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State of Minnesota

Printed Page No. 403

HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH SESSION

HOUSE FILE No. 3134

February 22, 2010

Authored by Hornstein, Kelliher, Thao, Clark, Sertich and others
The bill was read for the first time and referred to the Committee on Civil Justice

March 11, 2010

Committee Recommendation and Adoption of Report:
To Pass
Read Second Time

A bill for an act

relating to probate; establishing probate and intestate rights for domestic partners; amending Minnesota Statutes 2008, sections 524.1-201; 524.2-101; 524.2-102; 524.2-103; 524.2-201; 524.2-213; 524.2-301; 524.2-402; 524.2-403; 524.2-404; 524.2-405; 524.2-803; 524.2-804; 524.3-301; 524.3-403; 524.3-703; 524.3-706; 524.3-715; 524.3-901; 524.3-906; 524.3-1203, subdivisions 1, 3; Minnesota Statutes 2009 Supplement, section 524.3-1203, subdivision 5.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 524.1-201, is amended to read:

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:

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

(3) "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) "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.

(6) "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

2.1 taxes, demands or disputes regarding title of a decedent to specific assets alleged to be
2.2 included in the estate, tort claims, foreclosure of mechanic's liens, or to actions pursuant
2.3 to section 573.02.

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

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

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

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

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

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

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

2.27 (14) "Domestic partners" means two persons who:

2.28 (i) are the same sex;

2.29 (ii) are adults and mentally competent to enter into legally binding contracts;

2.30 (iii) have assumed responsibility for each other's basic common welfare, financial
2.31 obligations, and well-being;

2.32 (iv) share a common domicile and primary residence with each other on a permanent
2.33 basis;

2.34 (v) have a committed interdependent relationship with each other, intend to continue
2.35 that relationship indefinitely, and do not have this type of relationship with any other
2.36 person;

3.1 (vi) are not married to another person and have not entered into a domestic
3.2 partnership arrangement with another person that is currently in effect; and

3.3 (vii) are not related by blood or adoption so that a marriage between them would be
3.4 prohibited under section 517.03, subdivision 1, paragraph (a), clause (2) or (3).

3.5 ~~(14)~~ (15) "Estate" includes all of the property of the decedent, trust, or other person
3.6 whose affairs are subject to this chapter as originally constituted and as it exists from
3.7 time to time during administration.

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

3.9 (17) "Foreign personal representative" means a personal representative of another
3.10 jurisdiction.

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

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

3.16 (21) "Heirs" means those persons, including the surviving spouse or domestic
3.17 partner, who are entitled under the statutes of intestate succession to the property of a
3.18 decedent.

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

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

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

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

3.32 (28) "Letters" includes letters testamentary, letters of guardianship, letters of
3.33 administration, and letters of conservatorship.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5.5 (49) "Supervised administration" refers to the proceedings described in sections
 5.6 524.3-501 to 524.3-505.

5.7 (51) "Testacy proceeding" means a proceeding to establish a will or determine
 5.8 intestacy.

5.9 (53) "Trust" includes any express trust, private or charitable, with additions
 5.10 thereto, wherever and however created. It also includes a trust created or determined
 5.11 by judgment or decree under which the trust is to be administered in the manner of
 5.12 an express trust. "Trust" excludes other constructive trusts, and it excludes resulting
 5.13 trusts, conservatorships, personal representatives, trust accounts as defined in chapter
 5.14 528, custodial arrangements pursuant to sections 149A.97, 318.01 to 318.06, 527.21 to
 5.15 527.44, business trusts providing for certificates to be issued to beneficiaries, common
 5.16 trust funds, voting trusts, security arrangements, liquidation trusts, and trusts for the
 5.17 primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or
 5.18 employee benefits of any kind, and any arrangement under which a person is nominee
 5.19 or escrowee for another.

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

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

5.23 (56) "Will" includes codicil and any testamentary instrument which merely appoints
 5.24 an executor or revokes or revises another will.

5.25 Sec. 2. Minnesota Statutes 2008, section 524.2-101, is amended to read:

5.26 **524.2-101 INTESTATE ESTATE.**

5.27 (a) The intestate estate of the decedent consists of any part of the decedent's estate
 5.28 not allowed to the decedent's spouse or domestic partner or descendants under sections
 5.29 524.2-402, 524.2-403, and 524.2-404, and not disposed of by will. The intestate estate
 5.30 passes by intestate succession to the decedent's heirs as prescribed in this chapter, except
 5.31 as modified by the decedent's will.

5.32 (b) A decedent by will may expressly exclude or limit the right of an individual
 5.33 or class to succeed to property of the decedent passing by intestate succession. If that
 5.34 individual or a member of that class survives the decedent, the share of the decedent's

6.1 intestate estate to which that individual or class would have succeeded passes as if that
6.2 individual or each member of that class had disclaimed an intestate share.

6.3 Sec. 3. Minnesota Statutes 2008, section 524.2-102, is amended to read:

6.4 **524.2-102 SHARE OF THE SPOUSE OR DOMESTIC PARTNER.**

6.5 The intestate share of a decedent's surviving spouse or domestic partner is:

6.6 (1) the entire intestate estate if:

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

6.8 (ii) all of the decedent's surviving descendants are also descendants of the surviving
6.9 spouse or domestic partner and there is no other descendant of the surviving spouse or
6.10 domestic partner who survives the decedent;

6.11 (2) the first \$150,000, plus one-half of any balance of the intestate estate, if all of
6.12 the decedent's surviving descendants are also descendants of the surviving spouse or
6.13 domestic partner and the surviving spouse or domestic partner has one or more surviving
6.14 descendants who are not descendants of the decedent, or if one or more of the decedent's
6.15 surviving descendants are not descendants of the surviving spouse or domestic partner.

6.16 Sec. 4. Minnesota Statutes 2008, section 524.2-103, is amended to read:

6.17 **524.2-103 SHARE OF HEIRS OTHER THAN SURVIVING SPOUSE OR**
6.18 **DOMESTIC PARTNER.**

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

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

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

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

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

7.1 the paternal or the maternal side, the entire estate passes to the decedent's relatives on the
7.2 other side in the same manner as the half;

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

7.8 Sec. 5. Minnesota Statutes 2008, section 524.2-201, is amended to read:

7.9 **524.2-201 DEFINITIONS.**

7.10 In this part:

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

7.14 (2) "Interest in property held with right of survivorship" means the severable interest
7.15 owned by the person or persons whose interest is being determined in property held in
7.16 joint tenancy or in other form of common ownership with a right of survivorship. The
7.17 interest shall be identified and valued as of the time immediately prior to the death of
7.18 the decedent or the date of the transfer which causes the property to be included in the
7.19 augmented estate, as the case may be. In the case of an account described in article 6, part
7.20 2, the severable interest owned by the person is the amount which belonged to the person
7.21 determined under section 524.6-203. In the case of property described in article 6, part 3,
7.22 the severable interest owned by the person is the amount consistent with section 524.6-306.

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

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

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

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

8.1 appointment" means a power, whether or not presently exercisable, possessed by a person
8.2 to create a present or future interest in the person, in the person's creditors, in the person's
8.3 estate, or in creditors of the person's estate.

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

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

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

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

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

8.30 Sec. 6. Minnesota Statutes 2008, section 524.2-213, is amended to read:

8.31 **524.2-213 WAIVER OF RIGHT TO ELECT AND OF OTHER RIGHTS.**

8.32 The right of election of a surviving spouse and the rights of ~~the~~ a surviving spouse
8.33 or domestic partner to the homestead, exempt property, and family allowance, or any of
8.34 them, may be waived, wholly or partially, after marriage or after the parties entered into
8.35 a domestic partnership, by a written contract, agreement, or waiver signed by the party

9.1 waiving after fair disclosure. Unless it provides to the contrary, a waiver of "all rights," or
 9.2 equivalent language, in the property or estate of a spouse is a waiver only of the right to
 9.3 the elective share. Any waiver prior to marriage must be made pursuant to section 519.11.

9.4 Sec. 7. Minnesota Statutes 2008, section 524.2-301, is amended to read:

9.5 **524.2-301 ENTITLEMENT OF SPOUSE OR DOMESTIC PARTNER;**
 9.6 **PREMARITAL WILL.**

9.7 (a) If a testator married or entered into a domestic partnership after making a
 9.8 will and the spouse or domestic partner survives the testator, the surviving spouse or
 9.9 domestic partner shall receive a share of the estate of the testator equal in value to that
 9.10 which the surviving spouse or domestic partner would have received if the testator had
 9.11 died intestate, unless:

9.12 (1) provision has been made for, or waived by, the spouse or domestic partner by
 9.13 ~~prenuptial or postnuptial~~ agreement;

9.14 (2) the will discloses an intention not to make provision for the spouse or domestic
 9.15 partner; or

9.16 (3) the spouse or domestic partner is provided for in the will.

9.17 (b) In satisfying the share provided by this section, devises made by the will, other
 9.18 than a devise to a child of the testator who was born before the testator married the
 9.19 surviving spouse or entered into a domestic partnership with the surviving domestic
 9.20 partner and who is not a child of the surviving spouse or domestic partner, or a devise or
 9.21 substitute gift under section 524.2-603 or 524.2-604 to a descendant of such a child, abate
 9.22 first as otherwise provided in section 524.3-902.

9.23 Sec. 8. Minnesota Statutes 2008, section 524.2-402, is amended to read:

9.24 **524.2-402 DESCENT OF HOMESTEAD.**

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

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

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

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

10.3 (c) If the homestead passes by descent or will to the spouse or domestic partner or
10.4 decedent's descendants or to a trustee of a trust of which the spouse or domestic partner
10.5 or the decedent's descendants are the sole current beneficiaries, it is exempt from all
10.6 debts which were not valid charges on it at the time of decedent's death except that the
10.7 homestead is subject to a claim filed pursuant to section 246.53 for state hospital care or
10.8 256B.15 for medical assistance benefits. If the homestead passes to a person other than a
10.9 spouse or domestic partner or decedent's descendants or to a trustee of a trust of which the
10.10 spouse or domestic partner or the decedent's descendants are the sole current beneficiaries,
10.11 it is subject to the payment of expenses of administration, funeral expenses, expenses of
10.12 last illness, taxes, and debts. The claimant may seek to enforce a lien or other charge
10.13 against a homestead so exempted by an appropriate action in the district court.

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

10.20 Sec. 9. Minnesota Statutes 2008, section 524.2-403, is amended to read:

10.21 **524.2-403 EXEMPT PROPERTY.**

10.22 (a) If there is a surviving spouse or domestic partner, then, in addition to the
10.23 homestead and family allowance, the surviving spouse or domestic partner is entitled
10.24 from the estate to:

10.25 (1) property not exceeding \$10,000 in value in excess of any security interests
10.26 therein, in household furniture, furnishings, appliances, and personal effects, subject to an
10.27 award of sentimental value property under section 525.152; and

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

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

10.33 (c) If encumbered chattels are selected and the value in excess of security interests,
10.34 plus that of other exempt property, is less than \$10,000, or if there is not \$10,000 worth of
10.35 exempt property in the estate, the surviving spouse or domestic partner or children are

11.1 entitled to other personal property of the estate, if any, to the extent necessary to make up
11.2 the \$10,000 value.

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

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

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

11.13 Sec. 10. Minnesota Statutes 2008, section 524.2-404, is amended to read:

11.14 **524.2-404 FAMILY ALLOWANCE.**

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

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

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

11.21 (b) The amount of the family allowance may be determined by the personal
11.22 representative in an amount not to exceed \$1,500 per month.

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

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

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

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

12.1 Sec. 11. Minnesota Statutes 2008, section 524.2-405, is amended to read:

12.2 **524.2-405 SOURCE, DETERMINATION, AND DOCUMENTATION.**

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

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

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

12.18 Sec. 12. Minnesota Statutes 2008, section 524.2-803, is amended to read:

12.19 **524.2-803 EFFECT OF HOMICIDE ON INTESTATE SUCCESSION, WILLS,**
 12.20 **JOINT ASSETS, LIFE INSURANCE AND BENEFICIARY DESIGNATIONS.**

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

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

12.34 (c) A named beneficiary of a bond or other contractual arrangement who feloniously
 12.35 and intentionally kills the principal obligee is not entitled to any benefit under the bond or

13.1 other contractual arrangement and it becomes payable as though the killer had predeceased
13.2 the decedent.

13.3 (d) A named beneficiary of a life insurance policy who feloniously and intentionally
13.4 kills the person upon whose life the policy is issued is not entitled to any benefit under
13.5 the policy and the proceeds of the policy shall be paid and distributed by order of the
13.6 court as hereinafter provided. If a person who feloniously and intentionally kills a person
13.7 upon whose life a life insurance policy is issued is a beneficial owner as shareholder,
13.8 partner or beneficiary of a corporation, partnership, trust or association which is the named
13.9 beneficiary of the life insurance policy, to the extent of the killer's beneficial ownership of
13.10 the corporation, partnership, trust or association, the proceeds of the policy shall be paid
13.11 and distributed by order of the court as hereinafter provided.

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

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

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

13.35 (f) A final judgment of conviction of felonious and intentional killing is conclusive
13.36 for purposes of this section. In the absence of a conviction of felonious and intentional

14.1 killing the court may determine by a preponderance of evidence whether the killing was
 14.2 felonious and intentional for purposes of this section.

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

14.10 Sec. 13. Minnesota Statutes 2008, section 524.2-804, is amended to read:

14.11 **524.2-804 REVOCATION BY DISSOLUTION OF MARRIAGE OR**
 14.12 **TERMINATION OF DOMESTIC PARTNERSHIP; NO REVOCATION BY**
 14.13 **OTHER CHANGES OF CIRCUMSTANCES.**

14.14 Subdivision 1. **Revocation upon dissolution or termination of domestic**
 14.15 **partnership.** Except as provided by the express terms of a governing instrument,
 14.16 other than a trust instrument under section 501B.90, executed prior to the dissolution
 14.17 or annulment of an individual's marriage or termination of an individual's domestic
 14.18 partnership, a court order, a contract relating to the division of ~~the marital~~ property made
 14.19 between individuals before or after their marriage, dissolution, or annulment or domestic
 14.20 partnership termination, or a plan document governing a qualified or nonqualified
 14.21 retirement plan, the dissolution or annulment of a marriage or termination of a domestic
 14.22 partnership revokes any revocable:

14.23 (1) disposition, beneficiary designation, or appointment of property made by an
 14.24 individual to the individual's former spouse or domestic partner in a governing instrument;

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

14.27 (3) nomination in a governing instrument, nominating an individual's former spouse
 14.28 or domestic partner to serve in any fiduciary or representative capacity, including a
 14.29 personal representative, executor, trustee, conservator, agent, or guardian.

14.30 Subd. 2. **Effect of revocation.** Provisions of a governing instrument are given effect
 14.31 as if the former spouse or domestic partner died immediately before the dissolution or
 14.32 annulment or termination of the domestic partnership.

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

15.1 the dissolution or annulment or if the individual and the former domestic partner entered
 15.2 into a domestic partnership again.

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

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

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

15.26 Sec. 14. Minnesota Statutes 2008, section 524.3-301, is amended to read:

15.27 **524.3-301 INFORMAL PROBATE OR APPOINTMENT PROCEEDINGS;**
 15.28 **APPLICATION; CONTENTS.**

15.29 An informal probate proceeding is an informal proceeding for the probate of
 15.30 decedent's will with or without an application for informal appointment. An informal
 15.31 appointment proceeding is an informal proceeding for appointment of a personal
 15.32 representative in testate or intestate estates. These proceedings may be combined in a
 15.33 single proceeding. Applications for informal probate or informal appointment shall
 15.34 be directed to the registrar, and verified by the applicant, in accordance with section

16.1 524.1-310, to be accurate and complete to the best of applicant's knowledge and belief
16.2 as to the following information:

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

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

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

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

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

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

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

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

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

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

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

16.33 (3) An application for informal appointment of a personal representative to
16.34 administer an estate under a will shall describe the will by date of execution and state
16.35 the time and place of probate or the pending application or petition for probate. The
16.36 application for appointment shall adopt the statements in the application or petition for

17.1 probate and state the name, address and priority for appointment of the person whose
17.2 appointment is sought.

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

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

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

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

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

17.22 Sec. 15. Minnesota Statutes 2008, section 524.3-403, is amended to read:

17.23 **524.3-403 FORMAL TESTACY PROCEEDING; NOTICE OF HEARING**
17.24 **ON PETITION.**

17.25 (a) Upon commencement of a formal testacy proceeding, the court shall fix a time
17.26 and place of hearing. Notice, in the form prescribed by court rule, shall be given in the
17.27 manner prescribed by section 524.1-401 by the petitioner to the persons herein enumerated
17.28 and to any additional person who has filed a demand for notice under section 524.3-204.
17.29 The petitioner, having reason to believe that the will has been lost or destroyed, shall
17.30 include a statement to that effect in the notice.

17.31 Notice shall be given to the following persons: the surviving spouse or domestic
17.32 partner, children, and other heirs of the decedent, the devisees and personal representatives
17.33 named in any will that is being or has been probated, or offered for informal or formal
17.34 probate in the county, or that is known by the petitioner to have been probated, or
17.35 offered for informal or formal probate elsewhere, and any personal representative of the

18.1 decedent whose appointment has not been terminated. Notice of the hearing, in the form
18.2 prescribed by court rule, shall also be given under the direction of the court administrator
18.3 by publication once a week for two consecutive weeks in a legal newspaper in the county
18.4 where the hearing is to be held, the last publication of which is to be at least ten days
18.5 before the time set for hearing.

18.6 If the decedent was born in a foreign country or has heirs or devisees in a foreign
18.7 country, notice of a formal testacy proceeding shall be given to the consul of that
18.8 country, if the consul resides in this state and has filed a copy of the appointment with
18.9 the secretary of state. Any notice received by the secretary of state shall be forwarded
18.10 to the appropriate consul.

18.11 (b) If it appears by the petition or otherwise that the fact of the death of the alleged
18.12 decedent may be in doubt, the court shall direct the petitioner to proceed in the manner
18.13 provided in chapter 576.

18.14 Sec. 16. Minnesota Statutes 2008, section 524.3-703, is amended to read:

18.15 **524.3-703 GENERAL DUTIES; RELATION AND LIABILITY TO PERSONS**
18.16 **INTERESTED IN ESTATE; STANDING TO SUE.**

18.17 (a) A personal representative is a fiduciary who shall observe the standards of care in
18.18 dealing with the estate assets that would be observed by a prudent person dealing with
18.19 the property of another, and if the personal representative has special skills or is named
18.20 personal representative on a basis of representation of special skills or expertise, the
18.21 personal representative is under a duty to use those skills. A personal representative is
18.22 under a duty to settle and distribute the estate of the decedent in accordance with the
18.23 terms of any probated and effective will and applicable law, and as expeditiously and
18.24 efficiently as is consistent with the best interests of the estate. The personal representative
18.25 shall use the authority conferred by applicable law, the terms of the will, if any, and any
18.26 order in proceedings to which the personal representative is party for the best interests of
18.27 successors to the estate.

18.28 (b) A personal representative shall not be surcharged for acts of administration
18.29 or distribution if the conduct in question was authorized at the time. Subject to other
18.30 obligations of administration, an informally probated will is authority to administer
18.31 and distribute the estate according to its terms. An order of appointment of a personal
18.32 representative, whether issued in informal or formal proceedings, is authority to distribute
18.33 apparently intestate assets to the heirs of the decedent if, at the time of distribution, the
18.34 personal representative is not aware of a pending testacy proceeding, a proceeding to
18.35 vacate an order entered in an earlier testacy proceeding, a formal proceeding questioning

19.1 the appointment or fitness to continue, or a supervised administration proceeding. Nothing
19.2 in this section affects the duty of the personal representative to administer and distribute
19.3 the estate in accordance with the rights of claimants, the surviving spouse or domestic
19.4 partner, any minor and dependent children and any pretermitted child of the decedent
19.5 as described elsewhere.

19.6 (c) Except as to proceedings which do not survive the death of the decedent, a
19.7 personal representative of a decedent domiciled in this state at death has the same standing
19.8 to sue and be sued in the courts of this state and the courts of any other jurisdiction as the
19.9 decedent had immediately prior to death.

19.10 Sec. 17. Minnesota Statutes 2008, section 524.3-706, is amended to read:

19.11 **524.3-706 DUTY OF PERSONAL REPRESENTATIVE; INVENTORY AND**
19.12 **APPRAISEMENT.**

19.13 Within six months after appointment, or nine months after the death of the decedent,
19.14 whichever is later, a personal representative, who is not a special administrator or a
19.15 successor to another representative who has previously discharged this duty, shall prepare
19.16 and file or mail an inventory of property owned by the decedent at the time of death,
19.17 listing it with reasonable detail, and indicating as to each listed item, its fair market value
19.18 as of the date of the decedent's death, and the type and amount of any encumbrance that
19.19 may exist with reference to any item.

19.20 The personal representative shall mail or deliver a copy of the inventory to the
19.21 surviving spouse or domestic partner, if there be one, to all residuary distributees, and to
19.22 interested persons or creditors who request a copy thereof. The personal representative
19.23 need not personally receive a copy as a surviving spouse or domestic partner or as a
19.24 residuary distributee.

19.25 Sec. 18. Minnesota Statutes 2008, section 524.3-715, is amended to read:

19.26 **524.3-715 TRANSACTIONS AUTHORIZED FOR PERSONAL**
19.27 **REPRESENTATIVES; EXCEPTIONS.**

19.28 Except as restricted or otherwise provided by the will or by an order in a
19.29 formal proceeding and subject to the priorities stated in section 524.3-902, a personal
19.30 representative, acting reasonably for the benefit of the interested persons, may properly:

19.31 (1) retain assets owned by the decedent pending distribution or liquidation including
19.32 those in which the representative is personally interested or which are otherwise improper
19.33 for trust investment;

19.34 (2) receive assets from fiduciaries, or other sources;

20.1 (3) perform, compromise or refuse performance of the decedent's contracts that
20.2 continue as obligations of the estate, as the personal representative may determine under
20.3 the circumstances. In performing enforceable contracts by the decedent to convey or lease
20.4 land, the personal representative, among other possible courses of action, may:

20.5 (i) execute and deliver a deed of conveyance for cash payment of all sums remaining
20.6 due or the purchaser's note for the sum remaining due secured by a mortgage or deed of
20.7 trust on the land; or

20.8 (ii) deliver a deed in escrow with directions that the proceeds, when paid in
20.9 accordance with the escrow agreement, be paid to the successors of the decedent, as
20.10 designated in the escrow agreement;

20.11 (4) satisfy written charitable pledges of the decedent irrespective of whether the
20.12 pledges constituted binding obligations of the decedent or were properly presented as
20.13 claims, if in the judgment of the personal representative the decedent would have wanted
20.14 the pledges completed under the circumstances;

20.15 (5) if funds are not needed to meet debts and expenses currently payable and are not
20.16 immediately distributable, deposit or invest liquid assets of the estate, including moneys
20.17 received from the sale of other assets, in federally insured interest-bearing accounts,
20.18 readily marketable secured loan arrangements or other prudent investments which would
20.19 be reasonable for use by trustees generally;

20.20 (6) acquire or dispose of an asset, including land in this or another state, for cash or
20.21 on credit, at public or private sale; and manage, develop, improve, exchange, partition,
20.22 change the character of, or abandon an estate asset;

20.23 (7) make ordinary or extraordinary repairs or alterations in buildings or other
20.24 structures, demolish any improvements, raze existing or erect new party walls or buildings;

20.25 (8) subdivide, develop or dedicate land to public use; make or obtain the vacation of
20.26 plats and adjust boundaries; or adjust differences in valuation on exchange or partition
20.27 by giving or receiving considerations; or dedicate easements to public use without
20.28 consideration;

20.29 (9) enter for any purpose into a lease as lessor or lessee, with or without option to
20.30 purchase or renew, for a term within or extending beyond the period of administration;

20.31 (10) enter into a lease or arrangement for exploration and removal of minerals or
20.32 other natural resources or enter into a pooling or unitization agreement;

20.33 (11) abandon property when, in the opinion of the personal representative, it is
20.34 valueless, or is so encumbered, or is in condition that it is of no benefit to the estate;

20.35 (12) vote stocks or other securities in person or by general or limited proxy;

21.1 (13) pay calls, assessments, and other sums chargeable or accruing against or on
21.2 account of securities, unless barred by the provisions relating to claims;

21.3 (14) hold a security in the name of a nominee or in other form without disclosure of
21.4 the interest of the estate but the personal representative is liable for any act of the nominee
21.5 in connection with the security so held;

21.6 (15) insure the assets of the estate against damage, loss and liability and the personal
21.7 representative against liability as to third persons;

21.8 (16) borrow money with or without security to be repaid from the estate assets or
21.9 otherwise; and advance money for the protection of the estate;

21.10 (17) effect a fair and reasonable compromise with any debtor or obligor, or extend,
21.11 renew or in any manner modify the terms of any obligation owing to the estate. The
21.12 personal representative on holding a mortgage, pledge or other lien upon property of
21.13 another person may, in lieu of foreclosure, accept a conveyance or transfer of encumbered
21.14 assets from the owner thereof in satisfaction of the indebtedness secured by lien;

21.15 (18) pay in compliance with section 524.3-805, but without the presentation of
21.16 a claim, the reasonable and necessary last illness expenses of the decedent (except as
21.17 provided in section 524.3-806 (a)), reasonable funeral expenses, debts and taxes with
21.18 preference under federal or state law, and other taxes, assessments, compensation of the
21.19 personal representative and the personal representative's attorney, and all other costs and
21.20 expenses of administration although the same may be otherwise barred under section
21.21 524.3-803;

21.22 (19) sell or exercise stock subscription or conversion rights; consent, directly
21.23 or through a committee or other agent, to the reorganization, consolidation, merger,
21.24 dissolution, or liquidation of a corporation or other business enterprise;

21.25 (20) allocate items of income or expense to either estate income or principal, as
21.26 permitted or provided by law;

21.27 (21) employ persons, including attorneys, auditors, investment advisors, or agents,
21.28 even if they are associated with the personal representative, to advise or assist the personal
21.29 representative in the performance of administrative duties; act without independent
21.30 investigation upon their recommendations; and instead of acting personally, employ one
21.31 or more agents to perform any act of administration, whether or not discretionary;

21.32 (22) prosecute or defend claims, or proceedings in any jurisdiction for the protection
21.33 of the estate and of the personal representative in the performance of duties;

21.34 (23) sell, mortgage, or lease any real or personal property of the estate or any interest
21.35 therein, including the homestead, exempt or otherwise, for cash, credit, or for part cash
21.36 and part credit, with or without security for unpaid balances, and without the consent of

22.1 any devisee or heir unless the property has been specifically devised to a devisee or heir
 22.2 by decedent's will, except that the homestead of a decedent when the spouse or domestic
 22.3 partner takes any interest therein shall not be sold, mortgaged or leased unless the written
 22.4 consent of the spouse or domestic partner has been obtained;

22.5 (24) continue any unincorporated business or venture in which the decedent was
 22.6 engaged at the time of death (i) in the same business form for a period of not more
 22.7 than four months from the date of appointment of a general personal representative if
 22.8 continuation is a reasonable means of preserving the value of the business including good
 22.9 will, (ii) in the same business form for any additional period of time that may be approved
 22.10 by order of the court in a formal proceeding to which the persons interested in the estate
 22.11 are parties; or (iii) throughout the period of administration if the business is incorporated
 22.12 by the personal representative and if none of the probable distributees of the business who
 22.13 are competent adults object to its incorporation and retention in the estate;

22.14 (25) incorporate any business or venture in which the decedent was engaged at
 22.15 the time of death;

22.16 (26) provide for exoneration of the personal representative from personal liability in
 22.17 any contract entered into on behalf of the estate;

22.18 (27) satisfy and settle claims and distribute the estate as provided in this chapter;

22.19 (28) foreclose a mortgage, lien, or pledge or collect the debts secured thereby, or
 22.20 complete any such proceeding commenced by the decedent;

22.21 (29) exercise all powers granted to guardians and conservators by sections 524.5-101
 22.22 to 524.5-502.

22.23 Sec. 19. Minnesota Statutes 2008, section 524.3-901, is amended to read:

22.24 **524.3-901 SUCCESSORS' RIGHTS IF NO ADMINISTRATION.**

22.25 In the absence of administration, the heirs and devisees are entitled to the estate in
 22.26 accordance with the terms of a probated will or the laws of intestate succession. Devisees
 22.27 may establish title by the probated will to devised property. Persons entitled to property
 22.28 pursuant to sections 524.2-402, 524.2-403, 525.14 or intestacy may establish title thereto
 22.29 by proof of the decedent's ownership and death, and their relationship to the decedent.
 22.30 Successors take subject to all charges incident to administration, including the claims of
 22.31 creditors and allowances of surviving spouse or domestic partner and dependent children,
 22.32 and subject to the rights of others resulting from abatement, retainer, advancement, and
 22.33 ademption.

23.1 Sec. 20. Minnesota Statutes 2008, section 524.3-906, is amended to read:

23.2 **524.3-906 DISTRIBUTION IN KIND; VALUATION; METHOD.**

23.3 (a) Unless a contrary intention is indicated by the will, the distributable assets of a
23.4 decedent's estate shall be distributed in kind to the extent possible through application of
23.5 the following provisions:

23.6 (1) A specific devisee is entitled to distribution of the thing devised, and a spouse
23.7 or domestic partner or child who has selected particular assets of an estate shall receive
23.8 the items selected.

23.9 (2) Any statutory allowances or devise payable in money may be satisfied by value
23.10 in kind provided

23.11 (i) the person entitled to the payment has not demanded payment in cash;

23.12 (ii) the property distributed in kind is valued at fair market value as of the date of
23.13 its distribution, and

23.14 (iii) no residuary devisee has requested that the asset in question remain a part of
23.15 the residue of the estate.

23.16 (3) For the purpose of valuation under paragraph (2) securities regularly traded on
23.17 recognized exchanges, if distributed in kind, are valued at the price for the last sale of like
23.18 securities, traded on the business day prior to distribution, or if there was no sale on
23.19 that day, at the median between amounts bid and offered at the close of that day. Assets
23.20 consisting of sums owed the decedent or the estate by solvent debtors as to which there is
23.21 no known dispute or defense are valued at the sum due with accrued interest or discounted
23.22 to the date of distribution. For assets which do not have readily ascertainable values, a
23.23 valuation as of a date not more than 30 days prior to the date of distribution, if otherwise
23.24 reasonable, controls. For purposes of facilitating distribution, the personal representative
23.25 may ascertain the value of the assets as of the time of the proposed distribution in any
23.26 reasonable way, including the employment of qualified appraisers, even if the assets may
23.27 have been previously appraised.

23.28 (4) The residuary estate shall be distributed in kind if there is no objection to the
23.29 proposed distribution and it is practicable to distribute undivided interests. In other cases,
23.30 residuary property may be converted into cash for distribution.

23.31 (b) After the probable charges against the estate are known, the personal
23.32 representative may mail or deliver a proposal for distribution to all persons who have a
23.33 right to object to the proposed distribution. The right of any distributee to object to the
23.34 proposed distribution on the basis of the kind or value of asset the distributee is to receive,
23.35 if not waived earlier in writing, terminates if the distributee fails to object in writing

24.1 received by the personal representative within 30 days after mailing or delivery of the
24.2 proposal.

24.3 Sec. 21. Minnesota Statutes 2008, section 524.3-1203, subdivision 1, is amended to
24.4 read:

24.5 Subdivision 1. **Petition and payment.** Upon petition of an interested person, the
24.6 court, with or without notice, may determine that the decedent had no estate, or that the
24.7 property has been destroyed, abandoned, lost, or rendered valueless, and that no recovery
24.8 has been had nor can be had for it, or if there is no property except property recovered for
24.9 death by wrongful act, property that is exempt from all debts and charges in the probate
24.10 court, or property that may be appropriated for the payment of the property selection as
24.11 provided in section 524.2-403, the allowances to the spouse or domestic partner and
24.12 children mentioned in section 524.2-404, and the expenses and claims provided in section
24.13 524.3-805, paragraph (a), clauses (1) to (6), inclusive, the personal representative by order
24.14 of the court may pay the estate in the order named. The court may then, with or without
24.15 notice, summarily determine the heirs, legatees, and devisees in its final decree or order of
24.16 distribution assigning to them their share or part of the property with which the personal
24.17 representative is charged.

24.18 Sec. 22. Minnesota Statutes 2008, section 524.3-1203, subdivision 3, is amended to
24.19 read:

24.20 Subd. 3. **Summary distribution.** Summary distribution may be made under this
24.21 section in any proceeding of any real, personal, or other property in kind in reimbursement
24.22 or payment of the property selection as provided in section 524.2-403, the allowances
24.23 to the spouse or domestic partner and children mentioned in section 524.2-404, and
24.24 the expenses and claims provided in section 524.3-805, paragraph (a), clauses (1) to
24.25 (6), inclusive, in the order named, if the court is satisfied as to the propriety of the
24.26 distribution and as to the valuation, based upon appraisal in the case of real estate other
24.27 than homestead, of the property being assigned to exhaust the assets of the estate.

24.28 Sec. 23. Minnesota Statutes 2009 Supplement, section 524.3-1203, subdivision 5,
24.29 is amended to read:

24.30 Subd. 5. **Exhaustion of estate.** In any summary, special, or other administration
24.31 in which it appears that the estate will not be exhausted in payment of the priority items
24.32 enumerated in subdivisions 1 to 4, the estate may nevertheless be summarily closed
24.33 without further notice, and the property assigned to the proper persons, if the gross probate

25.1 estate, exclusive of any exempt homestead as defined in section 524.2-402, and any
25.2 exempt property as defined in section 524.2-403, does not exceed the value of \$100,000.
25.3 If the closing and distribution of assets is made pursuant to the terms of a will, no decree
25.4 shall issue until a hearing has been held for formal probate of the will as provided in
25.5 sections 524.3-401 to 524.3-413.

25.6 No summary closing of an estate shall be made to any distributee under this
25.7 subdivision, unless a showing is made by the personal representative or the petitioner,
25.8 that all property selected by and allowances to the spouse or domestic partner and
25.9 children as provided in section 524.2-403 and the expenses and claims provided in section
25.10 524.3-805 have been paid, and provided, further, that a bond shall be filed by the personal
25.11 representative or the petitioner, conditioned upon the fact that all such obligations have
25.12 been paid and that all the facts shown on the petition are true, with sufficient surety
25.13 approved by the court in an amount as may be fixed by the court to cover potential
25.14 improper distributions. If a personal representative is appointed, the representative's bond
25.15 shall be sufficient for such purpose unless an additional bond is ordered, and the sureties
25.16 on the bond shall have the same obligations and liabilities as provided for sureties on a
25.17 distribution bond.

25.18 In the event that an improper distribution or disbursement is made in a summary
25.19 closing, in that not all of said obligations have been paid or that other facts as shown by
25.20 the personal representative or the petitioner, are not true, resulting in damage to any
25.21 party, the court may vacate its summary decree or closing order, and the petitioner or
25.22 the personal representative, together with the surety, shall be liable for damages to any
25.23 party determined to be injured thereby as herein provided. The personal representative,
25.24 petitioner, or the surety, may seek reimbursement for damages so paid or incurred from
25.25 any distributee or recipient of assets under summary decree or order, who shall be required
25.26 to make a contribution to cover such damages upon a pro rata basis or as may be equitable
25.27 to the extent of assets so received. The court is hereby granted complete and plenary
25.28 jurisdiction of any and all such proceedings and may enter such orders and judgments as
25.29 may be required to effectuate the purposes of this subdivision.

25.30 Any judgment rendered for damages or the recovery of assets in such proceedings
25.31 shall be upon petition and only after hearing held thereon on 14 days' notice of hearing and
25.32 a copy of petition served personally upon the personal representative and the surety and
25.33 upon any distributee or recipient of assets where applicable. Any action for the recovery
25.34 of money or damages under this subdivision is subject to the time and other limitations
25.35 imposed by section 524.1-304.