c 347 s 22; 1986 c 444; 2024 c 101 art 3 s 2*

524.2-803 EFFECT OF HOMICIDE ON INTESTATE SUCCESSION, WILLS, JOINT ASSETS, LIFE INSURANCE AND BENEFICIARY DESIGNATIONS; EMERGENCY ORDER.

(a) A surviving spouse, heir or devisee who feloniously and intentionally kills the decedent is not entitled to any benefits under the will or under this article, including an intestate share, an elective share, an omitted spouse's or child's share, homestead, exempt property, and a family allowance, and the estate of decedent passes as if the killer had predeceased the decedent. Property appointed by the will of the decedent to or for the benefit of the killer passes as if the killer had predeceased the decedent.

(b) Any joint tenant who feloniously and intentionally kills another joint tenant thereby effects a severance of the interest of the decedent so that the share of the decedent passes as the decedent's property and the killer has no rights by survivorship. This provision applies to joint tenancies in real and personal property, joint accounts in banks, savings associations, credit unions and other institutions, and any other form of co-ownership with survivorship incidents.

(c) A named beneficiary of a bond or other contractual arrangement who feloniously and intentionally kills the principal obligee is not entitled to any benefit under the bond or other contractual arrangement and it becomes payable as though the killer had predeceased the decedent.

(d) A named beneficiary of a life insurance policy who feloniously and intentionally kills the person upon whose life the policy is issued is not entitled to any benefit under the policy and the proceeds of the policy shall be paid and distributed by order of the court as hereinafter provided. If a person who feloniously

and intentionally kills a person upon whose life a life insurance policy is issued is a beneficial owner as shareholder, partner or beneficiary of a corporation, partnership, trust or association which is the named beneficiary of the life insurance policy, to the extent of the killer's beneficial ownership of the corporation, partnership, trust or association, the proceeds of the policy shall be paid and distributed by order of the court as hereinafter provided.

Upon receipt of written notice by the insurance company at its home office that the insured may have been intentionally and feloniously killed by one or more named beneficiaries or that the insured may have been intentionally and feloniously killed by one or more persons who have a beneficial ownership in a corporation, partnership, trust or association, which is the named beneficiary of the life insurance policy, the insurance company shall, pending court order, withhold payment of the policy proceeds to all beneficiaries. In the event that the notice has not been received by the insurance company before payment of the policy proceeds, the insurance company shall be fully and finally discharged and released from any and all responsibility under the policy to the extent that the policy proceeds have been paid.

The named beneficiary, the insurance company or any other party claiming an interest in the policy proceeds may commence an action in the district court to compel payment of the policy proceeds. The court may order the insurance company to pay the policy proceeds to any person equitably entitled thereto, including the deceased insured's spouse, children, issue, parents, creditors or estate, and may order the insurance company to pay the proceeds of the policy to the court pending the final determination of distribution of the proceeds by the court. The insurance company, upon receipt of a court order, judgment or decree ordering payment of the policy proceeds, shall pay the policy proceeds according to the terms of the order, and upon payment of such proceeds according to the terms of the court order, shall be fully and completely discharged and released from any and all responsibility for payment under the policy.

(e) Any other acquisition of property or interest by the killer shall be treated in accordance with the principles of this section.

(f) A final judgment of conviction of felonious and intentional killing is conclusive for purposes of this section. In the absence of a conviction of felonious and intentional killing the court may determine by a preponderance of evidence whether the killing was felonious and intentional for purposes of this section.

(g) This section does not affect the rights of any person who, before rights under this section have been adjudicated, purchases from the killer for value and without notice property which the killer would have acquired except for this section, but the killer is liable for the amount of the proceeds or the value of the property. Any insurance company, bank, or other obligor making payment according to the terms of its policy or obligation is not liable by reason of this section unless prior to payment it has received at its home office or principal address written notice of a claim under this section.

(h) If a complaint or indictment is issued charging a defendant in the felonious and intentional killing of the decedent, the personal representative, special administrator, or an interested person may file with the court a copy of the complaint or indictment and an inventory of the decedent's personal property that may be affected by a determination under this section, including the following:

(1) personal property that is the subject of a specific devise under the decedent's will or separate writing under section 524.2-513;

(2) exempt property identified in section 524.2-403;

(3) personal property claimed to have sentimental value to an eligible child under section 525.152; or

(4) any other personal property believed, in good faith, to belong to the decedent.

The person filing the inventory shall attest that the inventory is correct and complete to the best of the person's knowledge. The inventory and affidavit shall be filed with the court administrator.

(i) Upon motion of the personal representative, special administrator, or an interested person, and for good cause shown, the court may issue an order regarding property identified under paragraph (h) that includes any or all of the following relief:

(1) reserving a determination of distribution of property;

(2) holding the property in trust or escrow for any and all beneficiaries or heirs not disqualified by this section;

(3) prohibiting the sale, disposition, removal, transfer, or destruction of the property;

(4) permitting the sale, disposition, removal, or transfer of property jointly held by the decedent and a person disqualified under this section only to the extent necessary for reasonable and ordinary living expenses by the disqualified individual, subject to approval and on the terms the court deems just and proper; or

(5) any other relief prescribed by the court.

An order may be granted without notice to other interested persons if the court finds from affidavit or other sworn testimony that the rights of decedent's heirs and beneficiaries may be irreparably harmed before a hearing can be held. If an ex parte order is granted, notice must be given to interested persons known by the court and as the court directs within 48 hours of issuing the order and the court shall hold a hearing within five days of issuing the order. In all other cases, reasonable notice of the time and place of hearing on the petition must be given to interested persons known by the court and as the court directs. An order issued under this paragraph shall be effective pending a final determination under this section unless the court specifies a shorter time period or rescinds the order.

History: *1975 c 347 s 22; 1981 c 315 s 1; 1986 c 444; 1995 c 202 art 1 s 25; 1996 c 338 art 2 s 3; 2013 c 94 s 1*

524.2-804 REVOCATION BY DISSOLUTION OF MARRIAGE; NO REVOCATION BY OTHER CHANGES OF CIRCUMSTANCES.

Subdivision 1. **Revocation upon dissolution.** Except as provided by the express terms of a governing instrument, other than a trust instrument under section 501C.1207, executed prior to the dissolution or annulment of an individual's marriage, a court order, a contract relating to the division of the marital property made between individuals before or after their marriage, dissolution, or annulment, or a plan document governing a qualified or nonqualified retirement plan, the dissolution or annulment of a marriage revokes any revocable:

(1) disposition, beneficiary designation, or appointment of property made in a governing instrument by an individual to the individual's former spouse or any members of the former spouse's family who are not also members of the individual's family;

(2) provision in a governing instrument conferring a general or nongeneral power of appointment on an individual's former spouse; and

(3) nomination in a governing instrument, nominating an individual's former spouse or any members of the former spouse's family who are not also members of the individual's family to serve in any fiduciary or representative capacity, including a personal representative, executor, trustee, conservator, agent, or guardian.

Subd. 2. **Effect of revocation.** Provisions of a governing instrument are given effect as if the former spouse died immediately before the dissolution or annulment.

Subd. 3. **Revival if dissolution nullified.** Provisions revoked solely by this section are revived by the individual's remarriage to the former spouse or by a nullification of the dissolution or annulment.

Subd. 4. **No revocation for other change of circumstances.** No change of circumstances other than as described in this section and in section 524.2-803 effects a revocation.

Subd. 5. **Protection of payors and other third parties.** (a) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by a dissolution, annulment, or remarriage, or for having taken any other action in good faith reliance on the validity of the governing instrument, before the payor or other third party received written notice of the dissolution, annulment, or remarriage. A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written notice of a claimed forfeiture or revocation under this section.

(b) Written notice of the dissolution, annulment, or remarriage under paragraph (a) must be delivered to the payor's or other third party's main office or home. Upon receipt of written notice of the dissolution, annulment, or remarriage, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate or, if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents' estates located in the county of the decedent's residence. The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement or transfer in accordance with the determination. Payments, transfers, or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

History: *1995 c 130 s 13; 2002 c 347 s 2; 2015 c 5 art 15 s 13; 2025 c 15 s 30*

524.2-805 REFORMATION TO CORRECT MISTAKES.

The court may reform the terms of a governing instrument, even if unambiguous, to conform the terms to the transferor's intention, if it is proved by clear and convincing evidence what the transferor's intention was and that the terms of the governing instrument were affected by a mistake of a fact or law, whether in expression or inducement.

History: *2016 c 135 art 2 s 28*

524.2-806 MODIFICATION TO ACHIEVE TRANSFEROR'S TAX OBJECTIVES.

Subdivision 1. **Permitted purposes.** In order to achieve tax objectives that are clearly provided for in the transferor's will, the court may modify the terms of a governing instrument, in a manner that is not contrary to the transferor's probable intention, to ensure that the governing instrument correctly creates an interest:

(1) in which a surviving spouse has a qualifying income interest with respect to which an election has been or will be made in whole or in part under section 2056(b)(7), 2056A, or 2523(f) of the Internal Revenue Code;

(2) which will qualify for the marital deduction under section 2056 or 2056A of the Internal Revenue Code, by election or otherwise;

(3) which will qualify for the charitable deduction under section 2055, 2522, or 642(c) of the Internal Revenue Code;

(4) that is to be excepted, excluded, or exempt from or under chapter 13 (tax on generation skipping transfers) of the Internal Revenue Code; or

(5) in a trust that satisfies the criteria for qualified subchapter S trusts under section 1361(d) of the Internal Revenue Code.

Subd. 2. **May be retroactive.** The court may provide that a modification under this section has retroactive effect.

History: *2016 c 135 art 2 s 29*

Part 10
INTERNATIONAL WILL
INFORMATION REGISTRATION

524.2-1001 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 524.2-1001 to 524.2-1010, the terms defined in this section have the meanings ascribed to them.

Subd. 2. **International will.** "International will" means a will executed in conformity with sections 524.2-1002 to 524.2-1005.

Subd. 3. **Authorized person.** "Authorized person" and "person authorized to act in connection with international wills" means a person who by section 524.2-1009, or by the laws of the United States including members of the diplomatic and consular service of the United States designated by Foreign Service Regulations, is empowered to supervise the execution of international wills.

History: *1978 c 525 s 2*

524.2-1002 INTERNATIONAL WILL; VALIDITY.

Subdivision 1. **Form.** A will is valid as regards form, irrespective particularly of the place where it is made, of the location of the assets and of the nationality, domicile, or residence of the testator, if it is made in the form of an international will complying with the requirements of sections 524.2-1002 to 524.2-1005.

Subd. 2. **Effect of invalidity.** The invalidity of the will as an international will does not affect its formal validity as a will of another kind.

Subd. 3. **Multiple testators.** Sections 524.2-1001 to 524.2-1010 do not apply to the form of testamentary dispositions made by two or more persons in one instrument.

History: *1978 c 525 s 3*

524.2-1003 INTERNATIONAL WILL; REQUIREMENTS.

Subdivision 1. **In writing.** The will must be made in writing. It need not be written by the testator personally. It may be written in any language, by hand or by any other means.

Subd. 2. **Testator's declaration.** The testator shall declare in the presence of two witnesses and of a person authorized to act in connection with international wills that the document is the testator's will and that the testator knows the contents thereof. The testator need not inform the witnesses or the authorized person of the contents of the will.

Subd. 3. **Signature.** In the presence of the witnesses and of the authorized person, the testator shall sign the will or, having previously signed it, shall acknowledge the signature.

Subd. 4. **Inability to sign.** If the testator is unable to sign, the absence of the signature does not affect the validity of the international will if the testator indicates the reason for the inability to sign and the authorized person makes note thereof on the will. In that case, it is permissible for any other person present, including the authorized person or one of the witnesses, at the direction of the testator, to sign the testator's name for the testator if the authorized person makes note of this on the will, but it is not required that any person sign the testator's name for the testator.

Subd. 5. **Attestation.** The witnesses and the authorized person shall there and then attest the will by signing in the presence of the testator.

History: *1978 c 525 s 4; 1986 c 444*

524.2-1004 INTERNATIONAL WILLS; OTHER POINTS OF FORM.

Subdivision 1. **Multiple pages.** The signatures must be placed at the end of the will. If the will consists of several sheets, each sheet must be signed by the testator or, if the testator is unable to sign, by the person signing on the testator's behalf or, if there is no such person, by the authorized person. In addition, each sheet must be numbered.

Subd. 2. **Date.** The date of the will must be the date of its signature by the authorized person. That date must be noted at the end of the will by the authorized person.

Subd. 3. **Safekeeping.** The authorized person shall ask whether the testator wishes to make a declaration concerning the safekeeping of the will. If so and at the express request of the testator, the place where the testator intends to have the will kept must be mentioned in the certificate provided for in section 524.2-1005.

Subd. 4. **Validity.** A will executed in compliance with section 524.2-1003 is not invalid merely because it does not comply with this section.

History: *1978 c 525 s 5; 1986 c 444*

524.2-1005 INTERNATIONAL WILL; CERTIFICATE.

The authorized person shall sign and attach to the will a certificate establishing that the requirements of sections 524.2-1002 to 524.2-1005 for valid execution of an international will have been fulfilled. The authorized person shall keep a copy of the certificate and deliver another to the testator. The certificate must be substantially in the following form:

CERTIFICATE

(Convention of October 26, 1973)

1. I, ... (name, address, and capacity),

a person authorized to act in connection with

international wills,

2. certify that on ..... (date)

at.....(place)

3. (testator) .....(name,

address, date and place of birth) in my

presence and that of the witnesses

4. (a) .....(name, address, date and

place of birth)

(b) .....(name, address, date and

place of birth)

has declared that the attached document is his/her will

and that ..he knows the contents thereof.

5. I furthermore certify that:

6. (a) in my presence and in that of the witnesses

(1) the testator has signed the will or has

acknowledged his/her signature previously affixed.

*(2) following a declaration of the testator stating

that the testator was unable to sign the will

for the following

reason.....,

I have mentioned this declaration on the will,

*and the signature has been affixed

by.....

(name and address)

7. (b) the witnesses and I have signed the will;

8. *(c) each page of the will has been signed

by ..... and numbered;

9. (d) I have satisfied myself as to the identity

of the testator and of the witnesses as

designated above;

10. (e) the witnesses met the conditions requisite

to act as such according to the law under which

I am acting;

11. *(f) the testator has requested me to include

the following

statement concerning the safekeeping of the will:

.....

12. .....PLACE OF EXECUTION

13. .....DATE

14. .....SIGNATURE

and, if necessary, SEAL.....

*to be completed if appropriate

History: *1978 c 525 s 6; 1986 c 444*

524.2-1006 INTERNATIONAL WILL; EFFECT OF CERTIFICATE.

In the absence of evidence to the contrary, the certificate of the authorized person is conclusive of the formal validity of the instrument as a will under sections 524.2-1001 to 524.2-1010. The absence or irregularity of a certificate does not affect the formal validity of a will under sections 524.2-1001 to 524.2-1010.

History: *1978 c 525 s 7*

524.2-1007 INTERNATIONAL WILL; REVOCATION.

An international will is subject to the ordinary rules of revocation of wills.

History: *1978 c 525 s 8*

524.2-1008 SOURCE AND CONSTRUCTION.

Sections 524.2-1001 to 524.2-1007 derive from Annex to Convention of October 26, 1973, Providing a Uniform Law on the Form of an International Will. In interpreting and applying sections 524.2-1001 to 524.2-1007, regard shall be had to its international origin and to the need for uniformity in its interpretation.

History: *1978 c 525 s 9*

524.2-1009 PERSONS AUTHORIZED TO ACT IN RELATION TO INTERNATIONAL WILL; ELIGIBILITY; RECOGNITION BY AUTHORIZING AGENCY.

Individuals who have been admitted to practice law before the courts of this state and are currently licensed so to do are authorized persons in relation to international wills.

History: *1978 c 525 s 10*

524.2-1010 INTERNATIONAL WILL INFORMATION REGISTRATION.

Subdivision 1. **Registry.** The secretary of state shall establish a registry system by which authorized persons may register, in a central information center, information regarding the execution of international wills. The information shall be private until the death of the testator, after which date it shall be available to any person desiring information about any will who presents a death record or other satisfactory evidence of the testator's death to the secretary of state.

Subd. 2. **Transmission to other registry.** The secretary of state, at the request of the authorized person, may cause the information received about execution of any international will to be transmitted to the registry system of another jurisdiction as identified by the testator, if that other system adheres to rules protecting the confidentiality of the information similar to those established in this state.

Subd. 3. **Information to be registered.** Only the following information may be received, preserved and reported pursuant to this section:

(a) The testator's name, Social Security number or other individual identifying number established by law;

(b) The testator's address and date and place of birth; and

(c) The intended place of deposit or safekeeping of the instrument pending the death of the testator.

History: *1978 c 525 s 11; 1986 c 444; 1Sp2001 c 9 art 15 s 32*

Part 11
UNIFORM DISCLAIMER OF PROPERTY INTERESTS ACT

524.2-1101 SHORT TITLE.

Sections 524.2-1101 to 524.2-1116 may be cited as the "Uniform Disclaimer of Property Interests Act."

History: *2009 c 67 s 1*

524.2-1102 DEFINITIONS.

As used in sections 524.2-1101 to 524.2-1116:

(1) "benefactor" means the creator of the interest that is subject to a disclaimer;

(2) "beneficiary designation" means an instrument, other than an instrument creating or amending a trust, naming the beneficiary of:

(i) an annuity or insurance policy;

(ii) an account with a designation for payment on death;

(iii) a security registered in beneficiary form;

(iv) a pension, profit-sharing, retirement, or other employment-related benefit plan; or

(v) any other nonprobate transfer at death;

(3) "disclaimant" means the person to whom a disclaimed interest or power would have passed had the disclaimer not been made;

(4) "disclaimed interest" or "power" means the portion of the interest that would have passed to the disclaimant had the disclaimer not been made;

(5) "disclaimer" means the refusal to accept an interest in or power over property;

(6) "fiduciary" means a personal representative, trustee of a trust, agent acting under a power of attorney, conservator, or other person authorized to act as a fiduciary with respect to the property of another person;

(7) "future interest" means an interest that takes effect in possession or enjoyment, if at all, later than the time of its creation;

(8) "holder" means a person who has an interest in or power over property;

(9) "insolvent" means that the sum of a person's debts is greater than all of the person's assets at fair valuation. A person is presumed to be "insolvent" if the person is generally not paying debts as they become due. Assets do not include property that has been transferred, concealed, or removed, with intent to hinder, delay, or defraud creditors, or has been transferred in a manner making the transfer voidable. Debts do not include an obligation to the extent it is secured by a valid lien or property of the debtor not included as an asset;

(10) "jointly held property" means property held in the names of two or more persons under an arrangement in which all holders have concurrent interests and under which the last surviving holder is entitled to the whole of the property;

(11) "person" means an individual, living, deceased, or unborn, ascertained or unascertained, whether entitled to an interest by right of intestacy or otherwise, corporation, business trust, partnership, limited liability company, association, joint venture, government, government subdivision, agency or instrumentality, public corporation, or other commercial entity;

(12) "time of distribution" means the time when a disclaimed interest would have taken effect in possession or enjoyment;

(13) "state" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory of insular possession subject to the jurisdiction of the United States. The term includes an Indian Tribe or Band, or Alaskan native village, recognized by federal law or formally acknowledged by a state; and

(14) "trust" means:

(i) an express trust charitable or noncharitable, with additions thereto, whenever and however created; and

(ii) a trust created pursuant to a statute, judgment, or decree which requires the trust be administered in the manner of an express trust.

History: *2009 c 67 s 2*

524.2-1103 SCOPE.

Sections 524.2-1101 to 524.2-1116 are the exclusive means by which a disclaimer may be made under Minnesota law regardless of whether it is qualified under section 2518 of the Internal Revenue Code of 1986 as defined in section 291.005, subdivision 1, clause (3).

History: *2009 c 67 s 3; 2012 c 143 art 4 s 1*

524.2-1104 TAX-QUALIFIED DISCLAIMER.

Notwithstanding any other provision of this chapter, other than section 524.2-1106, if, as a result of a disclaimer or transfer, the disclaimed or transferred interest is treated pursuant to the provisions of section 2518 of the Internal Revenue Code of 1986, as defined in section 291.005, subdivision 1, clause (3), as never having been transferred to the disclaimant, then the disclaimer or transfer is effective as a disclaimer under sections 524.2-1101 to 524.2-1116.

History: *2009 c 67 s 4; 2012 c 143 art 4 s 2*

524.2-1105 WHEN DISCLAIMER IS PERMITTED.

A disclaimer may be made at any time unless it is barred under section 524.2-1106.

History: *2009 c 67 s 5*

524.2-1106 WHEN DISCLAIMER IS BARRED OR LIMITED.

(a) A disclaimer is barred by a written waiver of the right to disclaim.

(b) A disclaimer of an interest in property is barred if any of the following events occur before the disclaimer becomes effective:

(1) the disclaimant accepts the portion of the interest sought to be disclaimed;

(2) the disclaimant voluntarily assigns, conveys, encumbers, pledges, or transfers the portion of the interest sought to be disclaimed or contracts to do so;

(3) the portion of the interest sought to be disclaimed is sold pursuant to a judicial sale; or

(4) the disclaimant is insolvent when the disclaimer becomes irrevocable.

(c) Acceptance of a distribution from a trust shall constitute acceptance of only that portion of the beneficial interest in that trust that has been distributed, and shall not constitute acceptance or bar disclaimer of that portion of the beneficial interest in the trust that has not yet been distributed.

(d) A disclaimer, in whole or in part, of the future exercise of a power held in a fiduciary capacity is not barred by its previous exercise.

(e) A disclaimer, in whole or in part, of the future exercise of a power not held in a fiduciary capacity is not barred by its previous exercise unless the power is exercisable in favor of the disclaimant.

(f) A disclaimer of an interest in, or a power over, property which is barred by this section is ineffective.

History: *2009 c 67 s 6; 2012 c 143 art 4 s 3*

524.2-1107 POWER TO DISCLAIM; GENERAL REQUIREMENTS; WHEN IRREVOCABLE.

(a) A person may disclaim, in whole or in part, any interest in or power over property, including a power of appointment. A person may disclaim the interest or power even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim.

(b) With court approval, a fiduciary may disclaim, in whole or in part, any interest in or power over property, including a power of appointment when acting in a representative capacity. Without court approval, a fiduciary may disclaim, in whole or in part, any interest in or power over property, including a power of appointment, if and to the extent that the instrument creating the fiduciary relationship explicitly grants the fiduciary the right to disclaim. With court approval, a custodial parent may disclaim on behalf of a minor child for whom no conservator has been appointed, in whole or in part, any interest in or power over property, including a power of appointment, which the minor child is to receive.

(c) To be effective, a disclaimer must be in writing, declare the writing as a disclaimer, describe the interest or power disclaimed, and be signed by the person or fiduciary making the disclaimer and acknowledged in the manner provided for deeds of real estate to be recorded in this state. In addition, for a disclaimer to be effective, an original of the disclaimer must be delivered or filed in the manner provided in section 524.2-1114.

(d) A partial disclaimer may be expressed as a fraction, percentage, monetary amount, specific property, term of years, portion of a beneficial interest in or right to distributions from a trust, limitation of a power, or any other interest or estate in the property.

(e) A disclaimer becomes irrevocable when the disclaimer is delivered or filed pursuant to section 524.2-1114 or it becomes effective as provided in sections 524.2-1108 to 524.2-1113, whichever occurs later.

(f) A disclaimer made under sections 524.2-1101 to 524.2-1116 is not a transfer, assignment, or release.

History: *2009 c 67 s 7; 2012 c 143 art 4 s 4*

524.2-1108 DISCLAIMER OF INTEREST IN PROPERTY.

(a) Except for a disclaimer governed by section 524.2-1109 or 524.2-1110, the rules in paragraphs (b) to (d) apply to a disclaimer of an interest in property.

(b) The disclaimer takes effect as of the time the instrument creating the interest becomes irrevocable, or, if the interest arose under the law of intestate succession, as of the time of the intestate's death.

(c) The disclaimed interest passes according to any provision in the instrument creating the interest providing for the disposition of the interest, should it be disclaimed, or as disclaimed interests in general.

(d) If the instrument does not contain a provision described in paragraph (c), the following rules apply:

(1) if the disclaimant is an individual, the disclaimed interest passes as if the disclaimant had died immediately before the interest was created, unless under the governing instrument or other applicable law, the disclaimed interest is contingent on surviving to the time of distribution, in which case the disclaimed interest passes as if the disclaimant had died immediately before the time for distribution. However, if, by law or under the governing instrument, the descendants of the disclaimant would share in the disclaimed interest by any method of representation had the disclaimant died before the time of distribution, the disclaimed interest passes only to the descendants of the disclaimant who survive the time of distribution. For purposes of this paragraph, a disclaimed interest is created at the death of the benefactor or such earlier time, if any,

that the benefactor's transfer of the interest is a completed gift for federal gift tax purposes. Also for purposes of this paragraph, a disclaimed interest in an inter vivos trust and other will substitutes that do not lapse with certainty under state law shall pass as if the interest had been created under a will;

(2) if the disclaimant is not an individual, the disclaimed interest passes as if the disclaimant did not exist; and

(3) upon the disclaimer of a preceding interest, a future interest held by a person other than the disclaimant takes effect as if the disclaimant had died or ceased to exist immediately before the time of distribution, but a future interest held by the disclaimant is not accelerated in possession or enjoyment as a result of the disclaimer.

History: *2009 c 67 s 8*

524.2-1109 DISCLAIMER OF RIGHTS OF SURVIVORSHIP IN JOINTLY HELD PROPERTY.

(a) Upon the death of a holder of jointly held property:

(1) if, during the deceased holder's lifetime, the deceased holder could have unilaterally regained a portion of the property attributable to the deceased holder's contributions without the consent of any other holder, another holder may disclaim, in whole or in part, a fractional share of that portion of the property attributable to the deceased holder's contributions determined by dividing the number one by the number of joint holders alive immediately after the death of the holder to whose death the disclaimer relates; and

(2) for all other jointly held property, another holder may disclaim, in whole or in part, a fraction of the whole of the property the numerator of which is one and the denominator of which is the product of the number of joint holders alive immediately before the death of the holder to whose death the disclaimer relates multiplied by the number of joint holders alive immediately after the death of the holder to whose death the disclaimer relates.

(b) A disclaimer under paragraph (a) takes effect as of the death of the holder of jointly held property to whose death the disclaimer relates.

(c) An interest in jointly held property disclaimed by a surviving holder of the property passes as if the disclaimant predeceased the holder to whose death the disclaimer relates.

History: *2009 c 67 s 9*

524.2-1110 DISCLAIMER OF INTEREST BY TRUSTEE.

If a trustee having the power to disclaim under the instrument creating the fiduciary relationship or pursuant to court order disclaims an interest in property that otherwise would have become trust property, the interest does not become trust property.

History: *2009 c 67 s 10*

524.2-1111 DISCLAIMER OF POWER OF APPOINTMENT OR OTHER POWER NOT HELD IN A FIDUCIARY CAPACITY.

If a holder disclaims a power of appointment or other power not held in a fiduciary capacity, the following rules apply:

(1) if the holder has not exercised the power, the disclaimer takes effect as of the time the instrument creating the power becomes irrevocable;

(2) if the holder has exercised the power, the disclaimer takes effect immediately after the last exercise of the power; and

(3) the instrument creating the power is construed as if the power expired when the disclaimer became effective.

History: *2009 c 67 s 11*

524.2-1112 DISCLAIMER BY APPOINTEE, OBJECT, OR TAKER IN DEFAULT OF EXERCISE OF POWER OF APPOINTMENT.

(a) A disclaimer of an interest in property by an appointee of a power of appointment takes effect as of the time the instrument by which the holder exercises the power becomes irrevocable.

(b) A disclaimer of an interest in property by an object, or taker in default of an exercise of a power of appointment, takes effect as of the time the instrument creating the power becomes irrevocable.

History: *2009 c 67 s 12*

524.2-1113 DISCLAIMER OF POWER HELD IN FIDUCIARY CAPACITY.

(a) If a fiduciary disclaims a power held in a fiduciary capacity which has not been exercised, the disclaimer takes effect as of the time the instrument creating the power becomes irrevocable.

(b) If a fiduciary disclaims a power held in a fiduciary capacity which has been exercised, the disclaimer takes effect immediately after the last exercise of the power.

(c) A disclaimer under this section is effective as to another fiduciary if:

(1) the disclaimer so provides; and

(2) the fiduciary disclaiming has the authority to bind the estate, trust, or other person for whom the fiduciary is acting.

History: *2009 c 67 s 13*

524.2-1114 DELIVERY OR FILING.

(a) Subject to paragraphs (b) to (l), delivery of a disclaimer may be effective by personal delivery, first-class mail, or any other method that results in its receipt. A disclaimer sent by first-class mail is deemed to have been delivered on the date it is postmarked. Delivery by any other method is effective upon receipt by the person to whom the disclaimer is to be delivered under this section.

(b) In the case of a disclaimer of an interest created under the law of intestate succession or an interest created by will, other than an interest in a testamentary trust:

(1) the disclaimer must be delivered to the personal representative of the decedent's estate; or

(2) if no personal representative is serving when the disclaimer is sought to be delivered, the disclaimer must be filed with the clerk of the court in any county where venue of administration would be proper.

(c) In the case of a disclaimer of an interest in a testamentary trust:

(1) the disclaimer must be delivered to the trustee serving when the disclaimer is delivered or, if no trustee is then serving, to the personal representative of the decedent's estate; or

(2) if no personal representative is serving when the disclaimer is sought to be delivered, the disclaimer must be filed with the clerk of the court in any county where venue of administration of the decedent's estate would be proper.

(d) In the case of a disclaimer of an interest in an inter vivos trust:

(1) the disclaimer must be delivered to the trustee serving when the disclaimer is delivered;

(2) if no trustee is then serving, it must be filed with the clerk of the court in any county where the filing of a notice of trust would be proper; or

(3) if the disclaimer is made before the time the instrument creating the trust becomes irrevocable, the disclaimer must be delivered to the person with the power to revoke the revocable trust or the transferor of the interest or to such person's legal representative.

(e) In the case of a disclaimer of an interest created by a beneficiary designation made before the time the designation becomes irrevocable, the disclaimer must be delivered to the person making the beneficiary designation or to such person's legal representative.

(f) In the case of a disclaimer of an interest created by a beneficiary designation made after the time the designation becomes irrevocable, the disclaimer must be delivered to the person obligated to distribute the interest.

(g) In the case of a disclaimer by a surviving holder of jointly held property, the disclaimer must be delivered to the person to whom the disclaimed interest passes or, if such person cannot reasonably be located by the disclaimant, the disclaimer must be delivered as provided in paragraph (b).

(h) In the case of a disclaimer by an object, or taker in default of exercise, of a power of appointment at any time after the power was created, the disclaimer must be delivered to:

(1) the holder of the power; or

(2) the fiduciary acting under the instrument that created the power or, if no fiduciary is serving when the disclaimer is sought to be delivered, filed with a court having authority to appoint the fiduciary.

(i) In the case of a disclaimer by an appointee of a nonfiduciary power of appointment, the disclaimer must be delivered to:

(1) the holder of the power or the personal representative of the holder's estate; or

(2) the fiduciary under the instrument that created the power or, if no fiduciary is serving when the disclaimer is sought to be delivered, filed with a court having authority to appoint the fiduciary.

(j) In the case of a disclaimer by a fiduciary of a power over a trust or estate, the disclaimer must be delivered as provided in paragraph (b), (c), or (d) as if the power disclaimed were an interest in property.

(k) In the case of a disclaimer of a power exercisable by an agent, other than a power exercisable by a fiduciary over a trust or estate, the disclaimer must be delivered to the principal or the principal's representative.

(l) Notwithstanding paragraph (a), delivery of a disclaimer of an interest in or relating to real estate shall be presumed upon the recording of the disclaimer in the office of the county recorder or registrar of titles of the county or counties where the real estate is located.

(m) A fiduciary or other person having custody of the disclaimed interest is not liable for any otherwise proper distribution or other disposition made without actual notice of the disclaimer or, if the disclaimer is barred under section 524.2-1106, for any otherwise proper distribution or other disposition made in reliance on the disclaimer, if the distribution or disposition is made without actual knowledge of the facts constituting the bar of the right to disclaim.

History: *2009 c 67 s 14; 2012 c 143 art 4 s 5*

524.2-1115 RECORDING OF DISCLAIMER RELATING TO REAL ESTATE.

(a) A disclaimer of an interest in or relating to real estate does not provide constructive notice to all persons unless the disclaimer contains a legal description of the real estate to which the disclaimer relates and unless the disclaimer is recorded in the office of the county recorder or registrar of titles in the county or counties where the real estate is located.

(b) An effective disclaimer meeting the requirements of paragraph (a) constitutes constructive notice to all persons from the time of recording. Failure to record the disclaimer does not affect its validity as between the disclaimant and persons to whom the property interest or power passes by reason of the disclaimer.

History: *2009 c 67 s 15; 2012 c 143 art 4 s 6*

524.2-1116 APPLICATION TO EXISTING RELATIONSHIPS.

Sections 524.2-1101 to 524.2-1116 apply to disclaimers of any interest in or power over property existing on January 1, 2010, whenever created.

History: *2009 c 67 s 16; 2012 c 143 art 4 s 7*

Article 3
PROBATE OF WILLS AND ADMINISTRATION
Part 1
GENERAL PROVISIONS

524.3-101 DEVOLUTION OF ESTATE AT DEATH; RESTRICTIONS.

The power of a person to leave property by will, and the rights of creditors, devisees, and heirs to the person's property are subject to the restrictions and limitations contained in chapters 524 and 525 to facilitate the prompt settlement of estates. Upon death, a person's real and personal property devolves to the persons to whom it is devised by last will or to those indicated as substitutes for them in cases involving lapse, disclaimer, renunciation, or other circumstances affecting the devolution of testate estates, or in the absence of testamentary disposition, to the decedent's heirs, or to those indicated as substitutes for them in cases involving disclaimer, renunciation or other circumstances affecting devolution of intestate estates, subject to the provisions of sections 525.14 and 524.2-402, the allowances provided for by sections 524.2-403 and 524.2-404, to the rights of creditors, elective share of the surviving spouse, and to administration.

History: *1974 c 442 art 3 s 524.3-101; 1975 c 347 s 23; 1986 c 444; 1996 c 305 art 1 s 111*

524.3-102 NECESSITY OF ORDER OF PROBATE FOR WILL.

Except as provided in section 524.3-1201, to be effective to prove the transfer of any property, to nominate an executor or to exercise a power of appointment, a will must be declared to be valid by an order

of informal probate by the registrar, or an adjudication of probate by the court in a formal proceeding or proceedings to determine descent, except that a duly executed and unrevoked will which has not been probated may be admitted as evidence of a devise if (1) no court proceeding concerning the succession or administration of the estate has occurred, and (2) either the devisee or the devisee's successors and assigns possessed the property devised in accordance with the provisions of the will, or the property devised was not possessed or claimed by anyone by virtue of the decedent's title during the time period for testacy proceedings.

History: *1974 c 442 art 3 s 524.3-102; 1975 c 347 s 24; 1986 c 444*

524.3-103 NECESSITY OF APPOINTMENT FOR ADMINISTRATION.

Except as otherwise provided in article 4, to acquire the powers and undertake the duties and liabilities of a personal representative of a decedent, a person must be appointed by order of the court or registrar, qualify and be issued letters. Administration of an estate is commenced by the issuance of letters.

History: *1974 c 442 art 3 s 524.3-103*

524.3-104 CLAIMS AGAINST DECEDENT; NECESSITY OF ADMINISTRATION.

No proceeding to enforce a claim against the estate of a decedent or the decedent's successors may be revived or commenced before the appointment of a personal representative. After the appointment and until distribution, all proceedings and actions to enforce a claim against the estate are governed by this article. After distribution a creditor whose claim has not been barred may recover from the distributees as provided in section 524.3-1004 or from a former personal representative individually liable as provided in section 524.3-1005. This section has no application to a proceeding by a secured creditor of the decedent to enforce the creditor's right to the security except as to any deficiency judgment which might be sought therein.

History: *1974 c 442 art 3 s 524.3-104; 1975 c 347 s 25; 1986 c 444*

524.3-105 PROCEEDINGS AFFECTING DEVOLUTION AND ADMINISTRATION; JURISDICTION OF SUBJECT MATTER.

Any interested person in a decedent's estate may apply to the registrar for determination in the informal proceedings provided in this article, and may petition the court for orders in formal proceedings within the court's jurisdiction including but not limited to those described in this article. Interim orders approving or directing partial distributions, sale of property or granting other relief may be issued by the court at any time during the pendency of an administration on the petition of the personal representative or any interested person. The court has exclusive jurisdiction of proceedings, to determine how decedents' estates subject to the laws of this state are to be administered, expended and distributed. The court has concurrent jurisdiction of any other action or proceeding concerning a succession or to which an estate, through a personal representative, may be a party, including actions to determine title to property alleged to belong to the estate, and of any action or proceeding in which property distributed by a personal representative or its value is sought to be subjected to rights of creditors or successors of the decedent.

The court shall not have jurisdiction of foreclosure of mechanic liens, or of any action under section 573.02.

History: *1974 c 442 art 3 s 524.3-105; 1975 c 347 s 26; 1977 c 154 s 1; 1978 c 525 s 12; 1979 c 132 s 1; 1980 c 439 s 29*

524.3-106 PROCEEDINGS WITHIN THE EXCLUSIVE JURISDICTION OF COURT; SERVICE; JURISDICTION OVER PERSONS.

In proceedings within the exclusive jurisdiction of the court where notice is required by this chapter or by rule, interested persons may be bound by the orders of the court in respect to property in or subject to the laws of this state by notice in conformity with section 524.1-401. An order is binding as to all who are given notice of the proceeding though less than all interested persons are notified.

History: *1974 c 442 art 3 s 524.3-106*

524.3-107 SCOPE OF PROCEEDINGS; PROCEEDINGS INDEPENDENT; EXCEPTION.

Unless supervised administration as described in part 5 is involved, (1) each proceeding before the court or registrar is independent of any other proceeding involving the same estate; (2) petitions for formal orders of the court may combine various requests for relief in a single proceeding if the orders sought may be finally granted without delay. Except as required for proceedings which are particularly described by other sections of this article, no petition is defective because it fails to embrace all matters which might then be the subject of a final order; (3) proceedings for probate of wills or adjudications of no will may be combined with proceedings for appointment of personal representatives; and (4) a proceeding for appointment of a personal representative is concluded by an order making or declining the appointment.

History: *1974 c 442 art 3 s 524.3-107*

524.3-108 PROBATE, TESTACY AND APPOINTMENT PROCEEDINGS; ULTIMATE TIME LIMIT.

No informal probate or appointment proceeding or formal testacy or appointment proceeding, other than a proceeding to probate a will previously probated at the testator's domicile and appointment proceedings relating to an estate in which there has been a prior appointment, may be commenced more than three years after the decedent's death, except (1) if a previous proceeding was dismissed because of doubt about the fact of the decedent's death, appropriate probate, appointment or testacy proceedings may be maintained at any time thereafter upon a finding that the decedent's death occurred prior to the initiation of the previous proceeding and the applicant or petitioner has not delayed unduly in initiating the subsequent proceeding; (2) appropriate probate, appointment or testacy proceedings may be maintained in relation to the estate of an absentee, or disappeared or missing person, at any time within three years after the death of the absentee or disappeared or missing person is established; and (3) a proceeding to contest an informally probated will and to secure appointment of the person with legal priority for appointment in the event the contest is successful, may be commenced within the later of 12 months from the informal probate or three years from the decedent's death. These limitations do not apply to proceedings to construe probated wills, determine heirs of an intestate, or proceedings to determine descent. In cases under (1) or (2) above, the date on which a testacy or appointment proceeding is properly commenced shall be deemed to be the date of the decedent's death for purposes of other limitations provisions of this chapter which relate to the date of death. Nothing herein contained prohibits the formal appointment of a special administrator at any time for the purposes of reducing assets to possession, administering the same under direction of the court, or making distribution of any residue to the heirs or distributees determined to be entitled thereto pursuant to a descent proceeding under section 525.31 or an exempt summary proceeding under section 524.3-1203, even though the three-year period above referred to has expired.

History: *1974 c 442 art 3 s 524.3-108; 1975 c 347 s 27; 1977 c 440 s 3; 1996 c 305 art 1 s 112*

524.3-109 STATUTES OF LIMITATION ON DECEDENT'S CAUSE OF ACTION.

No statute of limitation running on a cause of action belonging to a decedent which had not been barred as of the date of death, shall apply to bar a cause of action surviving the decedent's death sooner than one year after death. A cause of action which, but for this section, would have been barred less than one year after death, is barred after one year unless tolled.

History: *1974 c 442 art 3 s 524.3-109; 1975 c 347 s 28; 1986 c 444*

Part 2
VENUE FOR PROBATE AND ADMINISTRATION; PRIORITY TO ADMINISTER; DEMAND FOR NOTICE

524.3-201 VENUE FOR FIRST AND SUBSEQUENT ESTATE PROCEEDINGS; LOCATION OF PROPERTY.

(a) Venue for the first informal or formal testacy or appointment proceedings after a decedent's death is:

(1) in the county of the decedent's domicile at the time of death; or

(2) if the decedent was not domiciled in this state, in any county where property of the decedent was located at the time of death.

(b) Venue for all subsequent proceedings within the exclusive jurisdiction of the court is in the place where the initial proceeding occurred, unless the initial proceeding has been transferred as provided in section 524.1-303 or (c) of this section.

(c) If the first proceeding was informal, on application of an interested person and after notice to the proponent in the first proceeding, the court, upon finding that venue is elsewhere, may transfer the proceeding and the file to the other court.

(d) For the purpose of aiding determinations concerning location of assets which may be relevant in cases involving nondomiciliaries, a debt, other than one evidenced by investment or commercial paper or other instrument in favor of a nondomiciliary, is located where the debtor resides or, if the debtor is a person other than an individual, at the place where it has its principal office. Commercial paper, investment paper and other instruments are located where the instrument is. An interest in property held in trust is located where the trustee may be sued.

History: *1974 c 442 art 3 s 524.3-201; 1986 c 444*

524.3-202 APPOINTMENT OR TESTACY PROCEEDINGS; CONFLICTING CLAIM OF DOMICILE IN ANOTHER STATE.

If conflicting claims as to the domicile of a decedent are made in a formal testacy or appointment proceeding commenced in this state, and in a testacy or appointment proceeding after notice pending at the same time in another state, the court of this state must stay, dismiss, or permit suitable amendment in, the proceeding here unless it is determined that the local proceeding was commenced before the proceeding

elsewhere. The determination of domicile in the proceeding first commenced must be accepted as determinative in the proceeding in this state.

History: *1974 c 442 art 3 s 524.3-202*

524.3-203 PRIORITY AMONG PERSONS SEEKING APPOINTMENT AS PERSONAL REPRESENTATIVE.

(a) Whether the proceedings are formal or informal, persons who are not disqualified have priority for appointment in the following order:

(1) the person with priority as determined by a probated will including a person nominated by a power conferred in a will;

(2) the surviving spouse of the decedent who is a devisee of the decedent;

(3) other devisees of the decedent;

(4) the surviving spouse of the decedent;

(5) other heirs of the decedent;

(6) 45 days after the death of the decedent, any creditor;

(7) 90 days after the death of the decedent and pursuant to section 524.5-428, paragraph (b), any conservator of the decedent who has not been discharged.

(b) An objection to an appointment can be made only in formal proceedings. In case of objection the priorities stated in (a) apply except that:

(1) if the estate appears to be more than adequate to meet exemptions and costs of administration but inadequate to discharge anticipated unsecured claims, the court, on petition of creditors, may appoint any qualified person;

(2) in case of objection to appointment of a person other than one whose priority is determined by will by an heir or devisee appearing to have a substantial interest in the estate, the court may appoint a person who is acceptable to heirs and devisees whose interests in the estate appear to be worth in total more than half of the probable distributable value, or, in default of this accord any suitable person.

(c) A person entitled to letters under (2) to (5) of (a) above may nominate a qualified person to act as personal representative. Any person aged 18 and over may renounce the right to nominate or to an appointment by appropriate writing filed with the court. When two or more persons share a priority, those of them who do not renounce must concur in nominating another to act for them, or in applying for appointment.

(d) Conservators of the estates of protected persons, or if there is no conservator, any guardian except a guardian ad litem of a minor or incapacitated person, may exercise the same right to nominate, to object to another's appointment, or to participate in determining the preference of a majority in interest of the heirs and devisees that the protected person or ward would have if qualified for appointment.

(e) Appointment of one who does not have priority, including priority resulting from disclaimer, renunciation or nomination determined pursuant to this section, may be made only in formal proceedings. Before appointing one without priority, the court must determine that those having priority, although given notice of the proceedings, have failed to request appointment or to nominate another for appointment, and that administration is necessary.

(f) No person is qualified to serve as a personal representative who is:

(1) under the age of 18;

(2) a person whom the court finds unsuitable in formal proceedings.

(g) A personal representative appointed by a court of the decedent's domicile has priority over all other persons except as provided in (b)(1) or where the decedent's will nominates different persons to be personal representative in this state and in the state of domicile. The domiciliary personal representative may nominate another, who shall have the same priority as the domiciliary personal representative.

(h) This section governs priority for appointment of a successor personal representative but does not apply to the selection of a special administrator.

History: *1974 c 442 art 3 s 524.3-203; 1975 c 347 s 29; 1986 c 444; 2003 c 12 art 2 s 7*

524.3-204 DEMAND FOR NOTICE OF ORDER OR FILING CONCERNING DECEDENT'S ESTATE.

Any person desiring notice of any order or filing pertaining to a decedent's estate in which the person has a financial or property interest, may file a demand for notice with the court at any time after the death of the decedent stating the name of the decedent, the nature of the interest in the estate, and the demandant's address or that of the demandant's attorney. The court administrator shall mail a copy of the demand to the personal representative if one has been appointed. After filing of a demand, no personal representative or other person shall apply to the court for an order or filing to which the demand relates unless demandant or the demandant's attorney is given notice thereof at least 14 days before the date of such order or filing, except that this requirement shall not apply to any order entered or petition filed in any formal proceeding. Such notice shall be given by delivery of a copy thereof to the person being notified or by mailing a copy thereof by certified, registered or ordinary first class mail addressed to the person at the post office address given in the demand or at the person's office or place of residence, if known. The court for good cause shown may provide for a different method or time of giving such notice and proof thereof shall be made on or before the making or acceptance of such order or filing and filed in the proceeding. The validity of an order which is issued or filing which is accepted without compliance with this requirement shall not be affected by the error, but the petitioner receiving the order or the person making the filing may be liable for any damage caused by the absence of notice. The requirement of notice arising from a demand under this provision may be waived in writing by the demandant and shall cease upon the termination of the demandant's interest in the estate.

History: *1974 c 442 art 3 s 524.3-204; 1975 c 347 s 30; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

Part 3
INFORMAL PROBATE AND APPOINTMENT PROCEEDINGS

524.3-301 INFORMAL PROBATE OR APPOINTMENT PROCEEDINGS; APPLICATION; CONTENTS.

An informal probate proceeding is an informal proceeding for the probate of decedent's will with or without an application for informal appointment. An informal appointment proceeding is an informal proceeding for appointment of a personal representative in testate or intestate estates. These proceedings may be combined in a single proceeding. Applications for informal probate or informal appointment shall

be directed to the registrar, and verified by the applicant, in accordance with section 524.1-310, to be accurate and complete to the best of applicant's knowledge and belief as to the following information:

(1) Every application for informal probate of a will or for informal appointment of a personal representative, other than a special or successor representative, shall contain the following:

(i) a statement of the interest of the applicant;

(ii) the name, birthdate, and date of death of the decedent, and the county and state of the decedent's domicile at the time of death, and the names and addresses of the spouse, children, heirs, and devisees and the ages of any who are minors so far as known or ascertainable with reasonable diligence by the applicant;

(iii) if the decedent was not domiciled in the state at the time of death, a statement showing venue;

(iv) a statement identifying and indicating the address of any personal representative of the decedent appointed in this state or elsewhere whose appointment has not been terminated;

(v) a statement indicating whether the applicant has received a demand for notice, or is aware of any demand for notice of any probate or appointment proceeding concerning the decedent that may have been filed in this state or elsewhere.

(2) An application for informal probate of a will shall state the following in addition to the statements required by (1):

(i) that the original of the decedent's last will is in the possession of the court, or accompanies the application, or that an authenticated copy of a will probated in another jurisdiction accompanies the application;

(ii) that the applicant, to the best of the applicant's knowledge, believes the will to have been validly executed;

(iii) that after the exercise of reasonable diligence, the applicant is unaware of any instrument revoking the will, and that the applicant believes that the instrument which is the subject of the application is the decedent's last will;

(iv) that the time limit for informal probate as provided in this article has not expired either because three years or less have passed since the decedent's death, or, if more than three years from death have passed, that circumstances as described by section 524.3-108 authorizing tardy probate have occurred.

(3) An application for informal appointment of a personal representative to administer an estate under a will shall describe the will by date of execution and state the time and place of probate or the pending application or petition for probate. The application for appointment shall adopt the statements in the application or petition for probate and state the name, address and priority for appointment of the person whose appointment is sought.

(4) An application for informal appointment of an administrator in intestacy shall state in addition to the statements required by (1):

(i) that after the exercise of reasonable diligence, the applicant is unaware of any unrevoked testamentary instrument relating to property having a situs in this state under section 524.1-301, or, a statement why any such instrument of which the applicant may be aware is not being probated;

(ii) the priority of the person whose appointment is sought and the names of any other persons having a prior or equal right to the appointment under section 524.3-203.

(5) An application for appointment of a personal representative to succeed a personal representative appointed under a different testacy status shall refer to the order in the most recent testacy proceeding, state the name and address of the person whose appointment is sought and of the person whose appointment will be terminated if the application is granted, and describe the priority of the applicant.

(6) An application for appointment of a personal representative to succeed a personal representative who has tendered a resignation as provided in section 524.3-610(c), or whose appointment has been terminated by death or removal, shall adopt the statements in the application or petition which led to the appointment of the person being succeeded except as specifically changed or corrected, state the name and address of the person who seeks appointment as successor, and describe the priority of the applicant.

History: *1974 c 442 art 3 s 524.3-301; 1975 c 347 s 31; 1976 c 161 s 4; 1986 c 444; 1990 c 480 art 10 s 11; 2006 c 221 s 20*

524.3-302 INFORMAL PROBATE; DUTY OF REGISTRAR; EFFECT OF INFORMAL PROBATE.

Upon receipt of an application requesting informal probate of a will, the registrar, upon making the findings required by section 524.3-303 shall issue a written statement of informal probate if at least 120 hours have elapsed since the decedent's death. Informal probate is conclusive as to all persons until superseded by an order in a formal testacy proceeding. No defect in the application or procedure relating thereto which leads to informal probate of a will renders the probate void.

History: *1974 c 442 art 3 s 524.3-302*

524.3-303 INFORMAL PROBATE; PROOF AND FINDINGS REQUIRED.

(a) In an informal proceeding for original probate of a will, the registrar shall determine whether:

(1) the application is complete;

(2) the applicant has made oath or affirmation that the statements contained in the application are true to the best of the applicant's knowledge and belief;

(3) the applicant appears from the application to be an interested person as defined in section 524.1-201, clause (34);

(4) on the basis of the statements in the application, venue is proper;

(5) an original, duly executed and apparently unrevoked will is in the registrar's possession;

(6) any notice required by section 524.3-204 has been given; and

(7) it appears from the application that the time limit for original probate has not expired.

(b) The application shall be denied if it indicates that a personal representative has been appointed in another county of this state or except as provided in subsection (d), if it appears that this or another will of the decedent has been the subject of a previous probate order.

(c) A will which appears to have the required signatures and which contains an attestation clause showing that requirements of execution under section 524.2-502 or 524.2-506 have been met shall be probated without further proof. In other cases, the registrar may assume execution if the will appears to have been properly

executed, or the registrar may accept a sworn statement or affidavit of any person having knowledge of the circumstances of execution, whether or not the person was a witness to the will.

(d) Informal probate of a will which has been previously probated elsewhere may be granted at any time upon written application by any interested person, together with deposit of an authenticated copy of the will and of the statement probating it from the office or court where it was first probated.

(e) A will from a place which does not provide for probate of a will after death and which is not eligible for probate under subsection (a), may be probated in this state upon receipt by the registrar of a duly authenticated copy of the will and a duly authenticated certificate of its legal custodian that the copy filed is a true copy and that the will has become operative under the law of the other place.

History: *1974 c 442 art 3 s 524.3-303; 1975 c 347 s 32; 1979 c 50 s 68; 1986 c 444; 1992 c 423 s 3; 2009 c 86 art 1 s 77*

524.3-304 MS 1974 [Repealed, 1975 c 347 s 144]

524.3-305 INFORMAL PROBATE; REGISTRAR NOT SATISFIED.

If the registrar is not satisfied that a will is entitled to be probated in informal proceedings because of failure to meet the requirements of section 524.3-303 or any other reason, the registrar may decline the application. A declination of informal probate is not an adjudication and does not preclude formal probate proceedings.

History: *1974 c 442 art 3 s 524.3-305; 1975 c 347 s 33; 1986 c 444*

524.3-306 INFORMAL PROBATE; NOTICE REQUIREMENTS.

The moving party must give notice as described by section 524.1-401 of application for informal probate (1) to any person demanding it pursuant to section 524.3-204; and (2) to any personal representative of the decedent whose appointment has not been terminated. Upon issuance of the written statement by the registrar pursuant to section 524.3-302, notice of the informal probate proceedings, in the form prescribed by court rule, shall be given under the direction of the court administrator by publication once a week for two consecutive weeks in a legal newspaper in the county where the application is filed and by mailing a copy of the notice by ordinary first class mail to all interested persons, other than creditors. Further if the decedent was born in a foreign country or left heirs or devisees in any foreign country, notice shall be given to the consul or other representative of such country, if the representative resides in this state and has filed a copy of appointment with the secretary of state. The secretary of state shall forward any notice received to the appropriate consul residing in Minnesota and on file with that office.

History: *1974 c 442 art 3 s 524.3-306; 1975 c 347 s 34; 1978 c 525 s 13; 1984 c 615 s 1; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

524.3-307 INFORMAL APPOINTMENT PROCEEDINGS; DELAY IN ORDER; DUTY OF REGISTRAR; EFFECT OF APPOINTMENT.

(a) Upon receipt of an application for informal appointment of a personal representative other than a special administrator as provided in section 524.3-614, if at least 120 hours have elapsed since the decedent's death, the registrar, after making the findings required by section 524.3-308, shall appoint the applicant subject to qualification and acceptance; provided, that if the decedent was a nonresident, the registrar shall delay the order of appointment until 30 days have elapsed since death unless the personal representative

appointed at the decedent's domicile is the applicant, or unless the decedent's will directs that the estate be subject to the laws of this state.

(b) The status of personal representative and the powers and duties pertaining to the office are fully established by informal appointment. An appointment, and the office of personal representative created thereby, is subject to termination as provided in sections 524.3-608 to 524.3-612, but is not subject to retroactive vacation.

History: *1974 c 442 art 3 s 524.3-307; 1986 c 444*

524.3-308 INFORMAL APPOINTMENT PROCEEDINGS; PROOF AND FINDINGS REQUIRED.

(a) In informal appointment proceedings, the registrar must determine whether:

(1) the application for informal appointment of a personal representative is complete;

(2) the applicant has made oath or affirmation that the statements contained in the application are true to the best of the applicant's knowledge and belief;

(3) the applicant appears from the application to be an interested person as defined in section 524.1-201, clause (34);

(4) on the basis of the statements in the application, venue is proper;

(5) any will to which the requested appointment relates has been formally or informally probated; but this requirement does not apply to the appointment of a special administrator;

(6) any notice required by section 524.3-204 has been given;

(7) from the statements in the application, the person whose appointment is sought has a priority entitlement to the appointment.

(b) Unless section 524.3-612 controls, the application must be denied if it indicates that a personal representative who has not filed a written statement of resignation as provided in section 524.3-610(c) has been appointed in this or another county of this state, that, unless the applicant is the domiciliary personal representative or the representative's nominee, the decedent was not domiciled in this state and that a personal representative whose appointment has not been terminated has been appointed by a court in the state of domicile, or that other requirements of this section have not been met.

History: *1974 c 442 art 3 s 524.3-308; 1986 c 444; 1992 c 423 s 4; 2009 c 86 art 1 s 78*

524.3-309 INFORMAL APPOINTMENT PROCEEDINGS; REGISTRAR NOT SATISFIED.

If the registrar is not satisfied that a requested informal appointment of a personal representative should be made because of failure to meet the requirements of sections 524.3-307 and 524.3-308, or for any other reason, the registrar may decline the application. A declination of informal appointment is not an adjudication and does not preclude appointment in formal proceedings.

History: *1974 c 442 art 3 s 524.3-309; 1986 c 444*

524.3-310 INFORMAL APPOINTMENT PROCEEDINGS; NOTICE REQUIREMENTS.

The moving party must give notice as described by section 524.1-401 of an intention to seek an appointment informally; (1) to any person demanding it pursuant to section 524.3-204; and (2) to any person having a prior or equal right to appointment not waived in writing and filed with the court. Notice of the

appointment of the personal representative shall be given under the direction of the court administrator by publication once a week for two consecutive weeks in a legal newspaper in the county where the application is filed and by mailing a copy of the notice by ordinary first class mail to all interested persons, other than creditors. The notice, in the form prescribed by court rule, shall state that any heir, devisee or other interested person may be entitled to appointment as personal representative or may object to the appointment of the personal representative and that the personal representative is empowered to fully administer the estate including, after 30 days from the date of issuance of letters, the power to sell, encumber, lease or distribute real estate, unless objections thereto are filed with the court (pursuant to section 524.3-607) and the court otherwise orders. Further, if the decedent was born in a foreign country or left heirs or devisees in any foreign country, notice shall be given to the consul or other representative of such country, if the representative resides in this state and has filed a copy of appointment with the secretary of state. The secretary of state shall forward any notice received to the appropriate consul residing in Minnesota and on file with that office. No defect in any notice nor in publication or service thereof shall limit or affect the validity of the appointment, powers, or other duties of the personal representative.

History: *1974 c 442 art 3 s 524.3-310; 1975 c 347 s 35; 1978 c 525 s 14; 1984 c 615 s 2; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

524.3-311 INFORMAL APPOINTMENT UNAVAILABLE IN CERTAIN CASES.

If an application for informal appointment indicates the existence of a possible unrevoked will or codicil which may relate to property subject to the laws of this state, and which is not filed for probate in this court, the registrar shall decline the application.

History: *1974 c 442 art 3 s 524.3-311; 1975 c 347 s 36*

Part 4
FORMAL TESTACY AND APPOINTMENT PROCEEDINGS

524.3-401 FORMAL TESTACY PROCEEDINGS; NATURE; WHEN COMMENCED.

A formal testacy proceeding is one conducted with notice to interested persons before a court to establish a will or determine intestacy. A formal testacy proceeding may be commenced by an interested person or a personal representative named in the will filing a petition as described in section 524.3-402(a) in which it is requested that the court, after notice and hearing, enter an order probating a will, or a petition to set aside an informal probate of a will or to prevent informal probate of a will which is the subject of a pending application, or a petition in accordance with section 524.3-402(b) for an order that the decedent died intestate.

A petition may seek formal probate of a will without regard to whether the same or a conflicting will has been informally probated. A formal testacy proceeding may, but need not, involve a request for appointment of a personal representative.

During the pendency of a formal testacy proceeding, the registrar shall not act upon any application for informal probate of any will of the decedent or any application for informal appointment of a personal representative of the decedent.

Unless a petition in a formal testacy proceeding also requests confirmation of the previous informal appointment, a previously appointed personal representative, after receipt of notice of the commencement of a formal probate proceeding, shall refrain from exercising power to make any further distribution of the estate during the pendency of the formal proceeding. A petitioner who seeks the appointment of a different

personal representative in a formal proceeding also may request an order restraining the acting personal representative from exercising any of the powers of office and requesting the appointment of a special administrator. In the absence of a request, or if the request is denied, the commencement of a formal proceeding has no effect on the powers and duties of a previously appointed personal representative other than those relating to distribution.

History: *1974 c 442 art 3 s 524.3-401; 1975 c 347 s 37; 1986 c 444*

524.3-402 FORMAL TESTACY OR APPOINTMENT PROCEEDINGS; PETITION; CONTENTS.

(a) Petitions for formal probate of a will, or for adjudication of intestacy with or without request for appointment of a personal representative, shall be directed to the court, request a judicial order after notice and hearing and contain further statements as indicated in this section. A petition for formal probate of a will

(1) requests an order as to the testacy of the decedent in relation to a particular instrument which may or may not have been informally probated and determining the heirs,

(2) contains the statements required for informal applications as stated in the five subparagraphs under section 524.3-301(1), the statements required by subparagraphs (ii) and (iii) of section 524.3-301(2), and

(3) states whether the original of the last will of the decedent is in the possession of the court or accompanies the petition.

If the original will is neither in the possession of the court nor accompanies the petition and no authenticated copy of a will probated in another jurisdiction accompanies the petition, the petition also shall state the contents of the will, and indicate that it is lost, destroyed, or otherwise unavailable.

(b) A petition for adjudication of intestacy and appointment of an administrator in intestacy shall request a judicial finding and order that the decedent left no will and determining the heirs, contain the statements required by (1) and (4) of section 524.3-301 and indicate whether supervised administration is sought. A petition may request an order determining intestacy and heirs without requesting the appointment of an administrator, in which case, the statements required by subparagraph (ii) of section 524.3-301(4) may be omitted.

History: *1974 c 442 art 3 s 524.3-402; 1975 c 347 s 38*

524.3-403 FORMAL TESTACY PROCEEDING; NOTICE OF HEARING ON PETITION.

(a) Upon commencement of a formal testacy proceeding, the court shall fix a time and place of hearing. Notice, in the form prescribed by court rule, shall be given in the manner prescribed by section 524.1-401 by the petitioner to the persons herein enumerated and to any additional person who has filed a demand for notice under section 524.3-204. The petitioner, having reason to believe that the will has been lost or destroyed, shall include a statement to that effect in the notice.

Notice shall be given to the following persons: the surviving spouse, children, and other heirs of the decedent, the devisees and personal representatives named in any will that is being or has been probated, or offered for informal or formal probate in the county, or that is known by the petitioner to have been probated, or offered for informal or formal probate elsewhere, and any personal representative of the decedent whose appointment has not been terminated. Notice of the hearing, in the form prescribed by court rule, shall also be given under the 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.

If the decedent was born in a foreign country or has heirs or devisees in a foreign country, notice of a formal testacy proceeding shall be given to the consul of that country, if the consul resides in this state and has filed a copy of the appointment with the secretary of state. Any notice received by the secretary of state shall be forwarded to the appropriate consul.

(b) If it appears by the petition or otherwise that the fact of the death of the alleged decedent may be in doubt, the court shall direct the petitioner to proceed in the manner provided in chapter 576.

History: *1974 c 442 art 3 s 524.3-403; 1975 c 347 s 39; 1981 c 161 s 1; 1984 c 615 s 3; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

524.3-404 FORMAL TESTACY PROCEEDINGS; WRITTEN OBJECTIONS TO PROBATE.

Any party to a formal proceeding who opposes the probate of a will for any reason shall state in pleadings the objections to probate of the will.

History: *1974 c 442 art 3 s 524.3-404; 1986 c 444*

524.3-405 FORMAL TESTACY PROCEEDINGS; UNCONTESTED CASES; HEARINGS AND PROOF.

If a petition in a testacy proceeding is unopposed, the court may order probate or intestacy on the strength of the pleadings if satisfied that the conditions of section 524.3-409 have been met, or conduct a hearing in open court and require proof of the matters necessary to support the order sought. If evidence concerning execution of the will is necessary, the affidavit or testimony of one of any attesting witnesses to the instrument is sufficient. If the affidavit or testimony of an attesting witness is not available, execution of the will may be proved by other evidence or affidavit.

History: *1974 c 442 art 3 s 524.3-405*

524.3-406 FORMAL TESTACY PROCEEDINGS; CONTESTED CASES; TESTIMONY OF ATTESTING WITNESSES.

(a) If evidence concerning execution of an attested will which is not self-proved is necessary in contested cases, the testimony of at least one of the attesting witnesses, if within the state competent and able to testify, is required. Due execution of a will may be proved by other evidence, including an affidavit of an attesting witness. An attestation clause that is signed by the attesting witnesses raises a rebuttable presumption that the events recited in the clause occurred.

(b) If the will is self-proved, compliance with signature requirements for execution is conclusively presumed and other requirements of execution are presumed subject to rebuttal without the testimony of any witness upon filing the will and the acknowledgment and affidavits annexed or attached thereto, unless there is proof of fraud or forgery affecting the acknowledgment or affidavit.

History: *1974 c 442 art 3 s 524.3-406; 1975 c 347 s 40; 2016 c 135 art 2 s 30*

524.3-407 FORMAL TESTACY PROCEEDINGS; BURDENS IN CONTESTED CASES.

In contested cases, petitioners who seek to establish intestacy have the burden of establishing prima facie proof of death, venue and heirship. Proponents of a will have the burden of establishing prima facie

proof of due execution in all cases, and, if they are also petitioners, prima facie proof of death and venue. Contestants of a will have the burden of establishing lack of testamentary intent or capacity, undue influence, fraud, duress, mistake or revocation. Parties have the ultimate burden of persuasion as to matters with respect to which they have the initial burden of proof. If a will is opposed by the petition for probate of a later will revoking the former, it shall be determined first whether the later will is entitled to probate, and if a will is opposed by a petition for a declaration of intestacy, it shall be determined first whether the will is entitled to probate.

History: *1974 c 442 art 3 s 524.3-407*

524.3-408 FORMAL TESTACY PROCEEDINGS; WILL CONSTRUCTION; EFFECT OF FINAL ORDER IN ANOTHER JURISDICTION.

A final order of a court of another state determining testacy, the validity or construction of a will, made in a proceeding involving notice to and an opportunity for contest by all interested persons must be accepted as determinative by the courts of this state if it includes, or is based upon, a finding that the decedent was domiciled at death in the state where the order was made.

History: *1974 c 442 art 3 s 524.3-408; 1986 c 444*

524.3-409 FORMAL TESTACY PROCEEDINGS; ORDER; FOREIGN WILL.

After the time required for any notice has expired, upon proof of notice, and after any hearing that may be necessary, if the court finds that the testator is dead, venue is proper and that the proceeding was commenced within the limitation prescribed by section 524.3-108, it shall determine the decedent's domicile at death, and decedent's heirs and state of testacy. Any will found to be valid and unrevoked shall be formally probated. Termination of any previous informal appointment of a personal representative, which may be appropriate in view of the relief requested and findings, is governed by section 524.3-612. A will from a place which does not provide for probate of a will after death, may be proved for probate in this state by a duly authenticated certificate of its legal custodian that the copy introduced is a true copy and that the will has become effective under the law of the other place.

History: *1974 c 442 art 3 s 524.3-409; 1975 c 347 s 41; 1986 c 444*

524.3-410 FORMAL TESTACY PROCEEDINGS; PROBATE OF MORE THAN ONE INSTRUMENT.

If two or more instruments are offered for probate before a final order is entered in a formal testacy proceeding, more than one instrument may be probated if neither expressly revokes the other or contains provisions which work a total revocation by implication. If more than one instrument is probated, the order shall indicate what provisions control in respect to the nomination of an executor, if any. The order may, but need not, indicate how any provisions of a particular instrument are affected by the other instrument. After a final order in a testacy proceeding has been entered, no petition for probate of any other instrument of the decedent may be entertained, except incident to a petition to vacate or modify a previous probate order and subject to the time limits of section 524.3-412.

History: *1974 c 442 art 3 s 524.3-410*

524.3-411 FORMAL TESTACY PROCEEDINGS; PARTIAL INTESTACY.

If it becomes evident in the course of a formal testacy proceeding that, though one or more instruments are entitled to be probated, the decedent's estate is or may be partially intestate, the court shall enter an order to that effect.

History: *1974 c 442 art 3 s 524.3-411*

524.3-412 FORMAL TESTACY PROCEEDINGS; EFFECT OF ORDER; VACATION.

Subject to appeal and subject to vacation as provided herein and in section 524.3-413, a formal testacy order under sections 524.3-409 to 524.3-411, including an order that the decedent left no valid will and determining heirs, is final as to all persons with respect to all issues concerning the decedent's estate that the court considered or might have considered incident to its rendition relevant to the question of whether the decedent left a valid will, and to the determination of heirs, except that:

(1) The court shall entertain a petition for modification or vacation of its order and probate of another will of the decedent if it is shown that the proponents of the later-offered will were unaware of its existence at the time of the earlier proceeding or were unaware of the earlier proceeding and were given no notice thereof, except by publication.

(2) If intestacy of all or part of the estate has been ordered, the determination of heirs of the decedent may be reconsidered if it is shown that one or more persons were omitted from the determination and it is also shown that the persons were unaware of their relationship to the decedent, were unaware of the death or were given no notice of any proceeding concerning the estate, except by publication.

(3) A petition for vacation under either (1) or (2) must be filed prior to the earlier of the following time limits:

(i) If a personal representative has been appointed for the estate, the time of entry of any order approving final distribution of the estate, or, if the estate is closed by statement, six months after the filing of the closing statement.

(ii) Whether or not a personal representative has been appointed for the estate of the decedent, the time prescribed by section 524.3-108 when it is no longer possible to initiate an original proceeding to probate a will of the decedent.

(iii) 12 months after the entry of the order sought to be vacated.

(4) The order originally rendered in the testacy proceeding may be modified or vacated, if appropriate under the circumstances, by the order of probate of the later-offered will or the order redetermining heirs.

History: *1974 c 442 art 3 s 524.3-412; 1975 c 347 s 42; 1986 c 444*

524.3-413 FORMAL TESTACY PROCEEDINGS; VACATION OF ORDER FOR OTHER CAUSE AND MODIFICATION OF ORDERS, JUDGMENTS, AND DECREES.

For good cause shown, an order, judgment or decree in a formal proceeding may be modified or vacated within the time limits and upon the grounds stated in section 524.1-304, except that the same may be modified to include omitted property or to correct a description at any time, as hereinafter provided.

Whenever real or personal property or any interest therein has been omitted from probate proceedings, from a deed or transfer of distribution, a decree of distribution, or an order for distribution, or has been

incorrectly described therein, any person interested in the estate or claiming an interest in such property may petition the probate court of the county in which such proceedings were had for a decree to determine its descent and to assign it to the persons entitled thereto, or to amend the deed or transfer of distribution, decree of distribution, or order of distribution to include such omitted property, or to correct the description, with or without notice. No order or decree of omitted property shall be entered under this section until any inheritance taxes due are paid or the court finds there are no taxes due.

History: *1974 c 442 art 3 s 524.3-413; 1975 c 347 s 43; 2009 c 117 art 1 s 2*

524.3-414 FORMAL PROCEEDINGS CONCERNING APPOINTMENT OF PERSONAL REPRESENTATIVE.

(a) A formal proceeding for adjudication regarding the priority or qualification of one who is an applicant for appointment as personal representative, or of one who previously has been appointed personal representative in informal proceedings, if an issue concerning the testacy of the decedent is or may be involved, is governed by section 524.3-402, as well as by this section. In other cases, the petition shall contain or adopt the statements required by section 524.3-301(1) and describe the question relating to priority or qualification of the personal representative which is to be resolved. If the proceeding precedes any appointment of a personal representative, it shall stay any pending informal appointment proceedings as well as any commenced thereafter. If the proceeding is commenced after appointment, the previously appointed personal representative, after receipt of notice thereof, shall refrain from exercising any power of administration except as necessary to preserve the estate or unless the court orders otherwise.

(b) After notice to interested persons, including all persons interested in the administration of the estate as successors under the applicable assumption concerning testacy, any previously appointed personal representative and any person having or claiming priority for appointment as personal representative, the court shall determine who is entitled to appointment under section 524.3-203, make a proper appointment and, if appropriate, terminate any prior appointment found to have been improper as provided in cases of removal under section 524.3-611.

History: *1974 c 442 art 3 s 524.3-414*

Part 5
SUPERVISED ADMINISTRATION

524.3-501 SUPERVISED ADMINISTRATION; NATURE OF PROCEEDING.

Supervised administration is a single in rem proceeding to secure complete administration and settlement of a decedent's estate under the continuing authority of the court which extends until entry of an order approving distribution of the estate and discharging the personal representative or other order terminating the proceeding. A supervised personal representative is responsible to the court, as well as to the interested parties, and is subject to directions concerning the estate made by the court on its own motion or on the motion of any interested party. Except as otherwise provided in this part, or as otherwise ordered by the court, a supervised personal representative has the same duties and powers as a personal representative who is not supervised.

History: *1974 c 442 art 3 s 524.3-501*

524.3-502 SUPERVISED ADMINISTRATION; PETITION; ORDER.

A petition for supervised administration may be filed by any interested person or by an appointed personal representative or one named in the will at any time or the prayer for supervised administration may be joined with a petition in a testacy or appointment proceeding. If the testacy of the decedent and the priority and qualification of any personal representative have not been adjudicated previously, the petition for supervised administration shall include the matters required of a petition in a formal testacy proceeding and the notice requirements and procedures applicable to a formal testacy proceeding apply. If not previously adjudicated, the court shall adjudicate the testacy of the decedent and questions relating to the priority and qualifications of the personal representative in any case involving a request for supervised administration, even though the request for supervised administration may be denied. After notice to interested persons, the court shall order supervised administration of a decedent's estate: (1) if the decedent's will directs supervised administration, it shall be ordered unless the court finds that circumstances bearing on the need for supervised administration have changed since the execution of the will and that there is no necessity for supervised administration; (2) if the decedent's will directs unsupervised administration, supervised administration shall be ordered only upon a finding that it is necessary for protection of persons interested in the estate; or (3) in other cases if the court finds that supervised administration is necessary under the circumstances.

History: *1974 c 442 art 3 s 524.3-502; 1975 c 347 s 44*

524.3-503 SUPERVISED ADMINISTRATION; EFFECT ON OTHER PROCEEDINGS.

(a) The pendency of a proceeding for supervised administration of a decedent's estate stays action on any informal application then pending or thereafter filed.

(b) If a will has been previously probated in informal proceedings, the effect of the filing of a petition for supervised administration is as provided for formal testacy proceedings by section 524.3-401.

(c) After having received notice of the filing of a petition for supervised administration, a personal representative who has been appointed previously shall not exercise the power to distribute any estate. The filing of the petition does not affect the representative's other powers and duties unless the court restricts the exercise of any of them pending full hearing on the petition.

History: *1974 c 442 art 3 s 524.3-503; 1986 c 444*

524.3-504 SUPERVISED ADMINISTRATION; POWERS OF PERSONAL REPRESENTATIVE.

Unless restricted by the court, a supervised personal representative has, without interim orders approving exercise of a power, all powers of personal representatives under this chapter, but shall not exercise the power to make any distribution of the estate without prior order of the court. Any other restriction on the power of a personal representative which may be ordered by the court must be endorsed on the letters of appointment and, unless so endorsed, is ineffective as to persons dealing in good faith with the personal representative.

History: *1974 c 442 art 3 s 524.3-504; 1986 c 444*

524.3-505 SUPERVISED ADMINISTRATION; INTERIM ORDERS; DISTRIBUTION AND CLOSING ORDERS.

Unless otherwise ordered by the court, supervised administration is terminated by order in accordance with time restrictions, notices and contents of orders prescribed for proceedings under section 524.3-1001. Interim orders approving or directing partial distributions, sale of property or granting other relief may be

issued by the court at any time during the pendency of a supervised administration on the application of the personal representative or any interested person.

History: *1974 c 442 art 3 s 524.3-505; 1976 c 161 s 5; 1980 c 439 s 30*

Part 6
PERSONAL REPRESENTATIVE; APPOINTMENT, CONTROL AND TERMINATION OF AUTHORITY

524.3-601 QUALIFICATION.

Prior to receiving letters, a personal representative shall qualify by filing with the appointing court any required bond and an oath of office or, in the case of a corporate representative, a statement of acceptance of the duties of the office.

History: *1974 c 442 art 3 s 524.3-601; 1975 c 347 s 45; 1986 c 444*

524.3-602 ACCEPTANCE OF APPOINTMENT; CONSENT TO JURISDICTION.

By accepting appointment, a personal representative submits personally to the jurisdiction of the court in any proceeding relating to the estate that may be instituted by any interested person. Notice of any proceeding shall be delivered to the personal representative, or mailed by ordinary first class mail the address listed in the application or petition for appointment or thereafter reported to the court and to the address as then known to the petitioner. Service of process on a nonresident personal representative appointed in Minnesota shall be made pursuant to section 524.4-303.

History: *1974 c 442 art 3 s 524.3-602; 1975 c 347 s 46; 1986 c 444*

524.3-603 BOND NOT REQUIRED WITHOUT COURT ORDER; EXCEPTIONS.

No bond is required of a personal representative appointed in informal proceedings, except (1) upon the appointment of a special administrator; (2) when an executor or other personal representative is appointed to administer an estate under a will containing an express requirement of bond; or (3) when bond is required under section 524.3-605. No bond shall be required of a personal representative appointed in formal proceedings (i) if the will relieves the personal representative of bond, or (ii) if all interested persons with an apparent interest in the estate in excess of $1,000, other than creditors, make a written request that no bond be required, unless in either case the court determines that bond is required for the protection of interested persons. The court may by its order dispense with the requirement of bond at the time of appointment of a personal representative appointed in formal proceedings. No bond shall be required of any personal representative who, pursuant to statute, has deposited cash or collateral with an agency of this state to secure performance of duties. If two or more persons are appointed corepresentatives and one of them has complied with the preceding sentence, no bond shall be required of any such corepresentatives.

History: *1974 c 442 art 3 s 524.3-603; 1975 c 347 s 47; 1976 c 161 s 6; 1986 c 444*

524.3-604 BOND AMOUNT; SECURITY; PROCEDURE; REDUCTION.

If bond is required then the personal representative shall file the bond with the court or give other suitable security in an amount not less than the bond. The court shall determine that the bond is duly executed by a corporate surety, or one or more individual sureties whose performance is secured by pledge of personal property, mortgage on real property or other adequate security. The court may permit the amount of the

bond to be reduced by the value of assets of the estate deposited with a domestic financial institution, in a manner that prevents their unauthorized disposition. The court on its own motion or on petition of the personal representative or another interested person may excuse a requirement of bond, increase or reduce the amount of the bond, release sureties, or permit the substitution of another bond with the same or different sureties.

History: *1974 c 442 art 3 s 524.3-604; 1975 c 347 s 48*

524.3-605 DEMAND FOR BOND BY INTERESTED PERSON.

Any person apparently having an interest in the estate worth in excess of $1,000, or any creditor having a claim in excess of $1,000, may make a written demand that a personal representative give bond. The demand must be filed with the court and a copy mailed to the personal representative, if appointment and qualification have occurred. Thereupon, the court may require or excuse the requirement of a bond. After having received notice and until the filing of the bond or until the requirement of bond is excused, the personal representative shall refrain from exercising any powers of office except as necessary to preserve the estate. Failure of the personal representative to meet a requirement of bond by giving suitable bond within 30 days after receipt of notice is cause for removal and appointment of a successor personal representative. An interested person who initially waived bond may demand bond under this section.

History: *1974 c 442 art 3 s 524.3-605; 1975 c 347 s 49; 1986 c 444*

524.3-606 TERMS AND CONDITIONS OF BONDS.

(a) The following requirements and provisions apply to any bond required by this part:

(1) Bonds shall name the state as obligee for the benefit of the persons interested in the estate and shall be conditioned upon the faithful discharge by the fiduciary of all duties according to law.

(2) Unless otherwise provided by the terms of the approved bond, sureties are jointly and severally liable with the personal representative and with each other. The address of sureties shall be stated in the bond.

(3) By executing an approved bond of a personal representative, the surety consents to the jurisdiction of the probate court which issued letters to the primary obligor in any proceedings pertaining to the fiduciary duties of the personal representative and naming the surety as a party. Notice of such proceeding shall be delivered to the surety or mailed by registered or certified mail at the address listed with the court where the bond is filed and to the address then known to the petitioner.

(4) On petition of a successor personal representative, any other personal representative of the same decedent, or any interested person, a proceeding in the court may be initiated against a surety for breach of the obligation of the bond of the personal representative.

(5) The bond of the personal representative is not void after the first recovery but may be proceeded against from time to time until the whole penalty is exhausted.

(b) No action or proceeding may be commenced against the surety on any matter as to which an action or proceeding against the primary obligor is barred by adjudication or limitation.

(c) If a sole or last surviving representative is removed, is disabled or dies, the court may, upon notice and hearing, order the representative's surety to file a verified final account and petition for complete settlement and, if proper, for distribution and closing of the estate.

If in a proceeding under this clause the court determines that the representative has mismanaged the estate, misappropriated funds or committed other misconduct for which the surety is liable, the court shall

settle the account and enter judgment against the representative and the surety as may be appropriate. The judgment may be filed, docketed and enforced in the same manner as any other judgment. This remedy is in addition to any other remedy for breach of the obligations of the bond.

History: *1974 c 442 art 3 s 524.3-606; 1975 c 347 s 50; 1977 c 154 s 2; 1986 c 444*

524.3-607 ORDER RESTRAINING PERSONAL REPRESENTATIVE.

(a) On petition of any person who appears to have an interest in the estate, the court by temporary order may restrain a personal representative from performing specified acts of administration, disbursement, or distribution, or exercise of any powers or discharge of any duties of office, or make any other order to secure proper performance of a duty, if it appears to the court that the personal representative otherwise may take some action which would jeopardize unreasonably the interest of the applicant or of some other interested person. Persons with whom the personal representative may transact business may be made parties.

(b) The matter shall be set for hearing within ten days unless the parties otherwise agree. Notice as the court directs shall be given to the personal representative and the representative's attorney of record, if any, and to any other parties named defendant in the petition.

History: *1974 c 442 art 3 s 524.3-607; 1986 c 444*

524.3-608 TERMINATION OF APPOINTMENT; GENERAL.

Termination of appointment of a personal representative occurs as indicated in sections 524.3-609 to 524.3-612, inclusive. Termination ends the right and power pertaining to the office of personal representative as conferred by this chapter or any will, except that a personal representative, at any time prior to distribution or until restrained or enjoined by court order, may perform acts necessary to protect the estate and may deliver the assets to a successor representative. Termination does not discharge a personal representative from liability for transactions or omissions occurring before termination, or relieve the representative of the duty to preserve assets subject to the representative's control, to account therefor and to deliver the assets. Termination does not affect the jurisdiction of the court over the personal representative, but terminates the authority to represent the estate in any pending or future proceeding.

History: *1974 c 442 art 3 s 524.3-608; 1986 c 444*

524.3-609 TERMINATION OF APPOINTMENT; DEATH OR DISABILITY.

The death of a personal representative or the appointment of a conservator or guardian for the estate of a personal representative, terminates the personal representative's appointment. Until appointment and qualification of a successor or special representative to replace the deceased or protected representative, the representative of the estate of the deceased or protected personal representative, if any, has the duty to protect the estate possessed and being administered by the deceased or protected representative at the time the appointment terminates, has the power to perform acts necessary for protection and shall account for and deliver the estate assets to a successor or special personal representative upon appointment and qualification.

History: *1974 c 442 art 3 s 524.3-609; 1975 c 347 s 51; 1986 c 444*

524.3-610 TERMINATION OF APPOINTMENT; VOLUNTARY.

(a) An appointment of a personal representative terminates as provided in section 524.3-1003, one year after the filing of a closing statement.

(b) An order closing an estate as provided in section 524.3-1001 or 524.3-1002 terminates an appointment of a personal representative.

(c) A personal representative may resign the position by filing a written statement of resignation with the registrar after having given at least 15 days written notice to the persons known to be interested in the estate. If no one applies or petitions for appointment of a successor representative within the time indicated in the notice, the filed statement of resignation is ineffective as a termination of appointment and in any event is effective only upon the appointment and qualification of a successor representative and delivery of the assets to the successor.

History: *1974 c 442 art 3 s 524.3-610; 1986 c 444*

524.3-611 TERMINATION OF APPOINTMENT BY REMOVAL; CAUSE; PROCEDURE.

(a) A person interested in the estate may petition for removal of a personal representative for cause at any time. Upon filing of the petition, the court shall fix a time and place for hearing. Notice shall be given by the petitioner to the personal representative, and to other persons as the court may order. Except as otherwise ordered as provided in section 524.3-607, after receipt of notice of removal proceedings, the personal representative shall not act except to account, to correct maladministration or preserve the estate. If removal is ordered, the court also shall direct by order the disposition of the assets remaining in the name of, or under the control of, the personal representative being removed.

(b) Cause for removal exists when removal is in the best interests of the estate, or if it is shown that a personal representative or the person seeking the personal representative's appointment intentionally misrepresented material facts in the proceedings leading to the appointment, or that the personal representative has disregarded an order of the court, has become incapable of discharging the duties of office, or has mismanaged the estate or failed to perform any duty pertaining to the office. In determining the best interests of the estate, the personal representative's compensation and fees, and administrative expenses, shall also be considered. Unless the decedent's will directs otherwise, a personal representative appointed at the decedent's domicile, incident to securing personal appointment or the appointment of a nominee as ancillary personal representative, may obtain removal of another who was appointed personal representative in this state to administer local assets.

History: *1974 c 442 art 3 s 524.3-611; 1979 c 137 s 2; 1986 c 444*

524.3-612 TERMINATION OF APPOINTMENT; CHANGE OF TESTACY STATUS.

Except as otherwise ordered in formal proceedings, the probate of a will subsequent to the appointment of a personal representative in intestacy or under a will which is superseded by formal probate of another will, or the vacation of an informal probate of a will subsequent to the appointment of the personal representative thereunder, does not terminate the appointment of the personal representative although the personal representative's powers may be reduced as provided in section 524.3-401. Termination occurs upon appointment in informal or formal appointment proceedings of a person entitled to appointment under the later assumption concerning testacy. If no request for new appointment is made within 30 days after expiration of time for appeal from the order in formal testacy proceedings, or from the informal probate, changing the assumption concerning testacy, the previously appointed personal representative upon request may be appointed personal representative under the subsequently probated will, or as in intestacy as the case may be.

History: *1974 c 442 art 3 s 524.3-612; 1986 c 444*

524.3-613 SUCCESSOR PERSONAL REPRESENTATIVE.

Upon notice, if any, as the court or registrar shall require, the court upon petition and the registrar upon application may appoint a personal representative to succeed one whose appointment has been terminated. After appointment and qualification, a successor personal representative may be substituted in all actions and proceedings to which the former personal representative was a party, and no notice, process or claim which was given or served upon the former personal representative need be given to or served upon the successor in order to preserve any position or right the person giving the notice or filing the claim may thereby have obtained or preserved with reference to the former personal representative. Except as otherwise ordered by the court, the successor personal representative has the powers and duties in respect to the continued administration which the former personal representative would have had if the appointment had not been terminated.

History: *1974 c 442 art 3 s 524.3-613; 1977 c 155 s 1; 1986 c 444*

524.3-614 SPECIAL ADMINISTRATOR; APPOINTMENT.

A special administrator may be appointed:

(1) informally by the registrar on the application of any interested person when necessary to protect the estate of a decedent prior to the appointment of a general personal representative, when necessary to protect the estate of a decedent due to circumstances described in section 524.2-803, or if a prior appointment has been terminated as provided in section 524.3-609;

(2) in a formal proceeding by order of the court on the petition of any interested person and finding, after notice and hearing, that appointment is necessary to preserve the estate or to secure its proper administration including its administration in circumstances where a general personal representative cannot or should not act. If it appears to the court that an emergency exists or that section 524.2-803 may apply, appointment may be ordered without notice.

History: *1974 c 442 art 3 s 524.3-614; 2013 c 94 s 2*

524.3-615 SPECIAL ADMINISTRATOR; WHO MAY BE APPOINTED.

(a) Except as provided in paragraph (b), if a special administrator is to be appointed pending the probate of a will which is the subject of a pending application or petition for probate, the person named executor in the will shall be appointed if available, and qualified.

(b) In cases where the court determines a personal representative named in a will may not be entitled to benefits pursuant to section 524.2-803, the court may appoint a qualified neutral, professional fiduciary, or an interested person to serve as special administrator.

(c) In other cases, any proper person may be appointed special administrator.

History: *1974 c 442 art 3 s 524.3-615; 2013 c 94 s 3*

524.3-616 SPECIAL ADMINISTRATOR; APPOINTED INFORMALLY; POWERS AND DUTIES.

A special administrator appointed by the registrar in informal proceedings pursuant to section 524.3-614(1) has the duty to collect and manage the assets of the estate, to preserve them, to account therefor and to deliver

them to the general personal representative upon qualification. The special administrator has the power of a personal representative under the chapter necessary to perform these duties.

History: *1974 c 442 art 3 s 524.3-616; 1986 c 444*

524.3-617 SPECIAL ADMINISTRATOR; FORMAL PROCEEDINGS; POWER AND DUTIES.

A special administrator appointed by order of the court in any formal proceeding has the power of a general personal representative except as limited in the appointment and duties as prescribed in the order. The appointment may be for a specified time, to perform particular acts or on other terms as the court may direct.

History: *1974 c 442 art 3 s 524.3-617*

524.3-618 TERMINATION OF APPOINTMENT; SPECIAL ADMINISTRATOR.

The appointment of a special administrator terminates in accordance with the provisions of the order of appointment or on the appointment of a general personal representative. In other cases, the appointment of a special administrator is subject to termination as provided in sections 524.3-608 to 524.3-611.

History: *1974 c 442 art 3 s 524.3-618*

Part 7
DUTIES AND POWERS OF PERSONAL REPRESENTATIVES

524.3-701 TIME OF ACCRUAL OF DUTIES AND POWERS.

The duties and powers of a personal representative commence upon appointment. The powers of a personal representative relate back in time to give acts by the person appointed which are beneficial to the estate occurring prior to appointment the same effect as those occurring thereafter. Prior to appointment, a person named executor in a will may carry out written instructions of the decedent relating to the body, funeral and burial arrangements. A personal representative may ratify and accept acts on behalf of the estate done by others where the acts would have been proper for a personal representative.

History: *1974 c 442 art 3 s 524.3-701; 1986 c 444*

524.3-702 PRIORITY AMONG DIFFERENT LETTERS.

A person to whom general letters are issued first has exclusive authority under the letters until the appointment is terminated or modified. If, through error, general letters are afterwards issued to another, the first appointed representative may recover any property of the estate in the hands of the representative subsequently appointed, but the acts of the latter done in good faith before notice of the first letters are not void for want of validity of appointment.

History: *1974 c 442 art 3 s 524.3-702; 1986 c 444*

524.3-703 GENERAL DUTIES; RELATION AND LIABILITY TO PERSONS INTERESTED IN ESTATE; STANDING TO SUE.

(a) A personal representative is a fiduciary who shall observe the standards of care in dealing with the estate assets that would be observed by a prudent person dealing with the property of another, and if the personal representative has special skills or is named personal representative on a basis of representation of

special skills or expertise, the personal representative is under a duty to use those skills. A personal representative is under a duty to settle and distribute the estate of the decedent in accordance with the terms of any probated and effective will and applicable law, and as expeditiously and efficiently as is consistent with the best interests of the estate. The personal representative shall use the authority conferred by applicable law, the terms of the will, if any, and any order in proceedings to which the personal representative is party for the best interests of successors to the estate.

(b) A personal representative shall not be surcharged for acts of administration or distribution if the conduct in question was authorized at the time. Subject to other obligations of administration, an informally probated will is authority to administer and distribute the estate according to its terms. An order of appointment of a personal representative, whether issued in informal or formal proceedings, is authority to distribute apparently intestate assets to the heirs of the decedent if, at the time of distribution, the personal representative is not aware of a pending testacy proceeding, a proceeding to vacate an order entered in an earlier testacy proceeding, a formal proceeding questioning the appointment or fitness to continue, or a supervised administration proceeding. Nothing in this section affects the duty of the personal representative to administer and distribute the estate in accordance with the rights of claimants, the surviving spouse, any minor and dependent children and any pretermitted child of the decedent as described elsewhere.

(c) Except as to proceedings which do not survive the death of the decedent, a personal representative of a decedent domiciled in this state at death has the same standing to sue and be sued in the courts of this state and the courts of any other jurisdiction as the decedent had immediately prior to death.

History: *1974 c 442 art 3 s 524.3-703; 1975 c 347 s 52; 1986 c 444*

524.3-704 PERSONAL REPRESENTATIVE TO PROCEED WITHOUT COURT ORDER; EXCEPTION.

A personal representative shall proceed expeditiously with the settlement and distribution of a decedent's estate and, except as otherwise specified or ordered in regard to a supervised personal representative, do so without adjudication, order, or direction of the court, but the personal representative may invoke the jurisdiction of the court, in proceedings authorized by this chapter, to resolve questions concerning the estate or its administration.

History: *1974 c 442 art 3 s 524.3-704; 1986 c 444*

524.3-705 MS 1974 [Repealed, 1975 c 347 s 144]

524.3-706 DUTY OF PERSONAL REPRESENTATIVE; INVENTORY AND APPRAISEMENT.

Within six months after appointment, or nine months after the death of the decedent, whichever is later, a personal representative, who is not a special administrator or a successor to another representative who has previously discharged this duty, shall prepare and file or mail an inventory of property owned by the decedent at the time of death, listing it with reasonable detail, and indicating as to each listed item, its fair market value as of the date of the decedent's death, and the type and amount of any encumbrance that may exist with reference to any item.

The personal representative shall mail or deliver a copy of the inventory to the surviving spouse, if there be one, to all residuary distributees, and to interested persons or creditors who request a copy thereof. The personal representative need not personally receive a copy as a surviving spouse or as a residuary distributee.

History: *1974 c 442 art 3 s 524.3-706; 1975 c 347 s 53; 1979 c 303 art 3 s 32; 1982 c 529 s 1; 1986 c 444*

524.3-707 EMPLOYMENT OF APPRAISERS.

The personal representative may employ a qualified and disinterested appraiser to assist in ascertaining the fair market value as of the date of the decedent's death of any asset the value of which may be subject to reasonable doubt. Different persons may be employed to appraise different kinds of assets included in the estate. The names and addresses of any appraiser shall be indicated on the inventory with the item or items appraised.

History: *1974 c 442 art 3 s 524.3-707; 1986 c 444*

524.3-708 DUTY OF PERSONAL REPRESENTATIVE; SUPPLEMENTARY INVENTORY.

If any property not included in the original inventory comes to the knowledge of a personal representative or if the personal representative learns that the value or description indicated in the original inventory for any item is erroneous or misleading, the personal representative shall make a supplementary inventory or appraisement showing the market value as of the date of the decedent's death of the new item or the revised market value or descriptions, and the appraisers or other data relied upon, if any, and furnish copies thereof or information thereof to persons interested in the new information, and file it with the court if the original inventory was filed.

History: *1974 c 442 art 3 s 524.3-708; 1986 c 444; 1996 c 338 art 2 s 4*

524.3-709 DUTY OF PERSONAL REPRESENTATIVE; POSSESSION OF ESTATE.

Except as otherwise provided by a decedent's will, every personal representative has a right to, and shall take possession or control of, the decedent's property, except that any real property or tangible personal property may be left with or surrendered to the person presumptively entitled thereto unless or until, in the judgment of the personal representative, possession of the property by the personal representative will be necessary for purposes of administration. The request by a personal representative for delivery of any property possessed by an heir or devisee is conclusive evidence, in any action against the heir or devisee for possession thereof, that the possession of the property by the personal representative is necessary for purposes of administration. The personal representative shall pay taxes on, and take all steps reasonably necessary for the management, protection and preservation of, the estate in possession and may maintain an action to recover possession of property or to determine the title thereto.

History: *1974 c 442 art 3 s 524.3-709; 1986 c 444*

524.3-710 POWER TO AVOID TRANSFERS.

The property liable for the payment of unsecured debts of a decedent includes all property transferred by the decedent by any means which is in law void or voidable as against creditors, and subject to prior liens, the right to recover this property, so far as necessary for the payment of unsecured debts of the decedent, is exclusively in the personal representative.

History: *1974 c 442 art 3 s 524.3-710; 1986 c 444*

524.3-711 POWERS OF PERSONAL REPRESENTATIVES; IN GENERAL.

Until termination of the appointment a personal representative has the same power over the title to property of the estate that an absolute owner would have, in trust however, for the benefit of the creditors and others interested in the estate. This power may be exercised without notice, hearing, or order of court and when so exercised shall transfer good title to the transferee to the same extent that decedent had title thereto; provided, however, that a personal representative appointed in an informal proceeding shall not be

empowered to sell, encumber, lease or distribute any interest in real estate owned by the decedent until 30 days have passed from the date of the issuance of the letters.

History: *1974 c 442 art 3 s 524.3-711; 1975 c 347 s 54; 1986 c 444*

524.3-712 IMPROPER EXERCISE OF POWER; BREACH OF FIDUCIARY DUTY.

If the exercise of power concerning the estate is improper, the personal representative is liable to interested persons for damage or loss resulting from breach of fiduciary duty to the same extent as a trustee of an express trust. The rights of purchasers and others dealing with a personal representative shall be determined as provided in sections 524.3-713 and 524.3-714.

History: *1974 c 442 art 3 s 524.3-712; 1986 c 444*

524.3-713 SALE, ENCUMBRANCE OR TRANSACTION INVOLVING CONFLICT OF INTEREST; VOIDABLE; EXCEPTIONS.

Any sale or encumbrance to the personal representative, the personal representative's spouse, agent or attorney, or any corporation or trust in which the personal representative has a substantial beneficial interest, or any transaction which is affected by a substantial conflict of interest on the part of the personal representative, is voidable by any person interested in the estate except one who has consented after fair disclosure, unless

(1) the will or a contract entered into by the decedent expressly authorized the transaction; or

(2) the transaction is approved by the court after notice to interested persons.

History: *1974 c 442 art 3 s 524.3-713; 1986 c 444*

524.3-714 PERSONS DEALING WITH PERSONAL REPRESENTATIVE; PROTECTION.

(a) A person who in good faith either assists a personal representative or deals with the personal representative for value is protected as if the personal representative properly exercised power. The fact that a person knowingly deals with a personal representative does not alone require the person to inquire into the existence of a power or the propriety of its exercise. Except for restrictions on powers of supervised personal representatives which are endorsed on letters as provided in section 524.3-504, no provision in any will or order of court purporting to limit the power of a personal representative is effective except as to persons with actual knowledge thereof. A person is not bound to see to the proper application of estate assets paid or delivered to a personal representative. The protection here expressed extends to instances in which some procedural irregularity or jurisdictional defect occurred in proceedings leading to the issuance of letters, including a case in which the alleged decedent is found to be alive. The protection here expressed is not by substitution for that provided by comparable provisions of the laws relating to commercial transactions and laws simplifying transfers of securities by fiduciaries.

(b) If property is wrongfully transferred by a person acting as a personal representative to a person who is not in good faith, a subsequent good faith purchaser is protected as if the original transferee dealt in good faith. Any purchaser in good faith is protected as if all prior transfers were made in good faith.

History: *1974 c 442 art 3 s 524.3-714; 1977 c 156 s 1; 1978 c 525 s 15; 1986 c 444*

524.3-715 TRANSACTIONS AUTHORIZED FOR PERSONAL REPRESENTATIVES; EXCEPTIONS.

Except as restricted or otherwise provided by the will or by an order in a formal proceeding and subject to the priorities stated in section 524.3-902, a personal representative, acting reasonably for the benefit of the interested persons, may properly:

(1) retain assets owned by the decedent pending distribution or liquidation including those in which the representative is personally interested or which are otherwise improper for trust investment;

(2) receive assets from fiduciaries, or other sources;

(3) perform, compromise or refuse performance of the decedent's contracts that continue as obligations of the estate, as the personal representative may determine under the circumstances. In performing enforceable contracts by the decedent to convey or lease land, the personal representative, among other possible courses of action, may:

(i) execute and deliver a deed of conveyance for cash payment of all sums remaining due or the purchaser's note for the sum remaining due secured by a mortgage or deed of trust on the land; or

(ii) deliver a deed in escrow with directions that the proceeds, when paid in accordance with the escrow agreement, be paid to the successors of the decedent, as designated in the escrow agreement;

(4) satisfy written charitable pledges of the decedent irrespective of whether the pledges constituted binding obligations of the decedent or were properly presented as claims, if in the judgment of the personal representative the decedent would have wanted the pledges completed under the circumstances;

(5) if funds are not needed to meet debts and expenses currently payable and are not immediately distributable, deposit or invest liquid assets of the estate, including moneys received from the sale of other assets, in interest-bearing accounts insured federally or through an approved credit union share guaranty corporation, readily marketable secured loan arrangements or other prudent investments which would be reasonable for use by trustees generally;

(6) acquire or dispose of an asset, including land in this or another state, for cash or on credit, at public or private sale; and manage, develop, improve, exchange, partition, change the character of, or abandon an estate asset;

(7) make ordinary or extraordinary repairs or alterations in buildings or other structures, demolish any improvements, raze existing or erect new party walls or buildings;

(8) subdivide, develop or dedicate land to public use; make or obtain the vacation of plats and adjust boundaries; or adjust differences in valuation on exchange or partition by giving or receiving considerations; or dedicate easements to public use without consideration;

(9) enter for any purpose into a lease as lessor or lessee, with or without option to purchase or renew, for a term within or extending beyond the period of administration;

(10) enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;

(11) abandon property when, in the opinion of the personal representative, it is valueless, or is so encumbered, or is in condition that it is of no benefit to the estate;

(12) vote stocks or other securities in person or by general or limited proxy;

(13) pay calls, assessments, and other sums chargeable or accruing against or on account of securities, unless barred by the provisions relating to claims;

(14) hold a security in the name of a nominee or in other form without disclosure of the interest of the estate but the personal representative is liable for any act of the nominee in connection with the security so held;

(15) insure the assets of the estate against damage, loss and liability and the personal representative against liability as to third persons;

(16) borrow money with or without security to be repaid from the estate assets or otherwise; and advance money for the protection of the estate;

(17) effect a fair and reasonable compromise with any debtor or obligor, or extend, renew or in any manner modify the terms of any obligation owing to the estate. The personal representative on holding a mortgage, pledge or other lien upon property of another person may, in lieu of foreclosure, accept a conveyance or transfer of encumbered assets from the owner thereof in satisfaction of the indebtedness secured by lien;

(18) pay in compliance with section 524.3-805, but without the presentation of a claim, the reasonable and necessary last illness expenses of the decedent (except as provided in section 524.3-806 (a)), reasonable funeral expenses, debts and taxes with preference under federal or state law, and other taxes, assessments, compensation of the personal representative and the personal representative's attorney, and all other costs and expenses of administration although the same may be otherwise barred under section 524.3-803;

(19) sell or exercise stock subscription or conversion rights; consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;

(20) allocate items of income or expense to either estate income or principal, as permitted or provided by law;

(21) employ persons, including attorneys, auditors, investment advisors, or agents, even if they are associated with the personal representative, to advise or assist the personal representative in the performance of administrative duties; act without independent investigation upon their recommendations; and instead of acting personally, employ one or more agents to perform any act of administration, whether or not discretionary;

(22) prosecute or defend claims, or proceedings in any jurisdiction for the protection of the estate and of the personal representative in the performance of duties;

(23) sell, mortgage, or lease any real or personal property of the estate or any interest therein, including the homestead, exempt or otherwise, for cash, credit, or for part cash and part credit, with or without security for unpaid balances, and without the consent of any devisee or heir unless the property has been specifically devised to a devisee or heir by decedent's will, except that the homestead of a decedent when the spouse takes any interest therein shall not be sold, mortgaged or leased unless the written consent of the spouse has been obtained;

(24) continue any unincorporated business or venture in which the decedent was engaged at the time of death (i) in the same business form for a period of not more than four months from the date of appointment

of a general personal representative if continuation is a reasonable means of preserving the value of the business including good will, (ii) in the same business form for any additional period of time that may be approved by order of the court in a formal proceeding to which the persons interested in the estate are parties; or (iii) throughout the period of administration if the business is incorporated by the personal representative and if none of the probable distributees of the business who are competent adults object to its incorporation and retention in the estate;

(25) incorporate any business or venture in which the decedent was engaged at the time of death;

(26) provide for exoneration of the personal representative from personal liability in any contract entered into on behalf of the estate;

(27) satisfy and settle claims and distribute the estate as provided in this chapter;

(28) foreclose a mortgage, lien, or pledge or collect the debts secured thereby, or complete any such proceeding commenced by the decedent;

(29) exercise all powers granted to guardians and conservators by sections 524.5-101 to 524.5-502.

History: *1974 c 442 art 3 s 524.3-715; 1975 c 347 s 55; 1986 c 444; 2004 c 146 art 3 s 42; 2006 c 221 s 21; 2026 c 56 s 38*

524.3-716 POWERS AND DUTIES OF SUCCESSOR PERSONAL REPRESENTATIVE.

A successor personal representative has the same power and duty as the original personal representative to complete the administration and distribution of the estate, as expeditiously as possible, but shall not exercise any power expressly made personal to the executor named in the will.

History: *1974 c 442 art 3 s 524.3-716; 1986 c 444*

524.3-717 COREPRESENTATIVES; WHEN JOINT ACTION REQUIRED.

If two or more persons are appointed corepresentatives and unless the will or the court provides otherwise, the concurrence of all is required on all acts connected with the administration and distribution of the estate. This restriction does not apply when any corepresentative receives and receipts for property due the estate, when the concurrence of all cannot readily be obtained in the time reasonably available for emergency action necessary to preserve the estate, or when a corepresentative has been delegated to act for the others. Persons dealing with a corepresentative if actually unaware that another has been appointed to serve or if advised by the personal representative with whom they deal that the personal representative has authority to act alone for any of the reasons mentioned herein, are as fully protected as if the person with whom they dealt had been the sole personal representative.

History: *1974 c 442 art 3 s 524.3-717; 1975 c 347 s 56; 1986 c 444*

524.3-718 POWERS OF SURVIVING PERSONAL REPRESENTATIVE.

Unless the terms of the will otherwise provide, every power exercisable by personal corepresentatives may be exercised by the one or more remaining after the appointment of one or more is terminated, and if one of two or more nominated as coexecutors is not appointed, those appointed may exercise all the powers incident to the office.

History: *1974 c 442 art 3 s 524.3-718*

524.3-719 COMPENSATION OF PERSONAL REPRESENTATIVE.

(a) A personal representative is entitled to reasonable compensation for services. If a will provides for compensation of the personal representative and there is no contract with the decedent regarding compensation, the personal representative may renounce the provision before qualifying and be entitled to reasonable compensation. A personal representative also may renounce the right to all or any part of the compensation. A written renunciation of fee may be filed with the court.

(b) In determining what is reasonable compensation, the court shall give consideration to the following factors:

(1) the time and labor required;

(2) the complexity and novelty of problems involved; and

(3) the extent of the responsibilities assumed and the results obtained.

History: *1974 c 442 art 3 s 524.3-719; 1979 c 137 s 3; 1986 c 444*

524.3-720 EXPENSES IN ESTATE LITIGATION.

Any personal representative or person nominated as personal representative who defends or prosecutes any proceeding in good faith, whether successful or not, or any interested person who successfully opposes the allowance of a will, is entitled to receive from the estate necessary expenses and disbursements including reasonable attorneys' fees incurred. When after demand the personal representative refuses to prosecute or pursue a claim or asset of the estate or a claim is made against the personal representative on behalf of the estate and any interested person shall then by a separate attorney prosecute or pursue and recover such fund or asset for the benefit of the estate, or when, and to the extent that, the services of an attorney for any interested person contribute to the benefit of the estate, as such, as distinguished from the personal benefit of such person, such attorney shall be paid such compensation from the estate as the court shall deem just and reasonable and commensurate with the benefit to the estate from the recovery so made or from such services.

History: *1974 c 442 art 3 s 524.3-720; 1975 c 347 s 57; 1986 c 444*

524.3-721 PROCEEDINGS FOR REVIEW OF EMPLOYMENT OF AGENTS AND COMPENSATION OF PERSONAL REPRESENTATIVES AND EMPLOYEES OF ESTATE.

After notice to all interested persons or on petition of an interested person or on appropriate motion if administration is supervised, the propriety of employment of any person by a personal representative including any attorney, auditor, investment advisor or other specialized agent or assistant, the reasonableness of the compensation of any person so employed, or the reasonableness of the compensation determined by the personal representative for personal representative services, may be reviewed by the court. Any person who has received excessive compensation from an estate for services rendered may be ordered to make appropriate refunds.

History: *1974 c 442 art 3 s 524.3-721; 1986 c 444*

Part 8
CREDITORS' CLAIMS

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*

524.3-802 STATUTES OF LIMITATIONS.

Unless an estate is insolvent the personal representative, with the consent of all successors, may waive any defense of limitations available to the estate. If the defense is not waived, no claim which was barred by any statute of limitations at the time of the decedent's death shall be allowed or paid. The running of any statute of limitations measured from some other event than death or notice given under section 524.3-801 against a decedent is suspended during the 12 months following the decedent's death but resumes thereafter as to claims not barred pursuant to the sections which follow. For purposes of any statute of limitations, the proper presentation of a claim under section 524.3-804 is equivalent to commencement of a proceeding on the claim.

History: *1975 c 347 s 58; 1989 c 163 s 2*

524.3-803 LIMITATIONS ON PRESENTATION OF CLAIMS.

(a) All claims as defined in section 524.1-201(8), against a decedent's estate which arose before the death of the decedent, including claims of the state and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, if not barred earlier by other statute of limitations, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(1) in the case of a creditor who is only entitled, under the United States Constitution and under the Minnesota Constitution, to notice by publication under section 524.3-801, within four months after the date of the court administrator's notice to creditors which is subsequently published pursuant to section 524.3-801;

(2) in the case of a creditor who was served with notice under section 524.3-801(c), within the later to expire of four months after the date of the first publication of notice to creditors or one month after the service;

(3) within one year after the decedent's death, whether or not notice to creditors has been published or served under section 524.3-801. Claims authorized by section 246.53, 256B.15, or 256D.16 must not be barred after one year as provided in this clause.

(b) All claims against a decedent's estate which arise at or after the death of the decedent, including claims of the state and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(1) a claim based on a contract with the personal representative, within four months after performance by the personal representative is due;

(2) any other claim, within four months after it arises.

(c) Nothing in this section affects or prevents:

(1) any proceeding to enforce any mortgage, pledge, or other lien upon property of the estate;

(2) any proceeding to establish liability of the decedent or the personal representative for which there is protection by liability insurance, to the limits of the insurance protection only;

(3) the presentment and payment at any time within one year after the decedent's death of any claim arising before the death of the decedent that is referred to in section 524.3-715, clause (18), although the same may be otherwise barred under this section; or

(4) the presentment and payment at any time before a petition is filed in compliance with section 524.3-1001 or 524.3-1002 or a closing statement is filed under section 524.3-1003, of:

(i) any claim arising after the death of the decedent that is referred to in section 524.3-715, clause (18), although the same may be otherwise barred hereunder;

(ii) any other claim, including claims subject to clause (3), which would otherwise be barred hereunder, upon allowance by the court upon petition of the personal representative or the claimant for cause shown on notice and hearing as the court may direct.

History: *1975 c 347 s 58; 1976 c 161 s 7; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1989 c 163 s 3; 2006 c 221 s 22; 2008 c 326 art 1 s 41; 2008 c 341 art 4 s 4; 2013 c 125 art 1 s 83*

524.3-804 MANNER OF PRESENTATION OF CLAIMS.

Claims against a decedent's estate may be presented as follows:

(1) The claimant may deliver or mail to the personal representative a written statement of the claim indicating its basis, the name and address of the claimant, and the amount claimed, or may file a written statement of the claim, in the form prescribed by rule, with the court administrator. The claim is deemed presented on the first to occur of receipt of the written statement of claim by the personal representative, or the filing of the claim with the court. If a claim is not yet due, the date when it will become due shall be stated. If the claim is contingent or unliquidated, the nature of the uncertainty shall be stated. If the claim is secured, the security shall be described. Failure to describe correctly the security, the nature of any uncertainty, and the due date of a claim not yet due does not invalidate the presentation made.

(2) The claimant may commence a proceeding against the personal representative in any court where the personal representative may be subjected to jurisdiction, to obtain payment of the claim against the estate, but the commencement of the proceeding must occur within the time limited for presenting the claim. No presentation of claim is required in regard to matters claimed in proceedings against the decedent which were pending at the time of death.

(3) If a claim is presented under subsection (1), no proceeding thereon may be commenced more than two months after the personal representative has mailed a notice of disallowance; but, in the case of a claim which is not presently due or which is contingent or unliquidated, the personal representative may consent to an extension of the two month period, or in any case, to avoid injustice the court, on petition, may order an extension of the two month period, but in no event shall the extension run beyond the applicable statute of limitations.

History: *1975 c 347 s 58; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1996 c 338 art 2 s 5*

524.3-805 CLASSIFICATION OF CLAIMS.

(a) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

(1) costs and expenses of administration;

(2) reasonable funeral expenses;

(3) debts and taxes with preference under federal law;

(4) reasonable and necessary medical, hospital, or nursing home expenses of the last illness of the decedent, including compensation of persons attending the decedent, a claim filed under section 256B.15 for recovery of expenditures for alternative care for nonmedical assistance recipients under section 256B.0913, and including a claim filed pursuant to section 256B.15;

(5) reasonable and necessary medical, hospital, and nursing home expenses for the care of the decedent during the year immediately preceding death;

(6) debts with preference under other laws of this state, and state taxes;

(7) all other claims.

(b) No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due, except that if claims for expenses of the last illness involve only claims filed under section 256B.15 for recovery of expenditures for alternative care for nonmedical assistance recipients under section 256B.0913, section 246.53 for costs of state hospital care and claims filed under section 256B.15, claims filed to recover expenditures for alternative care for nonmedical assistance recipients under section 256B.0913 shall have preference over claims filed under both sections 246.53 and other claims filed under section 256B.15, and claims filed under section 246.53 have preference over claims filed under section 256B.15 for recovery of amounts other than those for expenditures for alternative care for nonmedical assistance recipients under section 256B.0913.

History: *1975 c 347 s 58; 1982 c 621 s 2; 1982 c 641 art 1 s 19; 1983 c 180 s 19; 1986 c 444; 1987 c 325 s 2; 1Sp2003 c 14 art 2 s 52*

524.3-806 ALLOWANCE OF CLAIMS.

(a) As to claims presented in the manner described in section 524.3-804 within the time limit prescribed or permitted in section 524.3-803, the personal representative may mail a notice to any claimant stating that the claim has been disallowed. If, after allowing or disallowing a claim, the personal representative changes the decision concerning the claim, the personal representative shall notify the claimant. Without order of the court for cause shown, the personal representative may not change a disallowance of a claim after the time for the claimant to file a petition for allowance or to commence a proceeding on the claim has run and the claim has been barred. Every claim which is disallowed in whole or in part by the personal representative is barred so far as not allowed unless the claimant files a petition for allowance in the court or commences a proceeding against the personal representative not later than two months after the mailing of the notice of disallowance or partial allowance if the notice warns the claimant of the impending bar. Failure of the personal representative to mail notice to a claimant of action on the claim for two months after the time for original presentation of the claim has expired has the effect of a notice of allowance, except that upon petition of the personal representative and upon notice to the claimant, the court at any time before payment of such claim may for cause shown permit the personal representative to disallow such claim. Any claim in excess of $3,000 for personal services rendered by an individual to the decedent including compensation of persons attending the decedent during a last illness, and any claim of the personal representative which arose before the death of the decedent or in which the personal representative has an interest in excess of $3,000 may be allowed only in compliance with subsection (b).

(b) Upon the petition of the personal representative or of a claimant in a proceeding for the purpose, the court may allow in whole or in part any claim or claims presented to the personal representative or filed with the court administrator in due time and not barred by subsection (a) of this section. Notice in this proceeding shall be given to the claimant, the personal representative and those other persons interested in the estate as the court may direct by order entered at the time the proceeding is commenced.

(c) A judgment in a proceeding in another court against a personal representative to enforce a claim against a decedent's estate is an allowance of the claim.

(d) Unless otherwise provided in any judgment in another court entered against the personal representative, allowed claims bear interest at the legal rate for the period commencing 60 days after the time for original presentation of the claim has expired unless based on a contract making a provision for interest, in which case they bear interest in accordance with that provision. Notwithstanding the preceding sentence, claims that have been disallowed pursuant to clause (a) and are subsequently allowed by the personal representative or reduced to judgment shall bear interest at the legal rate from the latter of the following dates:

(1) 60 days after the time for original presentation of the claim; or

(2) the date the claim is allowed or the date judgment is entered.

History: *1975 c 347 s 58; 1976 c 161 s 8; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

524.3-807 PAYMENT OF CLAIMS.

(a) Upon the expiration of the earliest of the time limitations provided in section 524.3-803 for the presentation of claims, the personal representative shall proceed to pay the claims allowed against the estate in the order of priority prescribed, after making provision for family maintenance and statutory allowances, for claims already presented which have not yet been allowed or whose allowance has been appealed, and for unbarred claims which may yet be presented, including costs and expenses of administration. By petition to the court in a proceeding for the purpose, or by appropriate motion if the administration is supervised, a claimant whose claim has been allowed but not paid as provided herein may secure an order directing the personal representative to pay the claim to the extent that funds of the estate are available for the payment.

(b) The personal representative at any time may pay any just claim which has not been barred, with or without formal presentation, but the personal representative is personally liable to any other claimant whose claim is allowed and who is injured by such payment if

(1) the payment was made before the expiration of the time limit stated in subsection (a) and the personal representative failed to require the payee to give adequate security for the refund of any of the payment necessary to pay other claimants; or

(2) the payment was made, due to the negligence or willful fault of the personal representative, in such manner as to deprive the injured claimant of the claimant's priority.

History: *1975 c 347 s 58; 1986 c 444; 1989 c 163 s 4*

524.3-808 INDIVIDUAL LIABILITY OF PERSONAL REPRESENTATIVE.

(a) Unless otherwise provided in the contract, a personal representative is not individually liable on a contract properly entered into in a fiduciary capacity in the course of administration of the estate unless the personal representative fails to reveal the representative capacity and identify the estate in the contract.

(b) A personal representative is individually liable for obligations arising from ownership or control of the estate or for torts committed in the course of administration of the estate only if the personal representative is personally at fault.

(c) Claims based on contracts entered into by a personal representative in a fiduciary capacity, on obligations arising from ownership or control of the estate or on torts committed in the course of estate administration may be asserted against the estate by proceeding against the personal representative in the fiduciary capacity, whether or not the personal representative is individually liable therefor.

(d) Issues of liability as between the estate and the personal representative individually may be determined in a proceeding for accounting, surcharge or indemnification or other appropriate proceeding.

History: *1975 c 347 s 58; 1986 c 444*

524.3-809 SECURED CLAIMS.

Payment of a secured claim is upon the basis of the amount allowed if the creditor surrenders the security; otherwise payment is upon the basis of one of the following:

(1) if the creditor exhausts the security before receiving payment, unless precluded by other law, upon the amount of the claim allowed less the fair value of the security; or

(2) if the creditor does not have the right to exhaust the security or has not done so, upon the amount of the claim allowed less the value of the security determined by converting it into money according to the terms of the agreement pursuant to which the security was delivered to the creditor, or by the creditor and personal representative by agreement, arbitration, compromise or litigation.

History: *1975 c 347 s 58; 1986 c 444*

524.3-810 CLAIMS NOT DUE AND CONTINGENT OR UNLIQUIDATED CLAIMS.

(a) If a claim which will become due at a future time or a contingent or unliquidated claim becomes due or certain before the distribution of the estate, and if the claim has been allowed or established by a proceeding, it is paid in the same manner as presently due and absolute claims of the same class.

(b) In other cases the personal representative or, on petition of the personal representative or the claimant in a special proceeding for the purpose, the court may provide for payment as follows:

(1) if the claimant consents, the claimant may be paid the present or agreed value of the claim, taking any uncertainty into account;

(2) arrangement for future payment, or possible payment, on the happening of the contingency or on liquidation may be made by creating a trust, giving a mortgage, obtaining a bond or security from a distributee, or otherwise.

History: *1975 c 347 s 58; 1986 c 444*

524.3-811 COUNTERCLAIMS.

In allowing a claim the personal representative may deduct any counterclaim which the estate has against the claimant. In determining a claim against an estate a court shall reduce the amount allowed by the amount of any counterclaims and, if the counterclaims exceed the claim, render a judgment against the claimant in the amount of the excess. A counterclaim, liquidated or unliquidated, may arise from a transaction other

than that upon which the claim is based. A counterclaim may give rise to relief exceeding in amount or different in kind from that sought in the claim.

History: *1975 c 347 s 58*

524.3-812 EXECUTION AND LEVIES PROHIBITED.

No execution may issue upon nor may any levy be made against any property of the estate under any judgment against a decedent or a personal representative, but this section shall not be construed to prevent the enforcement of mortgages, pledges or liens upon real or personal property in an appropriate proceeding.

History: *1975 c 347 s 58*

524.3-813 COMPROMISE OF CLAIMS.

When a claim against the estate has been presented in any manner, the personal representative may, if it appears for the best interest of the estate, compromise the claim, whether due or not due, absolute or contingent, liquidated or unliquidated.

History: *1975 c 347 s 58*

524.3-814 ENCUMBERED ASSETS.

If any assets of the estate are encumbered by mortgage, pledge, lien, or other security interest, the personal representative may pay the encumbrance or any part thereof, renew or extend any obligation secured by the encumbrance or convey or transfer the assets to the creditor in satisfaction of the lien, in whole or in part, whether or not the holder of the encumbrance has filed a claim, if it appears to be for the best interest of the estate. Payment of an encumbrance does not increase the share of the distributee entitled to the encumbered assets unless the distributee is entitled to exoneration.

History: *1975 c 347 s 58; 1986 c 444*

524.3-815 ADMINISTRATION IN MORE THAN ONE STATE; DUTY OF PERSONAL REPRESENTATIVE.

(a) All assets of estates being administered in this state are subject to all claims, allowances and charges existing or established against the personal representative wherever appointed.

(b) If the estate either in this state or as a whole is insufficient to cover all family exemptions and allowances determined by the law of the decedent's domicile, prior charges and claims, after satisfaction of the exemptions, allowances and charges, each claimant whose claim has been allowed either in this state or elsewhere in administrations of which the personal representative is aware, is entitled to receive payment of an equal proportion of the claim. If a preference or security in regard to a claim is allowed in another jurisdiction but not in this state, the creditor so benefited is to receive dividends from local assets only upon the balance of the claim after deducting the amount of the benefit.

(c) In case the family exemptions and allowances, prior charges and claims of the entire estate exceed the total value of the portions of the estate being administered separately and this state is not the state of the decedent's last domicile, the claims allowed in this state shall be paid their proportion if local assets are adequate for the purpose, and the balance of local assets shall be transferred to the domiciliary personal representative. If local assets are not sufficient to pay all claims allowed in this state the amount to which they are entitled, local assets shall be marshalled so that each claim allowed in this state is paid its proportion

as far as possible, after taking into account all dividends on claims allowed in this state from assets in other jurisdictions.

History: *1975 c 347 s 58; 1986 c 444*

524.3-816 FINAL DISTRIBUTION TO DOMICILIARY REPRESENTATIVE.

Real estate (excluding a vendor's interest in a contract for conveyance) located in this state with regard to which the decedent died intestate and the proceeds of the sale, mortgage or lease of any such real estate available for distribution, shall pass according to the laws of this state. All other assets included in the estate of a nonresident decedent being administered by a personal representative appointed in this state shall, if there is a personal representative of the decedent's domicile willing to receive it, be distributed to the domiciliary personal representative for the benefit of the successors of the decedent unless (1) by virtue of the decedent's will, if any, the successors are identified pursuant to the local law of this state without reference to the local law of the decedent's domicile; (2) the personal representative of this state, after reasonable inquiry, is unaware of the existence or identity of a domiciliary personal representative; or (3) the court orders otherwise in a proceeding for a closing order under section 524.3-1001 or incident to the closing of a supervised administration. In other cases, distribution of the estate of a decedent shall be made in accordance with the other parts of this article.

History: *1975 c 347 s 58*

524.3-817 JOINT CONTRACT CLAIMS.

When two or more persons are indebted on any joint contract or upon a judgment on a joint contract, and one of them dies, the estate shall be liable therefor, and the amount thereof may be allowed the same as though the contract had been joint and several or the judgment had been against the decedent alone, but without prejudice to right to contribution.

History: *1975 c 347 s 58; 1986 c 444*

Part 9
SPECIAL PROVISIONS RELATING TO DISTRIBUTION

524.3-901 SUCCESSORS' RIGHTS IF NO ADMINISTRATION.

In the absence of administration, the heirs and devisees are entitled to the estate in accordance with the terms of a probated will or the laws of intestate succession. Devisees may establish title by the probated will to devised property. Persons entitled to property pursuant to sections 524.2-402, 524.2-403, 525.14 or intestacy may establish title thereto by proof of the decedent's ownership and death, and their relationship to the decedent. Successors take subject to all charges incident to administration, including the claims of creditors and allowances of surviving spouse and dependent children, and subject to the rights of others resulting from abatement, retainer, advancement, and ademption.

History: *1974 c 442 art 3 s 524.3-901; 1975 c 347 s 59; 1986 c 444; 1996 c 305 art 1 s 113*

524.3-902 DISTRIBUTION; ORDER IN WHICH ASSETS APPROPRIATED; ABATEMENT.

(a) Except as provided in subsection (b) and except as provided in connection with the share of the surviving spouse who elects to take an elective share, shares of distributees abate, without any preference or priority as between real and personal property, in the following order: (1) property not disposed of by the

will; (2) residuary devises; (3) general devises; (4) specific devises. For purposes of abatement, a general devise charged on any specific property or fund is a specific devise to the extent of the value of the property on which it is charged, and upon the failure or insufficiency of the property on which it is charged, a general devise to the extent of the failure or insufficiency. Abatement within each classification is in proportion to the amounts of property each of the beneficiaries would have received if full distribution of the property had been made in accordance with the terms of the will.

(b) If the will expresses an order of abatement, or if the testamentary plan or the express or implied purpose of the devise would be defeated by the order of abatement stated in subsection (a), the shares of the distributees abate as may be found necessary to give effect to the intention of the testator.

(c) If the subject of a preferred devise is sold or used incident to administration, abatement shall be achieved by appropriate adjustments in, or contribution from, other interests in the remaining assets.

History: *1974 c 442 art 3 s 524.3-902*

524.3-903 RIGHT OF RETAINER.

The amount of a noncontingent indebtedness of a successor to the estate if due, or its present value if not due, shall be offset against the successor's interest; but the successor has the benefit of any defense which would be available to the successor in a direct proceeding for recovery of the debt.

History: *1974 c 442 art 3 s 524.3-903; 1986 c 444*

524.3-904 INTEREST ON GENERAL PECUNIARY DEVISE.

General pecuniary devises bear interest at the legal rate beginning one year after the first appointment of a personal representative until payment, unless a contrary intent is indicated by the will.

History: *1974 c 442 art 3 s 524.3-904*

524.3-905 MS 1994 [Repealed, 1994 c 472 s 64]

524.3-906 DISTRIBUTION IN KIND; VALUATION; METHOD.

(a) Unless a contrary intention is indicated by the will, the distributable assets of a decedent's estate shall be distributed in kind to the extent possible through application of the following provisions:

(1) A specific devisee is entitled to distribution of the thing devised, and a spouse or child who has selected particular assets of an estate shall receive the items selected.

(2) Any statutory allowances or devise payable in money may be satisfied by value in kind provided

(i) the person entitled to the payment has not demanded payment in cash;

(ii) the property distributed in kind is valued at fair market value as of the date of its distribution; and

(iii) no residuary devisee has requested that the asset in question remain a part of the residue of the estate.

(3) For the purpose of valuation under paragraph (2) securities regularly traded on recognized exchanges, if distributed in kind, are valued at the price for the last sale of like securities, traded on the business day prior to distribution, or if there was no sale on that day, at the median between amounts bid and offered at the close of that day. Assets consisting of sums owed the decedent or the estate by solvent debtors as to which there is no known dispute or defense are valued at the sum due with accrued interest or discounted

to the date of distribution. For assets which do not have readily ascertainable values, a valuation as of a date not more than 30 days prior to the date of distribution, if otherwise reasonable, controls. For purposes of facilitating distribution, the personal representative may ascertain the value of the assets as of the time of the proposed distribution in any reasonable way, including the employment of qualified appraisers, even if the assets may have been previously appraised.

(4) The residuary estate shall be distributed in kind if there is no objection to the proposed distribution and it is practicable to distribute undivided interests. In other cases, residuary property may be converted into cash for distribution.

(b) After the probable charges against the estate are known, the personal representative may mail or deliver a proposal for distribution to all persons who have a right to object to the proposed distribution. The right of any distributee to object to the proposed distribution on the basis of the kind or value of asset the distributee is to receive, if not waived earlier in writing, terminates if the distributee fails to object in writing received by the personal representative within 30 days after mailing or delivery of the proposal.

History: *1974 c 442 art 3 s 524.3-906; 1975 c 347 s 60; 1986 c 444*

524.3-907 DISTRIBUTION IN KIND; EVIDENCE.

If distribution in kind is made, the personal representative shall execute an instrument or deed of distribution assigning, transferring or releasing the assets to the distributee as evidence of the distributee's title to the property.

History: *1974 c 442 art 3 s 524.3-907*

524.3-908 DISTRIBUTION; RIGHT OR TITLE OF DISTRIBUTEE.

Proof that a distributee has received an instrument or deed of distribution of assets in kind, or payment in distribution, from a personal representative, is conclusive evidence that the distributee has succeeded to the interest of the decedent and the estate in the distributed assets, as against all persons interested in the estate, except that the personal representative may recover the assets or their value if the distribution was improper.

History: *1974 c 442 art 3 s 524.3-908; 1976 c 161 s 9*

524.3-909 IMPROPER DISTRIBUTION; LIABILITY OF DISTRIBUTEE.

Unless the distribution or payment no longer can be questioned because of adjudication, estoppel, or limitation, a distributee of property improperly distributed or paid, or a claimant who was improperly paid, is liable to return the property improperly received and its income since distribution if the distributee or claimant has the property. A distributee or claimant who does not have the property is liable to return the value as of the date of disposition of the property improperly received and any income and gain received.

History: *1974 c 442 art 3 s 524.3-909; 1986 c 444*

524.3-910 PURCHASERS FROM DISTRIBUTEES PROTECTED.

If property distributed in kind or a security interest therein is acquired by a purchaser, or lender, for value from a distributee who has received an instrument or deed of distribution from the personal representative, the purchaser or lender takes title free of any claims of the estate and any interested person, and incurs no personal liability to them, whether or not the distribution was proper. To be protected under

this provision, a purchaser or lender need not inquire whether a personal representative acted properly in making the distribution in kind.

History: *1974 c 442 art 3 s 524.3-910; 1975 c 347 s 61; 1976 c 161 s 10*

524.3-911 PARTITION FOR PURPOSE OF DISTRIBUTION.

When two or more heirs or devisees are entitled to distribution of undivided interests in any real or personal property of the estate, the personal representative or one or more of the heirs or devisees may petition the court prior to the formal or informal closing of the estate, to make partition. After notice to the interested heirs or devisees, the court shall partition the property in the same manner as provided by the law for civil actions of partition. The court may direct the personal representative to sell any property which cannot be partitioned without prejudice to the owners and which cannot conveniently be allotted to any one party.

History: *1974 c 442 art 3 s 524.3-911*

524.3-912 PRIVATE AGREEMENTS AMONG SUCCESSORS TO DECEDENT BINDING ON PERSONAL REPRESENTATIVE.

Subject to the rights of creditors and taxing authorities, competent successors may agree among themselves to alter the interests, shares, or amounts to which they are entitled under the will of the decedent, or under the laws of intestacy, in any way that they provide in a written contract executed by all who are affected by its provisions. The personal representative shall abide by the terms of the agreement subject to the obligation to administer the estate for the benefit of creditors, to pay all taxes and costs of administration, and to carry out the responsibilities of office for the benefit of any successors of the decedent who are not parties. Personal representatives of decedent's estates are not required to see to the performance of trusts if the trustee thereof is another person who is willing to accept the trust. Accordingly, trustees of a testamentary trust are successors for the purposes of this section. Nothing herein relieves trustees of any duties owed to beneficiaries of trusts.

History: *1974 c 442 art 3 s 524.3-912; 1986 c 444*

524.3-913 DISTRIBUTIONS TO TRUSTEE.

Qualification by a court of a testamentary trustee is not required before distributions can be made by a personal representative to the trustee, unless qualification is expressly requested by will or demanded by an interested person as follows:

(1) by written demand delivered or mailed to the personal representative, or

(2) by petition to the court having jurisdiction over the probate estate.

If demand is made, the personal representative shall require proof of qualification of the trustee in a court of competent jurisdiction and the personal representative shall not make distributions to the trustee until the trustee is qualified by the court.

This section applies to all testamentary trusts without regard to the date of execution of the will or to the date of death of the testator.

History: *1974 c 442 art 3 s 524.3-913; 1975 c 347 s 62; 1985 c 10 s 1; 1991 c 4 s 2*

524.3-914 UNCLAIMED ASSETS.

If any asset of the estate has not been distributed because the person entitled thereto cannot be found or refuses to accept the same, or for any other good and sufficient reason the same has not been paid over, the court may direct the personal representative to deposit the same with the county treasurer, taking duplicate receipts therefor, one of which the personal representative shall file with the county auditor and the other in the court. If the money on hand exceeds the sum of $5,000, the court may direct the county treasurer to invest the funds, and the county treasurer shall collect the interest on these investments as it becomes due, and the money so collected or deposited shall be credited to the county revenue fund. Upon petition to the court within 21 years after such deposit, and upon notice to the county attorney and county treasurer, the court may direct the county auditor to issue to the person entitled thereto the county auditor's warrant for the amount of the money so on deposit including the interest collected. No interest shall be allowed or paid thereon, except as herein provided, and if not claimed within such time no recovery thereof shall be had. The county treasurer, with the approval of the court, may make necessary sales, exchanges, substitutions, and transfers of investments and may present the same for redemption and invest the proceeds.

History: *1974 c 442 art 3 s 524.3-914; 1975 c 347 s 63; 1986 c 444; 1995 c 130 s 14; 1996 c 338 art 2 s 6*

524.3-915 DISTRIBUTION TO PERSON UNDER DISABILITY.

(a) A personal representative may discharge the obligation to distribute to any person under legal disability by distributing to the person's guardian or conservator, or any other person authorized by this chapter or otherwise to give a valid receipt and discharge for the distribution.

(b) When a minor child receives or is entitled to distribution of personal property the court may order and direct the personal representative of the estate to make payment of not to exceed $2,000 thereof to the parent or parents, custodian, or the person, corporation, or institution with whom the minor child is, for the benefit, support, maintenance, and education of the minor child or may direct the investment of the whole or any part thereof in a savings account, savings certificate, or certificate of deposit in a bank, savings bank, or savings association having deposit insurance, in the name of the minor child. When so invested the savings account passbook, savings certificate, certificate of deposit, or other acknowledgment of receipt of the deposit by the depository as the case may be, is to be kept as provided by the court, and the depository shall be instructed not to allow such investment to be withdrawn, except by order of the court. The court may authorize the use of any part or all thereof to purchase United States government savings bonds in the minor's name the bonds to be kept as provided by the court and to be retained until the minor reaches majority unless otherwise authorized by an order of the court.

History: *1974 c 442 art 3 s 524.3-915; 1975 c 347 s 64; 1986 c 444; 1995 c 202 art 1 s 25*

524.3-916 APPORTIONMENT OF ESTATE TAXES AND GENERATION-SKIPPING TAX.

(a) For purposes of this section:

(1) "estate" means the gross estate of a decedent as determined for the purpose of federal estate tax or the estate tax payable to this state;

(2) "decedent's generation-skipping transfers" means all generation-skipping transfers as determined for purposes of the federal generation-skipping tax which occur by reason of the decedent's death which relate to property which is included in the decedent's estate;

(3) "person" means any individual, partnership, association, joint stock company, corporation, limited liability company, government, political subdivision, governmental agency, or local governmental agency;

(4) "person interested in the estate" means any person entitled to receive, or who has received, from a decedent or by reason of the death of a decedent any property or interest therein included in the decedent's estate. It includes a personal representative, guardian, conservator, trustee, and custodian;

(5) "state" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;

(6) "estate tax" means the federal estate tax and the state estate tax determined by the commissioner of revenue pursuant to chapter 291 and interest and penalties imposed in addition to the tax;

(7) "decedent's generation-skipping tax" means the federal generation-skipping tax imposed on the decedent's generation-skipping transfers and interest and penalties imposed in addition to the tax;

(8) "fiduciary" means personal representative or trustee.

(b) Any tax occasioned by a decedent's death shall be apportioned as set forth in clauses (1) to (4).

(1) Estate taxes shall be apportioned among all persons interested in the estate in the proportion that the value of the interest of each person interested in the estate bears to the total value of the interests of all persons interested in the estate. The values used in determining the tax shall be used in apportioning the tax.

(2) Notwithstanding the general rule set forth in clause (1), if property is included in the decedent's gross estate pursuant to section 2044 of the Internal Revenue Code of 1986, as amended, or any similar provision of any state estate tax law, the difference between the total estate tax payable by the decedent's estate and the amount of estate tax that would have been payable by the decedent's estate if the property had not been included in the decedent's gross estate shall be apportioned ratably among the holders of interests in the property. The values used in determining the tax shall be used in apportioning the tax. The balance of the tax, if any, shall be apportioned as provided in clause (1).

(3) The decedent's generation-skipping tax shall be apportioned as provided by federal law. To the extent not provided by federal law, the decedent's generation-skipping tax shall be apportioned among all persons receiving the decedent's generation-skipping transfers whose tax apportionment is not provided by federal law in the proportion that the value of the transfer to each person bears to the total value of all such transfers.

(4) If the decedent's will or other written instrument directs a method of apportionment of estate tax or of the decedent's generation-skipping tax different from the methods described in this section, the method described in the will or other written instrument shall control; provided, however, that:

(i) unless the decedent's will or other written instrument specifically indicates an intent to waive any right of recovery under section 2207A of the Internal Revenue Code of 1986, as amended, estate taxes on property described in clause (2) must be apportioned under the method described in clause (2); and

(ii) unless the decedent's will or other written instrument specifically indicates an intent to waive any right of recovery under section 2207B of the Internal Revenue Code of 1986, as amended, estate taxes on property included in the decedent's estate under section 2036 of the Internal Revenue Code of 1986, as amended, must be apportioned under the method described in clause (1).

(c)(1) The court in which venue lies for the administration of the estate of a decedent, on petition for the purpose may determine the apportionment of the estate tax or of the decedent's generation-skipping tax.

(2) If the court finds that it is inequitable to apportion interest and penalties in the manner provided in subsection (b), because of special circumstances, it may direct apportionment thereof in the manner it finds equitable.

(3) If the court finds that the assessment of penalties and interest assessed in relation to the estate tax or the decedent's generation-skipping tax is due to delay caused by the negligence of the fiduciary, the court may charge the fiduciary with the amount of the assessed penalties and interest.

(4) In any action to recover from any person interested in the estate the amount of the estate tax or of the decedent's generation-skipping tax apportioned to the person in accordance with this section the determination of the court in respect thereto shall be prima facie correct.

(d)(1) The personal representative or other person in possession of the property of the decedent required to pay the estate tax or the decedent's generation-skipping tax may withhold from any property distributable to any person interested in the estate, upon its distribution, the amount of any taxes attributable to the person's interest. If the property in possession of the personal representative or other person required to pay any taxes and distributable to any person interested in the estate is insufficient to satisfy the proportionate amount of the taxes determined to be due from the person, the personal representative or other person required to pay any taxes may recover the deficiency from the person interested in the estate. If the property is not in the possession of the personal representative or the other person required to pay any taxes, the personal representative or the other person required to pay any taxes may recover from any person interested in the estate the amount of any taxes apportioned to the person in accordance with this section.

(2) If property held by the personal representative or other person in possession of the property of the decedent required to pay the estate tax or the decedent's generation-skipping tax is distributed prior to final apportionment of the estate tax or the decedent's generation-skipping tax, the distributee shall provide a bond or other security for the apportionment liability in the form and amount prescribed by the personal representative or other person, as the case may be.

(e)(1) In making an apportionment, allowances shall be made for any exemptions granted, any classification made of persons interested in the estate and for any deductions and credits allowed by the law imposing the tax.

(2) Any exemption or deduction allowed by reason of the relationship of any person to the decedent, by reason of the purposes of the gift, or by allocation to the gift (either by election by the fiduciary or by operation of federal law), inures to the benefit of the person bearing such relationship or receiving the gift; but if an interest is subject to a prior present interest which is not allowable as a deduction, the tax apportionable against the present interest shall be paid from principal.

(3) Any deduction for property previously taxed and any credit for gift taxes or death taxes of a foreign country paid by the decedent or the decedent's estate inures to the proportionate benefit of all persons liable to apportionment.

(4) Any credit for inheritance, succession or estate taxes or taxes in the nature thereof applicable to property or interests includable in the estate, inures to the benefit of the persons or interests chargeable with the payment thereof to the extent proportionately that the credit reduces the tax.

(5) To the extent that property passing to or in trust for a surviving spouse or any charitable, public or similar gift or devise is not an allowable deduction for purposes of the estate tax solely by reason of an estate tax imposed upon and deductible from the property, the property is not included in the computation provided for in subsection (b)(1) hereof, and to that extent no apportionment is made against the property. The sentence

immediately preceding does not apply to any case if the result would be to deprive the estate of a deduction otherwise allowable under section 2053(d) of the Internal Revenue Code of 1986, as amended, of the United States, relating to deduction for state death taxes on transfers for public, charitable, or religious uses.

(f) No interest in income and no estate for years or for life or other temporary interest in any property or fund is subject to apportionment as between the temporary interest and the remainder. The estate tax on the temporary interest and the estate tax, if any, on the remainder is chargeable against the corpus of the property or funds subject to the temporary interest and remainder. The decedent's generation-skipping tax is chargeable against the property which constitutes the decedent's generation-skipping transfer.

(g) Neither the personal representative nor other person required to pay the tax is under any duty to institute any action to recover from any person interested in the estate the amount of the estate tax or of the decedent's generation-skipping tax apportioned to the person until the final determination of the tax. A personal representative or other person required to pay the estate tax or decedent's generation-skipping tax who institutes the action within a reasonable time after final determination of the tax is not subject to any liability or surcharge because any portion of the tax apportioned to any person interested in the estate was collectible at a time following the death of the decedent but thereafter became uncollectible. If the personal representative or other person required to pay the estate tax or decedent's generation-skipping tax cannot collect from any person interested in the estate the amount of the tax apportioned to the person, the amount not recoverable shall be equitably apportioned among the other persons interested in the estate who are subject to apportionment of the tax involved.

(h) A personal representative acting in another state or a person required to pay the estate tax or decedent's generation-skipping tax domiciled in another state may institute an action in the courts of this state and may recover a proportionate amount of the federal estate tax, of an estate tax payable to another state or of a death duty due by a decedent's estate to another state, or of the decedent's generation-skipping tax, from a person interested in the estate who is either domiciled in this state or who owns property in this state subject to attachment or execution. For the purposes of the action the determination of apportionment by the court having jurisdiction of the administration of the decedent's estate in the other state is prima facie correct.

History: *1975 c 347 s 65; 1979 c 303 art 3 s 33; 1986 c 444; 1995 c 130 s 15; 1999 c 171 s 3; 2015 c 32 s 5*

Part 10
CLOSING ESTATES

524.3-1001 FORMAL PROCEEDINGS TERMINATING ADMINISTRATION; TESTATE OR INTESTATE; ORDER OF DISTRIBUTION, DECREE, AND GENERAL PROTECTION.

(a)(1) A personal representative or any interested person may petition for an order of complete settlement of the estate. The personal representative may petition at any time, and any other interested person may petition after one year from the appointment of the original personal representative except that no petition under this section may be entertained until the time for presenting claims which arose prior to the death of the decedent has expired. The petition may request the court to determine testacy, if not previously determined, to consider the final account or compel or approve an accounting and distribution, to construe any will or determine heirs and adjudicate the final settlement and distribution of the estate. After notice to all interested persons and hearing the court may enter an order or orders, on appropriate conditions, determining the persons entitled to distribution of the estate, and, as circumstances require, approving settlement and directing or approving distribution of the estate and discharging the personal representative from further claim or demand of any interested person.

(2) In such petition for complete settlement of the estate, the petitioner may apply for a decree. Upon the hearing, if in the best interests of interested persons, the court may issue its decree which shall determine the persons entitled to the estate and assign the same to them in lieu of ordering the assignment by the personal representative. The decree shall name the heirs and distributees, state their relationship to the decedent, describe the property, and state the proportions or part thereof to which each is entitled. In the estate of a testate decedent, no heirs shall be named in the decree unless all heirs be ascertained.

(3) In solvent estates, the hearing may be waived by written consent to the proposed account and decree of distribution or order of distribution by all heirs or distributees, and the court may then enter its order allowing the account and issue its decree or order of distribution.

(4) Where a decree or order for distribution is issued, the personal representative shall not be discharged until all property is paid or transferred to the persons entitled to the property, and the personal representative has otherwise fully discharged the duties of a personal representative. If an order assessing estate tax or request for documents is filed with the court by the commissioner of revenue, no discharge shall be issued until the assessment is paid or the request is complied with. If no order assessing estate tax or request for documents is filed, the court shall have the power to settle and distribute the estate and discharge the personal representative without regard to tax obligations.

(b) If one or more heirs or devisees were omitted as parties in, or were not given notice of, a previous formal testacy proceeding, the court, on proper petition for an order of complete settlement of the estate under this section, and after notice to the omitted or unnotified persons and other interested parties determined to be interested on the assumption that the previous order concerning testacy is conclusive as to those given notice of the earlier proceeding, may determine testacy as it affects the omitted persons and confirm or alter the previous order of testacy as it affects all interested persons as appropriate in the light of the new proofs. In the absence of objection by an omitted or unnotified person, evidence received in the original testacy proceeding shall constitute prima facie proof of due execution of any will previously admitted to probate, or of the fact that the decedent left no valid will if the prior proceedings determined this fact.

History: *1974 c 442 art 3 s 524.3-1001; 1975 c 347 s 66; 1979 c 303 art 3 s 34; 1980 c 439 s 31; 1986 c 444; 1990 c 480 art 2 s 17; 1995 c 130 s 16*

524.3-1002 FORMAL PROCEEDINGS TERMINATING TESTATE ADMINISTRATION; ORDER CONSTRUING WILL WITHOUT ADJUDICATING TESTACY.

A personal representative administering an estate under an informally probated will or any devisee under an informally probated will may petition for an order of settlement of the estate which will not adjudicate the testacy status of the decedent. The personal representative may petition at any time, and a devisee may petition after one year, from the appointment of the original personal representative, except that no petition under this section may be entertained until the time for presenting claims which arose prior to the death of the decedent has expired. The petition may request the court to consider the final account or compel or approve an accounting and distribution, to construe the will and adjudicate final settlement and distribution of the estate. After notice to all devisees and the personal representative and hearing, the court may enter an order or orders, on appropriate conditions, determining the persons entitled to distribution of the estate under the will, and, as circumstances require, approving settlement and directing or approving distribution of the estate and discharging the personal representative from further claim or demand of any devisee who is a party to the proceeding and those the devisee represents. If it appears that a part of the estate is intestate, the proceedings shall be dismissed or amendments made to meet the provisions of section 524.3-1001.

History: *1974 c 442 art 3 s 524.3-1002; 1986 c 444*

524.3-1003 CLOSING ESTATES; BY SWORN STATEMENT OF PERSONAL REPRESENTATIVE.

(a) Unless prohibited by order of the court and except for estates being administered in supervised administration proceedings, a personal representative may close an estate by filing with the court no earlier than four months after the date of original appointment of a general personal representative for the estate, a statement stating that the filer, or a prior personal representative whom the filer has succeeded, has or have:

(1) published notice to creditors and that the first publication occurred more than four months prior to the date of filing of the statement;

(2) fully administered the estate of the decedent by making payment, settlement or other disposition of all claims which were presented, expenses of administration and estate and other taxes, except as specified in the statement, and that the assets of the estate have been inventoried and distributed to the persons entitled. If any claims, expenses or taxes remain undischarged, the statement shall state in detail other arrangements which have been made to accommodate outstanding liabilities; and

(3) prior to filing the statement, sent a copy thereof to all distributees of the estate and to all creditors or other known claimants whose claims are neither paid nor barred and has furnished a full account in writing of the personal representative's administration to the distributees whose interests are affected thereby.

(b) If no proceedings involving the personal representative are pending in the court one year after the closing statement is filed, the appointment of the personal representative terminates. Letters of appointment remain in full force until one year after the filing of the closing statement at which time the authority of the personal representative shall terminate.

History: *1974 c 442 art 3 s 524.3-1003; 1976 c 161 s 11; 1978 c 525 s 16; 1980 c 439 s 32; 1984 c 438 s 1; 1986 c 444*

524.3-1004 LIABILITY OF DISTRIBUTEES TO CLAIMANTS.

After assets of an estate have been distributed and subject to section 524.3-1006, an undischarged claim not barred may be prosecuted in a proceeding against one or more distributees. If a personal representative closes an estate without giving notice as required under section 524.3-801, paragraph (d), notwithstanding any other law to the contrary, claims arising under sections 246.53, 256B.15, 256D.16, and 261.04 shall be undischarged and unbarred claims. The governmental entities entitled to file claims under those sections shall be entitled to prosecute their claims against distributees as provided for in this section, and the limitations in section 524.3-1006 shall not apply. No distributee shall be liable to claimants for amounts in excess of the value of the distributee's distribution as of the time of distribution. As between distributees, each shall bear the cost of satisfaction of unbarred claims as if the claim had been satisfied in the course of administration. Any distributee who shall have failed to notify other distributees of the demand made by the claimant in sufficient time to permit them to join in any proceeding in which the claim was asserted against the first distributee loses the right of contribution against other distributees.

History: *1974 c 442 art 3 s 524.3-1004; 1986 c 444; 1997 c 217 art 2 s 17*

524.3-1005 LIMITATIONS ON PROCEEDINGS AGAINST PERSONAL REPRESENTATIVE.

Unless previously barred by adjudication and except as provided in the closing statement, the rights of successors and of creditors whose claims have not otherwise been barred against the personal representative for breach of fiduciary duty are barred unless a proceeding to assert the same is commenced within six months after the filing of the closing statement. The rights thus barred do not include rights to recover from

a personal representative for fraud, misrepresentation, or inadequate disclosure related to the settlement of the decedent's estate.

History: *1974 c 442 art 3 s 524.3-1005*

524.3-1006 LIMITATIONS ON ACTIONS AND PROCEEDINGS AGAINST DISTRIBUTEES.

Unless previously adjudicated in a formal testacy proceeding or in a proceeding settling the accounts of a personal representative or otherwise barred, the claim of any claimant to recover from a distributee who is liable to pay the claim, and the right of any heir or devisee, or of a successor personal representative acting in their behalf, to recover property improperly distributed or the value thereof from any distributee is forever barred at the later of (1) three years after the decedent's death; or (2) one year after the time of distribution thereof. This section does not bar an action to recover property or value received as the result of fraud.

History: *1974 c 442 art 3 s 524.3-1006*

524.3-1007 CERTIFICATE DISCHARGING LIENS SECURING FIDUCIARY PERFORMANCE.

After the appointment has terminated, the personal representative, the personal representative's sureties, or any successor of either, upon the filing of an application showing, so far as is known by the applicant, that no action concerning the estate is pending in any court, is entitled to receive a certificate from the registrar that the personal representative appears to have fully administered the estate in question. The certificate evidences discharge of any lien on any property given to secure the obligation of the personal representative in lieu of bond or any surety, but does not preclude action against the personal representative or the surety.

History: *1974 c 442 art 3 s 524.3-1007; 1976 c 161 s 12; 1986 c 444*

524.3-1008 SUBSEQUENT ADMINISTRATION.

If property of the estate is omitted or discovered after an estate has been settled and the personal representative discharged or after one year after a closing statement has been filed, the court upon petition or the registrar upon application of any interested person and upon notice as it directs may appoint the same or a successor personal representative to administer the subsequently discovered estate. If a new appointment is made, unless the court or registrar orders otherwise, the provisions of this chapter apply as appropriate; but no claim previously barred may be asserted in the subsequent administration.

History: *1974 c 442 art 3 s 524.3-1008; 1975 c 347 s 67; 1995 c 130 s 17*

Part 11
COMPROMISE OF CONTROVERSIES

524.3-1101 EFFECT OF APPROVAL OF AGREEMENTS INVOLVING TRUSTS, INALIENABLE INTERESTS, OR INTERESTS OF THIRD PERSONS.

A compromise of any controversy as to admission to probate of any instrument offered for formal probate as the will of a decedent, the construction, validity, or effect of any probated will, the rights or interests in the estate of the decedent, of any successor, or the administration of the estate, if approved in a formal proceeding in the court for that purpose, is binding on all the parties thereto including those unborn,

unascertained or who could not be located. An approved compromise is binding even though it may affect a trust or an inalienable interest.

History: *1974 c 442 art 3 s 524.3-1101; 1975 c 347 s 68*

524.3-1102 PROCEDURE FOR SECURING COURT APPROVAL OF COMPROMISE.

The procedure for securing court approval of a compromise is as follows:

(1) The terms of the compromise shall be set forth in an agreement in writing which shall be executed by all competent persons and parents acting for any minor child having beneficial interests or having claims which will or may be affected by the compromise. Execution is not required by any person whose identity cannot be ascertained or whose whereabouts is unknown and cannot reasonably be ascertained.

(2) Any interested person, including the personal representative or a trustee, then may submit the agreement to the court for its approval and for execution by the personal representative, the trustee of every affected testamentary trust, and other fiduciaries and representatives.

(3) After notice to all interested persons or their representatives, including the personal representative of the estate and all affected trustees of trusts, the court, if it finds that the contest or controversy is in good faith and that the effect of the agreement upon the interests of persons represented by fiduciaries or other representatives is just and reasonable, shall make an order approving the agreement and directing all fiduciaries under its supervision to execute the agreement. Minor children represented only by their parents may be bound only if their parents join with other competent persons in execution of the compromise. Upon the making of the order and the execution of the agreement, all further disposition of the estate is in accordance with the terms of the agreement.

History: *1974 c 442 art 3 s 524.3-1102*

Part 12
COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT AND SUMMARY ADMINISTRATION PROCEDURE FOR SMALL ESTATES

524.3-1201 COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT.

(a) Thirty days after the death of a decedent, (i) any person indebted to the decedent, (ii) any person having possession of tangible personal property or an instrument evidencing a debt, obligation, stock, or chose in action belonging to the decedent, or (iii) any safe deposit company, as defined in section 55.01, controlling the right of access to decedent's safe deposit box shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock, or chose in action or deliver the entire contents of the safe deposit box to a person claiming to be the successor of the decedent, or a state or county agency with a claim authorized by section 256B.15, upon being presented a certified death record of the decedent and an affidavit made by or on behalf of the successor stating that:

(1) the value of the entire probate estate, determined as of the date of death, wherever located, including specifically any contents of a safe deposit box, less liens and encumbrances, does not exceed $75,000;

(2) 30 days have elapsed since the death of the decedent or, in the event the property to be delivered is the contents of a safe deposit box, 30 days have elapsed since the filing of an inventory of the contents of the box pursuant to section 55.10, paragraph (h);

(3) no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction;

(4) if presented, by a state or county agency with a claim authorized by section 256B.15, to a financial institution with a multiple-party account in which the decedent had an interest at the time of death, the amount of the affiant's claim and a good faith estimate of the extent to which the decedent was the source of funds or beneficial owner of the account; and

(5) the claiming successor is entitled to payment or delivery of the property.

(b) A transfer agent of any security shall change the registered ownership on the books of a corporation from the decedent to the successor or successors upon the presentation of an affidavit as provided in subsection (a).

(c) The claiming successor or state or county agency shall disburse the proceeds collected under this section to any person with a superior claim under section 524.2-403 or 524.3-805.

(d) A motor vehicle registrar shall issue a new certificate of title in the name of the successor upon the presentation of an affidavit as provided in subsection (a).

(e) The person controlling access to decedent's safe deposit box need not open the box or deliver the contents of the box if:

(1) the person has received notice of a written or oral objection from any person or has reason to believe that there would be an objection; or

(2) the lessee's key or combination is not available.

History: *1974 c 442 art 3 s 524.3-1201; 1976 c 161 s 13; 1977 c 159 s 1; 1978 c 741 s 9; 1984 c 655 art 1 s 74; 1987 c 403 art 2 s 151; 1991 c 11 s 1; 1992 c 461 art 1 s 2; 1995 c 130 s 18; 1997 c 217 art 2 s 18; 3Sp1997 c 3 s 13; 1Sp2001 c 9 art 15 s 32; 2002 c 347 s 3; 2009 c 117 art 1 s 3; 2016 c 135 art 2 s 31*

524.3-1202 EFFECT OF AFFIDAVIT.

The person paying, delivering, transferring, or issuing personal property or the evidence thereof pursuant to an affidavit meeting the requirements of section 524.3-1201 is discharged and released to the same extent as if the person dealt with a personal representative of the decedent. The person is not required to see to the application of the personal property or evidence thereof or to inquire into the truth of any statement in the affidavit. In particular, the person delivering the contents of a safe deposit box is not required to inquire into the value of the contents of the box and is authorized to rely solely upon the representation in the affidavit concerning the value of the entire probate estate. If any person to whom an affidavit is delivered refuses to pay, deliver, transfer, or issue any personal property or evidence thereof, it may be recovered or its payment, delivery, transfer, or issuance compelled upon proof of their right in a proceeding brought for the purpose by or on behalf of the persons entitled thereto. Any person to whom payment, delivery, transfer or issuance is made is answerable and accountable therefor to any personal representative of the estate or to any other person having a superior right.

History: *1974 c 442 art 3 s 524.3-1202; 1978 c 741 s 10; 1Sp1985 c 14 art 13 s 13; 1986 c 444; 1995 c 130 s 19*

524.3-1203 SUMMARY PROCEEDINGS.

Subdivision 1. **Petition and payment.** Upon petition of an interested person, the court, with or without notice, may determine that the decedent had no estate, or that the property has been destroyed, abandoned, lost, or rendered valueless, and that no recovery has been had nor can be had for it, or if there is no property except property recovered for death by wrongful act, property that is exempt from all debts and charges in the probate court, or property that may be appropriated for the payment of the property selection as provided in section 524.2-403, the allowances to the spouse and children mentioned in section 524.2-404, and the expenses and claims provided in section 524.3-805, paragraph (a), clauses (1) to (6), inclusive, the personal representative by order of the court may pay the estate in the order named. The court may then, with or without notice, summarily determine the heirs, legatees, and devisees in its final decree or order of distribution assigning to them their share or part of the property with which the personal representative is charged.

Subd. 2. **Final decree or order.** If upon hearing of a petition for summary assignment or distribution, for special administration, or for any administration, or for the probate of a will, the court determines that there is no need for the appointment of a representative and that the administration should be closed summarily for the reason that all of the property in the estate is exempt from all debts and charges in the probate court, a final decree or order of distribution may be entered, with or without notice, assigning that property to the persons entitled to it under the terms of the will, or if there is no will, under the law of intestate succession in force at the time of the decedent's death.

Subd. 3. **Summary distribution.** Summary distribution may be made under this section in any proceeding of any real, personal, or other property in kind in reimbursement or payment of the property selection as provided in section 524.2-403, the allowances to the spouse and children mentioned in section 524.2-404, and the expenses and claims provided in section 524.3-805, paragraph (a), clauses (1) to (6), inclusive, in the order named, if the court is satisfied as to the propriety of the distribution and as to the valuation, based upon appraisal in the case of real estate other than homestead, of the property being assigned to exhaust the assets of the estate.

Subd. 4. **Personal representative.** Summary proceedings may be had with or without the appointment of a personal representative. In all summary proceedings in which no personal representative is appointed, the court may require the petitioner to file a corporate surety bond in an amount fixed and approved by the court. The condition of the bond must be that the petitioner has made a full, true, and correct disclosure of all the facts related in the petition and will perform the terms of the decree or order of distribution issued pursuant to the petition. Any interested person suffering damages as a result of misrepresentation or negligence of the petitioner in stating facts in the petition pursuant to which an improper decree or order of distribution is issued, or the terms of the decree or order of distribution are not performed by the petitioner as required, has a cause of action against the petitioner and the surety to recover those damages in the court in which the proceeding took place. That court has jurisdiction of the cause of action.

Subd. 5. **Exhaustion of estate.** In any summary, special, or other administration in which it appears that the estate will not be exhausted in payment of the priority items enumerated in subdivisions 1 to 4, the estate may nevertheless be summarily closed without further notice, and the property assigned to the proper persons, if the gross probate estate, exclusive of any exempt homestead as defined in section 524.2-402, and any exempt property as defined in section 524.2-403, does not exceed the value of $150,000. If the closing and distribution of assets is made pursuant to the terms of a will, no decree shall issue until a hearing has been held for formal probate of the will as provided in sections 524.3-401 to 524.3-413.

No summary closing of an estate shall be made to any distributee under this subdivision, unless a showing is made by the personal representative or the petitioner, that all property selected by and allowances to the

spouse and children as provided in section 524.2-403 and the expenses and claims provided in section 524.3-805 have been paid, and provided, further, that a bond shall be filed by the personal representative or the petitioner, conditioned upon the fact that all such obligations have been paid and that all the facts shown on the petition are true, with sufficient surety approved by the court in an amount as may be fixed by the court to cover potential improper distributions. If a personal representative is appointed, the representative's bond shall be sufficient for such purpose unless an additional bond is ordered, and the sureties on the bond shall have the same obligations and liabilities as provided for sureties on a distribution bond.

In the event that an improper distribution or disbursement is made in a summary closing, in that not all of said obligations have been paid or that other facts as shown by the personal representative or the petitioner, are not true, resulting in damage to any party, the court may vacate its summary decree or closing order, and the petitioner or the personal representative, together with the surety, shall be liable for damages to any party determined to be injured thereby as herein provided. The personal representative, petitioner, or the surety, may seek reimbursement for damages so paid or incurred from any distributee or recipient of assets under summary decree or order, who shall be required to make a contribution to cover such damages upon a pro rata basis or as may be equitable to the extent of assets so received. The court is hereby granted complete and plenary jurisdiction of any and all such proceedings and may enter such orders and judgments as may be required to effectuate the purposes of this subdivision.

Any judgment rendered for damages or the recovery of assets in such proceedings shall be upon petition and only after hearing held thereon on 14 days' notice of hearing and a copy of petition served personally upon the personal representative and the surety and upon any distributee or recipient of assets where applicable. Any action for the recovery of money or damages under this subdivision is subject to the time and other limitations imposed by section 524.1-304.

History: *1974 c 442 art 3 s 524.3-1203; 1975 c 347 s 69; 1995 c 130 s 20; 2000 c 362 s 3; 2009 c 117 art 1 s 4; 2016 c 135 art 2 s 32*

524.3-1204 SMALL ESTATES; CLOSING BY SWORN STATEMENT OF PERSONAL REPRESENTATIVE.

(a) Unless prohibited by order of the court and except for estates being administered by supervised personal representatives, a personal representative may close an estate administered under the summary procedures of section 524.3-1203 by filing with the court, at any time after disbursement and distribution of the estate, a statement stating that:

(1) to the best knowledge of the personal representative, the entire estate, less liens and encumbrances, did not exceed an exempt homestead as provided for in section 524.2-402, the allowances provided for in sections 524.2-403 and 524.2-404, costs and expenses of administration, reasonable funeral expenses, and reasonable, necessary medical and hospital expenses of the last illness of the decedent;

(2) the personal representative has fully administered the estate by disbursing and distributing it to the persons entitled thereto; and

(3) the personal representative has sent a copy of the closing statement to all distributees of the estate and to all creditors or other known claimants whose claims are neither paid nor barred and has furnished a full account in writing of the personal representative's administration to the distributees whose interests are affected.

(b) If no actions or proceedings involving the personal representative are pending in the court one year after the closing statement is filed, the appointment of the personal representative terminates.

(c) A closing statement filed under this section has the same effect as one filed under section 524.3-1003.

History: *1974 c 442 art 3 s 524.3-1204; 1975 c 347 s 70; 1976 c 161 s 14; 1986 c 444; 1996 c 305 art 1 s 114*

Article 4
FOREIGN PERSONAL REPRESENTATIVES; ANCILLARY ADMINISTRATION
Part 1
DEFINITIONS

524.4-101 DEFINITIONS.

In this article:

(1) "Local administration" means administration by a personal representative appointed in this state pursuant to appointment proceedings described in article 3.

(2) "Local personal representative" includes any personal representative appointed in this state pursuant to appointment proceedings described in article 3 and excludes foreign personal representatives who acquire the power of a local personal representative pursuant to section 524.4-205.

(3) "Resident creditor" means a person domiciled in, or doing business in this state, who is, or could be, a claimant against an estate of a nonresident decedent.

History: *1974 c 442 art 4 s 524.4-101*

Part 2
POWERS OF FOREIGN PERSONAL REPRESENTATIVES

524.4-201 PAYMENT OF DEBT AND DELIVERY OF PROPERTY TO DOMICILIARY FOREIGN PERSONAL REPRESENTATIVE WITHOUT LOCAL ADMINISTRATION.

At any time after the expiration of 60 days from the death of a nonresident decedent, any person indebted to the estate of the nonresident decedent or having possession or control of an instrument evidencing a debt, obligation, stock or chose in action belonging to the estate of the nonresident decedent may pay the debt, deliver the instrument evidencing the debt, obligation, stock or chose in action, to the domiciliary foreign personal representative of the nonresident decedent upon being presented with proof of appointment and an affidavit made by or on behalf of the representative stating:

(1) the date of the death of the nonresident decedent,

(2) that no local administration, or application or petition therefor, is pending in this state,

(3) that the domiciliary foreign personal representative is entitled to payment or delivery.

History: *1974 c 442 art 4 s 524.4-201; 1975 c 347 s 71; 1986 c 444*

524.4-202 PAYMENT OR DELIVERY DISCHARGES.

Payment or delivery made in good faith on the basis of the proof of authority and affidavit releases the debtor or person having possession of the instrument evidencing the debt, obligation, stock or chose in action to the same extent as if payment or delivery had been made to a local personal representative.

History: *1974 c 442 art 4 s 524.4-202; 1975 c 347 s 72*

524.4-203 RESIDENT CREDITOR NOTICE.

Payment or delivery under section 524.4-201 may not be made if a resident creditor of the nonresident decedent has notified the debtor of the nonresident decedent or the person having possession of the instrument evidencing the debt, obligation, stock or chose in action belonging to the nonresident decedent that the debt should not be paid nor such instrument delivered to the domiciliary foreign personal representative.

History: *1974 c 442 art 4 s 524.4-203; 1975 c 347 s 73*

524.4-204 PROOF OF AUTHORITY-BOND.

If no local administration or application or petition therefor is pending in this state, a domiciliary foreign personal representative may file the following with a court in this state in a county in which property belonging to the decedent is located:

(1) a certified or authenticated copy of the appointment and of any official bond given; and

(2) notice of an intention to exercise as to assets in this state all powers of a local personal representative and to maintain actions and proceedings in this state in accordance with section 524.4-205.

When a domiciliary foreign personal representative files a certified or authenticated copy of the appointment and of any official bond and a notice in accordance with the preceding sentence, the court administrator shall forthwith publish, at the expense of the estate, a notice once a week for two consecutive weeks in a legal newspaper in the county, giving the name and address of the domiciliary foreign personal representative and stating an intention to exercise as to assets in this state all powers of a local personal representative and to maintain actions and proceedings in this state in accordance with section 524.4-205.

History: *1974 c 442 art 4 s 524.4-204; 1975 c 347 s 74; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

524.4-205 POWERS.

At any time after the expiration of 60 days from a domiciliary foreign personal representative's filing in accordance with section 524.4-204 such domiciliary foreign personal representative may exercise as to assets in this state all powers of a local personal representative and may maintain actions and proceedings in this state subject to any conditions imposed upon nonresident parties generally. The power of a domiciliary foreign personal representative under this section shall not be exercised if a resident creditor of the nonresident decedent has filed a written objection thereto within 60 days from the domiciliary foreign personal representative's filing in accordance with section 524.4-204.

History: *1974 c 442 art 4 s 524.4-205; 1975 c 347 s 75*

524.4-206 POWER OF REPRESENTATIVES IN TRANSITION.

The power of a domiciliary foreign personal representative under section 524.4-201 or 524.4-205 shall be exercised only if there is no administration or application therefor pending in this state. Any application or petition for local administration of the estate terminates the power of the foreign personal representative

to act under sections 524.4-201 and 524.4-205, but the local court may allow the foreign personal representative to exercise limited powers to preserve the estate. No assets which have been removed from this state by the foreign personal representative through exercise of powers under section 524.4-201 or 524.4-205 shall be subject to subsequent local administration. No person who, before receiving actual notice of a pending local administration, has changed position in reliance upon the powers of a foreign personal representative or who is a distributee from the foreign personal representative shall be prejudiced by reason of the application or petition for, or grant of, local administration. The local personal representative is subject to all rights in others and all duties and obligations which have accrued by virtue of the exercise of the powers by the foreign personal representative and may be substituted for the foreign personal representative in any action or proceedings in this state.

History: *1974 c 442 art 4 s 524.4-206; 1975 c 347 s 76; 1986 c 444*

524.4-207 PROVISIONS GOVERNING ANCILLARY AND OTHER LOCAL ADMINISTRATIONS.

In respect to a nonresident decedent, the provisions of article 3 of this chapter govern (1) proceedings, if any, in a court of this state for probate of the will, appointment, removal, supervision, and discharge of the local personal representative, and any other order concerning the estate; and (2) the status, powers, duties and liabilities of any local personal representative and the rights of claimants, purchasers, distributees and others in regard to a local administration.

History: *1974 c 442 art 4 s 524.4-207*

Part 3
JURISDICTION OVER FOREIGN REPRESENTATIVES

524.4-301 JURISDICTION BY ACT OF FOREIGN PERSONAL REPRESENTATIVE.

A foreign personal representative submits personally to the jurisdiction of the courts of this state in any proceeding relating to the estate by (1) filing certified or authenticated copies of the appointment as provided in section 524.4-204, (2) receiving payment of money or taking delivery of property under section 524.4-201, or (3) doing any act as a personal representative in this state which would have given the state jurisdiction over the personal representative as an individual. Jurisdiction under clause (2) is limited to the money or value of personal property collected.

History: *1974 c 442 art 4 s 524.4-301; 1975 c 347 s 77; 1986 c 444*

524.4-302 JURISDICTION BY ACT OF DECEDENT.

In addition to jurisdiction conferred by section 524.4-301, a foreign personal representative is subject to the jurisdiction of the courts of this state to the same extent that the decedent was subject to jurisdiction immediately prior to death.

History: *1974 c 442 art 4 s 524.4-302; 1986 c 444*

524.4-303 SERVICE ON FOREIGN AND NONRESIDENT PERSONAL REPRESENTATIVES.

(a) Service of process may be made upon a foreign personal representative and a nonresident personal representative appointed in this state by registered or certified mail, addressed to the last reasonably ascertainable address, requesting a return receipt signed by addressee only. Notice by ordinary first class mail is sufficient if registered or certified mail service to the addressee is unavailable. Service may be made

upon a foreign personal representative or a nonresident personal representative appointed in this state in the manner in which service could have been made under other laws of this state on either the foreign personal representative, the nonresident personal representative appointed in this state, or the decedent immediately prior to death.

(b) If service is made upon a foreign personal representative or a nonresident personal representative appointed in this state as provided in subsection (a), the person served shall be allowed at least 30 days within which to appear or respond.

History: *1974 c 442 art 4 s 524.4-303; 1975 c 347 s 78; 1986 c 444*

Part 4
JUDGMENTS AND PERSONAL REPRESENTATIVE

524.4-401 EFFECT OF ADJUDICATION FOR OR AGAINST PERSONAL REPRESENTATIVE.

An adjudication rendered in any jurisdiction in favor of or against any personal representative of the estate is as binding on the local personal representative as if the local personal representative were a party to the adjudication.

History: *1974 c 442 art 4 s 524.4-401; 1986 c 444*

Article 5
PROTECTION OF PERSONS UNDER DISABILITY AND THEIR PROPERTY

Part 1
GENERAL PROVISIONS

524.5-101 SHORT TITLE.

Sections 524.5-101 to 524.5-502 may be cited as the Uniform Guardianship and Protective Proceedings Act.

History: *2003 c 12 art 1 s 1*

524.5-102 DEFINITIONS.

Subdivision 1. **Scope.** As used in sections 524.5-101 to 524.5-502, the terms defined in this section have the meanings given them.

Subd. 1a. **ABLE account.** "ABLE account" means an Achieving a Better Life Experience Act of 2014 account under section 529A of the Internal Revenue Code.

Subd. 2. **Claim.** "Claim," with respect to a person subject to conservatorship, includes a claim against an individual, whether arising in contract, tort, or otherwise, and a claim against an estate which arises at or after the appointment of a conservator, including expenses of administration.

Subd. 3. **Conservator.** "Conservator" means a person who is appointed by a court to manage the estate of a person subject to conservatorship and includes a limited conservator.

Subd. 4. **Court.** "Court" means the district court.

Subd. 5. **Guardian.** "Guardian" means a person who has qualified as a guardian of a minor or incapacitated person pursuant to appointment by a parent or spouse, or by the court, and includes a limited, emergency, or temporary substitute guardian but not a guardian ad litem.

Subd. 6. **Incapacitated person.** "Incapacitated person" means an individual who, for reasons other than being a minor, is impaired to the extent of lacking sufficient understanding or capacity to make personal decisions, and who is unable to meet personal needs for medical care, nutrition, clothing, shelter, or safety, even with appropriate technological and supported decision making assistance.

Subd. 6a. **Interested party.** "Interested party" means a person who has suffered some injury-in-fact, a person who is the beneficiary of some legislative enactment granting standing, or a person who must have sufficient personal interest in the matter so that it is appropriate to allow that person to participate in the matter.

Subd. 7. **Interested person.** "Interested person" includes:

(i) the adult subject to guardianship or conservatorship, ward, protected person, or respondent;

(ii) a nominated guardian or conservator, or the duly appointed guardian or conservator;

(iii) legal representative;

(iv) the spouse, parent, adult children including adult step-children of a living spouse, and siblings, or if none of such persons is living or can be located, the next of kin of the person subject to guardianship, person subject to conservatorship, or respondent;

(v) an adult person who has lived with a person subject to guardianship, person subject to conservatorship, or respondent for a period of more than six months;

(vi) an attorney for the person subject to guardianship or person subject to conservatorship;

(vii) a governmental agency paying or to which an application has been made for benefits for the respondent, person subject to guardianship, or person subject to conservatorship, including the county social services agency for the person's county of residence and the county where the proceeding is venued;

(viii) a representative of a state ombudsman's office or a federal protection and advocacy program that has notified the court that it has a matter regarding the person subject to guardianship, person subject to conservatorship, or respondent;

(ix) a health care agent or proxy appointed pursuant to a health care directive as defined in section 145C.01, a living will under chapter 145B, or other similar document executed in another state and enforceable under the laws of this state;

(x) in the case of a minor who is an Indian as defined under United States Code, title 25, section 1903, (1) the Tribal chairman or delegated agent and (2) the regional director of the minor child's Tribe with service by registered or certified mail under Code of Federal Regulations, title 25, parts 23.11 and 23.12; and

(xi) any other person designated by the court.

Subd. 8. **Legal representative.** "Legal representative" includes a representative payee, a guardian or conservator acting for a respondent in this state or elsewhere, or a trustee or custodian of a trust or custodianship of which the respondent is a beneficiary.

Subd. 9. **Letters.** "Letters" includes letters of guardianship and letters of conservatorship.

Subd. 10. **Minor.** "Minor" means an unemancipated individual who has not attained 18 years of age.

Subd. 11. **Next of kin.** "Next of kin" shall be determined by the court.

Subd. 12. **Parent.** "Parent" means a parent whose parental rights have not been terminated.

Subd. 13. **Person.** "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

Subd. 13a. **Person subject to conservatorship.** "Person subject to conservatorship" means a minor or other individual for whom a conservator has been appointed.

Subd. 13b. **Person subject to guardianship.** "Person subject to guardianship" means an individual for whom a guardian has been appointed.

Subd. 13c. **Professional guardian or professional conservator.** "Professional guardian" or "professional conservator" means a person acting as guardian or conservator for three or more individuals not related by blood, adoption, or marriage.

Subd. 14. **Protected person.** "Protected person" means a minor or other individual for whom a conservator has been appointed or other protective order has been made.

Subd. 15. **Respondent.** "Respondent" means an individual for whom the appointment of a guardian or conservator or other protective order is sought.

Subd. 16. **State.** "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or a territory or insular possession subject to the jurisdiction of the United States.

Subd. 16a. **Supported decision making.** "Supported decision making" means assistance from one or more persons of an individual's choosing in understanding the nature and consequences of potential personal and financial decisions which enables the individual to make the decisions and, when consistent with the individual's wishes, in communicating a decision once made.

Subd. 17. **Ward.** "Ward" means an individual for whom a guardian has been appointed.

History: *2003 c 12 art 1 s 2; 2009 c 150 s 2,3; 2020 c 86 art 1 s 2-9,41*

524.5-103 SUPPLEMENTAL GENERAL PRINCIPLES OF LAW APPLICABLE.

Unless displaced by the particular provisions of this article, the principles of law and equity supplement its provisions.

History: *2003 c 12 art 1 s 3*

524.5-104 FACILITY OF TRANSFER.

(a) A person who may transfer money or personal property to a minor may do so, as to an amount or value not exceeding the amount allowable as a tax exclusion gift under section 2503(b) of the Internal Revenue Code or a different amount that is approved by the court, by transferring it to:

(1) a person who has the care and custody of the minor and with whom the minor resides;

(2) a guardian of the minor;

(3) a custodian under the Uniform Transfers To Minors Act or custodial trustee under the Uniform Custodial Trust Act;

(4) a financial institution as a deposit in an interest-bearing account or certificate in the sole name of the minor and giving notice of the deposit to the minor; or

(5) an ABLE account. A guardian only has the authority to establish an ABLE account. The guardian may not administer the ABLE account in the guardian's capacity as guardian. The guardian may appoint or name a person to exercise signature authority over an ABLE account, including the individual selected by the eligible individual or the eligible individual's agent under a power of attorney, conservator, spouse, parent, sibling, grandparent, or representative payee, whether an individual or organization, appointed by the Social Security Administration, in that order.

(b) This section does not apply if the person making payment or delivery knows that a conservator has been appointed or that a proceeding for appointment of a conservator of the minor is pending.

(c) A person who transfers money or property in compliance with this section is not responsible for its proper application.

(d) A guardian or other person who receives money or property for a minor under paragraph (a), clause (1) or (2), may only apply it to the support, care, education, health, and welfare of the minor, and may not derive a personal financial benefit except for reimbursement for necessary expenses. Any excess must be preserved for the future support, care, education, health, and welfare of the minor and any balance must be transferred to the minor upon emancipation or attaining majority.

History: *2003 c 12 art 1 s 4; 2004 c 146 art 2 s 1; 2020 c 86 art 1 s 10; 2023 c 50 art 1 s 34*

524.5-106 SUBJECT-MATTER JURISDICTION.

This article applies to, and the court has jurisdiction over, guardianship and related proceedings for individuals domiciled or present in this state, protective proceedings for individuals domiciled in or having property located in this state, and property coming into the control of a guardian or conservator who is subject to the laws of this state. This article does not apply to any matters or proceedings arising under or governed by chapters 252A, 259, and 260C. Notwithstanding anything else to the contrary, chapters 252A, 259, and 260C exclusively govern the rights, duties, and powers of social service agencies; the commissioner of human services; the commissioner of children, youth, and families; licensed child placing agencies; and parties with respect to all matters and proceedings arising under those chapters.

History: *2003 c 12 art 1 s 5; 2025 c 21 s 89*

524.5-107 TRANSFER OF JURISDICTION.

(a) Following the appointment of a guardian or conservator or entry of another protective order, the court making the appointment or entering the order may transfer the proceeding to a court or another county in this state or in the case of a minor to another state if the court is satisfied that a transfer will serve the best interest of the person subject to guardianship or conservatorship.

(b) A guardian of a minor, conservator of a minor, or like fiduciary for a minor appointed in another state may petition the court for appointment as a guardian or conservator in this state if the state has jurisdiction. The appointment may be made upon proof of appointment in the other state and presentation of a certified copy of the portion of the court record in the other state specified by the court in this state.

Notice of hearing on the petition, together with a copy of the petition, must be given to the person subject to guardianship or conservatorship, if the person subject to guardianship or conservatorship has attained 14 years of age, and to the persons who would be entitled to notice if the regular procedures for appointment of a guardian or conservator under this article were applicable. The court shall make the appointment in this state unless it concludes that the appointment would not be in the best interest of the person subject to guardianship or conservatorship. Upon the filing of an acceptance of office and any required bond, the court shall issue appropriate letters of guardianship or conservatorship. Within 14 days after an appointment, the guardian or conservator shall send or deliver a copy of the order of appointment to the person subject to guardianship or conservatorship, if the person subject to guardianship or conservatorship has attained 14 years of age, and to all persons given notice of the hearing on the petition.

History: *2003 c 12 art 1 s 6; 2009 c 46 s 1; 2020 c 86 art 1 s 41*

524.5-108 VENUE.

(a) Venue for a guardianship proceeding for a minor is in the county of this state in which the minor resides or is present at the time the proceeding is commenced.

(b) Venue for a guardianship proceeding for an incapacitated person is in the county of this state in which the respondent resides and, if the respondent has been admitted to an institution by order of a court of competent jurisdiction, in the county in which that court is located. Venue for the appointment of an emergency or a temporary guardian of an incapacitated person is also in the county in which the respondent is present.

(c) Venue for a protective proceeding is in the county of this state in which the respondent resides, whether or not a guardian has been appointed in another place or, if the respondent does not reside in this state, in any county of this state in which property of the respondent is located.

(d) If a proceeding under this article is brought in more than one county in this state, the court of the county in which the proceeding is first brought has the exclusive right to proceed unless that court determines that venue is properly in another court or that the interests of justice otherwise require that the proceeding be transferred.

(e) If it is in the best interest of the person subject to guardianship or conservatorship, the venue may be transferred to another county. Upon the filing of a petition by any interested person, or upon the court's own motion, the court shall fix a time and place for the hearing on the transfer. Notice must be given to interested persons, the district court of the county to which venue is proposed to be transferred, and any other party the court designates. Upon proof that a transfer of venue is in the best interest of the person subject to guardianship or conservatorship or the estate of the person subject to guardianship or conservatorship, and upon settlement and allowance of the conservator's accounts, if any, to the time of the hearing, the court shall transmit the entire file to the court of the other county, where all subsequent proceedings must be held.

History: *2003 c 12 art 1 s 7; 2020 c 86 art 1 s 41*

524.5-109 PRACTICE IN COURT.

(a) Except as otherwise provided in this article, the Rules of Civil Procedure, including the rules concerning appellate review, govern proceedings under this article.

(b) If guardianship and protective proceedings as to the same individual are commenced or pending in the same court, the proceedings may be consolidated.

History: *2003 c 12 art 1 s 8*

524.5-110 LETTERS OF OFFICE.

The court shall issue appropriate letters of guardianship upon the guardian's filing of an acceptance of office. The court shall issue appropriate letters of conservatorship upon the conservator's filing of an acceptance of office and any required bond. Letters of guardianship must indicate whether the guardian was appointed by the court, a parent, or the spouse. Any limitation on duration or on the powers of a guardian or conservator or of the assets subject to a conservatorship must be endorsed on the guardian's or conservator's letters.

History: *2003 c 12 art 1 s 9; 2020 c 86 art 1 s 11*

524.5-111 EFFECT OF ACCEPTANCE OF APPOINTMENT.

By accepting appointment as guardian or conservator, a guardian or conservator submits personally to the jurisdiction of the court in any proceeding relating to the guardianship or conservatorship. The petitioner shall send or deliver notice of any proceeding to the guardian or conservator at the guardian's or conservator's address shown in the court records and at any other address then known to the petitioner.

History: *2003 c 12 art 1 s 10*

524.5-112 TERMINATION OF OR CHANGE IN GUARDIAN'S OR CONSERVATOR'S APPOINTMENT.

(a) The appointment of a guardian or conservator terminates upon the death, resignation, or removal of the guardian or conservator or upon termination of the guardianship or conservatorship. A resignation of a guardian or conservator is effective when approved by the court. A parental or spousal appointment as guardian under an informally probated will terminates if the will is later denied probate in a formal proceeding. Termination of the appointment of a guardian or conservator does not affect the liability of either for previous acts or the obligation to account for money and other assets of the person subject to guardianship or conservatorship.

(b) A person subject to guardianship, person subject to conservatorship, or interested person may petition for removal of a guardian or conservator on the ground that removal would be in the best interest of the person subject to guardianship or conservatorship or for other good cause. A guardian or conservator may petition for permission to resign. A petition for removal or permission to resign may include a request for appointment of a successor guardian or conservator.

(c) The court may appoint an additional guardian or conservator at any time, to serve immediately or upon some other designated event, and may appoint a successor guardian or conservator in the event of a vacancy or make the appointment prior to a vacancy, to serve when a vacancy occurs. An additional or successor guardian or conservator may file an acceptance of appointment at any time after the appointment, but in no case later than 30 days after the occurrence of the vacancy or other designated event. The additional or successor guardian or conservator becomes eligible to act on the occurrence of the vacancy or designated event, or the filing of the acceptance of appointment, whichever occurs last. A successor guardian or

conservator succeeds to the predecessor's powers, and a successor conservator succeeds to the predecessor's title to the assets of the person subject to conservatorship.

History: *2003 c 12 art 1 s 11; 2020 c 86 art 1 s 41*

524.5-113 NOTICE.

(a) Except for notice for which specific requirements are otherwise provided in this article or as otherwise ordered by the court for good cause, notice of a hearing on a petition is required for all petitions in the manner prescribed by this section. The petitioner shall give notice of the time and place of the hearing to all interested persons. Subject to paragraph (f), notice must be given by mail postmarked at least 14 days before the hearing.

(b) Proof of notice must be made before or at the hearing and filed in the proceeding.

(c) A notice under this article must be given in plain language.

(d) If a patient of a state hospital, regional center, or any state-operated service has a guardianship or conservatorship established, modified, or terminated, the head of the state hospital, regional center, or state-operated service shall be notified. The notice shall require the institution to advise the court of the existence, if known, of a health care directive as defined in section 145C.01, executed by the proposed person subject to guardianship, incapacitated person, or person subject to conservatorship, a living will executed under chapter 145B, or any other similar document executed in another state and enforceable under the laws of this state. If a person subject to guardianship, incapacitated person, or person subject to conservatorship is under the guardianship or conservatorship of the commissioner of human services as developmentally disabled or dependent and neglected or is under the temporary custody of the commissioner of human services, the court shall notify the commissioner of human services if the public guardianship or conservatorship is established, modified, or terminated.

(e) If a conservator is required to file a bond pursuant to section 524.5-415, notice of any proceeding seeking a surcharge of any interested party must be sent or delivered to the surety at the address shown in the court records at the place where the bond is filed and to any other address then known to the petitioner.

(f) Except where personal service is required by statute for the petition to appoint a guardian under section 524.5-308 or conservator under section 524.5-404, service of all documents and notices under this chapter may, and where required by supreme court rule or order shall, be made by electronic means other than facsimile transmission if authorized by rule or order of the supreme court and if service is made in accordance with the rule or order.

(g) An interested person may notify the court in writing that the interested person does not wish to receive copies of notices required under any provision of this article after which time neither the court nor any other person is required to give notice to any person who has waived notice.

(h) After an initial hearing on any guardianship or conservatorship matter, the court may limit the notices and reports required under any provision of this article to the persons determined by the court.

History: *2003 c 12 art 1 s 12; 2005 c 56 s 1; 2014 c 204 s 6; 2020 c 86 art 1 s 12*

524.5-114 WAIVER OF NOTICE.

A person may waive notice by a writing signed by the person or the person's attorney and filed in the proceeding. However, a respondent, person subject to guardianship, or person subject to conservatorship may not waive notice.

History: *2003 c 12 art 1 s 13; 2020 c 86 art 1 s 41*

524.5-115 GUARDIAN AD LITEM.

At any stage of a proceeding, a court may appoint a guardian ad litem if the court determines that representation of the interest otherwise would be inadequate. If not precluded by a conflict of interest, a guardian ad litem may be appointed to represent several individuals or interests. The court shall state on the record the duties of the guardian ad litem and its reasons for the appointment.

History: *2003 c 12 art 1 s 14*

524.5-117 MULTIPLE APPOINTMENTS OR NOMINATIONS.

If a respondent or other person makes more than one written appointment or nomination of a guardian or a conservator, the most recent controls.

History: *2003 c 12 art 1 s 15*

524.5-118 MALTREATMENT AND STATE LICENSING AGENCY CHECKS; CRIMINAL HISTORY CHECK.

Subdivision 1. **When required; exception.** (a) The court shall require maltreatment and state licensing agency checks and a criminal history check under this section:

(1) before the appointment of a guardian or conservator, unless maltreatment and state licensing agency checks and a criminal history check have been done on the person under this section within the previous five years; and

(2) once every five years after the appointment, if the person continues to serve as a guardian or conservator.

(b) The maltreatment and state licensing agency checks and the criminal history check must include:

(1) criminal history data from the Bureau of Criminal Apprehension;

(2) criminal history data from a national criminal history record check;

(3) state licensing agency data if a search of the database or databases of the agencies listed in subdivision 2a shows that the proposed guardian or conservator has ever held a professional license directly related to the responsibilities of a professional fiduciary from an agency listed in subdivision 2a that was conditioned, suspended, revoked, or canceled; and

(4) data on whether the person has been a perpetrator of substantiated maltreatment of a vulnerable adult or a minor.

(c) If the guardian or conservator is not an individual, the maltreatment and state licensing agency checks and the criminal history check must be done on all individuals currently employed by the proposed guardian or conservator who will be responsible for exercising powers and duties under the guardianship or conservatorship.

(d) Notwithstanding paragraph (a), if the court determines that it would be in the best interests of the person subject to guardianship or conservatorship to appoint a guardian or conservator before the maltreatment and state licensing agency checks and the criminal history check can be completed, the court may make the appointment pending the results of the checks, however, the maltreatment and state licensing agency checks and the criminal history check must then be completed as soon as reasonably possible after appointment.

(e) The fees for the maltreatment and state licensing agency checks and the criminal history check conducted under this section are specified in sections 245C.10, subdivision 15, and 299C.10, subdivisions 4 and 5. The fees for conducting maltreatment and state licensing agency checks and the criminal history check for the appointment of a professional guardian or conservator must be paid by the guardian or conservator. In other cases, the fee must be paid as follows:

(1) if the matter is proceeding in forma pauperis, the fee is an expense for purposes of section 524.5-502, paragraph (a);

(2) if there is an estate of the person subject to guardianship or conservatorship, the fee must be paid from the estate; or

(3) in the case of a guardianship or conservatorship of the person that is not proceeding in forma pauperis, the court may order that the fee be paid by the guardian or conservator or by the court.

(f) The requirements of this subdivision do not apply if the guardian or conservator is:

(1) a state agency or county;

(2) a parent or guardian of a person proposed to be subject to guardianship or conservatorship who has a developmental disability, if the parent or guardian has raised the person proposed to be subject to guardianship or conservatorship in the family home until the time the petition is filed, unless counsel appointed for the person proposed to be subject to guardianship or conservatorship under section 524.5-205, paragraph (e); 524.5-304, paragraph (b); 524.5-405, paragraph (a); or 524.5-406, paragraph (b), recommends a background check; or

(3) a bank with trust powers, bank and trust company, or trust company, organized under the laws of any state or of the United States and which is regulated by the commissioner of commerce or a federal regulator.

Subd. 2. **Procedure; maltreatment and state licensing agency checks and criminal history check.** (a) The guardian or conservator shall request the Bureau of Criminal Apprehension to complete a criminal history check. The request must be accompanied by the applicable fee and acknowledgment that the guardian or conservator received a privacy notice. The Bureau of Criminal Apprehension shall conduct a national criminal history record check. The guardian or conservator shall submit a set of classifiable fingerprints. The fingerprints must be recorded on a fingerprint card provided by the Bureau of Criminal Apprehension.

(b) The Bureau of Criminal Apprehension shall provide the court with criminal history data as defined in section 13.87 and criminal history information from other states or jurisdictions as indicated from a national criminal history record check within 20 working days of receipt of a request.

(c) In accordance with section 245C.033, the commissioner of human services shall provide the court with data regarding substantiated maltreatment of vulnerable adults under section 626.557 and substantiated maltreatment of minors under chapter 260E within 25 working days of receipt of a request. If the guardian or conservator has been the perpetrator of substantiated maltreatment of a vulnerable adult or minor, the response must include a copy of any available public portion of the investigation memorandum under section

626.557, subdivision 12b, or any available public portion of the investigation memorandum under section 260E.30.

(d) Notwithstanding section 260E.30 or 626.557, subdivision 12b, if the commissioner of human services; the commissioner of children, youth, and families; or a county lead agency or lead investigative agency has information that a person under this section has been determined to be a perpetrator of maltreatment of a vulnerable adult or minor, the commissioner or the county may provide this information to the court that is determining eligibility for the guardian or conservator.

Subd. 2a. **Procedure; state licensing agency data.** (a) In response to a request submitted under section 245C.033, the commissioner of human services shall provide licensing agency data for licenses directly related to the responsibilities of a professional fiduciary if the guardian or conservator has a current or prior affiliation from the following agencies in Minnesota:

(1) Lawyers Responsibility Board;

(2) State Board of Accountancy;

(3) Board of Social Work;

(4) Board of Psychology;

(5) Board of Nursing;

(6) Board of Medical Practice;

(7) Department of Commerce;

(8) Board of Chiropractic Examiners;

(9) Board of Dentistry;

(10) Board of Marriage and Family Therapy;

(11) Department of Human Services;

(12) Peace Officer Standards and Training (POST) Board; and

(13) Professional Educator Licensing and Standards Board.

(b) The commissioner shall provide information to the court in accordance with section 245C.033.

Subd. 3. **Forms and systems.** In accordance with section 245C.033, the commissioner must provide the guardian or conservator with a privacy notice for maltreatment and state licensing agency checks that complies with section 13.04, subdivision 2. The Bureau of Criminal Apprehension must provide the guardian or conservator with a privacy notice for a criminal history check.

Subd. 4. **Rights.** The court shall notify the guardian or conservator that the guardian or conservator has the following rights:

(1) the right to be informed that the court will request maltreatment and state licensing checks and a criminal history check on the guardian or conservator for the purpose of determining whether the person's appointment or continued appointment is in the best interests of the person subject to guardianship or conservatorship;

(2) the right to be informed of the results of the checks and to obtain from the court a copy of the results; and

(3) the right to challenge the accuracy and completeness of information contained in the results under section 13.04, subdivision 4, except to the extent precluded by section 256.045, subdivision 3.

History: *2003 c 12 art 1 s 16; 2004 c 146 art 2 s 2; 2005 c 56 s 1; 2009 c 59 art 6 s 22; 2011 c 28 s 6; 2013 c 86 art 2 s 2,3; 2020 c 86 art 1 s 41; 1Sp2020 c 2 art 1 s 18; art 8 s 134; 2022 c 55 art 1 s 183; 2023 c 70 art 7 s 46; art 17 s 60; 2025 c 21 s 90*

524.5-119 CENTRAL REGISTRATION OF GUARDIANS AND CONSERVATORS; APPROPRIATION.

(a) By July 1, 2013, the Supreme Court shall establish a statewide registration system under which guardians and conservators appointed under sections 524.5-101 to 524.5-502 must register with the state court administrator. Registration information must include the name of the guardian or conservator, whether the person is a professional guardian or conservator, date and county of appointment, and other information required by the Supreme Court. Registration data that the Supreme Court determines are accessible to the public must be accessible online or through other means implemented by the Supreme Court.

(b) The state court administrator shall establish registration fees or identify another source of funds to support the costs of developing and administering the registration system. The state court administrator shall determine whether guardians and conservators should pay a registration fee and the amount of the fee, and shall take into consideration whether the guardian or conservator is a professional guardian or conservator, whether the guardian or conservator represents clients in forma pauperis, and the number of persons subject to guardianship or conservatorship the guardian or conservator represents. The state court administrator shall report to the legislature on the fees or other source of funds to support the costs of developing and administering the registration system by January 1, 2012. The state court administrator shall begin collecting fees under this paragraph on July 1, 2012. Fees collected by the state court administrator under this section are appropriated to the Supreme Court.

History: *2009 c 150 s 4; 2020 c 86 art 1 s 41*

524.5-120 BILL OF RIGHTS FOR PERSONS SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP.

The person subject to guardianship or person subject to conservatorship retains all rights not restricted by court order and these rights must be enforced by the court. These rights include the right to:

(1) treatment with dignity and respect;

(2) due consideration of current and previously stated personal desires and preferences, including but not limited to medical treatment preferences, cultural practices, religious beliefs, and other preferences and opinions in decisions made by the guardian or conservator;

(3) participate in decision making about and receive timely and appropriate health care and medical treatment that does not violate known preferences or conscientious, religious, or moral beliefs of the person subject to guardianship or person subject to conservatorship;

(4) exercise control of all aspects of life unless delegated specifically to the guardian or conservator by court order;

(5) guardianship or conservatorship services individually suited to the conditions and needs of the person subject to guardianship or the person subject to conservatorship;

(6) petition the court to prevent or initiate a change in abode;

(7) care, comfort, social and recreational needs, employment and employment supports, training, education, habilitation, and rehabilitation care and services, within available resources;

(8) be consulted concerning, and to decide to the extent possible, the reasonable care and disposition of the clothing, furniture, vehicles, and other personal property and effects of the person subject to guardianship or person subject to conservatorship, to object to the disposition of personal property and effects, and to petition the court for a review of the guardian's or conservator's proposed disposition;

(9) personal privacy;

(10) communicate, visit, or interact with others, including receiving visitors, making or receiving telephone calls, sending or receiving personal mail, sending or receiving electronic communications including through social media, or participating in social activities, unless the guardian has good cause to believe a restriction of communication, visitation, or interaction is necessary because interaction with the person poses a substantial risk of significant physical, psychological, or financial harm to the person subject to guardianship, and there is no other means to avoid or mitigate the significant harm. If the guardian believes a restriction is necessary, the guardian must first seek limited restrictions whenever possible, including supervised visits, phone calls, video calls, written correspondence, or limits on the length, frequency, or content of communication. In all cases, the guardian shall provide written notice of the restrictions imposed to the court; to the person subject to guardianship and their attorney, if known; and to the person subject to restrictions within 48 hours of imposing the restriction. The notice shall include a description of the reason the restriction is imposed; a description of any limited restrictions attempted; if applicable, the reason the limited restrictions were not sufficient; and instructions on how to seek a modification of the restrictions. The person subject to guardianship or the person subject to restrictions may petition the court to remove or modify the restrictions;

(11) marry and procreate, unless court approval is required;

(12) elect or object to sterilization as provided in section 524.5-313, paragraph (c), clause (4), item (iv);

(13) at any time, petition the court for termination or modification of the guardianship or conservatorship, and any decisions made by the guardian or conservator in relation to powers granted, or for other appropriate relief;

(14) be represented by an attorney in any proceeding or for the purpose of petitioning the court;

(15) vote, unless restricted by the court;

(16) be consulted concerning, and make decisions to the extent possible, about personal image and name, unless restricted by the court; and

(17) execute a health care directive, including both health care instructions and the appointment of a health care agent, if the court has not granted a guardian any of the powers or duties under section 524.5-313, paragraph (c), clause (1), (2), or (4).

History: *2009 c 150 s 5; 2010 c 254 s 2; 2020 c 86 art 1 s 13; 2025 c 35 art 11 s 13*

524.5-121 BILL OF PARTICULARS.

(a) When a bill of particulars is required to be filed under this chapter, it shall be filed pursuant to a form approved by the court. In the absence of a court form, a bill of particulars shall specify the confidential or nonpublic information within the text of the form or as an appendix to the form, including a reference to where the information is located in the pleadings, captioned consistent with the current proceedings, and identification of the bill of particulars as a confidential document. A bill of particulars must be filed consistent with all applicable court rules for submitting confidential or nonpublic documents, including Rule 11 of the Minnesota Rules of General Practice and the Rules of Public Access to Records of the Judicial Branch.

(b) Notwithstanding any provision of this article or of any other law to the contrary, a bill of particulars filed pursuant to this chapter shall be served upon:

(1) the respondent or the respondent's attorneys;

(2) the person subject to guardianship or their attorneys;

(3) the person subject to conservatorship or their attorneys; and

(4) interested persons or their attorneys who file objections in a guardianship or conservatorship or protective proceeding or object to a particular account, report or pleading filed with a bill of particulars.

(c) Notwithstanding any provision of this article or of any other law to the contrary, a bill of particulars filed pursuant to this chapter shall be served upon or otherwise provided to:

(1) any person upon consent of: the respondent or the respondent's attorneys, the person subject to guardianship or the person's attorneys, the person subject to conservatorship or the person's attorneys, the respondent's guardian or conservator, or the guardian or conservator's attorneys; and

(2) other persons by order of the court for good cause shown.

(d) Any person served or provided with a bill of particulars may only disclose the information within it to those authorized to receive the information as provided for in this section. This limitation of disclosure shall be stated in the bill of particulars.

(e) A filing of a bill of particulars consistent with this chapter is not a violation of the Minnesota Health Records Act or section 144.293.

History: *2020 c 86 art 1 s 14*

Part 2
GUARDIAN OF MINOR

524.5-201 APPOINTMENT AND STATUS OF GUARDIAN.

A person becomes a guardian of a minor by parental appointment, by designation of a standby guardian pursuant to chapter 257B, or upon appointment by the court. The guardianship continues until terminated, without regard to the location of the guardian or minor person subject to guardianship.

History: *2003 c 12 art 1 s 17; 2020 c 86 art 1 s 41*

524.5-202 PARENTAL APPOINTMENT OF GUARDIAN.

(a) A guardian may be appointed by will, by designation of a standby guardian pursuant to chapter 257B, or by other signed writing executed in the same manner as a health care directive under chapter 145C by a parent for any minor child the parent has or may have in the future. The appointment may specify the desired limitations on the powers to be given to the guardian. The appointing parent may revoke or amend the appointment prior to court confirmation.

(b) Upon petition of an appointing parent and a finding that the appointing parent will likely become unable to care for the child within two years or less, and after notice as provided in section 524.5-205, paragraph (b), the court, before the appointment becomes effective, may confirm the parent's selection of a guardian and terminate the rights of others to object.

(c) Subject to section 524.5-203, the appointment of a guardian becomes effective upon the appointing parent's death, an adjudication that the parent is an incapacitated person, or a written determination by a physician who has examined the parent that the parent is no longer able to care for the child, whichever occurs first.

(d) The guardian becomes eligible to act upon the filing of an acceptance of appointment, which must be filed within 30 days following the effective date of the guardian's appointment. The guardian shall:

(1) file the acceptance of appointment and a copy of the will with the court of the county in which the will was or could be probated or, in the case of another appointing instrument, file the acceptance of appointment and the appointing instrument with the court of the county in which the minor resides or is present; and

(2) give written notice of the acceptance of appointment to the appointing parent, if living, the minor, if the minor has attained 14 years of age, and a person other than the parent having care and custody of the minor.

(e) Unless the appointment was previously confirmed by the court, the notice given under paragraph (d), clause (2), must include a statement of the right of those notified to terminate the appointment by filing a written objection in the court as provided in section 524.5-203.

(f) Unless the appointment was previously confirmed by the court, within 30 days after filing the notice and the appointing instrument, a guardian shall petition the court for confirmation of the appointment, giving notice in the manner provided in section 524.5-205, paragraph (b).

(g) The appointment of a guardian by a parent does not supersede the parental rights of either parent. If both parents are dead or have been adjudged incapacitated persons, an appointment by the last parent who dies or was adjudged incapacitated has priority. An appointment by a parent which is effected by filing the guardian's acceptance under a will probated in the state of the testator's domicile is effective in this state.

(h) The powers of a guardian who timely complies with the requirements of paragraphs (d) and (e) relate back to give acts by the guardian which are of benefit to the minor and occurred on or after the date the appointment became effective the same effect as those that occurred after the filing of the acceptance of the appointment.

(i) The authority of a guardian appointed under this section terminates upon the first to occur of the appointment of a guardian by the court or the giving of written notice to the guardian of the filing of an objection pursuant to section 524.5-203.

History: *2003 c 12 art 1 s 18*

524.5-203 OBJECTION BY MINOR OR OTHERS TO PARENTAL APPOINTMENT.

Until the court has confirmed an appointee under section 524.5-202, a minor who is the subject of an appointment by a parent and who has attained 14 years of age, the other parent, or a person other than a parent or guardian having custody or care of the minor may prevent or terminate the appointment at any time by filing in the court in which the appointing instrument is filed a written objection and by giving notice of the objection to the guardian and any other persons entitled to notice of the acceptance of the appointment. An objection may be withdrawn, and if withdrawn is of no effect. An objection does not preclude an appointment of the appointee by the court. The court may treat the filing of an objection as a petition for the appointment of an emergency or a temporary guardian under section 524.5-204, and proceed accordingly.

History: *2003 c 12 art 1 s 19*

524.5-204 JUDICIAL APPOINTMENT OF GUARDIAN: CONDITIONS FOR APPOINTMENT.

(a) The court may appoint a guardian for a minor if the court finds the appointment is in the minor's best interest, and:

(i) both parents are deceased; or

(ii) all parental rights have been terminated by court order.

If a guardian is appointed by a parent pursuant to section 524.5-202 and the appointment has not been prevented or terminated under section 524.5-203, that appointee has priority for appointment. However, the court may proceed with another appointment upon a finding that the appointee under section 524.5-202 has failed to accept the appointment within 30 days after notice of the guardianship proceeding.

(b) If necessary and on petition or motion and whether or not the conditions of paragraph (a) have been established, the court may appoint a temporary guardian for a minor upon a showing that an immediate need exists and that the appointment would be in the best interest of the minor. Notice must be given to the parents and to a minor who has attained 14 years of age. Except as otherwise ordered by the court, the temporary guardian has the authority of an unlimited guardian, but the duration of the temporary guardianship may not exceed six months. Within five days after the appointment, the temporary guardian shall send or deliver a copy of the order to all individuals who would be entitled to notice of hearing under section 524.5-205.

(c) If the court finds that following the procedures of this article will likely result in substantial harm to a minor's health or safety and that no other person appears to have authority to act in the circumstances, the court, on appropriate petition, may appoint an emergency guardian for the minor. The duration of the guardian's authority may not exceed 30 days and the guardian may exercise only the powers specified in the order. Reasonable notice of the time and place of a hearing on the petition for appointment of an emergency guardian must be given to the minor, if the minor has attained 14 years of age, to each living parent of the minor, and a person having care or custody of the minor, if other than a parent. The court may dispense with the notice if it finds from affidavit or other sworn testimony that the minor will be substantially harmed before a hearing can be held on the petition. If the guardian is appointed without notice, notice of the

appointment must be given within 48 hours after the appointment and a hearing on the appropriateness of the appointment held within five days after the appointment.

History: *2003 c 12 art 1 s 20*

524.5-205 JUDICIAL APPOINTMENT OF GUARDIAN: PROCEDURE.

(a) A person interested in the welfare of a minor may petition for appointment of a guardian.

(b) After a petition is filed, the court shall set a date for hearing, and the petitioner shall give notice of the time and place for hearing the petition, together with a copy of the petition, to:

(1) the minor, if the minor has attained 14 years of age and is not the petitioner;

(2) any person alleged to have had the primary care and custody of the minor during the 60 days before the filing of the petition;

(3) each living parent of the minor or, if there is none, the adult nearest in kinship that can be found;

(4) any person nominated as guardian by the minor if the minor has attained 14 years of age;

(5) any appointee of a parent whose appointment has not been prevented or terminated under section 524.5-203; and

(6) any guardian or conservator currently acting for the minor in this state or elsewhere.

(c) Any documents or information disclosing or pertaining to health or financial information shall be filed as confidential documents, consistent with the bill of particulars under section 524.5-121.

(d) The court, upon hearing, shall make the appointment if it finds that a qualified person seeks appointment, venue is proper, the required notices have been given, the conditions of section 524.5-204, paragraph (a), have been met, and the best interest of the minor will be served by the appointment. In other cases, the court may dismiss the proceeding or make any other disposition of the matter that will serve the best interest of the minor.

(e) If the court determines at any stage of the proceeding, before or after appointment, that the interests of the minor are or may be inadequately represented, it may appoint a lawyer to represent the minor, giving consideration to the choice of the minor if the minor has attained 14 years of age, provided that such appointment shall expire upon the expiration of the appeal time for the order appointing guardian or the order dismissing a petition or upon such other time or event as the court may direct.

(f) Within 14 days after an appointment, a guardian shall send or deliver to the minor person subject to guardianship, and counsel if represented at the hearing, a copy of the order of appointment accompanied by a notice which advises the minor person subject to guardianship of the right to appeal the guardianship appointment in the time and manner provided by the Rules of Appellate Procedure.

History: *2003 c 12 art 1 s 21; 2020 c 86 art 1 s 15*

524.5-206 JUDICIAL APPOINTMENT OF GUARDIAN: PRIORITY OF MINOR'S NOMINEE, LIMITED GUARDIANSHIP.

(a) The court shall appoint as guardian a person whose appointment will be in the best interest of the minor. The court shall appoint a person nominated by the minor, if the minor has attained 14 years of age, unless the court finds the appointment will be contrary to the best interest of the minor.

(b) In the interest of developing self-reliance of a person subject to guardianship or for other good cause, the court, at the time of appointment or later, on its own motion or on motion of the minor person subject to guardianship or other interested person, may limit the powers of a guardian otherwise granted by this article and thereby create a limited guardianship. Following the same procedure, additional powers may be granted or existing powers may be withdrawn.

History: *2003 c 12 art 1 s 22; 2020 c 86 art 1 s 41*

524.5-207 POWERS AND DUTIES OF GUARDIAN.

Subdivision 1. **General statement.** A guardian of a minor has the powers and responsibilities of a parent who has not been deprived of custody of the minor and unemancipated child, except that a guardian is not legally obligated to provide from the guardian's own funds for the person subject to guardianship.

Subd. 2. **Particular duties.** In particular, and without qualifying subdivision 1, a guardian has the duties and powers in this subdivision.

(a) The guardian must take reasonable care of the personal effects of the person subject to guardianship and commence protective proceedings if necessary to protect other property of the person subject to guardianship.

(b) The guardian may receive money payable for the support of the person subject to guardianship to the parent, guardian, or custodian of the person subject to guardianship under the terms of any statutory benefit or insurance system, or any private contract, devise, trust, conservatorship, or custodianship and also may receive money or property of the person subject to guardianship paid or delivered by virtue of section 524.5-104. Any sums received must be applied to the current needs of the person subject to guardianship for support, care, and education.

The guardian must exercise due care to conserve any excess for the future needs of the person subject to guardianship unless a conservator has been appointed for the estate of the person subject to guardianship, in which case the excess must be paid at least annually to the conservator. Money received by the guardian under this paragraph must not be used for compensation for the guardian's services except as approved by court order or as determined by a duly appointed conservator other than the guardian.

A guardian may institute proceedings to compel the performance by any person of a duty to support the person subject to guardianship or to pay sums for the welfare of the person subject to guardianship.

(c) The guardian is empowered to facilitate the education, social, or other activities of the person subject to guardianship and to authorize medical or other professional care, treatment, or advice. A person subject to guardianship who is less than 16 years of age may be admitted to a treatment facility as an informal patient according to section 253B.04 but may not be committed to any state institution except pursuant to chapter 253B. No guardian may give consent for psychosurgery, electroshock, sterilization, or experimental treatment of any kind unless the procedure is first approved by the order of the court, after a hearing as prescribed by section 524.5-313, paragraph (c), clause (4). A guardian is not liable by reason of consent for injury to the person subject to guardianship resulting from the negligence or acts of third persons unless it would have been illegal for a parent to have consented, or unless the guardian fails to comply with the requirements of this section which provide that a court order is necessary for commitment and for certain types of medical procedures. A guardian may consent to the marriage or adoption of the person subject to guardianship.

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

(e) If there is no acting conservator of the estate for the person subject to guardianship, the guardian has the power to apply on behalf of the person subject to guardianship for any assistance, services, or benefits available to the person subject to guardianship through any unit of government.

History: *2003 c 12 art 1 s 23; 2020 c 86 art 1 s 41*

524.5-209 RIGHTS AND IMMUNITIES OF GUARDIAN.

(a) A guardian of a minor person subject to guardianship is entitled to reasonable compensation for services as guardian and to reimbursement for expenditures made on behalf of the person subject to guardianship, in a manner consistent with section 524.5-502.

(b) A guardian of a minor person subject to guardianship is not liable to a third person for acts of the person subject to guardianship solely by reason of the relationship. A guardian of a minor person subject to guardianship is not liable for injury to the person subject to guardianship resulting from the negligence or act of a third person providing medical or other care, treatment, or service for the person subject to guardianship except to the extent that a parent would be liable under the circumstances.

(c) A guardian of a minor person subject to guardianship may not initiate the commitment of a person subject to guardianship to an institution except in accordance with section 524.5-207.

History: *2003 c 12 art 1 s 24; 2020 c 86 art 1 s 41*

524.5-210 TERMINATION OF GUARDIANSHIP; OTHER PROCEEDINGS AFTER APPOINTMENT.

(a) A guardianship of a minor terminates upon the minor's death, adoption, emancipation, attainment of majority, or as ordered by the court.

(b) A person subject to guardianship or an interested person may petition for any order that is in the best interest of the person subject to guardianship. The petitioner shall give notice of the hearing on the petition to interested persons pursuant to section 524.5-113 and to any other person as ordered by the court, except notice is not required for the person subject to guardianship if the person subject to guardianship has not attained 14 years of age and is not the petitioner.

History: *2003 c 12 art 1 s 25; 2020 c 86 art 1 s 41*

524.5-211 DELEGATION OF POWER BY PARENT OR GUARDIAN.

(a) A parent, legal custodian, or nonprofessional guardian of a minor or incapacitated person, by a properly executed power of attorney, may delegate to another person, for a period not exceeding one year, any powers regarding care, custody, or property of the minor or person subject to guardianship, except the power to consent to marriage or adoption of a minor person subject to guardianship.

(b) A professional guardian of a minor or incapacitated person, by a properly executed power of attorney, may delegate to another person, for a period not exceeding 30 days, any powers regarding care, custody, or property of the minor or person subject to guardianship, except the power to consent to marriage or adoption of a minor person subject to guardianship. A professional guardian delegating parental rights under this paragraph must submit the power of attorney to the court.

(c) A parent who executes a delegation of powers under this section must mail or give a copy of the document to any other parent within 30 days of its execution unless:

(1) the other parent does not have parenting time or has supervised parenting time; or

(2) there is an existing order for protection under chapter 518B or a similar law of another state in effect against the other parent to protect the parent, legal custodian, or guardian executing the delegation of powers or the child.

(d) A parent, legal custodian, or guardian of a minor child may also delegate those powers by designating a standby or temporary custodian under chapter 257B.

History: *2003 c 12 art 1 s 26; 2020 c 86 art 1 s 16*

Part 3
GUARDIAN OF INCAPACITATED PERSON

524.5-301 APPOINTMENT AND STATUS OF GUARDIAN.

A person becomes a guardian of an incapacitated person by a parental or spousal appointment or upon appointment by the court. The guardianship continues until terminated, without regard to the location of the guardian or person subject to guardianship.

History: *2003 c 12 art 1 s 27; 2020 c 86 art 1 s 41*

524.5-302 APPOINTMENT OF GUARDIAN BY WILL OR OTHER WRITING.

(a) A parent, by will or other signed writing executed in the same manner as a health care directive pursuant to chapter 145C, may appoint a guardian for an unmarried child who the parent believes is an incapacitated person, may specify the desired limitations on the powers to be given to the guardian, and may revoke or amend the appointment prior to court confirmation.

(b) An individual by will or other signed writing executed in the same manner as a health care directive pursuant to chapter 145C may appoint a guardian for his or her spouse who the appointing spouse believes is an incapacitated person, may specify the desired limitations on the powers to be given to the guardian, and may revoke or amend the appointment prior to court confirmation.

(c) Subject to the right of the incapacitated person, the person having custody or care of the incapacitated person if other than the appointing parent or spouse or the adult nearest in kinship to the incapacitated person to object, the guardian's appointment becomes effective upon the death of the appointing parent or spouse, the adjudication of incapacity of the appointing parent or spouse, or a written determination by a physician who has examined the appointing parent or spouse that the appointing parent or spouse is no longer able to care for the incapacitated person, whichever occurs first.

(d) Upon petition of the appointing parent or spouse, and a finding that the appointing parent or spouse will likely become unable to care for the incapacitated person within two years or less, and after notice as provided in this section, the court, before the appointment becomes effective, may confirm the appointing parent's or spouse's selection of a guardian and terminate the rights of others to object.

(e) The guardian becomes eligible to act upon the filing of an acceptance of appointment, which must be filed within 30 days following the effective date of the guardian's appointment. The guardian shall:

(1) file the notice of acceptance of appointment and a copy of the will with the court of the county in which the will was or could be probated or, in the case of another appointing instrument, file the acceptance

of appointment and the appointing instrument with the court in the county in which the incapacitated person resides or is present; and

(2) give written notice of the acceptance of appointment to the appointing parent or spouse if living, the incapacitated person, a person having custody or care of the incapacitated person other than the appointing parent or spouse, and the adult nearest in kinship.

(f) Unless the appointment was previously confirmed by the court, the notice given under paragraph (e), clause (2), must include a statement of the right of those notified to terminate the appointment by filing a written objection as provided in this section.

(g) An appointment effected by filing the guardian's acceptance under a will probated in the state of the testator's domicile is effective in this state.

(h) The filing of a written objection to an appointment by the alleged incapacitated person or another interested person in the court in which the guardian's written acceptance was filed terminates the appointment. An objection may be withdrawn and, if withdrawn, is of no effect. An objection does not preclude the court from appointing the parental or spousal appointee as guardian. The court may treat the filing of an objection as a petition for the appointment of an emergency guardian under section 524.5-311 or for the appointment of a limited or unlimited guardian under section 524.5-303 and proceed accordingly.

(i) Unless the appointment was previously confirmed by the court, within 30 days after filing the notice and the appointing instrument, a guardian appointed under this section shall file a petition in the court for confirmation of the appointment, giving notice in the manner provided in section 524.5-308, and, if necessary, for an appointment as conservator.

(j) The authority of a guardian appointed under this section terminates upon the first to occur of the appointment of a guardian by the court or the giving of written notice to the guardian of the filing of an objection pursuant to paragraph (h).

(k) The appointment of a guardian under this section is not a determination of incapacity.

(l) The powers of a guardian who timely complies with the requirements of paragraphs (e) and (f) relate back to give acts by the guardian which are of benefit to the incapacitated person and occurred on or after the date the appointment became effective the same effect as those that occurred after the filing of the acceptance of appointment.

History: *2003 c 12 art 1 s 28*

524.5-303 JUDICIAL APPOINTMENT OF GUARDIAN: PETITION.

(a) An individual or a person interested in the individual's welfare may petition for a determination of incapacity, in whole or in part, and for the appointment of a guardian, limited or unlimited in duration or power, for the individual.

(b) The petition must set forth the petitioner's name, residence, current address, relationship to the respondent, and interest in the appointment and, to the extent known, state or contain the following with respect to the respondent and the relief requested:

(1) the respondent's name, age, principal residence, current street address, and, if different, the address of the dwelling in which it is proposed that the respondent will reside if the appointment is made;

(2) the name and address of the respondent's:

(i) spouse, or if the respondent has none, an adult with whom the respondent has resided for more than six months before the filing of the petition; and

(ii) adult children including adult step-children of a living spouse or, if the respondent has none, the respondent's parents and adult brothers and sisters, or if the respondent has none, at least one of the adults nearest in kinship to the respondent who can be found;

(3) the name of the administrative head and address of the institution where the respondent is a patient, resident, or client of any hospital, nursing home, home care agency, or other institution;

(4) the name and address or post office box of any legal representative for the respondent;

(5) the name, address or post office box, and telephone number of any person nominated as guardian by the respondent in any manner permitted by law, including a health care agent nominated in a health care directive;

(6) the name, address, and telephone number of any proposed guardian and the reason why the proposed guardian should be selected;

(7) the name and address of any health care agent or proxy appointed pursuant to a health care directive as defined in section 145C.01, a living will under chapter 145B, or other similar document executed in another state and enforceable under the laws of this state;

(8) the reason why guardianship is necessary, including a brief description of the nature and extent of the respondent's alleged incapacity;

(9) what less restrictive means have been attempted and considered, how long such less restrictive means have been attempted, and a description of why such less restrictive means are not sufficient to meet the respondent's identified needs;

(10) if an unlimited guardianship is requested, the reason why limited guardianship is inappropriate and, if a limited guardianship is requested, the powers to be granted to the limited guardian; and

(11) a general statement of the respondent's property with an estimate of its value, including any insurance or pension, and the source and amount of any other anticipated income or receipts.

(c) The petition must also set forth the following information regarding the proposed guardian or any employee of the guardian responsible for exercising powers and duties under the guardianship:

(1) whether the proposed guardian has ever been removed for cause from serving as a guardian or conservator and, if so, the case number and court location;

(2) if the proposed guardian is a professional guardian or conservator, a summary of the proposed guardian's educational background and relevant work and other experience;

(3) whether the proposed guardian has ever applied for or held, at any time, any professional license from an agency listed under section 524.5-118, subdivision 2a, and if so, the name of the licensing agency, and as applicable, the license number and status; whether the license is active or has been denied, conditioned, suspended, revoked, or canceled; and the basis for the denial, condition, suspension, revocation, or cancellation of the license;

(4) whether the proposed guardian has ever been found civilly liable in an action that involved fraud, misrepresentation, material omission, misappropriation, theft, or conversion, and if so, the case number and court location;

(5) whether the proposed guardian has filed for or received protection under the bankruptcy laws in the last five years, and if so, the case number and court location;

(6) whether the proposed guardian has any outstanding civil monetary judgments against the proposed guardian, and if so, the case number, court location, and outstanding amount owed;

(7) whether an order for protection or harassment restraining order has ever been issued against the proposed guardian, and if so, the case number and court location;

(8) whether the proposed guardian has ever been convicted of a gross misdemeanor or felony, and if so, the case number and the crime of which the guardian was convicted; and

(9) if the proposed guardian is a professional, the proposed guardian's current customary rates, and if the proposed guardian is not a professional, the proposed guardian's current anticipated rates.

(d) Any documents or information disclosing or pertaining to paragraph (b), clauses (7) to (11), or health or financial information shall be filed as confidential documents, consistent with the bill of particulars under section 524.5-121.

History: *2003 c 12 art 1 s 29; 2010 c 254 s 3; 2013 c 86 art 2 s 4; 2020 c 86 art 1 s 17*

524.5-304 JUDICIAL APPOINTMENT OF GUARDIAN: PRELIMINARIES TO HEARING.

(a) Upon receipt of a petition to establish a guardianship, the court shall set a date and time for hearing the petition and may appoint a visitor. The duties and reporting requirements of the visitor are limited to the relief requested in the petition.

(b) A proposed person subject to guardianship has the right to be represented by counsel at any proceeding under this article. The court shall appoint counsel to represent the proposed person subject to guardianship for the initial proceeding held pursuant to section 524.5-307 if neither the proposed person subject to guardianship nor others provide counsel unless in a meeting with a visitor the proposed person subject to guardianship makes an informed decision in writing to specifically waive the right to counsel. Before appointment, and at any time during the course of the representation when a risk of a conflict of interest may arise, the proposed or appointed counsel shall disclose to the court, the proposed person subject to guardianship or person subject to guardianship, and interested persons whether there are concurrent proceedings in which the counsel is the attorney for the proposed guardian or guardian and whether there is a risk of a conflict of interest under Rule 1.7 of the Rules of Professional Conduct so that the representation of the proposed person subject to guardianship or person subject to guardianship will be materially limited by counsel's concurrent responsibilities to the proposed guardian or guardian. If there is a risk of a conflict of interest, the counsel must not be appointed or new counsel must be appointed, unless:

(1) the court determines that the proposed person subject to guardianship or person subject to guardianship is able to give informed consent to the representation and, if the proposed person subject to guardianship or person subject to guardianship consents, the consent is confirmed in writing pursuant to Rule 1.7; or

(2) the court determines that there is not a risk of a conflict of interest under Rule 1.7 requiring the appointment of different counsel.

(c) Counsel must be appointed immediately after any petition under this article is served under section 524.5-308. Counsel has the full right of subpoena. In all proceedings under this article, counsel shall:

(1) consult with the proposed person subject to guardianship before any hearing;

(2) be given adequate time to prepare for all hearings; and

(3) continue to represent the person throughout any proceedings under section 524.5-307, provided that such appointment shall expire upon the expiration of the appeal time for the order appointing guardian or the order dismissing a petition, or upon such other time or event as the court may direct.

The court need not appoint counsel to represent the proposed person subject to guardianship on a voluntary petition, and the court may remove a court-appointed attorney at any time if the court finds that the proposed person subject to guardianship has made a knowing and intelligent waiver of the right to counsel or has obtained private counsel.

(d) The visitor shall personally serve the notice and petition upon the respondent and shall offer to read the notice and petition to the respondent, and if so requested the visitor shall read the notice and petition to such person. The visitor shall also interview the respondent in person, and to the extent that the respondent is able to understand:

(1) explain to the respondent the substance of the petition; the nature, purpose, and effect of the proceeding; the respondent's rights at the hearing; and the general powers and duties of a guardian;

(2) determine the respondent's views about the proposed guardian, the proposed guardian's powers and duties, and the scope and duration of the proposed guardianship;

(3) inform the respondent of the right to employ and consult with a lawyer at the respondent's own expense and the right to request a court-appointed lawyer; and

(4) inform the respondent that all costs and expenses of the proceeding, including respondent's attorneys fees, will be paid from the respondent's estate.

(e) In addition to the duties in paragraph (d), the visitor shall make any other investigation the court directs.

(f) The visitor shall promptly file, as a confidential document consistent with the bill of particulars under section 524.5-121, a report in writing with the court, which must include:

(1) recommendations regarding the appropriateness of guardianship, including whether less restrictive means of intervention are available, the type of guardianship, and, if a limited guardianship, the powers to be granted to the limited guardian;

(2) a statement as to whether the respondent approves or disapproves of the proposed guardian, and the powers and duties proposed or the scope of the guardianship; and

(3) any other matters the court directs.

(g) The county social service agency may create a screening committee to review a petition involving an indigent person. The screening committee must consist of individuals selected by the agency with knowledge of alternatives that are less restrictive than guardianship. If the agency has created a screening

committee, the court shall make its decision after the screening committee has reviewed the petition. For an indigent person, the court may appoint a guardian under contract with the county to provide these services.

History: *2003 c 12 art 1 s 30; 2004 c 146 art 2 s 3; 2009 c 150 s 6; 2010 c 254 s 4; 2020 c 86 art 1 s 18*

524.5-307 GUARDIAN PROCEEDINGS; PRESENCE AND RIGHTS AT HEARING.

(a) Unless excused by the court for good cause, the petitioner and the proposed guardian shall attend the hearing. The respondent shall attend and participate in the hearing, unless excused by the court for good cause. The petitioner and respondent may present evidence and subpoena witnesses and documents; examine witnesses, including the visitor; and otherwise participate in the hearing. The hearing may be held in a location convenient to the respondent and may be closed upon the request of the respondent and a showing of good cause.

(b) Any person may request permission to participate in the proceeding. The court may grant the request, with or without hearing, upon a showing of good cause and after determining that the best interest of the respondent will be served. The court may attach appropriate conditions to the participation.

(c) A respondent to any guardianship petition and any person subject to guardianship in any other guardianship proceeding has not placed his or her health, physical, or mental condition in controversy. Any denials, allegations or affirmative assertions by the respondent or person subject to guardianship regarding capacity do not place these matters in controversy.

History: *2003 c 12 art 1 s 31; 2020 c 86 art 1 s 19*

524.5-308 NOTICE.

(a) A copy of the petition and notice of the hearing on a petition for guardianship must be served personally on the respondent pursuant to section 524.5-304, paragraph (d). The notice must include a statement that the respondent must be physically present unless excused by the court; inform the respondent of the respondent's rights at the hearing; and include a description of the nature, purpose, and consequences of an appointment. A failure to serve the respondent with a notice substantially complying with this paragraph precludes the court from granting the petition.

(b) In a proceeding to establish a guardianship, notice of the hearing shall also be given to the persons listed in the petition. Failure to give notice under this paragraph does not preclude the appointment of a guardian or the making of a protective order.

(c) Notice of the hearing on a petition for an order after appointment of a guardian shall be given to interested persons pursuant to section 524.5-113 and to any other person as ordered by the court, except notice to the person subject to guardianship is not required if the person subject to guardianship has not attained 14 years of age and is not the petitioner.

(d) The guardian shall give notice of the filing of the guardian's report, together with a copy of the report, to the person subject to guardianship, the court, and any other person the court directs. The notice must be sent or delivered within 14 days after the filing of the report.

History: *2003 c 12 art 1 s 32; 2004 c 146 art 2 s 4; 2020 c 86 art 1 s 41*

524.5-309 WHO MAY BE GUARDIAN: PRIORITIES.

(a) Subject to paragraph (c), the court, in appointing a guardian, shall consider persons otherwise qualified in the following order of priority:

(1) a guardian, other than a temporary or emergency guardian, currently acting for the respondent in this state or elsewhere;

(2) a health care agent appointed by the respondent in a health care directive that does not include limitations on the nomination of the health care agent as a guardian and is executed pursuant to chapter 145C;

(3) the spouse of the respondent or a person nominated by will or other signed writing executed in the same manner as a health care directive pursuant to chapter 145C of a deceased spouse;

(4) an adult child of the respondent;

(5) a parent of the respondent, or an individual nominated by will or other signed writing executed in the same manner as a health care directive pursuant to chapter 145C of a deceased parent;

(6) an adult with whom the respondent has resided for more than six months before the filing of the petition;

(7) an adult who is related to the respondent by blood, adoption, or marriage; and

(8) any other adult or a professional guardian.

(b) The court, acting in the best interest of the respondent, may decline to appoint a person having priority and appoint a person having a lower priority or no priority. With respect to persons having equal priority, the court shall select the one it considers best qualified.

(c) Any individual or agency which provides residence, custodial care, medical care, employment training or other care or services for which they receive a fee may not be appointed as guardian unless related to the respondent by blood, marriage, or adoption.

History: *2003 c 12 art 1 s 33; 2009 c 150 s 7; 2010 c 254 s 5*

524.5-310 FINDINGS; ORDER OF APPOINTMENT.

(a) The court may appoint a guardian, limited or unlimited in duration or power, for a respondent only if it finds by clear and convincing evidence that:

(1) the respondent is an incapacitated person; and

(2) the respondent's identified needs cannot be met by less restrictive means, including but not limited to use of appropriate technological assistance, supported decision making, community or residential services, or appointment of a health care agent under section 145C.01, subdivision 2. The court must make specific findings particular to the respondent why less restrictive alternatives do not work.

(b) Alternatively, the court, with appropriate findings, may treat the petition as one for a protective order under section 524.5-401, enter any other appropriate order, or dismiss the proceeding.

(c) The court shall grant to a guardian only those powers necessitated by the limitations and demonstrated needs of the person subject to guardianship and, whenever feasible, make appointive and other orders that will encourage the development of the maximum self-reliance and independence of the person subject to

guardianship. Any power not specifically granted to the guardian, following a written finding by the court of a demonstrated need for that power, is retained by the person subject to guardianship.

(d) The court may limit the duration of any guardianship. However, if the person subject to guardianship is under the age of 30 years old on the date the court files an order appointing a guardian, the guardianship must be of a limited duration determined by the court, not exceeding a period over 72 months.

(e) Notwithstanding paragraph (d), a petition for guardianship for an indefinite period of time may be filed for any person who is 29 years or older and is currently subject to a guardianship of limited duration.

(f) If the court grants the guardian any of the powers or duties under section 524.5-313, paragraph (c), clause (1), (2), or (4), the authority of a previously appointed health care agent to make health care decisions, as defined in section 145C.01, subdivision 5, is suspended until further order of the court or as otherwise provided by this section. The court may declare a health care directive unenforceable as provided in section 145C.09, subdivision 3. The court may declare that a health care directive has been revoked by the person subject to guardianship if the court finds, by clear and convincing evidence, that the person subject to guardianship has revoked the health care directive as provided in section 145C.09, subdivision 1.

(g) A health care agent or other person legally appointed by the person subject to guardianship to control final disposition of the remains of the person subject to guardianship under section 145C.05, subdivision 2, clause (7), or 149A.80, or a health care agent authorized to make organ or tissue donations under section 525A.04 or 525A.09, may make health care decisions as defined in section 145C.01, subdivision 5, on behalf of the person subject to guardianship for the purpose of preparing the body of the person subject to guardianship for organ or tissue donation or final disposition of the remains of the person subject to guardianship, as applicable.

(h) Within 14 days after an appointment, a guardian shall send or deliver to the person subject to guardianship, and counsel if represented at the hearing, a copy of the order of appointment accompanied by a notice which advises the person subject to guardianship of the right to appeal the guardianship appointment in the time and manner provided by the Rules of Appellate Procedure.

(i) Each year, within 30 days after the anniversary date of an appointment, a guardian shall send or deliver to the person subject to guardianship and to interested persons of record with the court (1) a notice of the right to request termination or modification of the guardianship or to request an order that is in the best interests of the person subject to guardianship or for other appropriate relief, (2) notice of the status of the right to vote of the person subject to guardianship, and (3) a copy of the bill of rights for persons subject to guardianship as provided in section 524.5-120.

History: *2003 c 12 art 1 s 34; 2005 c 156 art 6 s 67; 2009 c 150 s 8; 2010 c 254 s 6; 2020 c 86 art 1 s 20*

524.5-311 EMERGENCY GUARDIAN.

(a) If the court finds that compliance with the procedures of this article will likely result in substantial harm to the respondent's health, safety, or welfare, and that no other person appears to have authority and willingness to act in the circumstances, the court, on petition by a person interested in the respondent's welfare, may appoint an emergency guardian whose authority may not exceed 60 days and who may exercise only the powers specified in the order. A county that is acting under section 626.557, subdivisions 11h and 11i, by petitioning for appointment of an emergency guardian on behalf of a vulnerable adult may be granted authority to act for a period not to exceed 90 days. An emergency guardian's appointment under this section may only be extended once for a period not to exceed 60 days if the court finds good cause for the continuation

of the guardianship. Immediately upon receipt of the petition for an emergency guardianship, the court shall appoint a lawyer to represent the respondent in the proceeding. Except as otherwise provided in paragraph (b), reasonable notice of the time and place of a hearing on the petition must be given to the respondent; interested parties, if known; and any other persons as the court directs.

(b) An emergency guardian may be appointed without notice to the respondent and the respondent's lawyer only if the court finds from affidavit or other sworn testimony that the respondent will be substantially harmed before a hearing on the appointment can be held and the petitioner made good faith efforts to provide notice to the respondent or the respondent's lawyer. If the court appoints an emergency guardian without notice to the respondent, the respondent must be given notice of the appointment within 48 hours after the appointment. The court shall hold a hearing on the appropriateness of the appointment within five days after the appointment.

(c) Appointment of an emergency guardian, with or without notice, is not a determination of the respondent's incapacity.

(d) The court may remove an emergency guardian at any time. An emergency guardian shall make any report the court requires. In other respects, the provisions of this article concerning guardians apply to an emergency guardian.

(e) Any documents or information disclosing or pertaining to health or financial information shall be filed as confidential documents, consistent with the bill of particulars under section 524.5-121.

(f) The mere fact that the respondent is a patient in a hospital or a resident of a facility is not in and of itself sufficient evidence to support a risk of substantial harm to the respondent's health, safety, or welfare.

History: *2003 c 12 art 1 s 35; 2020 c 86 art 1 s 21; 2025 c 35 art 11 s 14; 2026 c 95 art 7 s 5*

524.5-312 TEMPORARY SUBSTITUTE GUARDIAN.

(a) If the court finds that a guardian is not effectively performing the guardian's duties and that the welfare of the person subject to guardianship requires immediate action, it may appoint a temporary substitute guardian for the person subject to guardianship for a specified period not exceeding six months. Except as otherwise ordered by the court, a temporary substitute guardian so appointed has the powers set forth in the previous order of appointment. The authority of any unlimited or limited guardian previously appointed by the court is suspended as long as a temporary substitute guardian has authority. If an appointment is made without previous notice to the person subject to guardianship or the affected guardian, within five days after the appointment, the court shall inform the person subject to guardianship or guardian of the appointment.

(b) The court may remove a temporary substitute guardian at any time. A temporary substitute guardian shall make any report the court requires. In other respects, the provisions of this article concerning guardians apply to a temporary substitute guardian.

History: *2003 c 12 art 1 s 36; 2020 c 86 art 1 s 41*

524.5-313 POWERS AND DUTIES OF GUARDIAN.

(a) A guardian shall be subject to the control and direction of the court at all times and in all things.

(b) The court shall grant to a guardian only those powers necessary to provide for the demonstrated needs of the person subject to guardianship.

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

(1) the power to have custody of the person subject to guardianship and the power to establish a place of abode within or outside the state, except as otherwise provided in this clause. The person subject to guardianship or any interested person may petition the court to prevent or to initiate a change in abode. A person subject to guardianship may not be admitted to a regional treatment center by the guardian except:

(i) after a hearing under chapter 253B;

(ii) for outpatient services; or

(iii) for the purpose of receiving temporary care for a specific period of time not to exceed 90 days in any calendar year;

(2) the duty to provide for the care, comfort, and maintenance needs of the person subject to guardianship, including food, clothing, shelter, health care, social and recreational requirements, and, whenever appropriate, training, education, and habilitation or rehabilitation. The guardian has no duty to pay for these requirements out of personal funds. Whenever possible and appropriate, the guardian should meet these requirements through governmental benefits or services to which the person subject to guardianship is entitled, rather than from the estate of the person subject to guardianship;

(3) the duty to take reasonable care of the clothing, furniture, vehicles, and other personal effects of the person subject to guardianship, and, if other property requires protection, the power to seek appointment of a conservator of the estate. The guardian must give notice by mail to interested persons prior to the disposition of the clothing, furniture, vehicles, or other personal effects of the person subject to guardianship. The notice must inform the person of the right to object to the disposition of the property within ten days of the date of mailing and to petition the court for a review of the guardian's proposed actions. Notice of the objection must be served by mail or personal service on the guardian and the person subject to guardianship unless the person subject to guardianship is the objector. The guardian served with notice of an objection to the disposition of the property may not dispose of the property unless the court approves the disposition after a hearing;

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

(ii) a guardian who believes a procedure described in item (i) requiring prior court approval to be necessary for the proper care of the person subject to guardianship, shall petition the court for an order and, in the case of a public guardianship under chapter 252A, obtain the written recommendation of the commissioner of human services. The court shall fix the time and place for the hearing and shall give notice to the person subject to guardianship in such manner as specified in section 524.5-308 and to interested persons. The court shall appoint an attorney to represent the person subject to guardianship who is not represented by counsel, provided that such appointment shall expire upon the expiration of the appeal time for the order issued by the court under this section or the order dismissing a petition, or upon such other

time or event as the court may direct. In every case the court shall determine if the procedure is in the best interest of the person subject to guardianship. In making its determination, the court shall consider a written medical report which specifically considers the medical risks of the procedure, whether alternative, less restrictive methods of treatment could be used to protect the best interest of the person subject to guardianship, and any recommendation of the commissioner of human services for a public person subject to guardianship. The standard of proof is that of clear and convincing evidence;

(iii) in the case of a petition for sterilization of a person with developmental disabilities subject to guardianship, the court shall appoint a licensed physician, a psychologist who is qualified in the diagnosis and treatment of developmental disability, and a social worker who is familiar with the social history and adjustment of the person subject to guardianship or the case manager for the person subject to guardianship to examine or evaluate the person subject to guardianship and to provide written reports to the court. The reports shall indicate why sterilization is being proposed, whether sterilization is necessary and is the least intrusive method for alleviating the problem presented, and whether it is in the best interest of the person subject to guardianship. The medical report shall specifically consider the medical risks of sterilization, the consequences of not performing the sterilization, and whether alternative methods of contraception could be used to protect the best interest of the person subject to guardianship;

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

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

(5) in the event there is no duly appointed conservator of the estate of the person subject to guardianship, the guardian shall have the power to approve or withhold approval of any contract, except for necessities, which the person subject to guardianship may make or wish to make;

(6) the duty and power to exercise supervisory authority over the person subject to guardianship in a manner which limits civil rights and restricts personal freedom only to the extent necessary to provide needed care and services. A guardian may not restrict the right of the person subject to guardianship to communicate, visit, or interact with others pursuant to section 524.5-120, clause (10), including receiving visitors, making or receiving telephone calls, sending or receiving personal mail, sending or receiving electronic communications including through social media, or participating in social activities, unless the guardian has good cause to believe a restriction of communication, visitation, or interaction is necessary because interaction with the person poses a substantial risk of significant physical, psychological, or financial harm to the person subject to guardianship, and there is no other means to avoid or mitigate such significant harm. If the guardian believes a restriction is necessary, the guardian must first seek limited restrictions whenever possible, including supervised visits, phone calls, video calls, written correspondence, or limits on the length, frequency, or content of communication. In all cases, the guardian shall provide written notice of the restrictions imposed to the court; to the person subject to guardianship and their attorney, if known; and to the person subject to restrictions within 48 hours of imposing the restriction. The notice shall include a description of the reason the restriction is imposed; a description of any limited restrictions attempted; if applicable, the reason the

limited restrictions were not sufficient; and instructions on how to seek a modification of the restrictions. The person subject to guardianship or the person subject to restrictions may petition the court to remove or modify the restrictions;

(7) if there is no acting conservator of the estate for the person subject to guardianship, the guardian has the power to apply on behalf of the person subject to guardianship for any assistance, services, or benefits available to the person subject to guardianship through any unit of government;

(8) unless otherwise ordered by the court, the person subject to guardianship retains the right to vote;

(9) the power to establish an ABLE account for a person subject to guardianship or conservatorship. By this provision a guardian only has the authority to establish an ABLE account, but may not administer the ABLE account in the guardian's capacity as guardian. The guardian may appoint or name a person to exercise signature authority over an ABLE account, including the individual selected by the eligible individual or the eligible individual's agent under a power of attorney; conservator; spouse; parent; sibling; grandparent; or representative payee, whether an individual or organization, appointed by the SSA, in that order; and

(10) if there is no conservator appointed for the person subject to guardianship, the guardian has the duty and power to institute suit on behalf of the person subject to guardianship and represent the person subject to guardianship in expungement proceedings, harassment proceedings, and all civil court proceedings, including but not limited to restraining orders, orders for protection, name changes, conciliation court, housing court, family court, probate court, and juvenile court, provided that a guardian may not settle or compromise any claim or debt owed to the estate without court approval.

History: *2003 c 12 art 1 s 37; 2005 c 56 s 1; 2020 c 86 art 1 s 22; 2023 c 50 art 1 s 35; 2024 c 123 art 15 s 10; 2025 c 35 art 11 s 15*

524.5-315 RIGHTS AND IMMUNITIES OF GUARDIAN; LIMITATIONS.

(a) A guardian is entitled to reasonable compensation for services as guardian and to reimbursement for expenditures made on behalf of the person subject to guardianship, in a manner consistent with section 524.5-502.

(b) a guardian is not liable to a third person for acts of the person subject to guardianship solely by reason of the relationship. A guardian who exercises reasonable care in choosing a third person providing medical or other care, treatment, or service for the person subject to guardianship is not liable for injury to the person subject to guardianship resulting from the wrongful conduct of the third person.

(c) A guardian may not revoke the health care directive of a person subject to guardianship or conservatorship absent a court order.

(d) A guardian may not initiate the commitment of a person subject to guardianship to an institution except in accordance with section 524.5-313.

(e) Failure to satisfy the duties of a guardian under section 524.5-313, paragraph (c), shall be grounds for removal of a private guardian, but the guardian shall not be held liable for acts or omissions made in the discharge of the guardian's duties except for acts or omissions that result in harm to the person subject to guardianship and that constitute reckless or willful misconduct, or gross negligence.

History: *2003 c 12 art 1 s 38; 2009 c 150 s 9; 2010 c 254 s 7; 2020 c 86 art 1 s 41; 2024 c 123 art 15 s 11*

524.5-316 REPORTS; MONITORING OF GUARDIANSHIP; COURT ORDERS.

(a) A guardian shall report to the court in writing on the condition of the person subject to guardianship at least annually and whenever ordered by the court. A copy of the report must be provided to the person subject to guardianship and to interested persons of record with the court. A report must state or contain:

(1) the current mental, physical, and social condition of the person subject to guardianship;

(2) the living arrangements for all addresses of the person subject to guardianship during the reporting period;

(3) any restrictions placed on the right of the person subject to guardianship to communicate, visit, or interact with others, including receiving visitors or making or receiving telephone calls, personal mail, or electronic communications including through social media, or participating in social activities, and the factual bases for those restrictions;

(4) the medical, educational, vocational, and other services provided to the person subject to guardianship and the guardian's opinion as to the adequacy of the care of the person subject to guardianship;

(5) a recommendation as to the need for continued guardianship and any recommended changes in the scope of the guardianship;

(6) an address or post office box and a telephone number where the guardian can be contacted; and

(7) if applicable, the amount of payment received as guardian for services rendered to the person subject to guardianship that the guardian received during the previous year that were not paid by county contract, and the guardian's current rates.

(b) A guardian shall report to the court in writing within 30 days of the occurrence of any of the events listed in this paragraph. The guardian must report any of the occurrences in this paragraph and follow the same reporting requirements in this paragraph for any employee of the guardian responsible for exercising powers and duties under the guardianship. A copy of the report must be provided to the person subject to guardianship and to interested persons of record with the court. A guardian shall report when:

(1) the guardian is removed for cause from serving as a guardian or conservator, and if so, the case number and court location;

(2) the guardian has a professional license from an agency listed under section 524.5-118, subdivision 2a, denied, conditioned, suspended, revoked, or canceled, and if so, the licensing agency and license number, and the basis for denial, condition, suspension, revocation, or cancellation of the license;

(3) the guardian is found civilly liable in an action that involves fraud, misrepresentation, material omission, misappropriation, theft, or conversion, and if so, the case number and court location;

(4) the guardian files for or receives protection under the bankruptcy laws, and if so, the case number and court location;

(5) a civil monetary judgment is entered against the guardian, and if so, the case number, court location, and outstanding amount owed;

(6) the guardian is convicted of a crime other than a petty misdemeanor or traffic offense, and if so, the case number and court location; or

(7) an order for protection or harassment restraining order is issued against the guardian, and if so, the case number and court location.

(c) A person subject to guardianship or interested person of record with the court may submit to the court a written statement disputing statements or conclusions regarding the condition of the person subject to guardianship or addressing any disciplinary or legal action that is contained in the guardian's reports and may petition the court for an order that is in the best interests of the person subject to guardianship or for other appropriate relief.

(d) Unless communication is prohibited by court order, a guardian shall communicate to all known interested persons as defined by section 524.5-102, subdivision 7, clauses (iii), (iv), (v), (vi), (ix), and (xi):

(1) within one day of awareness of:

(i) a significant or unexpected change in health or medical condition requiring physician treatment or hospitalization of the person subject to guardianship;

(ii) a significant situation that requires action by ambulance, law enforcement, or fire department for the person subject to guardianship; or

(iii) the death of the person subject to guardianship, provided that the court shall also be notified of the death of the person subject to guardianship; and

(2) at least 14 days in advance of a permanent change in the primary dwelling of the person subject to guardianship or a permanent move to a nursing home, mental health facility, or other facility unless the move was by prior order of the court. Prior notice is not necessary for any change of primary dwelling due to accident, injury, illness, or other involuntary actions of the person subject to guardianship or guardian, but notice shall be provided to interested persons defined by section 524.5-102, subdivision 7, clauses (iii), (iv), (v), (vi), (ix), and (xi), within seven days of such a move caused by involuntary actions of the person subject to guardianship or guardian.

(e) An interested person may notify the court in writing that the interested person does not wish to receive copies of reports required under this section.

(f) The court may appoint a visitor to review a report, interview the person subject to guardianship or guardian, and make any other investigation the court directs.

(g) The court shall establish a system for monitoring guardianships, including the filing and review of annual reports. If an annual report is not filed within 60 days of the required date, the court shall issue an order to show cause.

(h) If a guardian fails to comply with this section, the court may decline to appoint that person as a guardian or conservator, or may remove a person as guardian or conservator.

(i) Any documents or information disclosing or pertaining to health information in the guardian's annual report shall be filed as confidential documents, consistent with the bill of particulars under section 524.5-121.

History: *2003 c 12 art 1 s 39; 2009 c 150 s 10; 2010 c 254 s 8; 2013 c 86 art 2 s 5; 2020 c 86 art 1 s 23*

524.5-317 TERMINATION OR MODIFICATION OF GUARDIANSHIP; COURT ORDERS.

(a) A guardianship terminates upon the death of the person subject to guardianship, upon the expiration of the duration of guardianship established in the order appointing the guardian, or upon order of the court.

(b) On petition of any person interested in the welfare of the person subject to guardianship the court may terminate a guardianship if the person subject to guardianship no longer needs the assistance or protection of a guardian. The court may modify the type of appointment or powers granted to the guardian if the extent of protection or assistance previously granted is currently excessive or insufficient or the capacity of the person subject to guardianship to provide for support, care, education, health, and welfare has so changed as to warrant that action. The court may make any other order that is in the best interests of the person subject to guardianship or may grant other appropriate relief.

(c) Except as otherwise ordered by the court for good cause, the court, before terminating a guardianship, shall follow the same procedures to safeguard the rights of the person subject to guardianship as apply to a petition for guardianship. Upon presentation by the petitioner of evidence establishing a prima facie case for termination, the court shall order the termination and discharge the guardian unless it is proven that continuation of the guardianship is in the best interest of the person subject to guardianship.

(d) Any documents or information disclosing or pertaining to health or financial information shall be filed as confidential documents, consistent with the bill of particulars under section 524.5-121.

(e) A guardian has the right to petition the court for discharge from the guardianship.

(f) If, after a good faith effort, the guardian is unable to find a successor guardian, the guardian may petition the court for resignation. The court may allow the guardian to resign if the resignation would not result in imminent substantial harm to the person subject to guardianship based on clear and convincing evidence.

History: *2003 c 12 art 1 s 40; 2009 c 150 s 11; 2020 c 86 art 1 s 24; 2024 c 123 art 15 s 12*

Part 4
PROTECTION OF PROPERTY OF PERSON SUBJECT TO CONSERVATORSHIP

524.5-401 PROTECTIVE PROCEEDING.

Upon petition and after notice and hearing, the court may appoint a limited or unlimited conservator or make any other protective order provided in this part in relation to the estate and affairs of:

(1) a minor, if the court determines that the minor owns money or property requiring management or protection that cannot otherwise be provided or has or may have business affairs that may be jeopardized or prevented because of the minor's age, or that money is needed for support and education and that protection is necessary or desirable to obtain or provide money; and

(2) any individual, including a minor, if the court determines that, for reasons other than age:

(i) by clear and convincing evidence, the individual is unable to manage property and business affairs because of an impairment in the ability to receive and evaluate information or make decisions, even with the use of appropriate technological assistance, or because the individual is missing, detained, or unable to return to the United States; and

(ii) by a preponderance of evidence, the individual has property that will be wasted or dissipated unless management is provided or money is needed for the support, care, education, health, and welfare of the individual or of individuals who are entitled to the individual's support and that protection is necessary or desirable to obtain or provide money.

History: *2003 c 12 art 1 s 41*

524.5-402 JURISDICTION OVER BUSINESS AFFAIRS OF PERSON SUBJECT TO CONSERVATORSHIP.

After the service of notice in a proceeding seeking a conservatorship or other protective order and until termination of the proceeding, the court in which the petition is filed has:

(1) exclusive jurisdiction to determine the need for a conservatorship or other protective order;

(2) exclusive jurisdiction to determine how the estate of the person subject to conservatorship which is subject to the laws of this state must be managed, expended, or distributed to or for the use of the person subject to conservatorship, individuals who are in fact dependent upon the person subject to conservatorship, or other claimants; and

(3) concurrent jurisdiction to determine the validity of claims against the person or estate of the person subject to conservatorship and questions of title concerning assets of the estate.

History: *2003 c 12 art 1 s 42; 2020 c 86 art 1 s 41*

524.5-403 ORIGINAL PETITION FOR APPOINTMENT OR PROTECTIVE ORDER.

(a) The following may petition for the appointment of a conservator or for any other appropriate protective order:

(1) the person to be protected;

(2) an individual interested in the estate, affairs, or welfare of the person to be protected; or

(3) a person who would be adversely affected by lack of effective management of the property and business affairs of the person to be protected.

(b) The petition must set forth the petitioner's name, residence, current address if different, relationship to the respondent, and interest in the appointment or other protective order, and, to the extent known, state or contain the following with respect to the respondent and the relief requested:

(1) the respondent's name, age, principal residence, current street address, and, if different, the address of the dwelling where it is proposed that the respondent will reside if the appointment is made;

(2) if the petition alleges impairment in the respondent's ability to receive and evaluate information, a brief description of the nature and extent of the respondent's alleged impairment;

(3) if the petition alleges that the respondent is missing, detained, or unable to return to the United States, a statement of the relevant circumstances, including the time and nature of the disappearance or detention and a description of any search or inquiry concerning the respondent's whereabouts;

(4) the name and address of the respondent's:

(i) spouse, or if the respondent has none, an adult with whom the respondent has resided for more than six months before the filing of the petition; and

(ii) adult children including adult step-children of a living spouse or, if the respondent has none, the respondent's parents and adult brothers and sisters or, if the respondent has none, at least one of the adults nearest in kinship to the respondent who can be found;

(5) the name of the administrative head and address of the institution where the respondent is a patient, resident, or client of any hospital, nursing home, home care agency, or other institution;

(6) the name and address of any legal representative for the respondent;

(7) the name and address of any health care agent or proxy appointed pursuant to a health care directive as defined in section 145C.01, a living will under chapter 145B, or other similar document executed in another state and enforceable under the laws of this state;

(8) a general statement of the respondent's property with an estimate of its value, including any insurance or pension, and the source and amount of other anticipated income or receipts;

(9) the reason why a conservatorship or other protective order is in the best interest of the respondent; and

(10) what less restrictive means have been attempted and considered, how long such less restrictive means have been attempted, and a description of why such less restrictive means are not sufficient to meet the respondent's identified needs.

(c) If a conservatorship is requested, the petition must also set forth to the extent known:

(1) the name, address or post office box, and telephone number of any proposed conservator and the reason why the proposed conservator should be selected;

(2) the name, address or post office box, and telephone number of any person nominated as conservator by the respondent if the respondent has attained 14 years of age; and

(3) the type of conservatorship requested and, if an unlimited conservatorship, the reason why limited conservatorship is inappropriate or, if a limited conservatorship, the property to be placed under the conservator's control and any limitation on the conservator's powers and duties.

(d) The petition must also set forth the following information regarding the proposed conservator or any employee of the conservator responsible for exercising powers and duties under the conservatorship:

(1) whether the proposed conservator has ever been removed for cause from serving as a guardian or conservator and, if so, the case number and court location;

(2) if the proposed conservator is a professional guardian or conservator, a summary of the proposed conservator's educational background and relevant work and other experience;

(3) whether the proposed conservator has ever applied for or held, at any time, any professional license from an agency listed under section 524.5-118, subdivision 2a, and if so, the name of the licensing agency, and as applicable, the license number and status; whether the license is active or has been denied, conditioned, suspended, revoked, or canceled; and the basis for the denial, condition, suspension, revocation, or cancellation of the license;

(4) whether the proposed conservator has ever been found civilly liable in an action that involved fraud, misrepresentation, material omission, misappropriation, theft, or conversion, and if so, the case number and court location;

(5) whether the proposed conservator has filed for or received protection under the bankruptcy laws in the last five years, and if so, the case number and court location;

(6) whether the proposed conservator has any outstanding civil monetary judgments against the proposed conservator, and if so, the case number, court location, and outstanding amount owed;

(7) whether an order for protection or harassment restraining order has ever been issued against the proposed conservator, and if so, the case number and court location;

(8) whether the proposed conservator has ever been convicted of a crime other than a petty misdemeanor or traffic offense, and if so, the case number and the crime of which the conservator was convicted; and

(9) if the proposed conservator is a professional, the proposed conservator's current customary rates, and if the proposed conservator is not a professional, the proposed conservator's current anticipated rates.

(e) Any documents or information disclosing or pertaining to the following information shall be filed as confidential documents, consistent with the bill of particulars under section 524.5-121:

(1) health or financial information;

(2) information submitted pursuant to paragraph (b), clause (2);

(3) information submitted pursuant to paragraph (b), clauses (7) to (10); or

(4) information submitted pursuant to paragraph (c), clause (3).

History: *2003 c 12 art 1 s 43; 2010 c 254 s 9; 2013 c 86 art 2 s 6; 2020 c 86 art 1 s 25*

524.5-404 NOTICE.

(a) A copy of the petition and the notice of hearing on a petition for conservatorship or other protective order must be served personally on the respondent pursuant to section 524.5-406, paragraph (d), but if the respondent's location is unknown or personal service cannot be made, service on the respondent must be made by substituted service or publication. The notice must include a statement that the respondent must be physically present unless excused by the court, inform the respondent of the respondent's rights at the hearing, and, if the appointment of a conservator is requested, include a description of the nature, purpose, and consequences of an appointment. A failure to serve the respondent with a notice substantially complying with this paragraph precludes the court from granting the petition.

(b) In a proceeding to establish a conservatorship or for another protective order, notice of the hearing shall also be given to the persons listed in the petition. Failure to give notice under this paragraph does not preclude the appointment of a conservator or the making of another protective order.

(c) Notice of the hearing on a petition for an order after appointment of a conservator or making of another protective order, shall be given to interested persons pursuant to section 524.5-113 and to any other person as ordered by the court, except notice to the person subject to conservatorship is not required if the person subject to conservatorship has not attained 14 years of age and is not missing, detained, or unable to return to the United States.

(d) The conservator shall give notice of the filing of the conservator's inventory, together with a copy of the inventory, to the person subject to conservatorship and any other person the court directs. The notice must be sent or delivered within 14 days after the filing of the inventory.

History: *2003 c 12 art 1 s 44; 2020 c 86 art 1 s 41*

524.5-405 ORIGINAL PETITION: MINORS; PRELIMINARIES TO HEARING.

(a) Upon the filing of a petition to establish a conservatorship or for another protective order for the reason that the respondent is a minor, the court shall set a date for hearing. If the court determines at any stage of the proceeding that the interests of the minor are or may be inadequately represented, it may appoint a lawyer to represent the minor, giving consideration to the choice of the minor if the minor has attained 14 years of age.

(b) While a petition to establish a conservatorship or for another protective order is pending, after preliminary hearing and without notice to others, the court may make orders to preserve and apply the property of the minor as may be required for the support of the minor or individuals who are in fact dependent upon the minor, and may appoint an agent to assist in that task.

History: *2003 c 12 art 1 s 45*

524.5-406 ORIGINAL PETITION: PERSONS UNDER DISABILITY; PRELIMINARIES TO HEARING.

(a) Upon the filing of a petition for a conservatorship or other protective order for a respondent for reasons other than being a minor, the court shall set a date for hearing and the court may appoint a visitor. The duties and reporting requirements of the visitor are limited to the relief requested in the petition.

(b) A respondent has the right to be represented by counsel at any proceeding under this article. The court shall appoint counsel to represent the respondent for the initial proceeding held pursuant to section 524.5-408 if neither the respondent nor others provide counsel, unless in a meeting with a visitor, the proposed respondent makes an informed decision in writing to specifically waive the right to counsel. Before appointment, and at any time during the course of the representation when a risk of a conflict of interest may arise, the proposed or appointed counsel shall disclose to the court, the proposed person subject to conservatorship or person subject to conservatorship, and interested persons whether there are concurrent proceedings in which the counsel is the attorney for the proposed conservator or conservator and whether there is a risk of a conflict of interest under Rule 1.7 of the Rules of Professional Conduct so that the representation of the proposed person subject to conservatorship or person subject to conservatorship will be materially limited by counsel's concurrent responsibilities to the proposed conservator or conservator. If there is a risk of a conflict of interest, the counsel must not be appointed, unless:

(1) the court determines that the proposed person subject to conservatorship or person subject to conservatorship is able to give informed consent to the representation and, if the proposed person subject to conservatorship or person subject to conservatorship consents, the consent is confirmed in writing pursuant to Rule 1.7; or

(2) the court determines that there is not a risk of a conflict of interest under Rule 1.7 requiring the appointment of different counsel.

(c) Counsel must be appointed immediately after any petition under this part is served pursuant to section 524.5-404. Counsel has the full right of subpoena. In all proceedings under this part, counsel shall:

(1) consult with the respondent before any hearing;

(2) be given adequate time to prepare for all hearings; and

(3) continue to represent the respondent throughout any proceedings under section 524.5-408, provided that such appointment shall expire upon the expiration of the appeal time for the order appointing conservator or the order dismissing a petition, or upon such other time or event as the court may direct.

The court need not appoint counsel to represent the respondent on a voluntary petition, and the court may remove a court-appointed attorney at any time if the court finds that the respondent has made a knowing and intelligent waiver of the right to counsel or has obtained private counsel.

(d) The visitor shall personally serve the notice and petition upon the respondent and shall offer to read the notice and petition to the respondent, and if so requested, the visitor shall read the notice and petition to such person. The visitor shall also interview the respondent in person, and to the extent that the respondent is able to understand:

(1) explain to the respondent the substance of the petition and the nature, purpose, and effect of the proceeding;

(2) if the appointment of a conservator is requested, inform the respondent of the general powers and duties of a conservator and determine the respondent's views regarding the proposed conservator, the proposed conservator's powers and duties, and the scope and duration of the proposed conservatorship;

(3) inform the respondent of the respondent's rights, including the right to employ and consult with a lawyer at the respondent's own expense, and the right to request a court-appointed lawyer; and

(4) inform the respondent that all costs and expenses of the proceeding, including respondent's attorney fees, will be paid from the respondent's estate.

(e) In addition to the duties set out in paragraph (d), the visitor shall make any other investigations the court directs.

(f) The visitor shall promptly file, as a confidential document consistent with the bill of particulars under section 524.5-121, a report with the court which must include:

(1) recommendations regarding the appropriateness of a conservatorship, including whether less restrictive means of intervention are available, the type of conservatorship, and, if a limited conservatorship, the powers and duties to be granted the limited conservator, and the assets over which the conservator should be granted authority;

(2) a statement as to whether the respondent approves or disapproves of the proposed conservator, and the powers and duties proposed or the scope of the conservatorship; and

(3) any other matters the court directs.

(g) While a petition to establish a conservatorship or for another protective order is pending, after preliminary hearing and without notice to others, the court may make orders to preserve and apply the property of the respondent as may be required for the support of the respondent or individuals who are in fact dependent upon the respondent, and may appoint an agent to assist in that task.

History: *2003 c 12 art 1 s 46; 2004 c 146 art 2 s 5; 2009 c 150 s 12; 2010 c 254 s 10; 2020 c 86 art 1 s 26*

524.5-408 CONSERVATORSHIP PROCEEDINGS: PROCEDURE AT HEARING.

(a) Unless excused by the court for good cause, the petitioner and the proposed conservator shall attend the hearing. The respondent shall attend and participate in the hearing unless excused by the court for good cause. The petitioner and respondent may present evidence and subpoena witnesses and documents, examine witnesses, including the visitor, and otherwise participate in the hearing. The hearing may be held in a location convenient to the respondent and may be closed upon request of the respondent and a showing of good cause.

(b) Any person may request permission to participate in the proceeding. The court may grant the request, with or without hearing, upon a showing of good cause and after determining that the best interest of the respondent will be served. The court may attach appropriate conditions to the participation.

(c) A respondent to any conservatorship or protective proceeding petition and any person subject to conservatorship in any other conservatorship or protective proceeding has not placed his or her health, physical or mental condition in controversy and any denials, allegations or affirmative assertions by the respondent or person subject to conservatorship regarding capacity or their ability to receive and evaluate information do not place such matters in controversy.

History: *2003 c 12 art 1 s 47; 2004 c 146 art 2 s 6; 2020 c 86 art 1 s 27*

524.5-409 FINDINGS; ORDER OF APPOINTMENT.

Subdivision 1. **Limited or unlimited conservator.** (a) The court may appoint a limited or unlimited conservator for a respondent only if it finds that:

(1) by clear and convincing evidence, the individual is unable to manage property and business affairs because of an impairment in the ability to receive and evaluate information or make decisions, even with the use of appropriate technological assistance, or because the individual is missing, detained, or unable to return to the United States;

(2) by a preponderance of evidence, the individual has property that will be wasted or dissipated unless management is provided or money is needed for the support, care, education, health, and welfare of the individual or of individuals who are entitled to the individual's support and that protection is necessary or desirable to obtain or provide money; and

(3) the respondent's identified needs cannot be met by less restrictive means, including but not limited to use of appropriate technological assistance, supported decision making, representative payee, trusts, banking or bill paying assistance, or appointment of an attorney-in-fact under section 523.01. The court must make specific findings particular to the respondent why less restrictive alternatives do not work.

(b) Alternatively, the court, with appropriate findings, may enter any other appropriate order, or dismiss the proceeding.

(c) The court, whenever feasible, shall grant to a conservator only those powers necessitated by the limitations and demonstrated needs of the person subject to conservatorship and make appointive and other orders that will encourage the development of the maximum self-reliance and independence of the person subject to conservatorship.

(d) Within 14 days after an appointment, the conservator shall send or deliver to the person subject to conservatorship, if the person subject to conservatorship has attained 14 years of age and is not missing, detained, or unable to return to the United States, and counsel if represented at the hearing, a copy of the

order of appointment accompanied by a notice which advises the person subject to conservatorship of the right to appeal the conservatorship appointment in the time and manner provided by the Rules of Appellate Procedure.

(e) Each year, within 30 days after the anniversary date of an appointment, a conservator shall send or deliver to the person subject to conservatorship and to interested persons of record with the court a notice of the right to request termination or modification of the conservatorship or for any order that is in the best interests of the person subject to conservatorship or for other appropriate relief as well as a copy of the bill of rights for the person subject to conservatorship as provided in section 524.5-120.

(f) The appointment of a conservator or the entry of another protective order is not a determination of incapacity of the person subject to conservatorship.

Subd. 2. **Emergency and temporary conservator.** (a) If the court finds that compliance with the procedures of this article will likely result in the immediate loss, waste, or dissipation of the individual's assets or income unless management is provided, or money is needed for the support, care, education, health, and welfare of the individual or of individuals who are entitled to the individual's support and that protection is necessary or desirable to obtain or provide money, and that no other person appears to have authority and willingness to act in the circumstances, the court, on petition by a person interested in the respondent's welfare, may appoint an emergency conservator whose authority may not exceed 60 days and who may exercise only the powers specified in the order. A county that is acting under section 626.557, subdivisions 11h and 11i, by petitioning for appointment of an emergency conservator on behalf of a vulnerable adult may be granted authority to act for a period not to exceed 90 days. An emergency conservator's appointment under this section may be extended once for a period not to exceed 60 days if the court finds good cause for the continuation of the conservatorship. Immediately upon receipt of the petition for an emergency conservatorship, the court shall appoint a lawyer to represent the respondent in the proceeding. Except as otherwise provided in paragraph (b), reasonable notice of the time and place of a hearing on the petition must be given to the respondent and any other persons as the court directs.

(b) An emergency conservator may be appointed without notice to the respondent and the respondent's lawyer only if the court finds from affidavit or other sworn testimony that the respondent will be substantially harmed before a hearing on the appointment can be held. If the court appoints an emergency conservator without notice to the respondent, the respondent must be given notice of the appointment within 48 hours after the appointment. The court shall hold a hearing on the appropriateness of the appointment within five days after the appointment.

(c) Appointment of an emergency conservator, with or without notice, is not a determination of the respondent's incapacity.

(d) The court may remove an emergency conservator at any time. An emergency conservator shall make any report the court requires. In other respects, the provisions of this article concerning conservators apply to an emergency conservator.

(e) If the court finds that a conservator is not effectively performing the conservator's duties and that the security and preservation of the assets of the person subject to conservatorship requires immediate action, the court may appoint a temporary substitute conservator for the person subject to conservatorship for a specified period not exceeding six months. Except as otherwise ordered by the court, a temporary substitute conservator so appointed has the powers set forth in the previous order of appointment. The authority of any unlimited or limited conservator previously appointed by the court is suspended as long as a temporary substitute conservator has authority. If an appointment is made without previous notice to the person subject

to conservatorship or the affected conservator within five days after the appointment, the court shall inform the person subject to conservatorship or conservator of the appointment.

(f) The court may remove a temporary substitute conservator at any time. A temporary substitute conservator shall make any report the court requires. In other respects, the provisions of this article concerning conservators apply to a temporary substitute conservator.

(g) Any documents or information disclosing or pertaining to health or financial information shall be filed as confidential documents, consistent with the bill of particulars under section 524.5-121.

History: *2003 c 12 art 1 s 48; 2009 c 150 s 13; 2010 c 334 s 15; 2020 c 86 art 1 s 28; 2026 c 95 art 7 s 6*

524.5-410 POWERS OF COURT.

(a) After hearing and upon determining that a basis for a conservatorship or other protective order exists, the court has the following powers, which may be exercised directly or through a conservator:

(1) with respect to a minor for reasons of age, all the powers over the estate and business affairs of the minor which may be necessary for the best interest of the minor and members of the minor's immediate family; and

(2) with respect to an adult, or to a minor for reasons other than age, for the benefit of the person subject to conservatorship and individuals who are in fact dependent on the person subject to conservatorship for support, all the powers over the estate and business affairs of the person subject to conservatorship which the person subject to conservatorship could exercise if an adult, present, and not under conservatorship or other protective order.

(b) Subject to the provisions of section 524.5-110 relating to letters of office, the court may at any time limit the powers of a conservator otherwise conferred and may remove or modify any limitation.

History: *2003 c 12 art 1 s 49; 2020 c 86 art 1 s 41*

524.5-411 REQUIRED COURT APPROVAL.

(a) After notice to affected persons as provided in this section, and after hearing, and upon express authorization of the court, a conservator may:

(1) make gifts;

(2) convey, release, or disclaim contingent and expectant interests in property, including marital property rights and any right of survivorship incident to joint tenancy or tenancy by the entireties;

(3) exercise or release a power of appointment;

(4) create a revocable or irrevocable trust of property of the estate, whether or not the trust extends beyond the duration of the conservatorship, or to revoke or amend a trust revocable by the person subject to conservatorship;

(5) subject to the terms of the plan document, contract, or agreement, exercise rights to elect options and change beneficiaries under insurance policies and annuities or surrender the policies and annuities for their cash value, and any change pursuant to this clause, shall invalidate the existing elections and beneficiary designations;

(6) exercise any right to exempt property and an elective share in the estate of the deceased spouse of the person subject to conservatorship and to renounce or disclaim any interest by testate or intestate succession or by transfer inter vivos;

(7) subject to the terms of the plan document, contract, or agreement, exercise rights to elect options and change beneficiaries under any qualified or nonqualified retirement plan including, but not limited to, defined benefit plans, defined contribution plans, plans governed by sections 401(k), 403, 408, or 457 of the Internal Revenue Code and the regulations thereto, and the right to exercise the options provided a plan participant or beneficiary under section 401 and related provisions of the Internal Revenue Code and the regulations thereto, and any change pursuant to this clause, shall invalidate the existing elections and beneficiary designations;

(8) exercise the power to create, terminate, or alter the beneficial interests and beneficiaries of, a payable on death (POD) account, a transfer on death (TOD) security registration or account, or joint tenancy interests with rights of survivorship; and

(9) make, amend, or revoke the will of the person subject to conservatorship.

(b) Notice of any hearing pursuant to this section shall not be given pursuant to section 524.5-113. Notice of any hearing under this section shall be given to all affected persons, in plain language, and shall provide the time and place of the hearing and be given by mail postmarked at least 14 days before the hearing. Proof of notice must be made before or at the hearing and filed in the proceeding. For purposes of this section, notice to "affected persons":

(1) shall always include (i) the person subject to conservatorship, (ii) the duly appointed conservator, (iii) the heirs-at-law of the person subject to conservatorship, (iv) any state agency or county social services agency paying benefits to or for the benefit of the person subject to conservatorship, (v) any state agency to which an application for benefits has been submitted and any state or county agency that has prepared an asset assessment or could prepare an asset assessment under section 256B.059, subdivision 2, for the person subject to conservatorship or spouse, and (vi) subject to the limitations of paragraph (c), all beneficiaries of the existing will or revocable trust of the person subject to conservatorship;

(2) shall also include, subject to the limitations of paragraph (c), any person who has a beneficial vested or contingent interest that may be affected by the exercise of the power under this section; and

(3) shall also include any other persons designated by the court.

(c) For purposes of this section, when giving notice, or for purposes of giving consent or approval, or objecting with regard to any proceedings under this section, the sole holder or all coholders of a presently exercisable or testamentary general power of appointment, power of revocation, or unlimited power of withdrawal, under an existing will or trust, are deemed to represent and act for beneficiaries to the extent that their interests as objects, takers in default, or otherwise, are subject to the power.

(d) A conservator, in making, amending, or revoking the will of the person subject to conservatorship, shall comply with sections 524.2-501 to 524.2-517 acting on behalf of the person subject to conservatorship.

(e) The court, in exercising or in approving a conservator's exercise of the powers listed in paragraph (a), shall consider primarily the decision that the person subject to conservatorship would have made, to the extent that the decision can be ascertained. The court shall also consider:

(1) the financial needs of the person subject to conservatorship and the needs of individuals who are dependent on the person subject to conservatorship for support and the interests of creditors;

(2) possible effect on income, estate, gift, inheritance, or other tax liabilities;

(3) eligibility for governmental assistance with the goal of avoiding reliance on such programs;

(4) the previous pattern of giving or level of support of the person subject to conservatorship;

(5) the existing estate plan;

(6) the life expectancy of the person subject to conservatorship and the probability that the conservatorship will terminate before the death of the person subject to conservatorship;

(7) whether the needs of the person subject to conservatorship can be met from the person's remaining assets after any transfer is made, taking into account the effect of any transfer on eligibility for medical assistance long-term care services; and

(8) any other factors the court considers relevant.

(f) If an affected person, as defined in this article, is a minor or an incapacitated person as defined by this article and has no guardian or conservator within the state, or if an affected person is unborn, unascertained, or a person whose identity or address is unknown to the petitioner, the court shall represent that person, unless the court, upon the application of the guardian, conservator, or any other affected person, appoints a guardian ad litem to represent the affected person.

(g) Notwithstanding the power granted to the conservator by the court under this section, the conservator owes no duty to any person other than the person subject to conservatorship. The conservator shall not be held liable for the exercise or the failure to exercise, or the decision to exercise or the decision to decline to exercise, the powers granted by this section. The conservator, however, may be held liable to the estate of the person subject to conservatorship for gross negligence related to the implementation of any action approved by the court under this section.

(h) The Uniform Guardianship and Protective Proceedings Act does not repeal section 524.2-215 as it applies to persons subject to guardianship, persons subject to conservatorship, or respondents, expressly or by implication. If there is a conflict between the act and section 524.2-215, section 524.2-215 controls and the guardian or conservator shall exercise the rights of the person subject to guardianship, person subject to conservatorship, or respondent under section 524.2-215 without the need for any court order.

(i) Any documents or information disclosing or pertaining to health or financial information shall be filed as confidential documents, consistent with the bill of particulars under section 524.5-121.

History: *2003 c 12 art 1 s 50; 2020 c 86 art 1 s 29*

524.5-412 PROTECTIVE ARRANGEMENTS AND SINGLE TRANSACTIONS.

(a) If a basis is established for a protective order with respect to an individual, the court, without appointing a conservator, may:

(1) authorize, direct, or ratify any transaction necessary or desirable to achieve any arrangement for security, service, or care meeting the foreseeable needs of the person subject to conservatorship, including:

(i) subject to the procedural and notice requirements of section 524.5-418, the sale, mortgage, lease, or other transfer of property;

(ii) purchase of an annuity;

(iii) making a contract for lifetime care, a deposit contract, or a contract for training and education;

(iv) addition to or establishment of a suitable trust, including a trust created under the Uniform Custodial Trust Act; or

(v) establish, fund, and administer an ABLE account for the person subject to conservatorship. The conservator may exercise all powers over the ABLE account for the benefit of the person subject to conservatorship and shall direct investment of the ABLE accounts property in accordance with the provisions of sections 48A.07, subdivision 6; 501C.0901; and 524.5-423, or as otherwise ordered by the court. The standard of a fiduciary shall be applicable to all ABLE account investments by a conservator; and

(2) authorize, direct, or ratify any other contract, trust, will, or transaction relating to the property and business affairs of the person subject to conservatorship, including a settlement of a claim, upon determining that it is in the best interest of the person subject to conservatorship.

(b) In deciding whether to approve a protective arrangement or other transaction under this section, the court shall consider the factors listed in section 524.5-411, paragraph (e).

(c) The court may appoint an agent to assist in the accomplishment of any protective arrangement or other transaction authorized under this section. The agent has the authority conferred by the order and shall serve until discharged by order after report to the court; provided, however, that if a conservator is appointed, only the conservator has the power to sign all real estate deeds.

(d) Any documents or information disclosing or pertaining to health or financial information shall be filed as confidential documents, consistent with the bill of particulars under section 524.5-121.

History: *2003 c 12 art 1 s 51; 2020 c 86 art 1 s 30*

524.5-413 WHO MAY BE CONSERVATOR; PRIORITIES.

(a) Except as otherwise provided in paragraph (d), the court, in appointing a conservator, shall consider persons otherwise qualified in the following order of priority:

(1) a conservator, guardian of the estate, or other like fiduciary appointed or recognized by an appropriate court of any other jurisdiction in which the person subject to conservatorship resides;

(2) a person nominated as conservator by the respondent, including the respondent's most recent nomination made in a durable power of attorney, if the respondent has attained 14 years of age and at the time of the nomination had sufficient capacity to express a preference;

(3) an agent appointed by the respondent to manage the respondent's property under a durable power of attorney;

(4) the spouse of the respondent;

(5) an adult child of the respondent;

(6) a parent of the respondent;

(7) an adult with whom the respondent has resided for more than six months before the filing of the petition;

(8) an adult who is related to the respondent by blood, adoption, or marriage; and

(9) any other adult or a professional conservator.

(b) A person having priority under paragraph (a), clause (1), (4), (5), or (6), may designate in writing a substitute to serve instead and thereby transfer the priority to the substitute.

(c) The court, acting in the best interest of the person subject to conservatorship, may decline to appoint a person having priority and appoint a person having a lower priority or no priority. With respect to persons having equal priority, the court shall select the one it considers best qualified.

(d) Any individual or agency which provides residence, custodial care, medical care, employment training, or other care or services for which they receive a fee may not be appointed as conservator unless related to the respondent by blood, marriage, or adoption.

History: *2003 c 12 art 1 s 52; 2009 c 150 s 14; 2015 c 11 s 1; 2020 c 86 art 1 s 41*

524.5-414 PETITION FOR ORDER SUBSEQUENT TO APPOINTMENT.

(a) A person subject to conservatorship or an interested person may file a petition in the appointing court for an order:

(1) requiring bond or collateral or additional bond or collateral, or reducing bond;

(2) requiring an accounting for the administration of the estate of the person subject to conservatorship;

(3) directing distribution;

(4) removing the conservator and appointing a temporary or successor conservator;

(5) modifying the type of appointment or powers granted to the conservator if the extent of protection or management previously granted is currently excessive or insufficient or the ability of the person subject to conservatorship to manage the estate and business affairs has so changed as to warrant the action; or

(6) acting in the best interests of the person subject to conservatorship or granting other appropriate relief.

(b) A conservator may petition the appointing court for instructions concerning fiduciary responsibility.

(c) On notice and hearing the petition, the court may give appropriate instructions and make any appropriate order.

(d) The court may, at its own discretion, waive the notice or hearing requirements for the relief requested in a petition filed under this section.

(e) Any documents or information disclosing or pertaining to health or financial information shall be filed as confidential documents, consistent with the bill of particulars under section 524.5-121.

History: *2003 c 12 art 1 s 53; 2009 c 150 s 15; 2020 c 86 art 1 s 31*

524.5-415 BOND.

The court may require a conservator to furnish a bond conditioned upon faithful discharge of all duties of the conservatorship according to law, with sureties as it may specify. A bond is not required for any conservator that is a bank or trust company provided the total conservatorship assets do not exceed $1,000,000. If the conservator is a bank or trust company then a bond shall be required if the conservatorship assets exceed $1,000,000.

History: *2003 c 12 art 1 s 54; 2020 c 86 art 1 s 32*

524.5-416 TERMS AND REQUIREMENTS OF BOND.

(a) The following rules apply to any bond required:

(1) Except as otherwise provided by the terms of the bond, sureties and the conservator are jointly and severally liable.

(2) By executing the bond of a conservator, a surety submits to the jurisdiction of the court that issued letters to the primary obligor in any proceeding pertaining to the fiduciary duties of the conservator in which the surety is named as a party. Notice of any proceeding seeking to surcharge any interested party or the bond must be sent or delivered to the surety at the address shown in the court records at the place where the bond is filed and to any other address then known to the petitioner.

(3) On petition of a successor conservator or any interested person, a proceeding may be brought against a surety for breach of the obligation of the bond of the conservator.

(4) The bond of the conservator may be proceeded against until liability under the bond is exhausted.

(5) Except as otherwise provided in this section, in any proceeding where the value of the personal property of the estate of the proposed person subject to conservatorship in the initial inventory of the estate filed by the conservator under section 524.5-419 is expected to be at least $10,000, the court shall require the conservator to furnish a bond in an amount that the court determines is necessary to reasonably protect the assets of the person subject to conservatorship. Joint conservators may unite in a bond or each may give a separate bond.

(b) In lieu of executing and filing a bond, the conservator may request that access to certain assets of the person subject to conservatorship be blocked. The court may grant the request if sufficient evidence is filed with the court to establish that those assets are being held in a manner that prevents the conservator from accessing the assets without a specific court order or the court finds that the manner in which the assets are held is sufficient to protect the assets. To the extent that assets not placed in blocked accounts are expected to be at least $10,000, the bond requirement under paragraph (a) applies.

(c) A proceeding may not be brought against a surety on any matter as to which an action or proceeding against the primary obligor is barred.

History: *2003 c 12 art 1 s 55; 2015 c 11 s 2; 2020 c 86 art 1 s 33*

524.5-417 GENERAL POWERS AND DUTIES OF CONSERVATOR.

(a) A conservator shall be subject to the control and direction of the court at all times and in all things.

(b) The court shall grant to a conservator only those powers necessary to provide for the demonstrated needs of the person subject to conservatorship.

(c) The court may appoint a conservator if it determines that all the powers and duties listed in this section are needed to provide for the needs of the person subject to conservatorship. The court may also appoint a conservator if it determines that a conservator is necessary to provide for the needs of the person subject to conservatorship through the exercise of some, but not all, of the powers and duties listed in this section. The duties and powers of a conservator include, but are not limited to:

(1) the duty to pay the reasonable charges for the support, maintenance, and education of the person subject to conservatorship in a manner suitable to the station in life of the person subject to conservatorship and the value of the estate. Nothing herein contained shall release parents from obligations imposed by law

for the support, maintenance, and education of their children. The conservator has no duty to pay for these requirements out of personal funds. Wherever possible and appropriate, the conservator should meet these requirements through governmental benefits or services to which the person subject to conservatorship is entitled, rather than from the estate of the person subject to conservatorship. Failure to satisfy the needs and requirements of this section shall be grounds for removal, but the conservator shall have no personal or monetary liability;

(2) the duty to pay out of the estate of the person subject to conservatorship all lawful debts of the person subject to conservatorship and the reasonable charges incurred for the support, maintenance, and education of the spouse and dependent children of the person subject to conservatorship and, upon order of the court, pay such sum as the court may fix as reasonable for the support of any person unable to earn a livelihood who is legally entitled to support from the person subject to conservatorship;

(3) the duty to possess and manage the estate, collect all debts and claims in favor of the person subject to conservatorship, or, with the approval of the court, compromise them, institute suit on behalf of the person subject to conservatorship and represent the person subject to conservatorship in expungement proceedings, harassment proceedings, and all civil court proceedings, including but not limited to restraining orders, orders for protection, name changes, conciliation court, housing court, family court, probate court and juvenile court; and invest all funds not currently needed for the debts and charges named in clauses (1) and (2) and the management of the estate, in accordance with the provisions of sections 48A.07, subdivision 6, 501C.0901, and 524.5-423, or as otherwise ordered by the court. The standard of a fiduciary shall be applicable to all investments by a conservator. A conservator shall also have the power to purchase certain contracts of insurance as provided in section 50.14, subdivision 14, clause (b);

(4) where a person subject to conservatorship has inherited an undivided interest in real estate, the court, on a showing that it is for the best interest of the person subject to conservatorship, may authorize an exchange or sale of the interest of the person subject to conservatorship or a purchase by the person subject to conservatorship of any interest other heirs may have in the real estate, subject to the procedures and notice requirements of section 524.5-418;

(5) the power to approve or withhold approval of any contract, except for necessities, which the person subject to conservatorship may make or wish to make;

(6) the power to apply on behalf of the person subject to conservatorship for any assistance, services, or benefits available to the person subject to conservatorship through any unit of government; and

(7) the power to establish an ABLE account for the person subject to conservatorship. The conservator may exercise all powers over the ABLE account for the benefit of the person subject to conservatorship and shall direct investment of the ABLE accounts property in accordance with the provisions of sections 48A.07, subdivision 6, 501C.0901, and 524.5-423, or as otherwise ordered by the court. The standard of a fiduciary shall be applicable to all ABLE account investments by a conservator.

(d) The conservator shall have the power to revoke, suspend, or terminate all or any part of a durable power of attorney of which the person subject to conservatorship is the principal with the same power the principal would have if the principal were not incapacitated. If a durable power of attorney is in effect, a decision of the conservator takes precedence over that of an attorney-in-fact.

(e) Transaction set aside. If a person subject to conservatorship has made a financial transaction or gift or entered into a contract during the two-year period before establishment of the conservatorship, the conservator may petition for court review of the transaction, gift, or contract. If the court finds that the person subject to conservatorship was incapacitated or subject to duress, coercion, or undue influence when the

transaction, gift, or contract was made, the court may declare the transaction, gift, or contract void except as against a bona fide transferee for value and order reimbursement or other appropriate relief. This paragraph does not affect any other right or remedy that may be available to the person subject to conservatorship with respect to the transaction, gift, or contract.

(f) After the filing of the petition, a certificate of the district court certified to that fact may be filed for record with the Minnesota secretary of state in the same manner as provided in section 336.9-501. The certificate shall state that a petition is pending and the name and address of the person for whom a conservator is sought. If a conservator is appointed on the petition, and if the conservatorship order removes or restricts the right of the person subject to conservatorship to transfer property or to contract, then all contracts except for necessaries, and all transfers of personal property, tangible or intangible, including, but not limited to, cash or securities transfers at banks, brokerage houses, or other financial institutions, or transfers of cash or securities, made by the person subject to conservatorship after the filing and before the termination of the conservatorship shall be voidable.

(g) Unless otherwise ordered by the court, if the person subject to conservatorship shall at any time during the continuance of the conservatorship be employed, the wages or salary for employment of the person subject to conservatorship shall not be a part of the conservatorship estate and the wages and salaries shall be paid to the person subject to conservatorship and shall be subject to the control of the person subject to conservatorship to the same extent as if the conservatorship did not exist. The conservator shall not have to account for the wages and salary.

History: *2003 c 12 art 1 s 56; 2004 c 146 art 2 s 7; 2005 c 91 s 1; 2015 c 5 art 15 s 14; 2020 c 86 art 1 s 34*

524.5-418 GENERAL POWERS AND DUTIES OF CONSERVATOR WITH RESPECT TO REAL PROPERTY.

This section is applicable only to conservatorships and not to decedents' estates. As used in this section, the word "mortgage" includes an extension of an existing mortgage, subject to the provisions of this section, and the word "lease" means a lease for one or more years, unless the context indicates otherwise. The conservator shall have the following powers and duties with respect to conservatorship real property.

(a) The court may direct a sale, mortgage, or lease of any real estate of a person subject to conservatorship when the personal property is insufficient to pay debts and other charges against the estate, or to provide for the support, maintenance, and education of the person subject to conservatorship, a spouse, and dependent children, or when it shall determine the sale, mortgage, or lease to be for the best interest of the person subject to conservatorship. The homestead of a person subject to conservatorship shall not be sold, mortgaged, or leased unless the written consent of the spouse has been filed.

(b) A conservator may file a petition to sell, mortgage, or lease alleging briefly the facts constituting the reasons for the application and describing the real estate involved therein. The petition may include all the real estate of the person subject to conservatorship or any part or parts thereof. It may apply for different authority as to separate parcels. It may apply in the alternative for authority to sell, mortgage, or lease.

(1) Upon the filing of such petition, the court shall fix the time and place for the hearing thereof. Notice of the hearing shall be given to interested persons and shall state briefly the nature of the application made by the petition. If publication of notice is required by the court, published notice shall be given by publication once a week for two 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 residence of the person subject to conservatorship 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. Proof of publication and mailing shall be filed before the hearing. No defect in any notice or in the publication or service thereof shall invalidate any proceedings.

(2) Upon the hearing, the court shall have full power to direct the sale, mortgage, or lease of all the real estate described in the petition, or to direct the sale, mortgage, or lease of any one or more parcels thereof, provided that any such direction shall be within the terms of the application made by the petition. The order shall describe the real estate to be sold, mortgaged, or leased, and may designate the sequence in which the several parcels shall be sold, mortgaged, or leased. If the order be for a sale, it shall direct whether the real estate shall be sold at private sale or public auction. An order to mortgage shall fix the maximum amount of the principal and the maximum rate of interest and shall direct the purpose for which the proceeds shall be used. An order for sale, mortgage, or lease shall remain in force until terminated by the court, but no private sale shall be made after one year from the date of the order unless the real estate shall have been reappraised under order of the court within six months preceding the sale.

(3) The court may order a sale of real estate for cash, part cash, and a purchase-money mortgage of not more than 50 percent of the purchase price, or on contract for deed. The initial payment under a sale on contract shall not be less than ten percent of the total purchase price, and the unpaid purchase price shall bear interest at a rate of not less than four percent per annum and shall be payable in reasonable monthly, quarterly, semiannual, or annual payments, and the final installment shall become due and payable not later than ten years from the date of the contract. Such contract shall provide for conveyance by conservator's or quitclaim deed, which deed shall be executed and delivered upon full performance of the contract without further order of the court. In the event of termination of the interest of the purchaser and assigns in such contract, the real estate may be resold under the original order and a reappraisal within six months preceding the sale. A sale of the vendor's interest in real estate sold by the conservator on contract may be made under order of the court, with or without notice, upon an appraisal of such interest within six months preceding the sale; no such sale shall be made for less than its value as fixed by such appraisal.

(4) If a sale at public auction is ordered, two weeks' published notice of the time and place of sale shall be given. Proof of publication shall be filed before the confirmation of the sale. Such publication and sale may be made in the county where the real estate is situated or in the county of the proceedings. If the parcels to be sold are contiguous and lie in more than one county, notice may be given and the sale may be made in either of such counties or in the county of the proceedings. The conservator may adjourn the sale from time to time, if for the best interests of the estate and the persons concerned, but not exceeding six months in all. Every adjournment shall be announced publicly at the time and place fixed for the sale and, if for more than one day, further notice thereof shall be given as the court may direct.

(5) If a private sale be ordered, the real estate shall be reappraised by two or more disinterested persons under order of the court unless a prior appraisal of the real estate has been made by two or more disinterested persons not more than six months before the sale, which reappraisal shall be filed before the confirmation of the sale. No real estate shall be sold at private sale for less than its value as fixed by such appraisal.

(6) If the bond is insufficient, before confirmation of a sale or lease, or before execution of a mortgage, the conservator shall file an additional bond in such amount as the court may require.

(7) Upon making a sale or lease, the conservator shall file a report thereof. Upon proof of compliance with the terms of the order, the court may confirm the sale or lease and order the conservator to execute and deliver the proper instrument.

(c) When a person subject to conservatorship is entitled under contract of purchase to any interest in real estate, such interest may be sold for the same reasons and in the same manner as other real estate of a person subject to conservatorship. Before confirmation, the court may require the filing of a bond conditioned to save the estate harmless. Upon confirmation, the conservator shall assign the contract and convey by conservator's or quitclaim deed.

(d) When the estate of a person subject to conservatorship is liable for any charge, mortgage, lien, or other encumbrance upon the real estate therein, the court may refuse to confirm the sale or lease until after the filing of a bond in such amount as the court may direct conditioned to save the estate harmless.

(e) When any real estate of a person subject to conservatorship is desired by any person, firm, association, corporation, or governmental agency having the power of eminent domain, the conservator may agree, in writing, upon the compensation to be made for the taking, injuring, damaging, or destroying thereof, subject to the approval of the court. When the agreement has been made, the conservator shall file a petition, of which the agreement shall be a part, setting forth the facts relative to the transaction.

(1) The court, with notice to interested persons, shall hear, determine, and act upon the petition. If publication of notice is required by the court, published notice shall be given by publication once a week for two 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 residence of the person subject to conservatorship is situated in more than one county, in any legal newspaper in the city. The first publication shall be within two weeks after the date of the order fixing the time and place for the hearing. Proof of publication and mailing shall be filed before the hearing. No defect in any notice or in the publication or service thereof shall invalidate any proceedings.

(2) If the court approves the agreement, the conservator, upon payment of the agreed compensation, shall convey the real estate sought to be acquired and execute any release which may be authorized.

(f) When it is for the best interests of the estate of a person subject to conservatorship, real estate may be platted by the conservator under such conditions and upon such notice as the court may order.

(g) When any person subject to conservatorship is legally bound to make a conveyance or lease, the court, without further notice, may direct the conservator to make the conveyance or lease to the person entitled thereto. The petition may be made by any person claiming to be entitled to the conveyance or lease, or by the conservator, or by any interested person or person claiming an interest in the real estate or contract, and shall show the description of the land and the facts upon which the claim for conveyance or lease is based. Upon proof of the petition, the court may order the conservator to execute and deliver an instrument of conveyance or lease upon performance of the contract.

(h) A conservator without order of the court may make an extension of an existing mortgage for a period of five years or less, if the extension agreement contains the same prepayment privileges and the rate of interest does not exceed the lowest rate in the mortgage extended.

(i) No conservator shall be liable personally on any mortgage note or by reason of the covenants in any instrument or conveyance executed in the capacity of conservator.

(j) No sale, mortgage, lease, or conveyance by a conservator shall be subject to collateral attack on account of any irregularity in the proceedings if the court which ordered the same had jurisdiction of the estate.

(k) No proceeding to have declared invalid the sale, mortgage, lease, or conveyance by a conservator shall be maintained by any person claiming under or through the person subject to conservatorship unless

such proceeding is begun within five years immediately succeeding the date of such sale, mortgage, lease, or conveyance; provided, however, that in case of real estate sold by a conservator, no action for its recovery shall be maintained by or under the person subject to conservatorship unless it is begun within five years after the termination of the protective proceedings and that, in cases of fraud, minors, and others under legal disability to sue when the right of action first accrues may begin such action at any time within five years after the disability is removed.

(l) After the filing of the petition, a certificate of the district court certified to that fact may be filed for record in the office of the county recorder for abstract property, or with the registrar of titles for registered property, of any county in which any real estate owned by the person proposed to be subject to conservatorship is situated and, if the person subject to conservatorship is a resident of this state, in the county of residence. The certificate shall state that a petition is pending and the name and address of the person for whom a conservator is sought. If a conservator is appointed on the petition, and if the conservatorship order removes or restricts the right of the person subject to conservatorship to transfer property or to contract, then all contracts and all transfers of real property made by the person subject to conservatorship after the filing and before the termination of the conservatorship shall be void.

History: *2003 c 12 art 1 s 57; 2020 c 86 art 1 s 41*

524.5-419 INVENTORY; RECORDS.

(a) Within 60 days after appointment, a conservator shall prepare and file with the appointing court a detailed inventory of the estate subject to the conservatorship, together with an oath or affirmation that the inventory is believed to be complete and accurate as far as information permits.

(b) A conservator shall keep records of the administration of the estate and make them available for examination on reasonable request of the court, person subject to guardianship, person subject to conservatorship, or any attorney representing such persons.

History: *2003 c 12 art 1 s 58; 2020 c 86 art 1 s 41*

524.5-420 REPORTS; APPOINTMENT OF VISITOR; MONITORING; COURT ORDERS.

(a) A conservator shall report to the court for administration of the estate annually unless the court otherwise directs, upon resignation or removal, upon termination of the conservatorship, and at other times as the court directs. A copy of the report must be provided to the person subject to conservatorship and to interested persons of record with the court. An order, after notice and hearing, allowing an intermediate report of a conservator adjudicates liabilities concerning the matters adequately disclosed in the accounting. An order, after notice and hearing, allowing a final report adjudicates all previously unsettled liabilities relating to the conservatorship.

(b) A report must state or contain a listing of the assets of the estate under the conservator's control and a listing of the receipts, disbursements, and distributions during the reporting period.

(c) The report must also state an address or post office box and a telephone number where the conservator can be contacted.

(d) A conservator shall report to the court in writing within 30 days of the occurrence of any of the events listed in this paragraph. The conservator must report any of the occurrences in this paragraph and follow the same reporting requirements in this paragraph for any employee of the conservator responsible for exercising powers and duties under the conservatorship. A copy of the report must be provided to the

person subject to conservatorship and to interested persons of record with the court. A conservator shall report when:

(1) the conservator is removed for cause from serving as a guardian or conservator, and if so, the case number and court location;

(2) the conservator has a professional license from an agency listed under section 524.5-118, subdivision 2a, denied, conditioned, suspended, revoked, or canceled, and if so, the licensing agency and license number, and the basis for denial, condition, suspension, revocation, or cancellation of the license;

(3) the conservator is found civilly liable in an action that involves fraud, misrepresentation, material omission, misappropriation, theft, or conversion, and if so, the case number and court location;

(4) the conservator files for or receives protection under the bankruptcy laws, and if so, the case number and court location;

(5) a civil monetary judgment is entered against the conservator, and if so, the case number, court location, and outstanding amount owed;

(6) the conservator is convicted of a crime other than a petty misdemeanor or traffic offense, and if so, the case number and court location; or

(7) an order for protection or harassment restraining order is issued against the conservator, and if so, the case number and court location.

(e) A person subject to conservatorship or an interested person of record with the court may submit to the court a written statement disputing account statements regarding the administration of the estate or addressing any disciplinary or legal action that is contained in the reports and may petition the court for any order that is in the best interests of the person subject to conservatorship and the estate or for other appropriate relief.

(f) An interested person may notify the court in writing that the interested person does not wish to receive copies of reports required under this section after which time neither the court nor any other person is required to give notice to any person who has waived notice.

(g) The court may appoint a visitor to review a report or plan, interview the person subject to conservatorship or conservator, and make any other investigation the court directs. In connection with a report, the court may order a conservator to submit the assets of the estate to an appropriate examination to be made in a manner the court directs.

(h) The court shall establish a system for monitoring of conservatorships, including the filing and review of conservators' reports and plans. If an annual report is not filed within 60 days of the required date, the court shall issue an order to show cause. Unless otherwise ordered by the court, a report under this section shall be filed publicly.

(i) If there is no acting guardian, a conservator that becomes aware of the death of the person subject to conservatorship shall notify in writing; orally; or by phone, text message, email, or electronic service, all known interested persons as defined by section 524.5-102, subdivision 7, clauses (iii), (iv), (v), (vi), (ix), and (xi), and the court as soon as is reasonably practical, that the person subject to conservatorship has died. The conservator may delegate this task under reasonable circumstances.

(j) If a conservator fails to comply with this section, the court may decline to appoint that person as a guardian or conservator, or may remove a person as guardian or conservator.

History: *2003 c 12 art 1 s 59; 2009 c 150 s 16; 2010 c 254 s 11; 2013 c 86 art 2 s 7; 2020 c 86 art 1 s 35; 2025 c 35 art 8 s 5*

524.5-421 TITLE AFTER APPOINTMENT.

(a) The appointment of a conservator does not vest title of the property of the person subject to conservatorship in the conservator.

(b) Letters of conservatorship are evidence of the conservator's power to act on behalf of the person subject to conservatorship. An order terminating a conservatorship terminates the conservator's powers to act on behalf of the person subject to conservatorship.

(c) Subject to the requirements of general statutes governing the filing or recordation of documents of title to land or other property, letters of conservatorship and orders terminating conservatorships may be filed or recorded to give notice of title as between the conservator and the person subject to conservatorship.

History: *2003 c 12 art 1 s 60; 2020 c 86 art 1 s 41*

524.5-422 INTEREST OF PERSON SUBJECT TO CONSERVATORSHIP NONALIENABLE.

(a) Except as otherwise provided in paragraphs (c) and (d), the interest of a person subject to conservatorship in property is not transferable or assignable by the person subject to conservatorship. An attempted transfer or assignment by the person subject to conservatorship, although ineffective to affect property rights, may give rise to a claim against the person subject to conservatorship for restitution or damages which, subject to presentation and allowance, may be satisfied as provided in section 524.5-429.

(b) Upon appointment of a conservator, property vested in a person subject to conservatorship is not subject to levy, garnishment, or similar process for claims against the person subject to conservatorship unless allowed pursuant to section 524.5-429.

(c) A person without knowledge of the conservatorship who in good faith and for security or substantially equivalent value receives delivery from a person subject to conservatorship of tangible personal property of a type normally transferred by delivery of possession is protected as if the person subject to conservatorship or transferee had valid title.

(d) A third party who deals with the person subject to conservatorship with respect to property subject to a conservatorship is entitled to any protection provided in other law.

(e) Nothing in this section or in this article shall prevent the imposition, enforcement, or collection of a lien under sections 514.980 to 514.985.

History: *2003 c 12 art 1 s 61; 2020 c 86 art 1 s 41*

524.5-423 SALE, ENCUMBRANCE, OR OTHER TRANSACTION INVOLVING CONFLICT OF INTEREST.

Any transaction involving the conservatorship estate which is affected by a conflict between the conservator's fiduciary and personal interests is voidable unless the transaction is expressly authorized by the court after notice to interested persons. A transaction affected by a conflict between personal and fiduciary interests includes any sale, encumbrance, or other transaction involving the conservatorship estate entered

into by the conservator, the spouse, descendant, agent, or lawyer of a conservator, or corporation or other enterprise in which the conservator has a beneficial interest.

History: *2003 c 12 art 1 s 62; 2005 c 91 s 2; 2020 c 86 art 1 s 36*

524.5-424 PROTECTION OF PERSON DEALING WITH CONSERVATOR.

(a) A person who assists or deals with a conservator in good faith and for value in any transaction other than one requiring a court order under section 524.5-410 or 524.5-411 is protected as though the conservator properly exercised the power. The fact that a person knowingly deals with a conservator does not alone require the person to inquire into the existence of a power or the propriety of its exercise, but restrictions on powers of conservators which are endorsed on letters as provided in section 524.5-110 are effective as to other persons. A person need not see to the proper application of assets of the estate paid or delivered to a conservator.

(b) Protection provided by this section extends to any procedural irregularity or jurisdictional defect that occurred in proceedings leading to the issuance of letters and is not a substitute for protection provided to persons assisting or dealing with a conservator by comparable provisions in other law relating to commercial transactions or to simplifying transfers of securities by fiduciaries.

History: *2003 c 12 art 1 s 63*

524.5-426 DELEGATION.

(a) A conservator may not delegate to an agent or another conservator the entire administration of the estate, but a conservator may otherwise delegate the performance of functions that a prudent person of comparable skills may delegate under similar circumstances.

(b) The conservator shall exercise reasonable care, skill, and caution in:

(1) selecting an agent;

(2) establishing the scope and terms of a delegation, consistent with the purposes and terms of the conservatorship;

(3) periodically reviewing an agent's overall performance and compliance with the terms of the delegation; and

(4) redressing an action or decision of an agent which would constitute a breach of fiduciary duty if performed by the conservator.

(c) A conservator who complies with paragraphs (a) and (b) is not liable to the person subject to conservatorship or to the estate for the decisions or actions of the agent to whom a function was delegated.

(d) In performing a delegated function, an agent shall exercise reasonable care to comply with the terms of the delegation.

(e) By accepting a delegation from a conservator subject to the laws of this state, an agent submits to the jurisdiction of the courts of this state.

History: *2003 c 12 art 1 s 64; 2020 c 86 art 1 s 41*

524.5-427 PRINCIPLES OF DISTRIBUTION BY CONSERVATOR.

(a) Unless otherwise specified in the order of appointment and endorsed on the letters of appointment, a conservator may expend or distribute income or principal of the estate of the person subject to conservatorship without further court authorization or confirmation for the support, care, education, health, and welfare of the person subject to conservatorship and individuals who are in fact dependent on the person subject to conservatorship, including the payment of child or spousal support, in accordance with paragraphs (b) to (e).

(b) The conservator shall consider recommendations relating to the appropriate standard of support, care, education, health, and welfare for the person subject to conservatorship or an individual who is in fact dependent on the person subject to conservatorship made by a guardian, if any, and, if the person subject to conservatorship is a minor, the conservator shall consider recommendations made by a parent.

(c) The conservator may not be surcharged for money paid to persons furnishing support, care, education, or benefit to the person subject to conservatorship or an individual who is in fact dependent on the person subject to conservatorship pursuant to the recommendations of a parent or guardian of the person subject to conservatorship unless the conservator knows that the parent or guardian derives personal financial benefit therefrom, including relief from any personal duty of support, or the recommendations are not in the best interest of the person subject to conservatorship.

(d) In making distributions under this section, the conservator shall consider:

(1) the size of the estate, the estimated duration of the conservatorship, and the likelihood that the person subject to conservatorship, at some future time, may be fully self-sufficient and able to manage business affairs and the estate;

(2) the accustomed standard of living of the person subject to conservatorship and individuals who are in fact dependent on the person subject to conservatorship; and

(3) other money or sources used for the support of the person subject to conservatorship.

(e) Money expended under this section may be paid by the conservator to any person, including the person subject to conservatorship, to reimburse for expenditures that the conservator might have made or in advance for services to be rendered to the person subject to conservatorship if it is reasonable to expect the services will be performed and advance payments are customary or reasonably necessary under the circumstances.

History: *2003 c 12 art 1 s 65; 2020 c 86 art 1 s 41*

524.5-428 DEATH OF PERSON SUBJECT TO CONSERVATORSHIP.

(a) If a person subject to conservatorship dies, the conservator shall deliver to the court for safekeeping any will of the deceased person subject to conservatorship which may have come into the conservator's possession, inform the personal representative named in the will of the delivery, and retain the estate for delivery to a duly appointed personal representative of the decedent or other persons entitled thereto.

(b) If a personal representative has not been appointed within 90 days after the death of a person subject to conservatorship and an application or petition for appointment is not before the court, the conservator may apply or petition for appointment as personal representative in order to administer and distribute the decedent's estate.

History: *2003 c 12 art 1 s 66; 2020 c 86 art 1 s 41*

524.5-429 CLAIMS AGAINST PERSON SUBJECT TO CONSERVATORSHIP.

(a) A conservator may pay, or secure by encumbering assets of the estate, claims against the estate or against the person subject to conservatorship arising before or during the conservatorship upon their presentation and allowance in accordance with the priorities stated in paragraph (d). A claimant may present a claim by:

(1) sending or delivering to the conservator a written statement of the claim, indicating its basis, the name and address of the claimant, and the amount claimed; or

(2) filing a written statement of the claim, in the form prescribed by rule, with the clerk of court and sending or delivering a copy of the statement to the conservator.

(b) A claim is deemed presented on receipt of the written statement of claim by the conservator or the filing of the claim with the court, whichever occurs first. A presented claim is allowed if it is not disallowed by written statement sent or delivered by the conservator to the claimant within 60 days after its presentation. The conservator before payment may change an allowance to a disallowance in whole or in part, but not after allowance by a court order or judgment or an order directing payment of the claim. The presentation of a claim tolls the running of any statute of limitations relating to the claim until 30 days after its disallowance.

(c) A claimant whose claim has not been paid may petition the court for determination of the claim at any time before it is barred by a statute of limitations and, upon due proof, procure an order for its allowance, payment, or security by encumbering assets of the estate. If a proceeding is pending against a person subject to conservatorship at the time of appointment of a conservator or is initiated against the person subject to conservatorship thereafter, the moving party shall give to the conservator notice of any proceeding that could result in creating a claim against the estate.

(d) If it appears that the estate is likely to be exhausted before all existing claims are paid, the conservator shall distribute the estate in money or in kind in payment of claims in the following order:

(1) costs and expenses of administration;

(2) claims of the federal or state government having priority under other law;

(3) reasonable and necessary medical, hospital, or nursing home expenses of the person subject to conservatorship, including compensation of persons attending the person subject to guardianship, person subject to conservatorship, or respondent;

(4) claims incurred by the conservator for support, care, education, health, and welfare previously provided to the person subject to conservatorship or individuals who are in fact dependent on the person subject to conservatorship;

(5) claims arising before the conservatorship; and

(6) all other claims.

(e) Preference may not be given in the payment of a claim over any other claim of the same class, and a claim due and payable may not be preferred over a claim not due.

(f) If assets of the conservatorship are adequate to meet all existing claims, the court, acting in the best interest of the person subject to conservatorship, may order the conservator to give a mortgage or other security on the conservatorship estate to secure payment at some future date of any or all claims.

History: *2003 c 12 art 1 s 67; 2020 c 86 art 1 s 41*

524.5-430 PERSONAL LIABILITY OF CONSERVATOR.

(a) Except as otherwise agreed, a conservator is not personally liable on a contract properly entered into in a fiduciary capacity in the course of administration of the estate unless the conservator fails to reveal in the contract the representative capacity and identify the estate.

(b) A conservator is personally liable for obligations arising from ownership or control of property of the estate or for other acts or omissions occurring in the course of administration of the estate only if personally at fault.

(c) Claims based on contracts entered into by a conservator in a fiduciary capacity, obligations arising from ownership or control of the estate, and claims based on torts committed in the course of administration of the estate may be asserted against the estate by proceeding against the conservator in a fiduciary capacity, whether or not the conservator is personally liable therefor.

(d) A question of liability between the estate and the conservator personally may be determined in a proceeding for accounting, surcharge, or indemnification, or in another appropriate proceeding or action.

(e) A conservator is not personally liable for any environmental condition on or injury resulting from any environmental condition on land solely by reason of being appointed conservator.

History: *2003 c 12 art 1 s 68*

524.5-431 TERMINATION OF PROCEEDINGS.

(a) A conservatorship terminates upon the death of the person subject to conservatorship or upon order of the court. Unless created for reasons other than that the person subject to conservatorship is a minor, a conservatorship created for a minor also terminates when the person subject to conservatorship attains majority or is emancipated.

(b) Upon the death of a person subject to conservatorship, the conservator shall conclude the administration of the estate by distribution of probate property to the personal representative of the estate of the person subject to conservatorship. The conservator shall distribute nonprobate property to the successor in interest. The conservator shall file a final report and petition for discharge no later than 30 days after distribution, and notice of hearing for allowance of said report shall be given to interested persons and to the personal representative of the estate of the person subject to conservatorship.

(c) On petition of any person interested in the welfare of the person subject to conservatorship, the court may terminate the conservatorship if the person subject to conservatorship no longer needs the assistance or protection of a conservator. Termination of the conservatorship does not affect a conservator's liability for previous acts or the obligation to account for funds and assets of the person subject to conservatorship.

(d) Except as otherwise ordered by the court for good cause, before terminating a conservatorship, the court shall follow the same procedures to safeguard the rights of the person subject to conservatorship that apply to a petition for conservatorship. Upon the establishment of a prima facie case for termination, the court shall order termination unless it is proved that continuation of the conservatorship is in the best interest of the person subject to conservatorship.

(e) Upon termination of a conservatorship, whether or not formally distributed by the conservator, title to assets of the estate remains vested in the formerly person subject to conservatorship or passes to the person's successors subject to administration, including claims of creditors and allowances of surviving spouse and dependent children, and subject to the rights of others resulting from abatement, retainer, advancement, and ademption. The order of termination must provide for payment of expenses of administration and include payment of fees and costs of final administration for guardians, conservators, and attorneys. The order must direct the conservator to execute appropriate instruments to evidence the transfer of title or confirm a distribution previously made and to file a final report and a petition for discharge upon approval of the final report.

(f) The court shall enter a final order of discharge upon the approval of the final report and satisfaction by the conservator of any other conditions placed by the court on the conservator's discharge.

(g) Any documents or information disclosing or pertaining to health or financial information shall be filed as confidential documents, consistent with the bill of particulars under section 524.5-121.

(h) A conservator may petition the court for discharge from the conservatorship.

History: *2003 c 12 art 1 s 69; 2020 c 86 art 1 s 37*

524.5-432 PAYMENT OF DEBT AND DELIVERY OF PROPERTY TO FOREIGN CONSERVATOR WITHOUT LOCAL PROCEEDING.

(a) A person who is indebted to or has the possession of tangible or intangible property of a person subject to conservatorship may pay the debt or deliver the property to a foreign conservator, guardian of the estate, or other court-appointed fiduciary of the state of residence of the person subject to conservatorship. Payment or delivery may be made only upon proof of appointment and presentation of an affidavit made by or on behalf of the fiduciary stating that a protective proceeding relating to the person subject to conservatorship is not pending in this state and the foreign fiduciary is entitled to payment or to receive delivery.

(b) Payment or delivery in accordance with paragraph (a) discharges the debtor or possessor, absent knowledge of any protective proceeding pending in this state.

History: *2003 c 12 art 1 s 70; 2020 c 86 art 1 s 41*

524.5-433 FOREIGN CONSERVATOR: PROOF OF AUTHORITY; BOND; POWERS.

If a conservator has not been appointed in this state and a petition in a protective proceeding is not pending in this state, a conservator appointed in the state in which the person subject to conservatorship resides may file in a court of this state, in a county in which property belonging to the person subject to conservatorship is located, authenticated copies of letters of appointment and of any bond. Thereafter, the conservator may exercise all powers of a conservator appointed in this state as to property in this state and may maintain actions and proceedings in this state subject to any conditions otherwise imposed upon nonresident parties.

History: *2003 c 12 art 1 s 71; 2020 c 86 art 1 s 41*

Part 5
MISCELLANEOUS PROVISIONS

524.5-501 MS 1982 [Repealed, 1984 c 603 s 29]

524.5-501 GUARDIANSHIP, CONSERVATORSHIP; WORKERS' COMPENSATION PROCEEDINGS.

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

(b) The court shall oversee the use of monetary benefits paid to a conservator as provided in this article or under rule 145 of the General Rules of Practice for the district courts. There is a rebuttable presumption that a settlement or award approved by the commissioner of the Department of Labor and Industry or a compensation judge is reasonable and fair to the employee or dependent.

(c) Subject to the approval of the court, the insurer or self-insured employer shall pay the costs and guardian, conservator, and attorney fees of the employee or dependent associated with the appointment of a guardian or conservator and as required under section 176.092.

History: *2003 c 12 art 1 s 72*

524.5-502 MS 1982 [Repealed, 1984 c 603 s 29]

524.5-502 COMPENSATION AND EXPENSES.

(a) The court may authorize a proceeding under this article to proceed in forma pauperis, as provided in chapter 563.

(b) In proceedings under this article, a lawyer or health professional rendering necessary services with regard to the appointment of a guardian or conservator, the administration of the estate or personal affairs of the person subject to conservatorship, or the restoration of that person's capacity or termination of the protective proceeding shall be entitled to compensation from the estate of the person subject to guardianship or conservatorship or from the county having jurisdiction over the proceedings if the person subject to guardianship or conservatorship is indigent. When the court determines that other necessary services have been provided for the benefit of the person subject to guardianship or conservatorship by a lawyer or health professional, the court may order fees to be paid from the estate of the person subject to guardianship or conservatorship or from the county having jurisdiction over the proceedings if the person subject to guardianship or conservatorship is indigent. If, however, the court determines that a petitioner, guardian, or conservator has not acted in good faith, the court shall order some or all of the fees or costs incurred in the proceedings to be borne by the petitioner, guardian, or conservator not acting in good faith. In determining compensation for a guardian or conservator of an indigent person, the court shall consider a fee schedule recommended by the Board of County Commissioners. The fee schedule may also include a maximum compensation based on the living arrangements of the person subject to guardianship or conservatorship. If these services are provided by a public or private agency, the county may contract on a fee-for-service basis with that agency.

(c) When the court determines that a guardian or conservator has rendered necessary services or has incurred necessary expenses for the benefit of the person subject to guardianship or conservatorship, the court may order reimbursement or compensation to be paid from the estate of the person subject to guardianship or conservatorship or from the county having jurisdiction over the guardianship or protective proceeding if the person subject to guardianship or conservatorship is indigent. The court may not deny an award of fees solely because the person subject to guardianship or conservatorship is a recipient of medical assistance. In determining compensation for a guardian or conservator of an indigent person, the court shall

consider a fee schedule recommended by the Board of County Commissioners. The fee schedule may also include a maximum compensation based on the living arrangements of the person subject to guardianship or conservatorship. If these services are provided by a public or private agency, the county may contract on a fee-for-service basis with that agency.

(d) The court shall order reimbursement or compensation if the guardian or conservator requests payment and the guardian or conservator was nominated by the court or by the county adult protection unit because no suitable relative or other person was available to provide guardianship or protective proceeding services necessary to prevent maltreatment of a vulnerable adult, as defined in section 626.5572, subdivision 15. In determining compensation for a guardian or conservator of an indigent person, the court shall consider a fee schedule recommended by the Board of County Commissioners. The fee schedule may also include a maximum compensation based on the living arrangements of the person subject to guardianship or conservatorship. If these services are provided by a public or private agency, the county may contract on a fee-for-service basis with that agency.

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

History: *2003 c 12 art 1 s 73; 2020 c 86 art 1 s 38,41*

524.5-505 MS 2002 [Repealed, 2003 c 12 art 2 s 8]

Parts 6-9
UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION

524.5-601 SHORT TITLE.

Sections 524.5-601 to 524.5-903 may be cited as the "Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act."

History: *2009 c 46 s 2*

524.5-602 DEFINITIONS.

(a) The definitions in this section apply to sections 524.5-602 to 524.5-903.

(b) "Adult" means an individual who has attained 18 years of age.

(c) "Conservator" means a person appointed by the court to administer the property of an adult, including a person appointed under sections 524.5-101 to 524.5-502.

(d) "Guardian" means a person appointed by the court to make decisions regarding the person of an adult, including a person appointed under sections 524.5-101 to 524.5-502.

(e) "Guardianship order" means an order appointing a guardian.

(f) "Guardianship proceeding" means a judicial proceeding in which an order for the appointment of a guardian is sought or has been issued.

(g) "Incapacitated person" means an adult for whom a guardian has been appointed.

(h) "Party" means the respondent, petitioner, guardian, conservator, or any other person allowed by the court to participate in a guardianship or protective proceeding.

(i) "Person," except in the term incapacitated person or protected person, means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(j) "Protected person" means an adult for whom a protective order has been issued.

(k) "Protective order" means an order appointing a conservator or any other order related to management of an adult's property.

(l) "Protective proceeding" means a judicial proceeding in which a protective order is sought or has been issued.

(m) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(n) "Respondent" means an adult for whom a protective order or the appointment of a guardian is sought.

(o) "State" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, the United States Virgin Islands, a federally recognized Indian Tribe, or any territory or insular possession subject to the jurisdiction of the United States.

History: *2009 c 46 s 3*

524.5-603 INTERNATIONAL APPLICATION.

A court of this state may treat a foreign country as if it were a state for the purpose of applying sections 524.5-601 to 524.5-903.

History: *2009 c 46 s 4*

524.5-604 COMMUNICATION BETWEEN COURTS.

(a) A court of this state may communicate with a court in another state concerning a proceeding arising under sections 524.5-601 to 524.5-903. The court may allow the parties to participate in the communication. Except as otherwise provided in paragraph (b), the court shall make a record of the communication. The record may be limited to the fact that the communication occurred.

(b) Courts may communicate concerning schedules, calendars, court records, and other administrative matters without making a record.

History: *2009 c 46 s 5*

524.5-605 COOPERATION BETWEEN COURTS.

(a) In a guardianship or protective proceeding in this state, a court of this state may request the appropriate court of another state to do any one or more of the following:

(1) hold an evidentiary hearing;

(2) order a person in that state to produce evidence or give testimony pursuant to procedures of that state;

(3) order that an evaluation or assessment be made of the respondent;

(4) order any appropriate investigation of a person involved in a proceeding;

(5) forward to the court of this state a certified copy of the transcript or other record of a hearing under clause (1) or any other proceeding, any evidence otherwise produced under clause (2), and any evaluation or assessment prepared in compliance with an order under clause (3) or (4);

(6) issue any order necessary to assure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the respondent or the incapacitated or protected person; and

(7) issue an order authorizing the release of medical, financial, criminal, or other relevant information in that state, including protected health information as defined in Code of Federal Regulations, title 45, section 164.504.

(b) If a court of another state in which a guardianship or protective proceeding is pending requests assistance of the kind provided in paragraph (a), a court of this state has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request.

History: *2009 c 46 s 6*

524.5-606 TAKING TESTIMONY IN ANOTHER STATE.

(a) In a guardianship or protective proceeding, in addition to other procedures that may be available, testimony of a witness who is located in another state may be offered by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion may order that the testimony of a witness be taken in another state and may prescribe the manner in which and the terms upon which the testimony is to be taken.

(b) In a guardianship or protective proceeding, a court in this state may permit a witness located in another state to be deposed or to testify by telephone or audiovisual or other electronic means. A court of this state shall cooperate with the court of the other state in designating an appropriate location for the deposition or testimony.

(c) Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the best evidence rule.

History: *2009 c 46 s 7*

524.5-701 DEFINITIONS; SIGNIFICANT CONNECTION FACTORS.

(a) In sections 524.5-701 to 524.5-709:

(1) "emergency" means a circumstance that likely will result in substantial harm to a respondent's health, safety, or welfare, and for which the appointment of a guardian is necessary because no other person has authority and is willing to act on the respondent's behalf;

(2) "home state" means the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months immediately before the filing of a petition for a protective order or the appointment of a guardian; or if none, the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months ending within the six months prior to the filing of the petition; and

(3) "significant-connection state" means a state, other than the home state, with which a respondent has a significant connection other than mere physical presence and in which substantial evidence concerning the respondent is available.

(b) In determining under sections 524.5-703 and 524.5-801, paragraph (e), whether a respondent has a significant connection with a particular state, the court shall consider:

(1) the location of the respondent's family and other persons required to be notified of the guardianship or protective proceeding;

(2) the length of time the respondent at any time was physically present in the state and the duration of any absence;

(3) the location of the respondent's property; and

(4) the extent to which the respondent has ties to the state such as voting registration, state or local tax return filing, vehicle registration, driver's license, social relationship, and receipt of services.

History: *2009 c 46 s 8; 2010 c 382 s 79*

524.5-702 EXCLUSIVE BASIS.

Sections 524.5-701 to 524.5-709 provide the exclusive jurisdictional basis for a court of this state to appoint a guardian or issue a protective order for an adult.

History: *2009 c 46 s 9*

524.5-703 JURISDICTION.

A court of this state has jurisdiction to appoint a guardian or issue a protective order for a respondent if:

(1) this state is the respondent's home state;

(2) on the date the petition is filed, this state is a significant-connection state and:

(i) the respondent does not have a home state or a court of the respondent's home state has declined to exercise jurisdiction because this state is a more appropriate forum; or

(ii) the respondent has a home state, a petition for an appointment or order is not pending in a court of that state or another significant-connection state, and, before the court makes the appointment or issues the order:

(A) a petition for an appointment or order is not filed in the respondent's home state;

(B) an objection to the court's jurisdiction is not filed by a person required to be notified of the proceeding; and

(C) the court in this state concludes that it is an appropriate forum under the factors set forth in section 524.5-706;

(3) this state does not have jurisdiction under either clause (1) or (2), the respondent's home state and all significant-connection states have declined to exercise jurisdiction because this state is the more appropriate forum, and jurisdiction in this state is consistent with the constitutions of this state and the United States; or

(4) the requirements for special jurisdiction under section 524.5-704 are met.

History: *2009 c 46 s 10*

524.5-704 SPECIAL JURISDICTION.

(a) A court of this state lacking jurisdiction under section 524.5-703 has special jurisdiction to do any of the following:

(1) appoint a guardian in an emergency for a term not exceeding 90 days for a respondent who is physically present in this state;

(2) issue a protective order with respect to real or tangible personal property located in this state; and

(3) appoint a guardian or conservator for an incapacitated or protected person for whom a provisional order to transfer the proceeding from another state has been issued under procedures similar to section 524.5-801.

(b) If a petition for the appointment of a guardian in an emergency is brought in this state and this state was not the respondent's home state on the date the petition was filed, the court shall dismiss the proceeding at the request of the court of the home state, if any, whether dismissal is requested before or after the emergency appointment.

History: *2009 c 46 s 11*

524.5-705 EXCLUSIVE AND CONTINUING JURISDICTION.

Except as otherwise provided in section 524.5-704, a court that has appointed a guardian or issued a protective order consistent with sections 524.5-601 to 524.5-903 has exclusive and continuing jurisdiction over the proceeding until it is terminated by the court or the appointment or order expires by its own terms.

History: *2009 c 46 s 12*

524.5-706 APPROPRIATE FORUM.

(a) A court of this state having jurisdiction under section 524.5-703 to appoint a guardian or issue a protective order may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum.

(b) If a court of this state declines to exercise its jurisdiction under paragraph (a), it shall either dismiss or stay the proceeding. The court may impose any condition the court considers just and proper, including the condition that a petition for the appointment of a guardian or issuance of a protective order be filed promptly in another state.

(c) In determining whether it is an appropriate forum, the court shall consider all relevant factors, including:

(1) any expressed preference of the respondent;

(2) whether abuse, neglect, or exploitation of the respondent has occurred or is likely to occur and which state could best protect the respondent from the abuse, neglect, or exploitation;

(3) the length of time the respondent was physically present in or was a legal resident of this or another state;

(4) the distance of the respondent from the court in each state;

(5) the financial circumstances of the respondent's estate;

(6) the nature and location of the evidence;

(7) the ability of the court in each state to decide the issue expeditiously and the procedures necessary to present evidence;

(8) the familiarity of the court of each state with the facts and issues in the proceeding; and

(9) if an appointment were made, the court's ability to monitor the conduct of the guardian or conservator.

History: *2009 c 46 s 13*

524.5-707 JURISDICTION DECLINED BY REASON OF CONDUCT.

(a) If at any time a court of this state determines that it acquired jurisdiction to appoint a guardian or issue a protective order because of unjustifiable conduct, the court may:

(1) decline to exercise jurisdiction;

(2) exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety, and welfare of the respondent or the protection of the respondent's property or prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian or issuance of a protective order is filed in a court of another state having jurisdiction; or

(3) continue to exercise jurisdiction after considering:

(i) the extent to which the respondent and all persons required to be notified of the proceedings have acquiesced in the exercise of the court's jurisdiction;

(ii) whether it is a more appropriate forum than the court of any other state under the factors set forth in section 524.5-706, paragraph (c); and

(iii) whether the court of any other state would have jurisdiction under factual circumstances in substantial conformity with the jurisdictional standards of section 524.5-703.

(b) If a court of this state determines that it acquired jurisdiction to appoint a guardian or issue a protective order because a party seeking to invoke its jurisdiction engaged in unjustifiable conduct, it may assess against that party necessary and reasonable expenses, including attorney fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses. The court may not assess fees, costs, or expenses of any kind against this state or a governmental subdivision, agency, or instrumentality of this state unless authorized by law other than sections 524.5-601 to 524.5-903.

History: *2009 c 46 s 14*

524.5-708 NOTICE OF PROCEEDING.

If a petition for the appointment of a guardian or issuance of a protective order is brought in this state and this state was not the respondent's home state on the date the petition was filed, in addition to complying with the notice requirements of this state, notice of the petition must be given to those persons who would be entitled to notice of the petition if a proceeding were brought in the respondent's home state. The notice must be given in the same manner as notice is required to be given in this state.

History: *2009 c 46 s 15*

524.5-709 PROCEEDINGS IN MORE THAN ONE STATE.

Except for a petition for the appointment of a guardian in an emergency or issuance of a protective order limited to property located in this state under section 524.5-704, paragraph (a), clause (1) or (2), if a petition for the appointment of a guardian or issuance of a protective order is filed in this state and in another state and neither petition has been dismissed or withdrawn, the following rules apply:

(1) If the court in this state has jurisdiction under section 524.5-703, it may proceed with the case unless a court in another state acquires jurisdiction under provisions similar to section 524.5-703 before the appointment or issuance of the order.

(2) If the court in this state does not have jurisdiction under section 524.5-703, whether at the time the petition is filed or at any time before the appointment or issuance of the order, the court shall stay the proceeding and communicate with the court in the other state. If the court in the other state has jurisdiction, the court in this state shall dismiss the petition unless the court in the other state determines that the court in this state is a more appropriate forum.

History: *2009 c 46 s 16*

524.5-801 TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP TO ANOTHER STATE.

(a) A guardian or conservator appointed in this state may petition the court to transfer the guardianship or conservatorship to another state.

(b) Notice of a petition under paragraph (a) must be given to the persons that would be entitled to notice of a petition in this state for the appointment of a guardian or conservator.

(c) On the court's own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the petition, the court shall hold a hearing on a petition filed pursuant to paragraph (a).

(d) The court shall issue an order provisionally granting a petition to transfer a guardianship and shall direct the guardian to petition for guardianship in the other state if the court is satisfied that the guardianship will be accepted by the court in the other state and the court finds that:

(1) the incapacitated person is physically present in or is reasonably expected to move permanently to the other state;

(2) an objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the incapacitated person; and

(3) plans for care and services for the incapacitated person in the other state are reasonable and sufficient.

(e) The court shall issue a provisional order granting a petition to transfer a conservatorship and shall direct the conservator to petition for conservatorship in the other state if the court is satisfied that the conservatorship will be accepted by the court of the other state and the court finds that:

(1) the protected person is physically present in or is reasonably expected to move permanently to the other state, or the protected person has a significant connection to the other state considering the factors in section 524.5-701, paragraph (b);

(2) an objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the protected person; and

(3) adequate arrangements will be made for management of the protected person's property.

(f) The court shall issue a final order confirming the transfer and terminating the guardianship or conservatorship upon its receipt of:

(1) a provisional order accepting the proceeding from the court to which the proceeding is to be transferred which is issued under provisions similar to section 524.5-802; and

(2) the documents required to terminate a guardianship or conservatorship in this state.

History: *2009 c 46 s 17*

524.5-802 ACCEPTING GUARDIANSHIP OR CONSERVATORSHIP TRANSFERRED FROM ANOTHER STATE.

(a) To confirm transfer of a guardianship or conservatorship transferred to this state under provisions similar to section 524.5-801, the guardian or conservator must petition the court in this state to accept the guardianship or conservatorship. The petition must include a certified copy of the other state's provisional order of transfer.

(b) Notice of a petition under paragraph (a) must be given to those persons that would be entitled to notice if the petition were a petition for the appointment of a guardian or issuance of a protective order in both the transferring state and this state. The notice must be given in the same manner as notice is required to be given in this state.

(c) On the court's own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the proceeding, the court shall hold a hearing on a petition filed pursuant to paragraph (a).

(d) The court shall issue an order provisionally granting a petition filed under paragraph (a) unless:

(1) an objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the incapacitated or protected person; or

(2) the guardian or conservator is ineligible for appointment in this state.

(e) The court shall issue a final order accepting the proceeding and appointing the guardian or conservator as guardian or conservator in this state upon its receipt from the court from which the proceeding is being transferred of a final order issued under provisions similar to section 524.5-801 transferring the proceeding to this state.

(f) Not later than 90 days after issuance of a final order accepting transfer of a guardianship or conservatorship, the court shall determine whether the guardianship or conservatorship needs to be modified to conform to the law of this state.

(g) In granting a petition under this section, the court shall recognize a guardianship or conservatorship order from the other state, including the determination of the incapacitated or protected person's incapacity and the appointment of the guardian or conservator.

(h) The denial by a court of this state of a petition to accept a guardianship or conservatorship transferred from another state does not affect the ability of the guardian or conservator to seek appointment as guardian or conservator in this state under sections 524.5-101 to 524.5-502 if the court has jurisdiction to make an appointment other than by reason of the provisional order of transfer.

History: *2009 c 46 s 18*

524.5-901 REGISTRATION OF GUARDIANSHIP ORDERS.

If a guardian has been appointed in another state and a petition for the appointment of a guardian is not pending in this state, the guardian appointed in the other state, after giving notice to the appointing court of an intent to register, may register the guardianship order in this state by filing as a foreign judgment in a court, in any appropriate county of this state, certified copies of the order and letters of office.

History: *2009 c 46 s 19*

524.5-902 REGISTRATION OF PROTECTIVE ORDERS.

If a conservator has been appointed in another state and a petition for a protective order is not pending in this state, the conservator appointed in the other state, after giving notice to the appointing court of an intent to register, may register the protective order in this state by filing as a foreign judgment in a court of this state, in any county in which property belonging to the protected person is located, certified copies of the order and letters of office and of any bond.

History: *2009 c 46 s 20*

524.5-903 EFFECT OF REGISTRATION.

(a) Upon registration of a guardianship or protective order from another state, the guardian or conservator may exercise in this state all powers authorized in the order of appointment except as prohibited under the laws of this state, including maintaining actions and proceedings in this state and, if the guardian or conservator is not a resident of this state, subject to any conditions imposed upon nonresident parties.

(b) A court of this state may grant relief available under sections 524.5-601 to 524.5-903 and other law of this state to enforce a registered order.

History: *2009 c 46 s 21*

524.5-2011 COMPLIANCE WITH FEDERAL INDIAN CHILD WELFARE ACT AND MINNESOTA INDIAN FAMILY PRESERVATION ACT.

Proceedings under this chapter concerning an Indian child are child custody proceedings governed by the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1963; by the Minnesota Indian

Family Preservation Act, sections 260.751 to 260.835; and by this chapter when not inconsistent with the federal Indian Child Welfare Act or the Minnesota Indian Family Preservation Act.

History: *2024 c 115 art 17 s 55*

Article 6
NONPROBATE TRANSFERS ON DEATH (1989)
Part 2
MINNESOTA MULTIPARTY ACCOUNTS ACT

524.6-201 DEFINITIONS.

Subdivision 1. **Scope.** As used in sections 524.6-201 to 524.6-214, the terms defined in this section have the meanings given them.

Subd. 2. **Account.** "Account" means a contract of deposit of funds between a depositor and a financial institution, and includes a checking account, savings account, certificate of deposit, share account and other like arrangement.

Subd. 2a. **Agent.** "Agent" means a person authorized to make account transactions for a party.

Subd. 3. **Financial institution.** "Financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including, without limitation, banks and trust companies, savings banks, savings associations, and credit unions.

Subd. 4. **Joint account.** "Joint account" means an account so designated, and any account payable on request to one or more of two or more parties and to the survivor of them.

Subd. 5. **Multiple-party account.** A "multiple-party account" means a joint account or a P.O.D. account. It does not include accounts established for deposit of funds of a partnership, joint venture, or other association for business purposes, or accounts controlled by one or more persons as the duly authorized agent or trustee for a person, corporation, unincorporated association, charitable or civic organization or a regular fiduciary or trust account where the relationship is established other than by deposit agreement.

Subd. 6. **Net contribution.** "Net contribution" of a party to a joint account as of any given time is the sum of all deposits thereto made by or for the party, less all withdrawals made by or for the party which have not been paid to or applied to the use of any other party, plus a pro rata share of any interest or dividends included in the current balance. The term includes any proceeds of deposit life insurance added to the account by reason of the death of the party whose net contribution is in question.

Subd. 7. **Party.** "Party" means a person who, by the terms of the account, has a present right, subject to request, to payment from a multiple-party account other than as an agent. A P.O.D. payee is a party only after the account becomes payable by reason of the payee surviving the original party. Unless the context otherwise requires, it includes a guardian, conservator, personal representative, or assignee, including an attaching creditor, of a party. It also includes a person identified as a trustee of an account for another whether or not a beneficiary is named, but it does not include any named beneficiary unless the beneficiary has a present right of withdrawal.

Subd. 8. **Payment.** "Payment" of sums on deposit includes withdrawal, payment on check or other directive of a party, and any pledge of sums on deposit by a party and any setoff, or reduction or other disposition of all or part of an account pursuant to a pledge.

Subd. 9. **Proof of death.** "Proof of death" includes (a) a certified or authenticated copy of a death record purporting to be issued by an official or agency of the place where the death purportedly occurred which shall be prima facie proof of the fact, place, date and time of death and the identity of the decedent, (b) a certified or authenticated copy of any record or report of any governmental agency, domestic or foreign, that a person is dead which shall be prima facie evidence of the fact, place, date and time of death and the identity of the decedent.

Subd. 10. **P.O.D. account.** "P.O.D. account" means an account payable on request to one or more parties and on the death of the parties to one or more P.O.D. payees. The term also means an account in the name of one or more parties as trustee for one or more beneficiaries where the relationship is established by the form of the account and the deposit agreement with the financial institution and there is no subject of the trust other than the sums on deposit in the account. A P.O.D. account does not include a trust account established under a testamentary trust or inter vivos trust, or a fiduciary account arising from a fiduciary relationship such as attorney-client.

Subd. 11. **P.O.D. payee.** "P.O.D. payee" means a person designated on a P.O.D. account as one to whom the account is payable on request after the death of one or more persons.

Subd. 12. **Request.** "Request" means a proper request for withdrawals, or a check or order for payment, which complies with all conditions of the account, including special requirements concerning necessary signatures and regulations of the financial institution; but if the financial institution conditions withdrawal or payment on advance notice, for purposes of this part the request for withdrawal or payment is treated as immediately effective and a notice of intent to withdraw is treated as a request for withdrawal.

Subd. 13. **Sums on deposit.** "Sums on deposit" means the balance payable on a multiple-party account including interest, dividends and, in addition, any deposit life insurance proceeds added to the account by reason of the death of a party.

Subd. 14. **Withdrawal.** "Withdrawal" includes payment to a third person pursuant to check or other directive of a party.

History: *1973 c 619 s 2; 1985 c 292 s 9-11; 1986 c 444; 1987 c 384 art 2 s 1; 1994 c 472 s 63; 1995 c 202 art 1 s 25; 1Sp2001 c 9 art 15 s 32; 2013 c 36 s 2,3*

524.6-202 OWNERSHIP AS BETWEEN PARTIES, AND OTHERS; PROTECTION OF FINANCIAL INSTITUTIONS.

The provisions of sections 524.6-203 to 524.6-205 concerning beneficial ownership as between parties, or as between parties and P.O.D. payees or beneficiaries of multiple-party accounts, are relevant only to controversies between these persons and their creditors and other successors, and have no bearing on the power of withdrawal of these persons as determined by the terms of account contracts. The provisions of sections 524.6-208 to 524.6-212 govern the liability of financial institutions who make payments pursuant thereto, and their setoff rights.

History: *1973 c 619 s 3; 1994 c 472 s 63*

524.6-203 OWNERSHIP DURING LIFETIME.

(a) A joint account belongs, during the lifetime of all parties, to the parties in proportion to the net contributions by each to the sums on deposit, unless there is clear and convincing evidence of a different intent.

(b) A P.O.D. account belongs to the original purchasing or depositing party during the party's lifetime and not to the P.O.D. payee or payees; if two or more parties are named as original parties, during their lifetimes, rights as between them are governed by paragraph (a).

(c) An agent in an account with an agency designation has no beneficial right to sums on deposit by virtue of being named as an agent.

History: *1973 c 619 s 4; 1985 c 292 s 12; 1994 c 472 s 63; 2013 c 36 s 4*

524.6-204 RIGHT OF SURVIVORSHIP.

(a) Sums remaining on deposit at the death of a party to a joint account belong to the surviving party or parties as against the estate of the decedent unless: (1) there is clear and convincing evidence of a different intention; or (2) there is a different disposition made by a valid will specifically referring to such account, as provided in this section. If there are two or more surviving parties, their respective ownerships during lifetime shall be in proportion to their previous ownership interests under section 524.6-203 augmented by an equal share for each survivor of any interest the decedent may have owned in the account immediately before death; and the right of survivorship continues between the surviving parties. The interest so determined is also the interest disposable by will.

(b) If the account is a P.O.D. account, on the death of the original party or of the survivor of two or more original parties, any sums remaining on deposit belong to the P.O.D. payees if surviving, or to the survivor of them if one or more die before the surviving original party; if two or more P.O.D. payees survive, there is no right of survivorship in event of death of a P.O.D. payee thereafter unless the terms of the account or deposit agreement expressly provide for survivorship between them.

(c) In other cases, the death of any party to a multiple-party account has no effect on beneficial ownership of the account other than to transfer the rights of the decedent as part of the estate.

(d) A right of survivorship arising from the express terms of the account, or under this section, or under a P.O.D. payee designation, may be changed by specific reference by will, but the terms of such will shall not be binding upon any financial institution unless it has been given a notice in writing of a claim thereunder, in which event the deposit shall remain undisbursed until an order has been made by the probate court adjudicating the decedent's interest disposable by will.

History: *1973 c 619 s 5; 1985 c 292 s 13; 1994 c 472 s 63; 2013 c 36 s 5*

524.6-205 EFFECT OF A WRITTEN NOTICE TO FINANCIAL INSTITUTION.

The provisions of section 524.6-204 as to rights of survivorship are determined by the form of the account at the death of a party. This form may be altered by written order given by a party to the financial institution to change the form of the account or to stop or vary payment under the terms of the account. The order or request must be signed by a party and received by the financial institution during the party's lifetime.

History: *1973 c 619 s 6; 1985 c 292 s 14; 1994 c 472 s 63*

524.6-206 ACCOUNTS AND TRANSFERS NONTESTAMENTARY.

Any transfers resulting from the application of section 524.6-204 are effective by reason of the account contracts involved and this statute, and are not to be considered as subject to probate except as to the transfers expressly changed by will, as provided for by section 524.6-204, clause (d).

History: *1973 c 619 s 7; 1985 c 292 s 15; 1994 c 472 s 63*

524.6-207 RIGHTS OF CREDITORS.

No multiple-party account will be effective against an estate of a deceased party to transfer to a survivor sums needed to pay debts, taxes, and expenses of administration, including statutory allowances to the surviving spouse, minor children and dependent children or against the state or a county agency with a claim authorized by section 256B.15, if other assets of the estate are insufficient, to the extent the deceased party is the source of the funds or beneficial owner. A surviving party or P.O.D. payee who receives payment from a multiple-party account after the death of a deceased party shall be liable to account to the deceased party's personal representative or the state or a county agency with a claim authorized by section 256B.15 for amounts the decedent owned beneficially immediately before death to the extent necessary to discharge any such claims and charges remaining unpaid after the application of the assets of the decedent's estate. No proceeding to assert this liability shall be commenced by the personal representative unless the personal representative has received a written demand by a surviving spouse, a creditor or one acting for a minor dependent child of the decedent, and no proceeding shall be commenced later than two years following the death of the decedent. Sums recovered by the personal representative shall be administered as part of the decedent's estate. This section shall not affect the right of a financial institution to make payment on multiple-party accounts according to the terms thereof, or make it liable to the estate of a deceased party unless, before payment, the institution has been served with process in a proceeding by the personal representative or the state or a county agency with a claim authorized by section 256B.15, or has been presented by the state or a county agency with a claim authorized by section 256B.15 with an affidavit pursuant to section 524.3-1201. Upon being presented with such an affidavit, the financial institution shall make payment of the multiple-party account to the affiant in an amount equal to the lesser of the claim stated in the affidavit or the extent to which the affidavit identifies the decedent as the source of funds or beneficial owner of the account.

History: *1973 c 619 s 8; 1985 c 292 s 16; 1994 c 472 s 63; 1995 c 207 art 2 s 35; 1997 c 217 art 2 s 19*

524.6-208 FINANCIAL INSTITUTION PROTECTION; PAYMENT ON SIGNATURE OF ONE PARTY.

Financial institutions may enter into multiple-party accounts to the same extent that they may enter into single-party accounts. Any multiple-party account may be paid, on request, to any one or more of the parties. A financial institution shall not be required to inquire as to the source of funds received for deposit to a multiple-party account, or to inquire as to the proposed application of any sum withdrawn from an account.

A minor may be a party to a joint account.

History: *1973 c 619 s 9; 1985 c 292 s 17; 1994 c 472 s 63*

524.6-209 FINANCIAL INSTITUTION PROTECTION; PAYMENT AFTER DEATH OR DISABILITY; JOINT ACCOUNT.

Any sums in a joint account may be paid, on request, to any party without regard to whether any other party is incapacitated or deceased at the time the payment is demanded; but payment may not be made to the personal representative or heirs of a deceased party unless proofs of death are presented to the financial institution showing that the decedent was the last surviving party or unless there is no right of survivorship under section 524.6-204, or unless a will provides other distribution; in which case the procedure set forth in section 524.6-204, clause (d), shall be followed. A minor may be a party to a joint account.

History: *1973 c 619 s 10; 1985 c 292 s 18; 1994 c 472 s 63*

524.6-210 FINANCIAL INSTITUTION PROTECTION; PAYMENT OF P.O.D. ACCOUNT.

Any P.O.D. account may be paid, on request, to any original party to the account. Payment of the interest of a P.O.D. payee may be made, on request, to the P.O.D. payee or to the personal representative or heirs of a deceased P.O.D. payee upon presentation to the financial institution of proof of death showing that the P.O.D. payee survived all persons named as original parties. Payment may be made to the personal representative or heirs of a deceased original party if proof of death is presented to the financial institution showing that the original party was the survivor of all other persons named on the account either as an original party or as P.O.D. payee.

History: *1973 c 619 s 11; 1985 c 292 s 19; 1994 c 472 s 63*

524.6-211 FINANCIAL INSTITUTION PROTECTION; DISCHARGE.

Payment made pursuant to sections 524.6-208 to 524.6-210 discharges the financial institution from all claims for amounts so paid whether or not the payment is consistent with the beneficial ownership of the account as between parties, P.O.D. payees, or beneficiaries by will or otherwise, or their successors. The protection here given does not extend to payments made after a financial institution has received written notice from any person entitled to request payment to the effect that withdrawals in accordance with the terms of the account, including one having an agency designation, should not be permitted, and the financial institution has had a reasonable opportunity to act on it when the payment is made. Unless the notice is withdrawn by the person giving it, the successor of any deceased party and all other parties entitled to payment must concur in any demand for withdrawal if the financial institution is to be protected under this section. No other notice or any other information shown to have been available to a financial institution shall affect its right to the protection provided here. A financial institution that receives written notice pursuant to this section or that otherwise has reason to believe that a dispute exists as to the rights of the parties may refuse, without liability, to make payments in accordance with the terms of the account. The protection here provided shall not affect the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of funds in, or withdrawn from, multiple-party accounts.

History: *1973 c 619 s 13; 1985 c 292 s 20; 1994 c 472 s 63; 2013 c 36 s 6*

524.6-212 FINANCIAL INSTITUTION PROTECTION; SETOFF.

Without qualifying any other statutory right to setoff or lien and subject to any contractual provision, if a party to a multiple-party account is indebted to a financial institution, the financial institution has a right to setoff against the account in which the party has or had immediately before death a present right of withdrawal. The amount of the account subject to setoff is that proportion to which the debtor is, or was immediately before death, beneficially entitled, and in the absence of proof of net contributions, to an equal share with all parties having present rights of withdrawal.

History: *1973 c 619 s 14; 1986 c 444; 1994 c 472 s 63*

524.6-213 FORMS.

Subdivision 1. **Survivorship account.** Deposits made using a form of account containing the following language signed by the depositor shall be conclusive evidence of the intent of the depositor, in the absence of fraud or misrepresentation, subject, nevertheless, to other disposition made by will as provided in section 524.6-204, clause (d), to establish a survivorship account:

(a) "I (we) direct that the balance remaining in this account shall be PAYABLE ON DEATH (of the survivor of us) to:

....

....

Signed: .....

.....

Dated: ....."

(b) "I (we) intend and agree that the balance in this account, upon the death of any party to this account, shall belong to the surviving party, or if there are two or more surviving parties, they shall take as JOINT TENANTS.

Signed: .....

.....

Dated: ....."

Subd. 2. **Account subject to power of attorney with no survivorship rights.** Where no rights of survivorship are intended and the account is one to be established for convenience only between a depositor and an agent, the following language is recommended for use, and when so used, the account shall be construed as a matter of law to be an account subject to a power of attorney with no survivorship rights, the form to read as follows:

"I ..... (grantor of power), hereby constitute and appoint ..... (grantee of power), as my attorney-in-fact, to deposit or withdraw funds held in .... (name of bank), in account No. .....

Signed: .....

Dated:

Acknowledgment: In the presence of ..... (an authorized person), ... (name of financial institution)."

The power so granted is subject to the provisions of sections 508.72, 508A.72, and 523.01 to 523.24.

Subd. 3. **Contract of deposit; sample form.** A contract of deposit that contains provisions in substantially the following form establishes the type of account provided, and the account is governed by the provisions of this part applicable to an account of that type:

UNIFORM SINGLE- OR MULTIPLE-PARTY ACCOUNT FORM

PARTIES [Name One Or More Parties]:

....

OWNERSHIP [Select One And Initial]:

..... SINGLE-PARTY ACCOUNT

..... MULTIPLE-PARTY ACCOUNT

Parties own account in proportion to net contributions unless there is clear and convincing evidence of a different intent.

RIGHTS AT DEATH [Select One And Initial]:

..... SINGLE-PARTY ACCOUNT

At death of party, ownership passes as part of party's estate.

..... SINGLE-PARTY ACCOUNT WITH P.O.D. (PAYABLE ON DEATH) DESIGNATION

[Name One Or More Beneficiaries]:

....

At death of party, ownership passes to P.O.D. beneficiaries and is not part of party's estate.

..... MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP

At death of party, ownership passes to surviving parties.

..... MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP AND P.O.D. (PAYABLE ON DEATH) DESIGNATION

[Name One Or More Beneficiaries]:

....

At death of last surviving party, ownership passes to P.O.D. beneficiaries and is not part of last surviving party's estate.

..... MULTIPLE-PARTY ACCOUNT WITHOUT RIGHT OF SURVIVORSHIP

At death of party, deceased party's ownership passes as part of deceased party's estate.

..... AGENCY DESIGNATION [Optional]

Agents may make account transactions for parties but have no ownership or rights at death unless named as P.O.D. beneficiaries. [To Add Agency Designation To Account, Name One Or More Agents]:

....

[Select One And Initial]:

..... AGENCY DESIGNATION SURVIVES DISABILITY OR INCAPACITY OF ANY OR ALL OF THE PARTIES

..... AGENCY DESIGNATION TERMINATES ON DISABILITY OR INCAPACITY OF THE SOLE PARTY OR LAST SURVIVING PARTY

Subd. 4. **Contract of deposit; generally.** A contract of deposit that does not contain provisions in substantially the form provided in subdivision 3 is governed by the provisions of this part applicable to the type of account that most nearly conforms to the depositor's intent.

History: *1973 c 619 s 15; 1984 c 603 s 28; 1985 c 292 s 21; 1Sp1986 c 3 art 1 s 63; 1993 c 13 art 2 s 1; 1994 c 472 s 63; 2013 c 36 s 7,8*

524.6-214 CITATION.

Sections 524.6-201 to 524.6-214 may be cited as the "Minnesota Multiparty Accounts Act."

History: *1973 c 619 s 1; 1987 c 384 art 2 s 1; 1994 c 472 s 63*

524.6-215 DESIGNATION OF AGENT.

(a) By a writing signed by all parties, or by less than all of the parties if the contract of deposit expressly so provides, the parties may designate, as an agent of all parties on an account, a person other than a party.

(b) Unless the terms of an agency designation provide that the authority of the agent terminates on disability or incapacity of a party, the agent's authority survives disability and incapacity. The agent may act for a party until the authority of the agent is terminated by the party, by an attorney-in-fact appointed by the party, or by a conservator appointed to protect the interests of the party.

(c) Death of the sole party or last surviving party terminates the authority of an agent.

(d) Except as otherwise provided for in section 524.6-211, a financial institution is not liable for account transactions performed at the direction of, or authorized by, an agent under an agency designation for an account if:

(1) the financial institution has no actual notice of the termination of the agent's authority before the transaction;

(2) the financial institution has no actual knowledge of the death of the sole party or last surviving party; or

(3) the agent's authority does not survive the disability or incapacity of all the parties, and the financial institution has not received actual notice of the disability or incapacity.

History: *2013 c 36 s 9*

524.6-216 TYPES OF ACCOUNT; EXISTING ACCOUNTS.

(a) An account may be for a single party or multiple parties. A multiple-party account may be with or without a right of survivorship between the parties. Subject to section 524.6-204, either a single-party account or a multiple-party account may have a P.O.D. designation, an agency designation, or both.

(b) An account established before, on, or after August 1, 2013, whether in the form prescribed in section 524.6-213 or in any other form acceptable to the financial institution, is either a single-party account or a multiple-party account, with or without right of survivorship, and with or without a P.O.D. designation or an agency designation within the meaning of this chapter, and is governed by this chapter.

(c) An agency designation created on or after August 1, 2013, is governed by this chapter.

History: *2013 c 36 s 10*

Part 3
UNIFORM TOD SECURITY REGISTRATION ACT

524.6-301 DEFINITIONS.

In sections 524.6-301 to 524.6-311:

(1) "Beneficiary form" means a registration of a security which indicates the present owner of the security and the intention of the owner regarding the person who will become the owner of the security upon the death of the owner.

(2) "Register," including its derivatives, means to issue a certificate showing the ownership of a certificated security or, in the case of an uncertificated security, to initiate or transfer an account showing ownership of securities.

(3) "Registering entity" means a person who originates or transfers a security title by registration, and includes a broker maintaining security accounts for customers and a transfer agent or other person acting for or as an issuer of securities.

(4) "Security" means a share, participation, or other interest in property, in a business, or in an obligation of an enterprise or other issuer, and includes a certificated security, an uncertificated security, and a security account.

(5) "Security account" means (i) a reinvestment account associated with a security, a securities account with a broker, a cash balance in a brokerage account, cash, cash equivalents, interest, earnings, or dividends earned or declared on a security in an account, a reinvestment account, or a brokerage account, whether or not credited to the account before the owner's death, (ii) an investment management or custody account with a trust company or a trust division of a bank with trust powers, including the securities in the account, a cash balance in the account, and cash, cash equivalents, interest, earnings, or dividends earned or declared on a security in the account, whether or not credited to the account before the owner's death, or (iii) a cash balance or other property held for or due to the owner of a security as a replacement for or product of an account security, whether or not credited to the account before the owner's death.

History: *1992 c 461 art 2 s 1; 2001 c 15 s 12*

524.6-302 REGISTRATION IN BENEFICIARY FORM; SOLE OR JOINT TENANCY OWNERSHIP.

Only individuals whose registration of a security shows sole ownership by one individual or multiple ownership by two or more with right of survivorship, rather than as tenants in common, may obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants with right of survivorship, as tenants by the entireties, or as owners of community property held in survivorship form, and not as tenants in common.

History: *1992 c 461 art 2 s 2*

524.6-303 REGISTRATION IN BENEFICIARY FORM; APPLICABLE LAW.

A security may be registered in beneficiary form if the form is authorized by this or a similar statute of the state of organization of the issuer or registering entity, the location of the registering entity's principal office, the office of its transfer agent or its office making the registration, or by this or a similar statute of the law of the state listed as the owner's address at the time of registration. A registration governed by the law of a jurisdiction in which this or similar legislation is not in force or was not in force when a registration

in beneficiary form was made is nevertheless presumed to be valid and authorized as a matter of contract law.

History: *1992 c 461 art 2 s 3*

524.6-304 ORIGINATION OF REGISTRATION IN BENEFICIARY FORM.

A security, whether evidenced by certificate or account, is registered in beneficiary form when the registration includes a designation of a beneficiary to take the ownership at the death of the owner or the deaths of all multiple owners.

History: *1992 c 461 art 2 s 4*

524.6-305 FORM OF REGISTRATION IN BENEFICIARY FORM.

Registration in beneficiary form may be shown by the words "transfer on death" or the abbreviation "TOD," or by the words "pay on death" or the abbreviation "POD," after the name of the registered owner and before the name of a beneficiary.

History: *1992 c 461 art 2 s 5*

524.6-306 EFFECT OF REGISTRATION IN BENEFICIARY FORM.

The designation of a TOD beneficiary on a registration in beneficiary form has no effect on ownership until the owner's death. A registration of a security in beneficiary form may be canceled or changed at any time by the sole owner or all then surviving owners without the consent of the beneficiary.

History: *1992 c 461 art 2 s 6*

524.6-307 DEATH OF OWNER; CREDITORS.

Subdivision 1. **Ownership on death of owner.** On death of a sole owner or the last to die of all multiple owners, ownership of securities registered in beneficiary form passes to the beneficiary or beneficiaries who survive all owners. On proof of death of all owners and compliance with any applicable requirements of the registering entity, a security registered in beneficiary form may be reregistered in the name of the beneficiary or beneficiaries who survive the death of all owners. Until division of the security after the death of all owners, multiple beneficiaries surviving the death of all owners hold their interests as tenants in common. If no beneficiary survives the death of all owners, the security belongs to the estate of the deceased sole owner or the estate of the last to die of all multiple owners.

Subd. 2. **Rights of creditors.** A registration in beneficiary form is not effective against an estate of a deceased sole owner or a deceased last to die of multiple owners to transfer to a beneficiary or beneficiaries sums needed to pay debts, taxes, and expenses of administration, including statutory allowances to the surviving spouse, minor children, and dependent children, if other assets of the estate are insufficient. A TOD beneficiary in whose name a security is registered after the death of the owner is liable to account to the deceased owner's personal representative for securities so registered or their proceeds to the extent necessary to discharge such claims and charges remaining unpaid after the application of the assets of the decedent's estate. A proceeding to assert this liability may not be commenced unless the personal representative has received a written demand by a surviving spouse, a creditor, or one acting for a minor dependent child of the decedent, and a proceeding may not be commenced later than two years following the death of the decedent. A beneficiary against whom the proceeding is brought may elect to transfer to the personal representative the security registered in the name of the beneficiary after the death of the deceased owner if the beneficiary still owns the security, or the net proceeds received by the beneficiary upon disposition of

the security by the beneficiary, and that transfer fully discharges the beneficiary from all liability under this subdivision. Amounts or securities recovered by the personal representative must be administered as part of the deceased owner's estate.

This subdivision does not affect the right of a registering entity to register a security in the name of the beneficiary, or make a registering entity liable to the estate of a deceased owner, except for a reregistration after a registering entity has received written notice from any claimant to an interest in the security objecting to implementation of a registration in beneficiary form.

History: *1992 c 461 art 2 s 7,8*

524.6-308 PROTECTION OF REGISTERING ENTITY.

(a) A registering entity is not required to offer or to accept a request for security registration in beneficiary form. If a registration in beneficiary form is offered by a registering entity, the owner requesting registration in beneficiary form assents to the protections given to the registering entity by sections 524.6-301 to 524.6-311.

(b) By accepting a request for registration of a security in beneficiary form, the registering entity agrees that the registration will be implemented on death of the deceased owner as provided in sections 524.6-301 to 524.6-311.

(c) A registering entity is discharged from all claims to a security by the estate, creditors, heirs, or devisees of a deceased owner if it registers a transfer of the security in accordance with section 524.6-307 and does so in good faith reliance (i) on the registration, (ii) on sections 524.6-301 to 524.6-311, and (iii) on information provided to it by affidavit of the personal representative of the deceased owner, or by the surviving beneficiary or by the surviving beneficiary's representatives, or other information available to the registering entity. The protections of sections 524.6-301 to 524.6-311 do not extend to a reregistration or payment made after a registering entity has received written notice from any claimant to any interest in the security objecting to implementation of a registration in beneficiary form. No other notice or other information available to the registering entity affects its right to protection under sections 524.6-301 to 524.6-311.

(d) The protection provided by sections 524.6-301 to 524.6-311 to the registering entity of a security does not affect the rights of beneficiaries in disputes between themselves and other claimants to ownership of the security transferred or its value or proceeds.

History: *1992 c 461 art 2 s 9*

524.6-309 NONTESTAMENTARY TRANSFER; REVOCATION OF DESIGNATION.

Subdivision 1. **Nontestamentary transfer on death.** (a) A transfer on death resulting from a registration in beneficiary form is effective by reason of the contract regarding the registration between the owner and the registering entity and sections 524.6-301 to 524.6-311 and is not testamentary.

(b) Sections 524.6-301 to 524.6-311 do not limit the rights of creditors of security owners against beneficiaries and other transferees under other laws of this state.

Subd. 2. **Revocation of beneficiary designation by will.** A registration in beneficiary form may be canceled by specific reference to the security or the securities account in the will of the sole owner or the last to die of multiple owners, but the terms of the revocation are not binding on the registering entity unless it has received written notice from any claimant to an interest in the security objecting to implementation of a registration in beneficiary form prior to the registering entity reregistering the security. If the beneficiary

designation is canceled, the security belongs to the estate of the deceased sole owner or the estate or the last to die of all multiple owners.

History: *1992 c 461 art 2 s 10,11*

524.6-310 TERMS, CONDITIONS, AND FORMS FOR REGISTRATION.

(a) A registering entity offering to accept registrations in beneficiary form may establish the terms and conditions under which it will receive requests (i) for registrations in beneficiary form, and (ii) for implementation of registrations in beneficiary form, including requests for cancellation of previously registered TOD beneficiary designations and requests for reregistration to effect a change of beneficiary. The terms and conditions so established may provide for proving death, avoiding or resolving any problems concerning fractional shares, designating primary and contingent beneficiaries, and substituting a named beneficiary's descendants to take in the place of the named beneficiary in the event of the beneficiary's death. Substitution may be indicated by appending to the name of the primary beneficiary the letters LDPS, standing for "lineal descendants per stirpes." This designation substitutes a deceased beneficiary's descendants who survive the owner for a beneficiary who fails to so survive, the descendants to be identified and to share in accordance with the law of the beneficiary's domicile at the owner's death governing inheritance by descendants of an intestate. Other forms of identifying beneficiaries who are to take on one or more contingencies, and rules for providing proofs and assurances needed to satisfy reasonable concerns by registering entities regarding conditions and identities relevant to accurate implementation of registrations in beneficiary form, may be contained in a registering entity's terms and conditions.

(b) The following are illustrations of registrations in beneficiary form which a registering entity may authorize:

(1) Sole owner-sole beneficiary: John S. Brown TOD (or POD) John S. Brown Jr.

(2) Multiple owners-sole beneficiary: John S. Brown Mary B. Brown JT TEN TOD John S. Brown Jr.

(3) Multiple owners-primary and secondary (substituted) beneficiaries: John S. Brown Mary B. Brown JT TEN TOD John S. Brown Jr. SUB BENE Peter Q. Brown or John S. Brown Mary B. Brown JT TEN TOD John S. Brown Jr. LDPS.

History: *1992 c 461 art 2 s 12*

524.6-311 APPLICATION.

Sections 524.6-301 to 524.6-311 apply to registrations of securities in beneficiary form made before, on, or after June 1, 1992, by decedents dying on or after June 1, 1992.

History: *1992 c 461 art 2 s 13*

Article 8
EFFECTIVE DATE AND REPEALER

524.8-101 PROVISIONS FOR TRANSITION.

Except as provided elsewhere in this chapter, on the effective date of this chapter:

(1) the chapter applies to any wills of decedents dying thereafter;

(2) the chapter applies to any proceedings in court then pending or thereafter commenced regardless of the time of the death of decedent except to the extent that in the opinion of the court the former procedure should be made applicable in a particular case in the interest of justice or because of infeasibility of application of the procedure of this chapter;

(3) every personal representative including a person administering an estate of a minor or incompetent holding an appointment on that date, continues to hold the appointment but has only the powers conferred by this chapter and is subject to the duties imposed with respect to any act occurring or done thereafter;

(4) an act done before the effective date in any proceeding and any accrued right is not impaired by this chapter. If a right is acquired, extinguished or barred upon the expiration of a prescribed period of time which has commenced to run by the provisions of any statute before the effective date, the provisions shall remain in force with respect to that right;

(5) any rule of construction or presumption provided in this chapter applies to instruments executed and multiple party accounts opened before the effective date unless there is a clear indication of a contrary intent.

History: *1974 c 442 art 8 s 524.8-101; 1975 c 347 s 80*

524.8-102 [Obsolete, 1974 c 442 art 8 s 524.8-102]

524.8-103 EARLY EFFECTIVE DATE.

Notwithstanding section 524.8-101, the provisions of Laws 1974, chapter 442 relating to bonds found at sections 524.3-603 to 524.3-606 and Laws 1974, chapter 442, article 9, and that portion of Laws 1974, chapter 442, article 8, section 524.8-102, which repeals Minnesota Statutes 1971, sections 525.32 to 525.324, are effective August 1, 1974.

History: *1974 c 442 art 8 s 524.8-103; 2009 c 86 art 1 s 79*