CHAPTER 578

RECEIVERSHIP; ABSENTEES

578.01 DEFINITIONS.
578.02 ABSENTEES; POSSESSION, MANAGEMENT, AND DISPOSITION OF PROPERTY.
578.03 WARRANT; SHERIFF TO TAKE POSSESSION OF PROPERTY; FEES AND COSTS.
578.04 NOTICE OF SEIZURE; APPOINTMENT OF RECEIVER; DISPOSITION OF PROPERTY.
578.05 PUBLICATION OF NOTICE.
578.06 HEARING BY COURT; DISMISSAL OF PROCEEDING; APPOINTMENT AND BOND OF RECEIVER.
578.07 TRANSFER OF PROPERTY TO RECEIVER.
578.08 ADDITIONAL PROPERTY; RECEIVER TO TAKE POSSESSION.
578.09 WHERE NO CORPOREAL PROPERTY; RECEIVER; BOND.
578.10 CARE OF PROPERTY; LEASE; SALE; CONTROL OF BUSINESS.
578.11 ADVANCE LIFE INSURANCE PAYMENTS TO ABSENTEE'S BENEFICIARY.
578.12 HEARING BY COURT; DETERMINATION OF RIGHT TO ADVANCE LIFE INSURANCE PAYMENTS.
578.13 REAPPEARANCE OF ABSENTEE.
578.14 USE OF PROCEEDS.
578.15 CLAIMS; ADJUSTMENT BY RECEIVER.
578.16 PRESUMPTION OF DEATH FROM ABSENCE.
578.17 HEARING BY COURT; DETERMINATION OF DEATH OF AN ABSENTEE.
578.18 DEGREE OF BURDEN OF PROOF.
578.19 DISSOLUTION OF MARRIAGE.
578.20 COMPENSATION OF RECEIVER; TITLE OF ABSENTEE LOST AFTER FOUR YEARS.
578.21 PROPERTY DISTRIBUTION; TIME LIMITATION.

578.01 DEFINITIONS.

Subdivision 1. **Generally.** For the purpose of sections 578.01, 578.02, 578.08, 578.10, and 578.15 to 578.21, the terms defined in this section have the meanings given them.

Subd. 2. **Court.** "Court" means the court having probate jurisdiction for the county where an absentee last resided.

Subd. 3. **Person.** "Person in interest" means the absentee, heirs, any person who would have an interest in the absentee's estate had the absentee died intestate at any time between the commencement of the absence and the date set for any proceeding prescribed by section 578.17, any person who would have an interest under the absentee's will or purported will, an insurer or surety of the absentee, an owner of any reversionary, remainder, joint or contractual interest which might be affected by the death of the absentee, creditor of the absentee, and any other person whom the court finds is properly in interest.

History: *1974 c 447 s 6; 1986 c 444; 1995 c 189 s 8; 1996 c 277 s 1; 2011 c 76 art 1 s 63; 2012 c 143 art 3 s 38*

578.02 ABSENTEES; POSSESSION, MANAGEMENT, AND DISPOSITION OF PROPERTY.

If a person entitled to or having an interest in property within or without the jurisdiction of the state has disappeared or absconded from the place within or without the state where last known to be, and has no agent in the state, and it is not known where the person is, or if such person, having a spouse or minor child or children dependent to any extent upon the person for support, has thus disappeared, or absconded without making sufficient provision for such support, and it is not known where the person is, or, if it is known that the person is without the state, any one who would under the law of the state be entitled to administer upon the estate of such absentee if deceased, or if no one is known to be so entitled, some person deemed suitable by the court, or such spouse, or some one in such spouse's or minors' behalf, may file a petition, under oath, in the court for the county where any such property is situated or found, stating the name, age, occupation, and last known residence or address of such absentee, the date and circumstances of the disappearance or

absconding, and the names and residences of other persons, whether members of such absentee's family or otherwise, of whom inquiry may be made, whether or not such absentee is a citizen of the United States, and if not, of what country the absentee is a citizen or native, and containing a schedule of the property, real and personal, so far as known, and its location within or without the state, and a schedule of contractual or property rights contingent upon the absentee's death, and praying that real and personal property may be taken possession of and a receiver thereof appointed under chapter 576. No proceedings shall be commenced under the provisions of this chapter, except upon good cause shown until at least three months after the date on which it is alleged in such petition that such person so disappeared or absconded.

History: *(8080-1) 1925 c 262 s 1; 1937 c 27 s 1; 1947 c 165 s 1; 1974 c 447 s 7; 1986 c 444; 1995 c 189 s 8; 1996 c 277 s 1; 2012 c 143 art 3 s 28,38*

578.03 WARRANT; SHERIFF TO TAKE POSSESSION OF PROPERTY; FEES AND COSTS.

The court may thereupon issue a warrant directed to the sheriff or a deputy, which may run throughout the state, commanding the officer to take possession of the property named in the schedule and hold it subject to the order of the court and make return of the warrant as soon as may be, with the officer's doings thereon and with a schedule of the property so taken. The officer shall post a copy of the warrant upon each parcel of land named in the schedule and cause so much of the warrant as relates to land to be recorded in the office of the county recorder for the county where the land is located. The officer shall receive such fees for serving the warrant as the court allows, but not more than those established by law for similar service upon a writ of attachment. If the petition is dismissed, the fees and the cost of publishing and serving the notice hereinafter provided shall be paid by the petitioner; if a receiver is appointed, they shall be paid by the receiver and allowed in the receiver's account.

History: *(8080-2) 1925 c 262 s 2; 1976 c 181 s 2; 1986 c 444; 2012 c 143 art 3 s 38*

578.04 NOTICE OF SEIZURE; APPOINTMENT OF RECEIVER; DISPOSITION OF PROPERTY.

Upon the return of such warrant, the court may issue a notice reciting the substance of the petition, warrant, and officer's return, which shall be addressed to such absentee and to all persons who claim an interest in such property, and to all whom it may concern, citing them to appear at a time and place named and show cause why a receiver of the property named in the officer's schedule should not be appointed and the property held and disposed of under this chapter.

History: *(8080-3) 1925 c 262 s 3; 2012 c 143 art 3 s 29,38*

578.05 PUBLICATION OF NOTICE.

The return day of the notice shall be not less than 30, nor more than 60, days after its date. The court shall order the notice to be published once in each of three successive weeks in one or more newspapers within the state, and to be posted in two or more conspicuous places in the county within the state where the absentee last resided or was known to have been either temporarily or permanently, and upon each parcel of land named in the officer's schedule, and a copy to be mailed to the last known address of such absentee. In all cases where the absentee is not a citizen of the United States, a copy of the notice shall be ordered by the court to be served within such time, by mail, on the consular representative of the foreign country of which the absentee is a citizen, if there be one in this state, otherwise on the secretary of state, who shall forward the same to the chief diplomatic representatives of such country at Washington. The court may order other and further notice to be given within or without the state.

History: *(8080-4) 1925 c 262 s 4; 2012 c 143 art 3 s 38*

578.06 HEARING BY COURT; DISMISSAL OF PROCEEDING; APPOINTMENT AND BOND OF RECEIVER.

The absentee, or any person who claims an interest in any of the property, may appear and show cause why the prayer of the petition should not be granted. The court may, after hearing, dismiss the petition and order the property in possession of the officer to be returned to the person entitled thereto, or it may appoint a receiver of the property which is in the possession of the officer and named in the schedule. If a receiver is appointed, the court shall find and record the date of the disappearance or absconding of the absentee; and the receiver shall give a bond pursuant to section 576.27. In the appointment of the receiver the court shall give preference to the spouse of the absentee, if the spouse is eligible to serve as receiver under section 576.26.

History: *(8080-5) 1925 c 262 s 5; 1981 c 31 s 18; 1986 c 444; 2012 c 143 art 3 s 30,38*

578.07 TRANSFER OF PROPERTY TO RECEIVER.

After the receiver gives its bond the court may order the sheriff or a deputy to transfer and deliver to such receiver the possession of the property under the warrant, and the receiver shall file in the office of the court administrator a schedule of the property received.

History: *(8080-6) 1925 c 262 s 6; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 2012 c 143 art 3 s 31,38*

578.08 ADDITIONAL PROPERTY; RECEIVER TO TAKE POSSESSION.

The receiver, after filing a petition, may be authorized and directed to take possession of any additional property, including a business concern, within or without the state which belongs to such absentee and to demand and collect all debts due the absentee from any person within or without the state and hold the same as if it had been transferred and delivered to the receiver by the officer. The receiver, after filing a petition, may also be authorized and directed to exercise any rights under a life insurance policy or an annuity contract which the absentee could have exercised, including, but not limited to, the right to borrow against it, surrender it for its cash surrender value, or continue it in force by payment of premiums.

History: *(8080-7) 1925 c 262 s 7; 1947 c 165 s 2; 1974 c 447 s 8; 1986 c 444; 2012 c 143 art 3 s 38*

578.09 WHERE NO CORPOREAL PROPERTY; RECEIVER; BOND.

If the absentee has left no corporeal property within or without the state, but there are debts and obligations due or owing to the absentee from persons within or without the state, a petition may be filed, as provided in section 578.02, stating the nature and amount of such debts and obligations, so far as known, and praying that a receiver thereof may be appointed. The court may thereupon issue a notice, as above provided, without issuing a warrant, and may, upon the return of the notice and after a hearing, dismiss the petition or appoint a receiver and authorize and direct the receiver to demand and collect the debts and obligations specified in the petition. The receiver shall give bond, as provided in section 576.27, and hold the proceeds of such debts and obligations and all property received, and distribute the same as provided in chapter 576. The receiver may be further authorized and directed as provided in section 578.08.

History: *(8080-8) 1925 c 262 s 8; 1947 c 165 s 3; 1986 c 444; 2012 c 143 art 3 s 32,38*

578.10 CARE OF PROPERTY; LEASE; SALE; CONTROL OF BUSINESS.

Subdivision 1. **Order for care of property.** The court may make orders for the care, custody, leasing, and investing of all property and its proceeds in the possession of the receiver. If any of the property consists of assets subject to likely rapid decline in value or live animals or is perishable or cannot be kept without a

great or disproportionate expense, the court may, after the return of the warrant, order such property to be sold at public or private sale. After the appointment of a receiver, upon the receiver's petition and after notice, the court may order all or part of the property, including the rights of the absentee in land, to be sold at public or private sale to supply money for payments authorized by sections 578.02 to 578.21, to preserve value, or for reinvestment approved by the court.

Subd. 2. **Absentee business.** The court may make orders for the management of an absentee's business in possession of the receiver. The court may authorize the receiver or person designated by the receiver to operate the business in conformance with sound business practice. Upon the receiver's petition and after notice, the court may authorize the sale of the business to supply money for payments authorized by sections 578.02 to 578.21, to preserve value, or for reinvestment approved by the court.

History: *(8080-9) 1925 c 262 s 9; 1974 c 447 s 9; 1986 c 444; 2012 c 143 art 3 s 38*

578.11 ADVANCE LIFE INSURANCE PAYMENTS TO ABSENTEE'S BENEFICIARY.

If the beneficiary under an insurance policy on the life of an absentee is the absentee's spouse, child, or other person dependent upon the absentee for support and advance payments under the policy are necessary to support and maintain the beneficiary, the beneficiary shall be entitled to advance payments as the court determines under section 578.12. "Beneficiary" under this section includes an heir at law of the person whose life is insured if the policy is payable to the insured's estate.

History: *1979 c 54 s 1; 1986 c 444; 2012 c 143 art 3 s 33,38*

578.12 HEARING BY COURT; DETERMINATION OF RIGHT TO ADVANCE LIFE INSURANCE PAYMENTS.

Subdivision 1. **Petition for hearing.** A petition may be filed requesting a hearing to determine entitlement to advance payment under an insurance policy on the life of an absentee. The petition shall contain the beneficiary's name, address, relationship to absentee, and the grounds justifying advance payment.

Subd. 2. **Notification of hearing.** Upon the filing of the petition, the court by certified mail shall notify the insurer who issued the policy of the date, time and place of the hearing. The insurer may appear at the hearing as a party in interest.

Subd. 3. **Evidentiary burden.** The petitioner has the burden to show by a fair preponderance of the evidence that:

(1) the absentee is missing, and there is reason to believe, dead;

(2) the beneficiary is a spouse, child, or other person dependent upon the absentee for support and maintenance; and

(3) the beneficiary has no source of income sufficient for support and maintenance at an adequate level.

Subd. 4. **Advance payments.** The court shall order periodic advance payments in appropriate amounts taking into consideration the needs of the beneficiary, the likelihood of the absentee's death, the amount payable under the policy, the possibility of the beneficiary providing the insurer with security for any reimbursement that may be required under section 578.13, subdivision 2, and any other relevant factors.

Payment made by the insurer under a court order shall discharge it from any liability to any party for the amounts paid.

History: *1979 c 54 s 2; 1986 c 444; 2012 c 143 art 3 s 38*

578.13 REAPPEARANCE OF ABSENTEE.

Subdivision 1. **Insurance payments; reduction.** If an absentee is declared dead after advance insurance payments have been made pursuant to section 578.12, the amount payable under the policy shall be reduced by the total amount of payments made under section 578.12.

Subd. 2. **Reimbursement of insurer.** If an absentee is found to be living after advance insurance payments have been made to a beneficiary pursuant to section 578.12, the absentee and beneficiary shall reimburse the insurer the amount of the payments made.

If the insurer is unable to obtain full reimbursement, the amount payable under the policy shall be reduced to the extent necessary to allow full reimbursement. Failure of the absentee and beneficiary to reimburse the insurer upon demand for payment sent by the insurer by certified mail to the last known address of the absentee and beneficiary shall be sufficient to show the insurer's inability to obtain reimbursement.

History: *1979 c 54 s 3; 2012 c 143 art 3 s 34,38*

578.14 USE OF PROCEEDS.

The court may order the property or its proceeds acquired by mortgages, lease, or sale to be applied in payment of charges incurred or that may be incurred in the support and maintenance of the absentee's spouse and minor child or children, and to the discharge of such debts and claims for maintenance, as defined in section 518.003, subdivision 3a, as may be proved against the absentee.

History: *(8080-10) 1925 c 262 s 10; 1937 c 27 s 2; 1978 c 772 s 62; 2005 c 164 s 29; 1Sp2005 c 7 s 28; 2012 c 143 art 3 s 38*

578.15 CLAIMS; ADJUSTMENT BY RECEIVER.

The court may authorize the receiver to adjust by arbitration or compromise any demand in favor of or against the estate of the absentee. The court may authorize the receiver to pay all taxes for which the absentee is liable and all taxes assessed on the absentee's property.

History: *(8080-11) 1925 c 262 s 11; 1974 c 447 s 10; 1986 c 444; 2012 c 143 art 3 s 38*

578.16 PRESUMPTION OF DEATH FROM ABSENCE.

An absentee who is missing for a continuous period of four years, during which, after diligent search, the absentee has not been seen or heard of or from, and whose absence is not satisfactorily explained, shall be presumed, in any action or proceeding involving the property of the person, contractual or property rights contingent upon the absentee's death or the administration of the absentee's estate, to have died four years after the date the unexplained absence commenced. If the person was exposed to a specific peril of death, that fact may be a sufficient basis for determining that the absentee died less than four years after the date the absence commenced.

History: *1974 c 447 s 11; 1986 c 444; 2012 c 143 art 3 s 38*

578.17 HEARING BY COURT; DETERMINATION OF DEATH OF AN ABSENTEE.

Subdivision 1. **Request hearing.** A person in interest may request a hearing in the following circumstances:

(1) if an absentee is absent from the domicile without being in communication after being exposed to a specific peril and a diligent search has been made; or

(2) if an absentee has been absent from the domicile for a period of four consecutive years or more without being in communication and a diligent search has been made; or

(3) if unforeseeable or changing circumstances necessitate court authorization for action in respect to the management or disposition of the absentee's business or property.

Subd. 2. **Petition.** The person requesting the hearing shall file a petition stating name, address, relationship to the absentee, and the specific grounds for the hearing requested.

Subd. 3. **Notification.** Upon the filing of the petition, the court shall notify all proper persons in interest of the date, time and place of the hearing.

Subd. 4. **Service of notice.** The notice shall in all cases be served as follows:

(1) by publication in the county in which the petition is filed once in each of three successive weeks, in a newspaper designated by the court; and

(2) upon all persons in interest by ordinary mail.

Subd. 5. **Order; death of absentee.** The court, if satisfied by the evidence adduced at a hearing in support of a petition alleging the absentee is missing after being exposed to a specific peril or that an absentee has been absent for four or more consecutive years, shall enter an order establishing as a matter of law the death of the absentee and the date thereof. The court shall order the distribution of the absentee's property to the persons and in the manner prescribed in chapters 524 and 525.

Subd. 6. **Hearing.** Upon a hearing brought pursuant to subdivision 1, clause (3), the court shall have full power to make orders appropriate to conserve the absentee's property or business or to protect the rights of the persons in interest.

History: *1974 c 447 s 12; 1975 c 347 s 142; 1986 c 444; 2012 c 143 art 3 s 38*

578.18 DEGREE OF BURDEN OF PROOF.

The burden of proof is on the party bringing the action to declare the absentee dead. If there is a showing that the absentee was exposed to a specific peril at the time of disappearance the burden of proof shall be by a fair preponderance of the evidence. If the absentee was in no unusual danger or peril at the time of disappearance, the burden of proof shall be by clear and convincing evidence.

History: *1974 c 447 s 13; 1986 c 444; 2012 c 143 art 3 s 38*

578.19 DISSOLUTION OF MARRIAGE.

If the court finds the absentee dead in accordance with section 578.17, the absentee's marriage is dissolved. The court shall enter the conclusion of law dissolving the marriage on the order which establishes the death of the absentee as a matter of law.

History: *1974 c 447 s 14; 1986 c 444; 2012 c 143 art 3 s 35,38*

578.20 COMPENSATION OF RECEIVER; TITLE OF ABSENTEE LOST AFTER FOUR YEARS.

The receiver shall be allowed compensation and disbursements as provided in this chapter. If, within four years after the date of the disappearance or absconding, as found and recorded by the court, the absentee appears, and has not been declared dead under section 578.17, or an administrator, executor, assignee in insolvency, or trustee in bankruptcy of the absentee is appointed, the receiver shall account for, deliver, and pay over to the absentee the remainder of the property. If the absentee does not appear and claim the property within four years, all the absentee's right, title, and interest in the property, real or personal, or the proceeds thereof, shall cease, and no action shall be brought by the absentee on account thereof.

If the absentee is declared dead pursuant to section 578.17 and appears before the expiration of four years, the absentee shall have no right, title and interest in the property, real or personal, or the proceeds thereof.

History: *(8080-12) 1925 c 262 s 12; 1974 c 447 s 15; 1986 c 444; 2012 c 143 art 3 s 36,38*

578.21 PROPERTY DISTRIBUTION; TIME LIMITATION.

If the receiver is not appointed within three years after the date found by the court under section 578.06, the time limited for accounting for, or fixed for distributing, the property or its proceeds, or for barring actions relative thereto, shall be one year after the date of the appointment of the receiver instead of the four years provided in sections 578.15 and 578.20.

The provisions of this chapter shall not be construed as exclusive, but as providing additional and cumulative remedies.

History: *(8080-13) 1925 c 262 s 13; 1974 c 447 s 16; 1975 c 347 s 143; 2012 c 143 art 3 s 37,38*