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Gender Revision of 1986

Volume 8

Revising
Minnesota Statutes
Chapters 480 – 645

480*#01S

1 480.01 JUSTICES; TERMS.
 2 The supreme court shall consist of one chief justice and
 3 six associate justices, who shall hold one term of court each
 4 year, at the seat of government, commencing on the first Tuesday
 5 after the first Monday in January, with such continuations or
 6 adjournments thereof during the year as may be necessary for the
 7 dispatch of the business coming before the court. When the
 8 chief justice of the court shall be absent from the state, or
 9 shall be, for any reason, incapacitated from acting as such, the
 10 associate justice present within the state and not incapacitated
 11 who shall have served the longest time, or when there are two or
 12 more associate justices of equal terms of service, then the
 13 associate justice, whom the chief justice shall designate as
 14 senior associate justice as such, shall have and exercise all
 15 the powers, duties, and functions of the chief justice during
 16 ~~his~~ the absence or incapacity and shall be, during such absence
 17 or incapacity, the presiding justice of the court. *

480*#011S

18 480.011 OFFICE OF ASSOCIATE JUSTICE; CONTINUANCE IN
 19 OFFICE.
 20 The reduction of two offices of associate justice abolished
 21 by section 480.01 shall become effective upon the first two
 22 vacancies occurring in that office on the supreme court. Each
 23 justice of the supreme court serving on August 1, 1983 may
 24 continue to serve until ~~he~~ the justice is not elected or does
 25 not seek reelection. If a justice who was serving on August 1,
 26 1983, is defeated for reelection by another person, that other
 27 person shall be deemed to have been in office as of August 1,
 28 1983, for the purposes of this section. *

480*#0591S

29 480.0591 RULES OF EVIDENCE.
 30 No change for subd 1 to 4
 31 Subd. 5. PROMULGATION. (1) EFFECTIVE DATE OF
 32 RULES; PUBLICATION. All rules promulgated under this section
 33 shall be effective at a time fixed by the court and shall be
 34 published in the appendix to the official reports of the supreme
 35 court and shall be bound therewith.
 36 (2) PRINTING, PUBLISHING AND DISTRIBUTING. The
 37 commissioner of administration shall print, publish and
 38 distribute copies thereof to the judiciary and attorneys as
 39 required by law. The commissioner shall make 500 copies
 40 available, without cost, to the superintendent of the bureau of
 41 criminal apprehension for distribution by ~~him~~ the superintendent
 42 to local law enforcement agencies of the state. *
 43 No change for subd 6

480*#07S

44 480.07 CLERK; BOND, ASSISTANTS, RECORDS.
 45 The clerk of the appellate courts may employ necessary
 46 clerical office help for whose compensation legislative
 47 appropriation has been made. ~~He~~ The clerk may appoint a deputy
 48 clerk for the discharge of the duties of the office in ~~his~~ the
 49 clerk's absence or inability to act, and such other duties as
 50 shall be assigned to ~~him~~ the deputy clerk by the clerk or the
 51 court. The deputy shall serve during the pleasure of the clerk.
 52 The clerk shall keep records and perform duties appropriate
 53 to ~~his~~ the clerk's office as the judges of the appellate courts
 54 prescribe. ~~He~~ The clerk shall provide, at the cost of the
 55 state, all books, stationery, furniture, postage, and supplies
 56 necessary for the proper transaction of the business of the
 57 courts. *

480*#08S

58 480.08 MARSHAL.
 59 A marshal of the supreme court may be appointed by the
 60 justices thereof to act during their pleasure. ~~His~~ The
 61 marshal's qualifications, duties, and powers shall be such as
 62 the court may prescribe conformably to the laws. *

480*#09S

63 480.09 STATE LIBRARY.
 64 No change for subd 1
 65 Subd. 2. The justices of the supreme court shall appoint a
 66 state law librarian to serve at their pleasure. ~~He~~ The law
 67 librarian shall give bond to the state in an amount not less
 68 than \$2,000, to be approved by the chief justice, conditioned
 69 for the faithful performance of ~~his~~ official duties. Subject to *

1 the approval of the justices, he the librarian may appoint an *
 2 assistant librarian who shall perform his the librarian's duties *
 3 when he the librarian is absent or disabled, and, subject to the *
 4 approval of the justices, he the librarian may employ necessary *
 5 assistants.

6 No change for subd 3 to 6.

480*#11S

7 480.11 REPORTER.

8 Subdivision 1. BOND; FILES. The reporter of its
 9 decisions, appointed by the supreme court, shall give bond to
 10 the state in the sum of \$500, to be approved by the governor,
 11 conditioned for the faithful discharge of his duties. He The *
 12 reporter shall be entitled to the possession, for a reasonable *
 13 time, of the files of the court in all cases decided.

14 Subd. 2. CASES; CITATIONS. He The reporter shall *
 15 accurately report all such cases, noting concisely the points
 16 decided, with a statement of the facts as shown by the record,
 17 unless the same are fully stated in the opinion; the names of
 18 counsel, with the points made and authorities cited, as fully as
 19 he the reporter deems necessary; and the opinions rendered by *
 20 the justices. All references in such opinions to former
 21 decisions of the court which have been published in the
 22 Northwestern Reporter shall also cite the volume and page of
 23 such reporter where the same appear; and, if the opinion
 24 reported has been published in said reporter, the volume and
 25 page of such publication shall be cited.

26 Subd. 3. PUBLICATION; COPYRIGHT. Within 90 days
 27 after the filing of a sufficient number of decisions to make an
 28 appropriate printed volume, the reporter shall deliver the
 29 manuscript of his the report of such cases to the contractor for *
 30 the publication thereof. As soon as the same is put in type, he *
 31 the reporter shall read and correct the printer's proof, and *
 32 furnish to the contractor an index, a table of cases, and other
 33 matter necessary to complete the volume. He The reporter shall *
 34 have no pecuniary interest in such reports, which shall be
 35 copyrighted by the secretary of state in trust for the people.

480*#12S

36 480.12 REPORTS OF DECISIONS; PRINTING, SALE, AND
 37 DISTRIBUTION.

38 The report of such decisions shall be published in form,
 39 style, quality, and in such numbers as the court shall direct.

40 Except as otherwise herein provided the published reports
 41 shall be sold by the commissioner of administration at a price
 42 not to exceed the maximum price set by the court. The
 43 commissioner of administration shall distribute without cost
 44 published reports to the institutions and public offices as the
 45 court may direct.

46 The commissioner shall determine the reasonable expense
 47 incurred in handling, and distributing the published reports
 48 which he the commissioner sells or which-he distributes without *
 49 cost. The unexpended balances of any appropriation to the
 50 supreme court for publishing reports of decisions shall be used
 51 to reimburse the commissioner for the reasonable expenses, and
 52 the amount of such reimbursement shall be credited to the
 53 central services revolving fund in the state treasury. If the
 54 unexpended balances of such an appropriation is insufficient
 55 therefor, the commissioner shall deduct the remainder of these
 56 expenses from receipts from the sale of published reports and
 57 deposit the deductions to the credit of central services
 58 revolving fund. He The commissioner shall deposit the balance *
 59 of the receipts to the credit of the general fund in the state
 60 treasury.

480*#14S

61 480.14 APPOINTMENT, COMPENSATION OF EMPLOYEES; COURT
 62 ADMINISTRATOR, EMPLOYEES NOT TO PRACTICE LAW.

63 The court administrator, with the approval of the chief
 64 justice of the supreme court of this state, shall appoint and
 65 fix the compensation of such employees as are necessary to
 66 enable him the administrator to perform the power and duties *
 67 vested in him the administrator. During his the administrator's *
 68 term of office or employment, neither the court administrator
 69 nor any employee shall engage directly or indirectly in the
 70 practice of law in this state.

480*#16S

71 480.16 DISTRIBUTION OF WORK OF COURTS; DUTY OF JUDGES TO
 72 COMPLY WITH CHIEF JUSTICE'S DIRECTION.

1 The chief justice shall consider all recommendations of the
 2 court administrator for the assignment of judges, and ~~in his~~
 3 discretion, has discretionary authority to direct any judge
 4 whose calendar, in the judgment of the chief justice, will
 5 permit, to hold court in any county or district where need
 6 therefor exists, to the end that the courts of this state shall
 7 function with maximum efficiency, and that the work of other
 8 courts shall be equitably distributed. The supreme court may
 9 provide by rule for the enforcement of this section and section
 10 480.17.

480*#18S

11 480.18 CONFERENCE OF JUDGES; JUDGE'S EXPENSES.

12 At least once each year the chief justice shall call a
 13 conference of the judges of the courts of record of this state
 14 for the consideration of matters relating to judicial business,
 15 the improvement of the judicial system, and the administration
 16 of justice. Each judge attending the annual judicial conference
 17 shall be entitled to be reimbursed for ~~his~~ necessary expenses to
 18 be paid from state appropriations made for the purposes of
 19 sections 480.13 to 480.20.

480*#21S

20 480.21 RESIGNED JUDGES, APPOINTMENT AS COMMISSIONERS.

21 Subdivision 1. The supreme court may appoint any resigned
 22 judge of the supreme court, who is not engaged in the practice
 23 of law, as a commissioner of that court to aid and assist in the
 24 performance of such of its duties as may be assigned to ~~him~~ the
 25 commissioner with ~~his~~ the commissioner's consent.

26 Subd. 2. Such a resigned judge who has been appointed and
 27 serves as a commissioner shall be paid the sum of \$35 and actual
 28 expenses for each day spent in the performance of ~~his~~ duties as
 29 such commissioner, said payment to be made in the same manner as
 30 payment of salaries for supreme court judges on certification by
 31 the chief judge.

480A#02S

32 480A.02 SELECTION OF JUDGES.

33 No change for subd 1

34 Subd. 2. ELECTION. Each judge shall be elected at
 35 the general election for a term of six years, beginning on the
 36 first Monday of the January next following ~~his~~ the election and
 37 until ~~his~~ a successor qualifies. Vacancies occurring between
 38 general elections shall be filled by appointment, as prescribed
 39 in the constitution.

40 No change for subd 3 to 7

481*#01S

41 481.01 BOARD OF LAW EXAMINERS; EXAMINATIONS.

42 The supreme court shall, by rule from time to time,
 43 prescribe the qualifications of all applicants for admission to
 44 practice law in this state, and shall appoint a board of law
 45 examiners, which shall be charged with the administration of
 46 such rules and regulations and with the examination of all
 47 applicants for admission to practice law. The board shall
 48 consist of not less than three, nor more than seven, attorneys
 49 at law, who shall be appointed each for the term of three years
 50 and until ~~his~~ a successor qualifies. The supreme court may fill
 51 any vacancy in the board for the unexpired term and in its
 52 discretion may remove any member thereof. The board shall have
 53 a seal and shall keep a record of its proceedings, of all
 54 applications for admission to practice, and of persons admitted
 55 to practice upon its recommendation. At least two times a year
 56 the board shall hold examinations and report the result thereof,
 57 with its recommendations, to the supreme court. Upon
 58 consideration of such report, the supreme court shall enter an
 59 order in the case of each person examined, directing the board
 60 to reject ~~him~~ or to issue to ~~him~~ the person a certificate of
 61 admission to practice. The board shall have such officers as
 62 may, from time to time, be prescribed and designated by the
 63 supreme court. The fee for examination shall be fixed, from
 64 time to time, by the supreme court, but shall not exceed \$50.
 65 Such fees, and any other fees which may be received pursuant to
 66 such rules as the supreme court may promulgate governing the
 67 practice of law shall be paid to the state treasurer and shall
 68 constitute a special fund in the state treasury. The moneys in
 69 such fund are appropriated annually to the supreme court for the
 70 payment of compensation and expenses of the members of the board
 71 of law examiners and for otherwise regulating the practice of
 72 law. The moneys in such fund shall never cancel. Payments

1 therefrom shall be made by the state treasurer, upon war of
 2 the commissioner of finance issued upon vouchers signed he
 3 of the justices of the supreme court. The members of the board
 4 shall have such compensation and such allowances for expenses as
 5 may, from time to time, be fixed by the supreme court.

481*#02S

6 481.02 UNAUTHORIZED PRACTICE OF LAW.

7 Subdivision 1. PROHIBITIONS. It shall be unlawful
 8 for any person or association of persons, except members of the
 9 bar of Minnesota admitted and licensed to practice as attorneys
 10 at law, to appear as attorney or counselor at law in any action
 11 or proceeding in any court in this state to maintain, conduct,
 12 or defend the same, except ~~in-his-own-behalf~~ personally as a *
 13 party thereto in other than a representative capacity, or, by *
 14 word, sign, letter, or advertisement, to hold out ~~himself-or~~ *
 15 ~~themselves~~ as competent or qualified to give legal advice or
 16 counsel, or to prepare legal documents, or as being engaged in
 17 advising or counseling in law or acting as attorney or counselor
 18 at law, or in furnishing to others the services of a lawyer or
 19 lawyers, or, for a fee or any consideration, to give legal
 20 advice or counsel, perform for or furnish to another legal
 21 services, or, for or without a fee or any consideration, to
 22 prepare, directly or through another, for another person, firm,
 23 or corporation, any will or testamentary disposition or
 24 instrument of trust serving purposes similar to those of a will,
 25 or, for a fee or any consideration, to prepare for another
 26 person, firm, or corporation, any other legal document, except
 27 as provided in subdivision 3.

28 No change for subd 2

29 Subd. 3. PERMITTED ACTIONS. The provisions of this
30 section shall not prohibit:

31 (1) any one person from drawing, without charge, any *
 32 document to which ~~he the person, a-person-whose-employee-he-is~~ *
 33 an employer of the person, a firm of which ~~he the person~~ is a *
 34 member, or a corporation whose officer or employee ~~he the person~~ *
 35 is, is a party, except another's will or testamentary *
 36 disposition or instrument of trust serving purposes similar to
 37 those of a will;

38 (2) a person from drawing a will for another in an
 39 emergency if the imminence of death leaves insufficient time to
 40 have it drawn and its execution supervised by a licensed
 41 attorney at law;

42 (3) any one, acting as broker for the parties or agent of
 43 one of the parties to a sale or trade or lease of property or to
 44 a loan, from drawing or assisting in drawing, with or without
 45 charge, papers incident to the sale, trade, lease, or loan;

46 (4) any insurance company from causing to be defended, or
 47 from offering to cause to be defended through lawyers of its
 48 selection, the insureds in policies issued or to be issued by
 49 it, in accordance with the terms of the policies;

50 (5) a licensed attorney at law from acting for several
 51 common-carrier corporations or any of its subsidiaries pursuant
 52 to arrangement between the corporations;

53 (6) any bona fide labor organization from giving legal
 54 advice to its members in matters arising out of their employment;

55 (7) any person from conferring or cooperating with a
 56 licensed attorney at law of another in preparing any legal
 57 document, if the attorney is not, directly or indirectly, in the
 58 employ of the person or of any person, firm, or corporation
 59 represented by the person;

60 (8) any licensed attorney at law of Minnesota, who is an
 61 officer or employee of a corporation, from drawing, for or
 62 without compensation, any document to which the corporation is a
 63 party or in which it is interested personally or in a
 64 representative capacity, except wills or testamentary
 65 dispositions or instruments of trust serving purposes similar to
 66 those of a will, but any charge made for the legal work
 67 connected with preparing and drawing the document shall not
 68 exceed the amount paid to and received and retained by the
 69 attorney, and the attorney shall not, directly or indirectly,
 70 rebate the fee to or divide the fee with the corporation;

71 (9) any person or corporation from drawing, for or without
 72 a fee, farm or house leases, notes, mortgages, chattel
 73 mortgages, bills of sale, deeds, assignments, satisfactions or
 74 any other conveyances except testamentary dispositions and
 75 instruments of trust;

1 (10) a licensed attorney at law of Minnesota from rendering
 2 to a corporation legal services to itself at the expense of one
 3 or more of its bona fide principal stockholders by whom ~~he~~ the
 4 attorney is employed and by whom no compensation is, directly or
 5 indirectly, received for the services;

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*

6 (11) any person or corporation engaged in the business of
 7 making collections from engaging or turning over to an attorney
 8 at law for the purpose of instituting and conducting suit or
 9 making proof of claim of a creditor in any case in which the
 10 attorney at law receives the entire compensation for the work;

11 (12) any regularly established farm journal or newspaper,
 12 devoted to general news, from publishing a department of legal
 13 questions and answers to them, made by a licensed attorney at
 14 law, if no answer is accompanied or at any time preceded or
 15 followed by any charge for it, any disclosure of any name of the
 16 maker of any answer, any recommendation of or reference to any
 17 one to furnish legal advice or services, or by any legal advice
 18 or service for the periodical or any one connected with it or
 19 suggested by it, directly or indirectly;

20 (13) any authorized management agent of an owner of rental
 21 property used for residential purposes, whether the management
 22 agent is a natural person, corporation, partnership, limited
 23 partnership, or any other business entity, from commencing,
 24 maintaining, conducting, or defending in its own behalf any
 25 action in any court in this state to recover or retain
 26 possession of the property, except that the provision of this
 27 clause does not authorize a person who is not a licensed
 28 attorney at law to conduct a jury trial or to appear before a
 29 district court or the court of appeals or supreme court pursuant
 30 to an appeal; and

31 (14) any person from commencing, maintaining, conducting,
 32 or defending on behalf of the plaintiff or defendant any action
 33 in any county or municipal court of this state pursuant to the
 34 provisions of section 566.175 or sections 566.18 to 566.33 or
 35 from commencing, maintaining, conducting, or defending on behalf
 36 of the plaintiff or defendant any action in any county or county
 37 municipal court of this state for the recovery of rental
 38 property used for residential purposes pursuant to the
 39 provisions of sections 566.02 or 566.03, subdivision 1, except
 40 that the provision of this clause does not authorize a person
 41 who is not a licensed attorney at law to conduct a jury trial or
 42 to appear before a district court or the court of appeals or
 43 supreme court pursuant to an appeal, and provided that, except
 44 for a nonprofit corporation, a person who is not a licensed
 45 attorney at law shall not charge or collect a separate fee for
 46 services rendered pursuant to this clause.

47 Subd. 4. MORTGAGE FORECLOSURE FEES. It shall be
 48 unlawful to exact, charge or receive any attorney's fee for the
 49 foreclosure of any mortgage, unless the foreclosure is conducted
 50 by a licensed attorney at law of Minnesota and unless the full
 51 amount charged as attorney's fee is actually paid to and
 52 received and retained by such attorney, without being, directly
 53 or indirectly, shared with or rebated to any one else; and it
 54 shall be unlawful for any such attorney to make any showing ~~that~~
 55 ~~he has received~~ of receiving such a fee unless ~~he~~ the attorney
 56 has received the same or to share with or rebate to any other
 57 person, firm, or corporation such fee, or any part thereof,
 58 received by ~~him~~ the attorney; but such attorney may divide such
 59 fee with another licensed attorney at law maintaining ~~his own~~
 60 the other's place of business and not an officer or employee of
 61 the foreclosing party, if such attorney has assisted in
 62 performing the services for which the fee is paid, or resides in
 63 a place other than that where the foreclosure proceedings are
 64 conducted and has forwarded the case to the attorney conducting
 65 such foreclosure.

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66 Subd. 5. CORPORATE FIDUCIARY AGENTS. It shall be
 67 unlawful for any corporation, appearing as executor,
 68 administrator, guardian, trustee, or other representative, to do
 69 the legal work in any action, probate proceeding or other
 70 proceeding in any court in this state, except through a licensed
 71 attorney at law of Minnesota maintaining ~~his~~ the attorney's own
 72 place of business and not an officer or employee of such
 73 executor, administrator, guardian, trustee, or representative.
 74 No attorney's fee shall be charged or paid or received in any
 75 such case, unless actually paid to and received and retained by
 76 such an attorney at law maintaining ~~his~~ the attorney's own place

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1 of business and not an officer or employee of such executor,
 2 administrator, guardian, trustee, or representative; and it
 3 shall be unlawful for such attorney to represent in any
 4 manner ~~that he has received~~ receiving any sum as a fee or *
 5 compensation unless the same has been actually received ~~by him~~ *
 6 or, directly or indirectly, to divide with or rebate to any
 7 person, firm, or corporation any part of any such fee or
 8 consideration received by ~~him~~ the attorney in any such case; but *
 9 such attorney may divide such fee with another licensed attorney *
 10 at law maintaining ~~his~~ the other's own place of business and not *
 11 an officer or employee of such executor, administrator,
 12 guardian, trustee, or other representative, if such attorney has
 13 assisted in performing the services for which the fees are paid,
 14 or resides in a place other than that where the action or
 15 proceedings are conducted and has forwarded the case to the
 16 attorney conducting the action or proceedings.

17 Subd. 6. ATTORNEYS OF OTHER STATES. Any attorney or
 18 counselor at law residing in any other state or territory in
 19 which ~~he~~ the attorney has been admitted to practice law, who *
 20 attends any term of the supreme court, court of appeals, or
 21 district court of this state for the purpose of trying or
 22 participating in the trial or proceedings of any action or
 23 proceedings there pending, may, in the discretion of the court *
 24 before which ~~he~~ the attorney appears in the action or
 25 proceeding, be permitted to try, or participate in the trial or
 26 proceedings in, the action or proceeding, without being subject
 27 to the provisions of this section, other than those set forth in
 28 subdivision 2, providing the state in which ~~he~~ the attorney is *
 29 licensed to practice law likewise grants permission to members
 30 of the state bar of Minnesota to act as an attorney for a client
 31 in that state under the same terms.

32 Subd. 7. LAY ASSISTANCE TO ATTORNEYS. Nothing
 33 herein contained shall be construed to prevent a corporation
 34 from furnishing to any person lawfully engaged in the practice
 35 of law, such information or such clerical service in and about *
 36 ~~his~~ the attorney's professional work as, except for the *
 37 provisions of this section, may be lawful, provided, that at all
 38 times the lawyer receiving such information or such services
 39 shall maintain full, professional and direct responsibility
 40 to ~~his~~ the attorney's clients for the information and services *
 41 so received.

42 No change for subd 8

481*#03S

43 481.03 ATTORNEYS SHALL NOT EMPLOY SOLICITORS.

44 No attorney at law shall, through any runner, agent or
 45 person not an attorney at law who is employed by ~~him~~ the *
 46 attorney, solicit a person to employ such attorney to present a *
 47 claim for damages for personal injuries or for death, or to
 48 prosecute an action to enforce such a claim, and no attorney at
 49 law shall, directly or indirectly, give a promise to any such
 50 person other than an attorney at law any money, fee or
 51 commission in consideration of the employment of such attorney
 52 by a person having a claim for personal injuries or for death,
 53 or soliciting or procuring such person who has such claim to
 54 employ such attorney to present such claim or to prosecute an
 55 action for the enforcement thereof.

481*#04S

56 481.04 SOLICITING OF BUSINESS BY PERSONS OTHER THAN
 57 ATTORNEYS; PROHIBITION.

58 It shall be unlawful for any person not an attorney at law
 59 to solicit for money, fee or commission, in any manner
 60 whatsoever, any demand or claim for personal injuries or for
 61 death for the purpose of having an action brought thereon for
 62 the purpose of settling the same. Nothing in sections 481.03 to
 63 481.05 shall be construed to prevent any bona fide labor
 64 organization or any member thereof from advising or securing
 65 advice for any member of such organization in regard to ~~his~~ the *
 66 member's rights. *

481*#06S

67 481.06 GENERAL DUTIES.

68 Every attorney at law shall:

- 69 (1) Observe and carry out the terms of ~~his~~ the attorney's *
 70 oath;
 71 (2) Maintain the respect due to courts of justice and
 72 judicial officers;
 73 (3) Counsel or maintain such causes only as appear to ~~him~~ *

1 the attorney legal and just; but ~~he~~ the attorney shall not *
 2 refuse to defend any person accused of a public offense;
 3 (4) Employ, for the maintenance of causes confided to ~~him~~ *
 4 the attorney, such means only as are consistent with truth, and *
 5 never seek to mislead the judges by any artifice or false *
 6 statement of fact or law;
 7 (5) Keep inviolate the confidences of ~~his~~ the attorney's *
 8 client, abstain from offensive personalities, and advance no *
 9 fact prejudicial to the honor or reputation of a party or *
 10 witness, unless the justice of ~~his~~ the cause requires it; *
 11 (6) Encourage the commencement or continuation of no action *
 12 or proceeding from motives of passion or interest; nor shall ~~he~~ *
 13 the attorney, for any personal consideration ~~personal to~~ *
 14 himself, reject the cause of the defenseless or oppressed. *

481*#07S

15 481.07 PENALTIES FOR DECEIT OR COLLUSION.
 16 An attorney who, with intent to deceive a court or a party
 17 to an action or judicial proceeding, is guilty of or consents to
 18 any deceit or collusion, shall be guilty of a misdemeanor; and,
 19 in addition to the punishment prescribed therefor, ~~he~~ the *
 20 attorney shall be liable to the party injured in treble *
 21 damages. If ~~he~~ the attorney permit any person ~~not his~~ other *
 22 than a general law partner to begin, prosecute, or defend an *
 23 action or proceeding in ~~his~~ the attorney's name, the attorney *
 24 giving such permission, and every person so using ~~his~~ the name, *
 25 shall forfeit \$50 to the party against whom the action or *
 26 proceeding is prosecuted or defended, recoverable in a civil *
 27 action.

481*#071S

28 481.071 MISCONDUCT BY ATTORNEYS.
 29 Every attorney or counselor at law who shall be guilty of
 30 any deceit or collusion, or shall consent thereto, with intent
 31 to deceive the court or any party, or who shall delay ~~his~~ the *
 32 attorney's client's suit with a view to ~~his~~ the attorney's own *
 33 gain, shall be guilty of a misdemeanor and, in addition to the *
 34 punishment prescribed by law therefor, ~~he~~ shall forfeit to the *
 35 party injured treble damages, to be recovered in a civil action.

481*#08S

36 481.08 AUTHORITY.
 37 An attorney may bind ~~his~~ a client, at any stage of an *
 38 action or proceeding, by agreement made in open court or in the *
 39 presence of the clerk, and entered in the minutes by such clerk,
 40 or made in writing and signed by such attorney. During any
 41 proceeding or action the attorney may receive money claimed
 42 therein by ~~his~~ a client, and within six years after judgment, *
 43 upon payment thereof, may discharge the claim or acknowledge *
 44 satisfaction of the judgment; but all such authority shall cease
 45 upon the substitution of another attorney.

481*#09S

46 481.09 PROOF OF AUTHORITY.
 47 A court, upon motion and hearing, and when reasonable *
 48 grounds are shown, may require any attorney to prove ~~his~~ the *
 49 attorney's authority to appear and, until such proof is made, *
 50 may stay all proceedings by ~~him~~ the attorney on behalf of the *
 51 party ~~he~~ the attorney assumes to represent. At any stage of the *
 52 proceedings the court may relieve a party from the consequences *
 53 of the unauthorized acts of an attorney and, upon motion, may
 54 summarily compel such attorney to repair any injury resulting
 55 therefrom.

481*#10S

56 481.10 CONSULTATION WITH PERSONS RESTRAINED.
 57 All officers or persons having in their custody a person
 58 restrained of ~~his~~ liberty upon any charge or cause alleged, *
 59 except in cases where imminent danger of escape exists, shall
 60 admit any resident attorney retained by or in behalf of the
 61 person restrained, or whom ~~he~~ the restrained person may desire *
 62 to consult, to a private interview at the place of custody.
 63 Such custodians, upon request of the person restrained, as soon
 64 as practicable, and before other proceedings shall be had, shall
 65 notify any attorney residing in the county of the request for a
 66 consultation with ~~him~~ the attorney. Every officer or person who *
 67 shall violate any provision of this section shall be guilty of a
 68 misdemeanor and, in addition to the punishment prescribed
 69 therefor shall forfeit \$100 to the person aggrieved, to be
 70 recovered in a civil action.

481*#12S

1 481.12 DISABILITY; SUBSTITUTION.

2 When the sole attorney of a party to any action or
 3 proceeding in any court of record dies, becomes insane, or is
 4 removed or suspended, the party for whom he the attorney appears *
 5 shall appoint another attorney within ten days after the
 6 disability arises, and give immediate written notice of the
 7 substitution to the adverse party. If he the party fail to make *
 8 substitution within such time, the adverse party, at least 20
 9 days before taking further proceedings against him the party, *
 10 shall give him the party written notice to appoint another *
 11 attorney. When, for any reason, the attorney for a party ceases
 12 to act, and the party has no known residence within the state,
 13 such notice may be served upon the clerk of the court. In case
 14 such party fails either to comply with the notice or appear in
 15 person within 30 days, he the party shall not be entitled to *
 16 notice of subsequent proceedings in the case.

481*#13S

17 481.13 LIEN FOR ATTORNEYS' FEES.

18 An attorney has a lien for his compensation whether the *
 19 agreement therefor be expressed or implied:

20 (1) Upon the cause of action from the time of the service
 21 of the summons therein, or the commencement of the proceeding,
 22 and upon the interest of his the attorney's client in any money *
 23 or property involved in or affected by any action or proceeding *
 24 in which he the attorney may have been employed, from the *
 25 commencement of the action or proceeding, and, as against third
 26 parties, from the time of filing the notice of such lien claim,
 27 as provided in this section;

28 (2) Upon a judgment, and whether there be a special
 29 agreement as to compensation, or whether a lien is claimed for
 30 the reasonable value of the services, the lien shall extend to
 31 the amount thereof from the time of giving notice of his the *
 32 claim to the judgment debtor, but this lien is subordinate to
 33 the rights existing between the parties to the action or
 34 proceeding;

35 (3) The liens provided by clauses (1) and (2) may be
 36 established, and the amount thereof determined, by the court,
 37 summarily, in the action or proceeding, on the application of
 38 the lien claimant or of any person or party interested in the
 39 property subject to such lien, on such notice to all parties
 40 interested therein as the court may, by order, to show cause,
 41 prescribe, or such liens may be enforced, and the amount thereof
 42 determined, by the court, in an action for equitable relief
 43 brought for that purpose.

44 Judgment shall be entered under the direction of the court,
 45 adjudging the amount due.

46 (4) If the lien is claimed on the client's interest in real
 47 estate involved in or affected by the action or proceeding, such
 48 notice of intention to claim a lien thereon shall be filed in
 49 the office of the county recorder or registrar of titles, where
 50 appropriate, and therein noted on the certificate or
 51 certificates of title affected, in and for the county within
 52 which the same is situated. If the lien is claimed on the
 53 client's interest in personal property involved in or affected
 54 by the action or proceeding, the notice shall be filed in the
 55 same manner as provided by law for the filing of a security
 56 interest.

481*#14S

57 481.14 REFUSAL TO SURRENDER PROPERTY TO CLIENTS.

58 When an attorney shall refuse to deliver money or papers to
 59 a person from or for whom he the attorney has received them in *
 60 the course of his professional employment, he the attorney may *
 61 be required to do so, upon petition, by an order of court. Such
 62 order may be granted by the court in which the action was
 63 prosecuted, or, if no action was prosecuted, by the district
 64 court of the county where he the attorney resides, or by the *
 65 supreme court, and may require him the attorney to make delivery *
 66 within a time specified, or show cause why he the attorney *
 67 should not be punished for contempt. In the event an attorney
 68 shall retain money of a client under a claim of right, including
 69 a claim for fees and expenses, the court shall determine the
 70 amount, if any, due such attorney, and shall order that any
 71 surplus amount remaining after deduction thereof be surrendered
 72 to the client.

481*#15S

73 481.15 REMOVAL OR SUSPENSION.

1 Subdivision 1. CAUSES. An attorney at law may be
 2 removed or suspended by the supreme court for any one of the
 3 following causes arising after ~~his~~ admission to practice: *

4 (1) Upon ~~his~~ being convicted of a felony, or of a *

5 misdemeanor involving moral turpitude, (in either of which cases
 6 the record of conviction shall be conclusive evidence). This
 7 clause shall not be construed to apply to a conviction for
 8 contempt of court;

9 (2) Upon a showing that ~~he~~ the attorney has knowingly *

10 signed a frivolous pleading, or been guilty of any deceit or
 11 wilful professional misconduct ~~in his profession~~; *

12 (3) For wilful disobedience of an order of court requiring
 13 ~~him~~ the attorney to do or forbear an act connected with or in
 14 the course of ~~his~~ the attorney's profession; *

15 (4) For a wilful violation of ~~his~~ the attorney's oath, or
 16 of any duty imposed upon an attorney by law. *

17 No change for subd 2

481*#16S

18 481.16 CERTAIN ATTORNEYS NOT TO DEFEND CERTAIN
 19 PROSECUTIONS; PENALTY.

20 Every attorney who shall, directly or indirectly, advise in
 21 relation to, or aid or promote the defense of, any action or
 22 proceeding in any court, the prosecution of which shall be
 23 carried on, aided, or promoted by any person as county attorney
 24 or other public prosecutor with whom such attorney shall be,
 25 directly or indirectly, connected as partner, or who, having
 26 himself personally prosecuted or in any manner aided or promoted *

27 any action or proceeding in any court as county attorney or
 28 other public prosecutor, shall afterwards, directly or
 29 indirectly, advise in relation to, or take any part in, the
 30 defense thereof, as attorney or otherwise, or who shall take or
 31 receive any valuable consideration from or on behalf of any
 32 defendant in any such action, upon any understanding or
 33 agreement whatsoever, expressed or implied, having relation to
 34 the defense thereof, shall be guilty of a misdemeanor.

484*#015S

35 484.015 TRANSFER OF CIVIL ACTIONS IN FOURTH JUDICIAL
 36 DISTRICT TO MUNICIPAL COURT.

37 No change for subd 1 to 2

38 Subd. 3. At any time after the filing of a trial note of
 39 issue and prior to trial of a transferable action, any judge of
 40 the district court of ~~his~~ the judge's own motion or on ex parte *

41 motion of any party, may issue an order to show cause why the
 42 action should not be transferred to the municipal court. At
 43 least 15 days prior to the return date, the clerk of district
 44 court shall mail copies of that order to counsel for all parties
 45 to the action and this mailing is sufficient service of the
 46 order.

47 Subd. 4. Prior to the return date, any party who objects
 48 to the transfer shall serve on all other parties and file ~~his~~ *

49 written objection with supporting affidavit stating ~~his~~ the *

50 reasons for objecting. At the hearing on the return date the
 51 judge of the district court shall determine whether or not the
 52 objecting party will be substantially prejudiced by such
 53 transfer, and if not, shall order the action transferred to the
 54 municipal court for all further proceedings. If no objection is
 55 timely filed, all parties are deemed to have consented to the
 56 transfer and any judge of the district court may order the
 57 action transferred to the municipal court for all further
 58 proceedings.

59 No change for subd 5

60 Subd. 6. Upon filing of a transfer order, the clerk of
 61 district court shall deliver to the clerk of the municipal court
 62 all papers filed in the action including the transfer order and
 63 a copy of all docket entries, and shall pay to said clerk the
 64 filing fee or appearance fee for any party who theretofore has
 65 paid that fee in district court, the fee to be in the amount
 66 normally payable in the municipal court, exclusive of any law
 67 library fees. Any excess over the law library fees and the fees
 68 so paid to the municipal court shall be retained by the clerk of
 69 district court as payment for ~~his~~ services. *

70 Subd. 7. The district court trial note of issue shall be
 71 effective to place the action on the general term calendar of
 72 the municipal court for trial. A party must demand a jury trial
 73 and pay to the clerk of the municipal court the requisite jury
 74 fee within the time and in the manner specified in any trial

1 notice issued by the municipal court; otherwise he the party *
 2 waives jury trial. If a proper demand is not so made or if the
 3 proper jury fee is not so paid, this waiver is effective even
 4 though the party or another party previously has demanded jury
 5 trial in the district court in a trial note of issue or
 6 otherwise.

7 No change for subd 8 to 9

484*#06S

8 484.06 JUDGE NOT TO PRACTICE LAW.

9 No judge of the district court shall practice as an *
 10 attorney or counselor at law except in cases in which he the *
 11 judge is a party in interest, nor shall he the judge receive any *
 12 fees for legal or judicial services other than as prescribed by *
 13 law; nor shall he the judge be a partner of any practicing *
 14 attorney in the business of his the practicing attorney's *
 15 profession.

484*#065S

16 484.065 CONFLICTS OF INTEREST; CERTIFICATE OF COMPLIANCE.

17 Subdivision 1. A judge of the district court shall devote *
 18 full time to the performance of his duties and shall not *
 19 practice as an attorney or counselor at law, nor be a partner of *
 20 any practicing attorney in the business of his the practicing *
 21 attorney's profession, and he the judge shall not engage in any *
 22 business activities that will tend to interfere with or appear *
 23 to conflict with his the judge's judicial duties. *

24 Subd. 2. No part of the salary of a judge of the district *
 25 court shall be paid unless the voucher therefor be accompanied *
 26 by a certificate of the judge ~~that he has complied~~ indicating *
 27 compliance with this section. *

484*#30S

28 484.30 ADJOURNED AND SPECIAL TERMS.

29 The judges of each district may adjourn court from time to *
 30 time during any term thereof, and may appoint special terms for *
 31 the trial of issues of law and fact, and, when necessary, direct *
 32 petit juries to be drawn therefor. They may also appoint *
 33 special terms for the hearing of all matters except issues of *
 34 fact, the order for which shall be filed with the clerk, and a *
 35 copy posted in his the clerk's office for three weeks prior to *
 36 the term. *

484*#31S

37 484.31 NON-ATTENDANCE OF JUDGE; ADJOURNMENT.

38 If the judge fails to attend on the day appointed for *
 39 holding court, the sheriff or clerk may open court and adjourn *
 40 the same from day to day; but, if he the judge does not appear *
 41 by four o'clock p.m. of the third day, one of said officers *
 42 shall adjourn the term without day, and dismiss the jurors; *
 43 provided, that such clerk or sheriff, upon the direction of the *
 44 judge, and without his the judge's presence, may adjourn any *
 45 general or special term to a day certain, in which case the *
 46 jurors, if any, shall attend on such day without further notice. *

484*#44S

47 484.44 DEPUTY SHERIFF AND CLERK; ST. LOUIS COUNTY.

48 There shall be at all times a chief deputy sheriff of St. *
 49 Louis county and a chief deputy clerk of the district court of *
 50 St. Louis county and such other deputies as may be necessary, *
 51 resident at the city of Virginia, or the city of Ely, or the *
 52 city of Hibbing, and their appointment shall be made in the same *
 53 manner as other deputy sheriffs and deputy clerks of the *
 54 district court in said county. The salaries of such deputies *
 55 shall be fixed and paid in the same manner as other such *
 56 deputies. The office of said deputy sheriff at Virginia, *
 57 Hibbing, and Ely shall not in any sense be considered or deemed *
 58 the office of the sheriff for any purpose except the performance *
 59 of his duties relating solely to proceedings tried or to be *
 60 tried at said places; but the office of the deputy clerk at said *
 61 places shall be equally deemed the office of the clerk of court *
 62 for all purposes except the filing of papers in actions or *
 63 proceedings to be tried at Duluth. Marriage licenses and *
 64 naturalization papers may be issued by said deputy clerk. *

484*#45S

65 484.45 COURTHOUSE; JAIL; EXPENSES; ST. LOUIS COUNTY.

66 It is hereby made the duty of the board of county *
 67 commissioners of the county of St. Louis to furnish and maintain *
 68 adequate accommodations for the holding of terms of the district *
 69 court at the city of Hibbing, and the city of Virginia, proper *
 70 offices for these deputies and a proper place for the

1 confinement and maintenance of the prisoners at the city of
2 Hibbing and the city of Virginia.

3 The county shall reimburse the clerk of the court and ~~his~~ *
4 deputies as herein provided for and the county attorney and ~~his~~ *
5 assistants and the district judges of the district and the
6 official court reporter for their traveling expenses actually
7 and necessarily incurred in the performance of their respective
8 official duties.

484*#50S

9 484.50 SUMMONS; PLACE OF TRIAL; ST. LOUIS COUNTY.

10 A party wishing to have an appeal from an order of the
11 department of public service, an election contest, a lien
12 foreclosure, or a civil cause or proceeding of a kind commenced
13 or appealed by a party in the court, tried in the city of
14 Virginia shall, in the summons, notice of appeal in a matter, or
15 other jurisdictional instrument issued, in addition to the usual
16 provisions, print, stamp, or write thereon the words, "to be
17 tried at the city of Virginia," and a party wishing a matter
18 commenced or appealed by a party in the court tried at the city
19 of Hibbing shall, in the summons, notice of appeal in a matter,
20 or other jurisdictional instrument issued, in addition to the
21 usual provisions, print, stamp, or write thereon the words, "to
22 be tried at the city of Hibbing," and in a case where a summons,
23 notice of appeal in a matter, or other jurisdictional instrument
24 contains a specification, the case shall be tried at the city of
25 Virginia, or the city of Hibbing, as the case may be, unless the
26 defendant shall have the place of trial fixed in the manner
27 specified in this section.

28 If the place of trial designated is not the proper place of
29 trial, as specified in sections 484.44 to 484.52, the cause
30 shall nevertheless be tried in a place, unless the defendant, in
31 an answer in addition to the other allegations of defense, shall
32 plead the location of ~~his~~ the defendant's residence, and demand *
33 that the action be tried at the place of holding the court *
34 nearest ~~his~~ the defendant's residence, as provided in this *
35 section; and in a case where the answer of the defendant pleads
36 the place of residence and makes a demand of place of trial, the
37 plaintiff, in ~~his~~ reply, may admit or deny the allegations of *
38 residence, and if the allegations of residence are not expressly *
39 denied, the case shall be tried at the place demanded by the
40 defendant, and if the allegations of residence are denied, the
41 place of trial shall be determined by the court on motion.

42 If there are several defendants, residing at different
43 places in a county, the trial shall be at the place in which the
44 majority of the defendants unite in demanding, or if the numbers
45 are equal, at the place nearest the residence of the majority of
46 the defendants.

47 The venue of an action may be changed from one of these
48 places to another, by order of the court, in the following cases:

- 49 (1) Upon written consent of the parties;
50 (2) When it appears, on motion, that a party has been made
51 a defendant for the purpose of preventing a change of venue as
52 provided in this section;
53 (3) When an impartial trial cannot be held in the place
54 where the action is pending; or
55 (4) When the convenience of witnesses and the ends of
56 justice would be promoted by the change.

57 Application for a change under clause (2), (3), or (4),
58 shall be made by motion which shall be returnable and heard at
59 the place of commencement of the action.

484*#51S

60 484.51 PAPERS WHERE FILED; ST. LOUIS COUNTY.

61 After the place of trial of any cause is determined, as
62 provided in sections 484.44 to 484.52, all papers, orders and
63 documents pertaining to all causes to be tried at Virginia and
64 filed in court shall be filed and be kept on file at the clerk's
65 office in the city of Virginia, and all causes to be tried in
66 Hibbing and all papers, orders and documents pertaining thereto
67 shall be filed and be kept on file at the clerk's office in the
68 city of Hibbing.

69 In all actions tried at the city of Virginia or the city of
70 Hibbing, the clerk of said court, as soon as final judgment is
71 entered, shall forthwith cause such judgment to be docketed in
72 ~~his~~ the clerk's office at the county seat; and when so docketed *
73 the same shall become a lien on real estate and have the same
74 effect as judgments entered in causes tried at the county seat.

1 In all actions tried at the city of Virginia or the city of
 2 Hibbing, involving the title of real estate, upon final judgment
 3 being entered, all the papers in said cause shall be filed in
 4 the clerk's office at the county seat and the final judgment or
 5 decree recorded therein, and a certified copy of all papers in
 6 the case shall be made by the clerk and retained at the clerk's
 7 office in the city of Virginia or in the clerk's office in the
 8 city of Hibbing where the action was originally tried, without
 9 additional charge to the parties to said action.

484*#54S

10 484.54 EXPENSES OF JUDGES.

11 No change for subd 1

12 Subd. 2. A judge shall be paid travel expenses for travel
 13 from ~~his~~ the judge's place of residence to and from ~~his~~ the
 14 judge's permanent chambers only for a period of two years after
 15 July 1, 1977 or the date ~~he~~ the judge initially assumes office,
 16 whichever is later. *

17 Subd. 3. Each judge claiming reimbursement for allowable
 18 expenses may file with the supreme court monthly and shall file
 19 not later than 90 days after the expenses are incurred, an
 20 itemized statement, verified by the judge, of all allowable
 21 expenses actually paid by ~~him~~ the judge. All statements shall
 22 be audited by the supreme court and, if approved by the supreme
 23 court, shall be paid by the commissioner of finance from
 24 appropriations for this purpose. *

484*#545S

25 484.545 LAW CLERKS.

26 No change for subd 1 to 2

27 Subd. 3. The law clerks, in addition to their salary,
 28 shall be paid necessary mileage, traveling and hotel expenses
 29 accrued in their discharge of official duties while absent from
 30 home. The county auditor of the county for which the expenses
 31 were incurred, upon presentation of a verified statement
 32 approved by one of the judges, shall issue ~~his~~ a warrant in
 33 payment thereof. *

34 No change for subd 4

484*#61S

35 484.61 RETIRED DISTRICT COURT JUDGES, ASSIGNMENTS.

36 Upon the retirement of any judge of the district court
 37 under the provisions of chapter 490, the retired judge may be
 38 appointed and assigned to hear any cause properly assignable to
 39 a judge of the district court and act thereon with full powers
 40 of a judge of the district court pursuant to section 2.724 with
 41 ~~his~~ the retired judge's consent. *

484*#62S

42 484.62 COMPENSATION AND REPORTER.

43 When a retired judge undertakes such service, ~~he~~ the
 44 retired judge shall be provided at the expense of the county ~~in~~
 45 which-he-is-performing of performance of the service with a
 46 reporter, selected by the retired judge, clerk, bailiff, if the
 47 judge deems a bailiff necessary, and a courtroom or hearing room
 48 for the purpose of holding court or hearings, to be paid for by
 49 the county in which the service is rendered and shall receive
 50 pay and expenses in the amount and manner provided by law for
 51 judges serving on the court to which the retired judge is
 52 assigned, less the amount of retirement pay which the judge is
 53 receiving, said payment to be made in the same manner as the
 54 payment of salaries for judges of the district court, on
 55 certification by the chief judge of the judicial district or by
 56 the chief justice of the supreme court of the state of
 57 Minnesota. A deputy clerk may act as bailiff when called to do
 58 so for the purposes of this section. *

484*#64S

59 484.64 FAMILY COURT DIVISION; SECOND JUDICIAL DISTRICT.

60 No change for subd 1

61 Subd. 2. The district court judge, family court division,
 62 shall hear and determine all matters involving divorce,
 63 annulment or legal separation, including proceedings for civil
 64 contempt for violations of orders issued in such proceedings.
 65 In addition, ~~he~~ that judge shall hear and determine paternity
 66 actions, reciprocal enforcement of support actions and criminal
 67 nonsupport cases. *

68 No change for subd 3

69 Subd. 4. In cases of absence, sickness or other disability
 70 which prevents said judge from performing ~~his~~ duties, the chief
 71 judge of the district court of the second judicial district may *

1 designate or assign one or more of the other judges of the
 2 district court to perform the duties of the district court
 3 judge, family court division. The chief judge of the district
 4 court may assign one or more family court matters to another
 5 judge of said judicial district for hearing and determination.
 6 No change for subd 5

484*#65S

7 484.65 FAMILY COURT DIVISION; FOURTH JUDICIAL DISTRICT.

8 No change for subd 1

9 Subd. 2. Said district court judge shall hear and
 10 determine all family matters assigned ~~to him~~ by the chief judge *
 11 of the fourth judicial district with the approval of the
 12 majority of the judges of said district.

13 No change for subd 3

14 Subd. 4. VACANCY. In cases of vacancy in the office,
 15 or if work load, absence, sickness or other disability prevents *
 16 a judge from fully performing ~~his~~ duties, the chief judge of the
 17 district court of the fourth judicial district may orally or in
 18 writing designate or assign one or more of the other judges of
 19 the district court to perform or assist in the performance of
 20 the duties of the district court judge, family court division.

21 No change for subd 5 to 7

22 Subd. 8. The duties and powers of referees in the family
 23 court division shall be as follows:

24 (a) Hear and report all matters within the jurisdiction of
 25 the district court judge, family court division, as may be
 26 directed to ~~him~~ the referee by said judge. *

27 (b) Recommend findings of fact, conclusions of law,
 28 temporary and interim orders, and final orders for judgment.

29 No change for subd 9

30 Subd. 10. Upon the conclusion of the hearing in each case,
 31 the referee shall transmit to said district court judge the
 32 court file together with ~~his~~ the referee's recommended findings *
 33 and orders in writing. The recommended findings and orders of a
 34 referee become the findings and orders of the court when
 35 confirmed by said judge. The order of the court shall be proof
 36 of such confirmation.

484*#68S

37 484.68 DISTRICT ADMINISTRATOR.

38 No change for subd 1 to 2

39 Subd. 3. DUTIES. The district administrator shall:

40 (a) Assist the chief judge in the performance of ~~his~~ *
 41 administrative duties;

42 (b) Manage the administrative affairs of the courts of the
 43 judicial district;

44 (c) Supervise the clerks of court and other support
 45 personnel, except court reporters, who serve in the courts of
 46 the judicial district;

47 (d) Comply with the requests of the state court
 48 administrator for statistical or other information relating to
 49 the courts of the judicial district; and

50 (e) Perform any additional duties that are assigned ~~to him~~ *
 51 by law or by the rules of court.

52 No change for subd 4 to 5

53 Subd. 6. SALARY. The salary of the district
 54 administrator shall be set by the state court administrator
 55 within the limits provided in section 15A.083, and shall be paid
 56 by the state. If an administrator dies, the amount of ~~his~~ *
 57 salary remaining unpaid for the month in which ~~his~~ the death *
 58 occurs shall be paid to ~~his~~ the administrator's estate. *

59 No change for subd 7 to 8

484*#69S

60 484.69 CHIEF JUDGE.

61 No change for subd 1 to 2

62 Subd. 3. ADMINISTRATIVE AUTHORITY. In each judicial
 63 district, the chief judge, subject to the authority of the chief
 64 justice, shall exercise general administrative authority over
 65 the courts within the judicial district. The chief judge shall
 66 make assignments of judges to serve on the courts within the
 67 judicial district, and assignments may be made without the
 68 consent of the judges affected. The chief judge may assign any
 69 judge of any court within the judicial district to hear any
 70 matter in any court of the judicial district. When a judge of a
 71 court is assigned to another court ~~he~~ the judge is vested with *
 72 the powers of a judge of the court ~~to which he is assigned~~ of *
 73 assignment. A judge may not be assigned to hear matters *

1 outside ~~his~~ the judge's judicial district pursuant to this
 2 subdivision.

*

3 No change for subd 4 to 5

485*#01S

4 485.01 APPOINTMENT; BOND; DUTIES.

5 A clerk of the district court for each county within the
 6 judicial district, who shall be known as the court
 7 administrator, shall be appointed by a majority of the district
 8 court judges in the district, after consultation with the county
 9 court judges of the county court district affected. The clerk,
 10 before entering upon the duties of ~~his~~ office, shall give bond
 11 to the state, to be approved by the chief judge of the judicial
 12 district, in a penal sum of not less than \$1,000 nor more than
 13 \$10,000 conditioned for the faithful discharge of ~~his~~ official
 14 duties. The bond, with ~~his~~ an oath of office, shall be filed
 15 for record with the county recorder. The clerk shall perform
 16 all duties assigned ~~him~~ by law and by the rules of the court.
 17 ~~He~~ The clerk shall not practice as an attorney in the court of
 18 which ~~he~~ the clerk is the clerk.

*

*

*

*

*

*

19 The duties, functions, and responsibilities which have been
 20 and may be required by statute or law to be performed by the
 21 clerk of district court shall be performed by the court
 22 administrator.

485*#018S

23 485.018 SALARY, COUNTIES UNDER 75,000 INHABITANTS.

24 No change for subd 1

25 Subd. 2. SET BY BOARD. The county board of each of
 26 the counties specified in subdivision 1 annually shall set by
 27 resolution the salary of the clerk of district court which shall
 28 be paid to the clerk of district court at such intervals as the
 29 board shall determine but not less often than once each month.
 30 At the January meeting prior to the first date on which
 31 applicants may file for the office of clerk of district court
 32 the board shall set by resolution the minimum salary to be paid
 33 the clerk of district court for the term next following. In the
 34 event a vacancy occurs in the office of the clerk of district
 35 court the board may set the annual salary for the remainder of
 36 the calendar year at an amount less than was set for that year.
 37 The board in any case specified in this subdivision may not set
 38 the annual salary at an amount less than the minimums provided
 39 in subdivision 1 but it may set the salary in excess of such
 40 minimums. The salary of the clerk of district court shall not
 41 be reduced during the term for which ~~he~~ the clerk is elected or
 42 appointed.

*

43 In the event that duties are assigned to the clerk of
 44 district court which are in addition to ~~his~~ the clerk's duties
 45 as clerk, additional compensation may be provided for the
 46 additional duties. The county board by resolution shall
 47 determine the additional compensation which shall be paid and
 48 specify the duties for which the additional compensation is to
 49 be paid.

*

50 Subd. 2a. WITHHOLDING SALARY. Upon certification by
 51 the state court administrator that the clerk of district court
 52 has failed to perform any of the duties assigned ~~to him~~ by law
 53 or by rule of court, the county board shall withhold the salary
 54 of the clerk, and shall not pay the salary until receipt of
 55 notice from the state court administrator that the clerk has
 56 performed the duties assigned ~~to him~~ by law or by rule of court.

*

*

57 Nothing in this subdivision shall be construed to prohibit
 58 the judges of the district court from removing a clerk of
 59 district court from office.

60 Subd. 3. Repealed, 1975 c 301 s 16

61 No change for subd 4

62 Subd. 5. COLLECTION OF FEES. The clerk of district
 63 court shall charge and collect all fees as prescribed by law and
 64 all such fees collected by ~~him~~ the clerk as clerk of district
 65 court shall be paid to the county in the manner and at the times
 66 prescribed by the county board, but not less often than once
 67 each month. The clerk of district court shall not retain any
 68 additional compensation, per diem or other emolument for ~~his~~
 69 services as clerk of district court, but may receive and retain
 70 mileage and expense allowances as prescribed by law.

*

*

71 No change for subd 6

72 Subd. 7. APPEAL FROM RESOLUTION OF THE BOARD. The
 73 clerk of district court if dissatisfied with the action of the
 74 county board in setting the amount of ~~his-or-her~~ the clerk's

*

1 salary or the amount of the budget for the office of clerk of
 2 district court, may appeal to the district court on the grounds
 3 that the determination of the county board in setting such
 4 salary or budget was arbitrary, capricious, oppressive or
 5 without sufficiently taking into account the extent of the
 6 responsibilities and duties of said office, and ~~his or her~~ the *
 7 clerk's experience, qualifications, and performance. The appeal *
 8 shall be taken within 15 days after the date of the resolution
 9 setting such salary or budget by serving a notice of appeal on
 10 the county auditor and filing same with the clerk of the
 11 district court. The court either in term or vacation and upon
 12 ten days notice to the ~~chairman~~ chair of the board shall hear *
 13 such appeal. On the hearing of the appeal the court shall review
 14 the decision or resolution of the board in a hearing de novo and
 15 may hear new or additional evidence, or the court may order the
 16 officer appealing and the board to submit briefs or other
 17 memoranda and may dispose of the appeal on such writings. If
 18 the court shall find that the board acted in an arbitrary,
 19 capricious, oppressive or unreasonable manner or without
 20 sufficiently taking into account the responsibilities and duties
 21 of the office of the clerk, and ~~his or her~~ the clerk's *
 22 experience, qualifications, and performance, it shall make such
 23 order to take the place of the order appealed from as is
 24 justified by the record and shall remand the matter to the
 25 county board for further action consistent with the court's
 26 findings. After determination of the appeal the county board
 27 shall proceed in conformity therewith.

28 No change for subd 8

485*#03S

29 485.03 DEPUTIES.

30 The county board shall determine the number of permanent
 31 full time deputies, clerks and other employees in the office of
 32 the clerk of district court and shall fix the compensation for
 33 each position. The county board shall also budget for temporary
 34 deputies and other employees and shall fix their rates of
 35 compensation. The clerk shall appoint in writing the deputies
 36 and other employees, for whose acts ~~he~~ the clerk shall be *
 37 responsible, and whom ~~he~~ the clerk may remove at pleasure. *
 38 Before ~~entering~~ each enters upon ~~his~~ official duties, the *
 39 appointment and oath of each shall be filed with the county
 40 recorder.

485*#05S

41 485.05 DEPUTY CLERK IN ST. LOUIS COUNTY.

42 In all counties in the state now or hereafter having a
 43 population of more than 150,000 and wherein regular terms of the
 44 district court are held in three or more places, the clerk of
 45 the district court therein, by an instrument in writing, under
 46 ~~his~~ the clerk's hand and seal, and with the approval of the *
 47 district judge of the judicial district in which said county is
 48 situated, or, if there be more than one such district judge,
 49 with the approval of a majority thereof, may appoint deputies
 50 for whose acts ~~he~~ the clerk shall be responsible, such deputies *
 51 to hold office as such until they shall be removed therefrom,
 52 which removal shall not be made except with the approval of the
 53 district judge or judges. The appointment and oath of every
 54 such deputy shall be filed with the county recorder.

485*#06S

55 485.06 SEARCH OF RECORDS; CERTIFICATE; PUBLIC INSPECTION.

56 The clerk, upon request of any person, shall make search of
 57 the books and records of ~~his~~ the clerk's office, and ascertain *
 58 the existence, docketing, or satisfaction of any judgment or
 59 other lien, and certify the result of such search under ~~his~~ the *
 60 clerk's hand and the seal of said court, giving the name of the *
 61 party against whom any judgment or lien appears of record, the
 62 amount thereof, and the time of its entry; and, if satisfied of
 63 its satisfaction, and any other entries requested relative to
 64 such judgment. Nothing in this section shall prevent attorneys
 65 or others from having access to such books and records at all
 66 reasonable times, when no certificate is necessary or required.

485*#07S

67 485.07 RECORDS TO BE KEPT.

68 Every clerk shall procure and keep the following records at
 69 the expense of ~~his~~ the county: *

70 (1) a register of actions, in which ~~he~~ the clerk shall *
 71 enter the title of each action, whether originally commenced in
 72 the clerk's court, or brought there by appeal or transcript of

1 judgment from another court of the state or the United States,
2 and a minute of each paper filed in the cause, and all
3 proceedings in them;

4 (2) a judgment roll, for each judgment rendered;

5 (3) a docket, in which ~~he~~ the clerk enters alphabetically *
6 the name of each judgment debtor, the amount of the judgment,
7 and the precise time of its entry;

8 (4) indexes, as described in section 485.08, and any other
9 records as the court may direct.

485*#10S

10 485.10 ENTRY OF UNREGISTERED CASES.

11 Every clerk shall enter upon the proper registers all
12 cases, civil and criminal, which, through a mistake,
13 inadvertence, or neglect of ~~his~~ the clerk's predecessor in *
14 office, have not been registered. The true date of the filings
15 in such cases shall be entered in the registers, and the
16 entries, when so made, shall have the same force and effect as
17 if made by the clerk at the proper time; provided, that, in
18 docketing any judgment, the date thereof shall be the time when
19 actually docketed, and the lien thereof shall attach only from
20 such date.

485*#12S

21 485.12 VACANCY.

22 Vacancies in the office of the clerk shall be filled by
23 appointment by the senior judge, of the county where there is
24 more than one judge therein; in judicial districts containing
25 more than one county and having more than one judge therein,
26 such appointment be made by the resident judge in said county,
27 or, if there be no resident judge, by the next nearest judge of
28 said district; and by the judge of the district court in
29 judicial districts having only one judge.

30 The appointee shall give the bond and take the oath
31 required by law, and shall hold ~~his~~ office for the balance of *
32 such entire term for which ~~he~~ the appointee shall be appointed, *
33 and until ~~his~~ a successor qualifies. In case any such clerk is *
34 adjudged insane, the judge shall appoint a competent person to *
35 act as clerk in ~~his~~ the clerk's place until ~~he~~ the clerk shall *
36 be duly declared restored to sanity. The person so appointed
37 shall take the oath and give the bond required by law of clerks
38 of the district court, and shall be entitled to the fees and
39 emoluments of the office during the time ~~he~~ the appointee shall *
40 so act, and ~~his~~ the appointee's acts shall have the same force *
41 and effect as if performed by such clerk.

486*#01S

42 486.01 APPOINTMENT, DUTIES, BOND; SUBSTITUTES.

43 Each judge, by duplicate orders filed with the clerk and *
44 county auditor of the several counties of ~~his~~ the judge's *
45 district, may appoint a competent stenographer as reporter of *
46 the court, to hold office during ~~his~~ the judge's pleasure, and *
47 to act as ~~his~~ the judge's secretary in all matters pertaining *
48 to ~~his~~ official duties. Such reporter shall give bond to the *
49 state in the sum of \$2,000, to be approved by the appointing *
50 judge ~~appointing-him~~, conditioned for the faithful and impartial *
51 discharge of all ~~his~~ the reporter's duties, which bond, with ~~his~~ *
52 the oath of office, shall be filed with the clerk in the county *
53 in which the judge resides.

54 Whenever the official reporter so appointed, because of
55 sickness or physical disability, is temporarily unable to
56 perform ~~his~~ duties, the judge of the court affected may, if *
57 another official court reporter is not available, secure for the
58 temporary period of disability of the official court reporter,
59 another competent reporter to perform such duties for not to
60 exceed 60 days in any calendar year. The substitute court
61 reporter so appointed shall receive as salary an amount equal to
62 the salary of the official court reporter for the period of time
63 involved and shall also receive in addition thereto ~~his~~ expenses *
64 and fees provided by sections 486.05 and 486.06. The salary of
65 such substitute reporter shall be paid in the manner now
66 provided by law for the payment of the salary of the official
67 court reporter. The substitute court reporter shall not be
68 required to furnish bond, unless ordered by the judge to do so.
69 The employment of and the compensation paid to such substitute
70 reporter shall in no way affect or prejudice the employment of
71 and the compensation paid to the official court reporter of said
72 court.

486*#02S

1 486.02 STENOGRAPHIC RECORD.

2 Except as provided in section 484.72, a competent
3 stenographer who meets minimum qualifications promulgated by the
4 supreme court, shall make a complete stenographic record of all
5 testimony given and all proceedings had before the judge upon
6 the trial of issues of fact, with or without a jury, or before
7 any referee appointed by such judge. In so doing ~~he~~ the
8 stenographer shall take down all questions in the exact language
9 thereof, and all answers thereto precisely as given by the
10 witness or by the sworn interpreter. ~~He~~ The stenographer shall
11 also record, verbatim, all objections made, and the grounds
12 thereof as stated by counsel, all rulings thereon, all
13 exceptions taken, all motions, orders, and admissions made and
14 the charge to the jury. When directed so to do by the judge, ~~he~~
15 the stenographer shall make a like record of any other matter or
16 proceeding, and shall read to such judge or referee any record
17 made by ~~him~~ the stenographer, or transcribe the same, without
18 charge, for any purpose in furtherance of justice.

486*#03S

19 486.03 FURNISH TRANSCRIPT; FILE RECORD.

20 As soon as the trial is ended the reporter or operator of
21 electronic recording equipment shall file ~~his~~ a stenographic
22 report, or tape recording, thereof with the clerk, or elsewhere,
23 if the judge shall so direct; and, upon request of any person
24 interested and payment or tender of ~~his~~ fees therefor, ~~he~~ the
25 reporter or operator shall furnish a transcript of such record
26 in the words and figures represented by the characters used in
27 making the same and for that purpose ~~he~~ may take and retain such
28 record so long as may be necessary, when it shall be returned to
29 the files.

486*#04S

30 486.04 ACT WHEN ANOTHER JUDGE PRESIDES.

31 Unless otherwise directed by the appointing judge
32 ~~appointing-him~~, the reporter shall serve as such in all matters
33 heard by another judge when acting in place of the former and
34 shall perform in relation to such matters all the duties
35 required of ~~him~~ the reporter by law.

486*#055S

36 486.055 COURT REPORTER TRANSCRIPT FEE CHARGES; REPORTING
37 REQUIREMENTS.

38 Each court reporter who charges a fee for the preparation
39 of transcripts shall by April 15 of each year file with the
40 district administrator of ~~his~~ the reporter's judicial district
41 and the county commissioners of the district an accounting of
42 gross receipts and net income from these receipts for the prior
43 calendar year. The accounting report shall specify the amount
44 received in payment for the sale of transcripts.

486*#06S

45 486.06 CHARGE FOR TRANSCRIPT.

46 In addition to the salary specified in section 486.05, the
47 court reporter may charge for a transcript of ~~his-or-her~~ a
48 record ordered by any person other than the judge 50 cents per
49 original folio thereof and ten cents per folio for each manifold
50 or other copy thereof when so ordered that it can be made with
51 the original transcript. The chief judge of the judicial
52 district may by order establish new transcript fee ceilings
53 annually.

487*#01S

54 487.01 PROBATE AND COUNTY COURTS; PROVISIONS.

55 No change for subd 1 to 5

56 Subd. 6. For the more effective administration of justice,
57 the supreme court may combine two or more county court districts
58 into a single county court district. If districts are combined,
59 the office of a judge may be terminated at the expiration of ~~his~~
60 the judge's term and ~~he~~ the judge shall be eligible for
61 retirement compensation under the provisions of sections 490.121
62 to 490.132. If the office of a judge who has not qualified for
63 retirement compensation is terminated ~~he~~ the judge shall upon
64 attaining age 62 or more, be entitled to an annuity or
65 proportionate annuity as computed under the provisions of
66 sections 490.121 to 490.132 based upon ~~his~~ the judge's years of
67 service as a judge. A judge whose office is terminated shall
68 continue to receive the insurance coverage provided for a judge
69 of the office but shall pay the premiums himself.

70 No change for subd 7

71 Subd. 9. (1) All probate judges in office on July 1, 1972

1 shall be the county court judges of their respective counties
 2 and shall continue in office as such for the balance of the
 3 terms for which they were last elected and shall be eligible for
 4 reelection to office. In counties hereby combined into county
 5 court districts and for which only one judge is provided, the
 6 probate judge of the county having the largest population
 7 determined by the last United States census shall be the judge
 8 of the county court if he the judge consents, and files his a *
 9 consent prior to July 1, 1972 in the office of the secretary of
 10 state. If he the judge does not consent, the probate judge of *
 11 the smaller county shall be the judge of the county court. In
 12 counties combined into county court districts for which only one
 13 judge is provided, a probate judge in any of the affected
 14 counties who at the effective date of this act, is, or before or
 15 at the expiration of his the judge's then current term of office *
 16 will become, eligible for retirement pursuant to section 222
 17 shall not become county court judge upon the effective date of
 18 this act, but he the judge shall serve as a judicial officer *
 19 until his retirement which shall occur not later than the *
 20 expiration of his the judge's then current term of office. If *
 21 all probate judges in such a county court district will qualify
 22 for retirement pursuant to section 222 at or before the
 23 expiration of their current term of office as of the effective
 24 date of this act, the county court judge shall be selected
 25 according to the population of the respective counties in the
 26 county court district as hereinbefore provided in subparagraph
 27 1. The probate judge who is not hereby designated as judge of
 28 the county court shall continue in office until the expiration
 29 of his the probate judge's term and become a part time judicial *
 30 officer of the county court, hearing and trying matters assigned *
 31 ~~to him~~ by the judge of the county court but, if he the probate *
 32 judge is not learned in the law, then he the probate judge shall *
 33 hear and try only matters assigned ~~to him~~ by the judge of the *
 34 county court he that the probate judge was heretofore authorized *
 35 by law to hear and try.

36 (1a) The probate judges of St. Louis county probate court
 37 in office on January 1, 1974 shall be county court judges of the
 38 county court of St. Louis county and shall continue in office as
 39 such for the balance of the terms for which they were last
 40 elected and shall be eligible for reelection to office.

41 (2) Except as provided in subparagraph 1, the judges
 42 required by the application of this section shall be appointed
 43 by the governor from among the municipal court judges or
 44 magistrates serving pursuant to a municipal ordinance, charter,
 45 or legislative act other than special municipal court judges
 46 serving within the county who are learned in the law and consent
 47 thereto. A judge so appointed shall serve until his a successor *
 48 is elected and qualifies. If there are no serving municipal
 49 court judges, such county court judges shall be elected at the
 50 next general election following July 1, 1972.

51 (2a) Except as provided in subparagraph 1a, the judges
 52 required by the application of this section in the south
 53 district of the county court of St. Louis county shall be
 54 appointed by the governor from among the full time judges of the
 55 municipal court of the city of Duluth in office on January 1,
 56 1974, and a judge so appointed shall serve until his a successor *
 57 is elected and qualifies; and the judges required in the
 58 northwest and northeast districts of the county court of St.
 59 Louis county shall be appointed by the governor from among
 60 persons learned in the law residing in each district, and a
 61 judge so appointed shall serve until his a successor is elected *
 62 and qualifies.

487*#03S

63 487.03 JUDGES.
 64 No change for subd 1
 65 Subd. 2. ELECTION. Each judge shall be elected at
 66 the general election for a term of six years, beginning on the
 67 first Monday of the January next following his the judge's *
 68 election and until his a successor qualifies. No individual *
 69 shall be a candidate for more than one county court judgeship at
 70 any election.

71 In any election following reduction of the number of county
 72 court judges pursuant to section 487.01, subdivision 7 the
 73 requirement contained in section 204B.06, subdivision 6, that a
 74 candidate for office of judge state the office for which he the *
 75 person is a candidate shall not apply. In such a situation all *

1 parties filing for office of judge shall run against each other
 2 for the remaining seats. However, each candidate who otherwise
 3 would have qualified to have the word "incumbent" printed
 4 after ~~his~~ the candidate's name on the ballot pursuant to section *
 5 204B.36, subdivision 5, shall retain this right.

6 Subd. 3. Repealed, 1973 c 569 s 6

7 Subd. 4. Repealed, 1977 c 432 s 49

8 Subd. 5. VACANCY. Whenever there is a vacancy in
 9 the office of judge, the governor shall appoint a qualified
 10 person to fill the vacancy, to hold office until ~~his~~ a successor *
 11 is elected and qualified. The successor shall be elected for a
 12 six year term at the next general election occurring more than
 13 one year after such appointment.

14 No change for subd 6

487*#04S

15 487.04 DISQUALIFICATIONS OF LAY JUDGE.

16 A county court judge who is not learned in the law shall
 17 not act in hearings, try or dispose of any case or proceeding
 18 involving jurisdiction in addition to that exercised by ~~him~~ the *
 19 judge at the time of the effective date of Laws 1971, Chapter *
 20 951. Those matters shall be heard by a judge or judicial
 21 officer learned in the law from within the county court district
 22 or from any other county, who upon request of the county court
 23 agrees to serve or who is assigned to hear the cases or
 24 proceedings by the chief justice of the supreme court, or, with
 25 the consent of the parties and the district court, such
 26 proceedings may be transferred by the county court to the
 27 district court. Provided that, a lay judge may be assigned to
 28 hear marriage dissolution actions in which the custody of
 29 children is not at issue.

487*#07S

30 487.07 PRACTICE OF LAW.

31 A county court judge shall devote ~~his~~ full time to the *
 32 duties of ~~his~~ office and shall not engage in the practice of law. *

487*#10S

33 487.10 CLERKS, DEPUTIES, RECORDS.

34 No change for subd 1 to 2

35 Subd. 4. The county board shall determine the number of
 36 permanent full time deputies, clerks and other employees in the
 37 office of the clerk of county court and shall fix the
 38 compensation for each position. The county board shall also
 39 budget for temporary deputies and other employees and shall fix
 40 their rates of compensation. The clerk shall appoint in writing
 41 the deputies and other employees for whose acts ~~he~~ the clerk *
 42 shall be responsible, and whom ~~he~~ the clerk may remove at *
 43 pleasure. Before entering upon ~~his~~ official duties, the *
 44 appointment and oath of each such employee shall be filed with
 45 the county recorder.

46 No change for subd 5

47 Subd. 7. Notwithstanding the provisions of any other law
 48 to the contrary, excepting the clerk, the chief deputy clerks of
 49 each division and those classifications specifically exempted by
 50 Laws 1941, Chapter 423, Section 6, as amended, every permanent
 51 employee of those courts being abolished under Laws 1973,
 52 Chapter 679 shall, with the approval of the St. Louis county
 53 civil service commission, be transferred as of August 1, 1973 to
 54 a position of comparable classification in the classified
 55 service of St. Louis county with the equivalent status that ~~he~~ *
 56 the permanent employee had in the office of ~~his~~ the permanent *
 57 employee's employment immediately prior thereto, and every such *
 58 employee shall be subject to, and have the benefit of, the
 59 classified service as though ~~he~~ the permanent employee had *
 60 served thereunder from the date of ~~his~~ entry into the service of *
 61 his the permanent employee's office of employment. *

487*#23S

62 487.23 PLEADING, PRACTICE, PROCEDURE AND FORMS IN CIVIL
 63 ACTIONS.

64 No change for subd 1 to 2

65 Subd. 3. NOTES OF ISSUE; DEMAND FOR JURY TRIAL; WAIVER
 66 OF JURY TRIAL. (a) A party desiring to place a civil cause
 67 upon the calendar for trial after issue is joined shall serve a
 68 note of issue on all other parties and file it with the clerk,
 69 with proof of service within ten days after service. The note
 70 of issue shall state whether the issues are of law or fact,
 71 whether trial by jury is demanded or waived, and the name and
 72 address of the respective counsel.

1 (b) If any other party to the action desires a trial by
 2 jury when none is demanded in the note of issue served upon ~~him~~ *
 3 the party, he the party shall serve a demand for trial by a jury *
 4 on all other parties to the action and file it with the clerk,
 5 with proof of service, within ten days after the note of issue
 6 was served upon ~~him~~ the party. *

7 (c) If a jury is not demanded at the time and in the manner
 8 provided in sections 487.01 to 487.39, all parties waive trial
 9 by jury. Jury trial may be waived also in the manner provided
 10 by rule 38.02 of the rules for municipal courts promulgated by
 11 the supreme court and rules promulgated by the supreme court
 12 from time to time for county courts.

13 Subd. 4. FIVE-SIXTHS VERDICT. In all civil cases,
 14 after six hours of deliberation, the agreement of five-sixths of
 15 any jury is a valid verdict. The deliberation of the jury
 16 commences when the officer taking charge of the jury has been
 17 sworn. The clerk shall enter that time in ~~his~~ the clerk's *
 18 records.

19 No change for subd 5

20 Subd. 6. NEW TRIAL OR OTHER DETERMINATION. In civil
 21 actions, the court may:

22 (a) Grant a new trial to all or any of the parties and on
 23 all or part of the issues;

24 (b) Grant a motion for judgment notwithstanding the verdict
 25 or notwithstanding that the jury has disagreed and been
 26 discharged;

27 (c) Open the judgment if one has been entered;

28 (d) Take additional testimony in a case tried without a
 29 jury;

30 (e) Make amended findings of fact and conclusions of law
 31 and direct entry of an amended judgment;

32 (f) Correct clerical mistakes in judgments, orders or other
 33 parts of the record and errors therein arising from oversight or
 34 omission; or

35 (g) Relieve a party or ~~his~~ a party's legal representative *
 36 from a final judgment, order or other proceeding.

37 Subd. 7. Repealed, 1973 c 679 s 38

38 Subd. 7a. LIEN OF JUDGMENT. Every judgment of the
 39 county court requiring the payment of money shall be docketed by
 40 the clerk of county court upon the entry thereof. From the time
 41 of such docketing the judgment shall be a lien, to the amount
 42 unpaid thereon, upon all real property in the county then or
 43 thereafter owned by the judgment debtor, except that no judgment
 44 rendered in conciliation court shall become a lien upon real
 45 estate until docketed in county court. Such judgment shall
 46 survive, and the lien thereof continue, for the period of ten
 47 years next after its entry, and no longer. No judgment, except
 48 for taxes, shall be docketed until the judgment creditor, or ~~his~~ *
 49 the creditor's agent or attorney, shall have filed with the *
 50 clerk an affidavit, stating the full name, occupation, place of
 51 residence, and post office address of the judgment debtor, to
 52 the best of affiant's information and belief; and, if such
 53 residence be within an incorporated place having more than 5,000
 54 inhabitants, the street number of both ~~his~~ the judgment debtor's *
 55 place of residence and place of business, if ~~he have the~~ *
 56 judgment debtor has one, shall be stated. If the clerk shall *
 57 violate this provision, neither the judgment nor the docketing *
 58 thereof shall be invalid, but ~~he~~ the clerk shall be liable to *
 59 any person damaged thereby in the sum of \$5.

60 No change for subd 7b to 10

487*#26S

61 487.26 PETIT JURORS.

62 No change for subd 1

63 Subd. 2. SELECTION; LIST. All petit jurors to serve
 64 in the county court in the county shall be selected from the
 65 petit jurors listed for jury service by the district court.
 66 Petit jurors listed for service in both courts shall have the
 67 same qualifications and shall be selected by the district court
 68 under the same procedure as is now provided by law for selecting
 69 jurors for service in the district court. Jurors summoned for
 70 service in the county court shall report to and be excused,
 71 governed, instructed and controlled by the chief judge of the
 72 county court or ~~his~~ a designee. *

73 Subd. 3. Repealed, 1973 c 679 s 38

74 No change for subd 4

75 Subd. 6. COMPENSATION. Jurors shall be paid from

1 the county treasury the same compensation and mileage as jurors
2 in the district court of the county where the county court is
3 located. The clerk of court shall deliver to the county auditor
4 a certificate showing the number of days of service and the
5 mileage for which each is entitled to receive compensation.
6 This certificate shall be filed with the county auditor who
7 shall issue ~~his~~ a warrant on the county treasurer for the amount *
8 due. Any juror regularly summoned who actually attends at the *
9 time named in the summons is entitled to ~~his~~ a per diem and
10 mileage whether or not sworn as a juror.

11 Subd. 7. Repealed, 1973 c 679 s 38

487*#30S

12 487.30 CONCILIATION COURT.

13 No change for subd 1 to 4

14 Subd. 5. SATISFACTION OF JUDGMENT. If (1) a
15 conciliation court judgment has been docketed in county court
16 for a period of at least 30 days, (2) the judgment is not
17 satisfied, and (3) the parties have not otherwise agreed, the
18 county court shall, upon the request of the judgment creditor,
19 order the judgment debtor to mail to the judgment creditor
20 information as to the nature, amount, identity, and location of
21 all ~~his~~ the debtor's assets, liabilities, and personal earnings. *
22 The information shall be provided on a form prescribed by the
23 supreme court and shall be sufficiently detailed to enable the
24 judgment creditor to obtain satisfaction of the judgment by way
25 of execution on nonexempt assets and earnings of the judgment
26 debtor. The form shall be written in a clear and coherent
27 manner using words with common and everyday meanings, shall
28 summarize the execution and garnishment exemptions and
29 limitations applicable to assets and earnings, and shall permit
30 the judgment debtor to identify on the form those assets and
31 earnings that ~~he~~ the debtor considers to be exempt from *
32 execution or garnishment. The order shall contain a notice that
33 failure to complete the form and mail it to the judgment
34 creditor within ten days after service of the order may result
35 in a citation for contempt of court unless the judgment is
36 satisfied prior to the expiration of that period. A judgment
37 debtor who intentionally fails to comply with the order of the
38 court may be cited for civil contempt of court.

39 No change for subd 6 to 8

487*#32S

40 487.32 ABANDONMENT OF DEPOSITS AND BAIL.

41 No change for subd 1

42 Subd. 2. Any bail not forfeited by court order shall be
43 deemed abandoned and forfeited if the person entitled to refund
44 does not file a written demand for refund with the clerk within
45 six months from the date when ~~he~~ the person became entitled to *
46 the refund.

47 No change for subd 3

487*#33S

48 487.33 DISPOSITION OF FINES, FEES AND OTHER MONEYS;
49 ACCOUNTS.

50 Subdivision 1. DISPOSITION. Except as otherwise
51 provided by sections 487.01 to 487.39 or 574.34, the clerk of
52 county court shall pay to the county treasurer all fines,
53 penalties and fees collected by ~~him~~ the clerk, all sums *
54 forfeited to the court and all other moneys received by ~~him~~ the *
55 clerk. *

56 No change for subd 2 to 6

487*#40S

57 487.40 NOTICE TO REMOVE.

58 Subdivision 1. INTEREST OR BIAS OF JUDGE. No judge
59 shall sit in any cause if ~~he-be~~ interested in its determination, *
60 or if ~~he~~ the judge might be excluded for bias from acting *
61 therein.

62 No change for subd 1a

63 Subd. 2. INITIAL AND SUBSEQUENT DISQUALIFICATION.

64 (a) Any party or ~~his~~ the party's attorney, to a cause pending in *
65 a court, within one day after it is ascertained which judge is
66 to preside at the trial or hearing thereof, or at the hearing of
67 any motion or order to show cause, may make and file with the
68 clerk of the court in which the action is pending and serve on
69 the opposite party a notice to remove. Thereupon, without any
70 further act or proof, the chief judge of the judicial district
71 shall assign any other judge of any court within the district to
72 preside at the trial of the cause or the hearing of the motion

1 or order to show cause, and the cause shall be continued on the
 2 calendar, until the assigned judge can be present. In criminal
 3 actions the notice to remove shall be made and filed with the
 4 clerk by the defendant, or ~~his~~ the defendant's attorney, not
 5 less than two days before the expiration of the time allowed ~~him~~
 6 the defendant by law to prepare for trial and in any of the
 7 cases the presiding judge shall be incapacitated to try the
 8 cause. In criminal cases, the chief judge for the purpose of
 9 securing a speedy trial, may in ~~his~~ the chief judge's discretion
 10 change the place of trial to another county.

11 (b) After a litigant has once disqualified a presiding
 12 judge as a matter of right under this subdivision, ~~he~~ the
 13 litigant may disqualify the substitute judge, but only by making
 14 an affirmative showing of prejudice. A showing that the judge
 15 might be excluded for bias from acting as a juror in the matter
 16 constitutes an affirmative showing of prejudice. If a litigant
 17 makes an affirmative showing of prejudice against a substitute
 18 judge, the chief judge of the judicial district shall assign any
 19 other judge of any court within the district to hear the cause.

488A#01S

20 488A.01 ESTABLISHMENT; JURISDICTION; POWERS; APPEALS.

21 No change for subd 1 to 10

22 Subd. 12. TRIAL OF CIVIL ACTIONS. (a) All civil
 23 actions brought in the municipal court of Hennepin county shall
 24 be tried at the place of holding court specified in writing on
 25 the summons issued therein. If no place of trial is specified
 26 on the summons by the plaintiff or plaintiffs, the action shall
 27 be tried at the Hennepin county courthouse.

28 (b) A defendant residing in Hennepin county outside of the
 29 city of Minneapolis and the city of St. Anthony may change the
 30 place of trial of a civil action to the place of holding court
 31 set forth in subdivision 9, which is nearest the municipality of
 32 ~~his~~ the defendant's residence in the manner provided herein. A
 33 defendant residing in Hennepin county within the city of
 34 Minneapolis or the city of St. Anthony may change the place of
 35 trial of a civil action to the city of Minneapolis in the same
 36 manner. If there are several defendants residing in different
 37 municipalities or in the city of Minneapolis or the city of St.
 38 Anthony, the trial shall be held in the city of Minneapolis or
 39 in the place of holding court set forth in subdivision 9, upon
 40 which a majority of them shall unite in demanding or, if the
 41 number be equal, at the city of Minneapolis or in the place of
 42 holding court set forth in subdivision 9, which place of holding
 43 court is nearest to the place where such action would have been
 44 tried in the absence of such demand.

45 (c) If the place of court determined by the summons is not
 46 the place of residence of the defendant or defendants, the
 47 action may notwithstanding be tried therein unless, within 20
 48 days after the summons is served, the defendant demands in
 49 writing that it be tried in the proper place of holding court.
 50 This demand shall be accompanied by the affidavit of the
 51 defendant, or ~~his~~ the defendant's agent or attorney, setting
 52 forth the municipality of defendant's residence at the time of
 53 the commencement of the action. This demand and affidavit, with
 54 proof of service thereof upon the plaintiff's attorney, shall be
 55 filed with the clerk within 30 days from the date of its service
 56 and thereupon the place of trial shall be changed to the proper
 57 place of holding court without any other proceedings.

58 When the place of trial is changed all other proceedings
 59 shall be had in the place to which the change is made, unless
 60 otherwise provided by consent of the parties filed with the
 61 clerk or by order of the court.

62 (d) For the purpose of determining the place of residence
 63 of a domestic corporation, such corporation shall be considered
 64 as residing at any place where it has an office, resident agent
 65 or business place.

66 (e) If none of the parties shall reside or be found in the
 67 county of Hennepin or the defendant be a foreign corporation,
 68 the action may be tried at any place of holding court designated
 69 in the summons.

70 (f) The provisions of this subdivision shall be subject to
 71 the provisions of subdivision 9.

72 No change for subd 13 to 15

488A#021S

73 488A.021 JUDGES.

74 No change for subd 1 to 2

1 Subd. 3. TERM; VACANCIES; APPOINTMENTS AND ELECTION.

2 (a) Each elected judge holds office for six years beginning

3 the first Monday in January next succeeding ~~his~~ the judge's

4 election. *

5 (b) Whenever there is a vacancy in the office of judge, the

6 governor shall appoint a qualified person to fill the vacancy,

7 to hold office until ~~his~~ a successor is elected and qualified. *

8 The successor shall be elected for a six year term at the next

9 general election occurring more than one year after such

10 appointment.

11 (c) At the general election immediately preceding the

12 expiration of ~~his~~ an elected or appointed judge's term, the

13 qualified voters of the county of Hennepin shall elect ~~the a~~ . *

14 successor ~~to-any-elected-or-appointed-judge~~. *

15 (d) Each judge holds a separate nonpartisan office.

16 (e) When one or more judges of the court are to be

17 nominated or elected at an election, the notice of election

18 shall state the name of each judge whose successor is to be

19 nominated or elected. The official ballot shall contain the

20 names of all candidates for each such office, state the number

21 of judges to be elected and the number of candidates for whom an

22 elector may vote, and designate each candidacy as "For the

23 office of Judge of the Municipal Court of the county of Hennepin

24 to which(name of judge)..... was elected for the regular

25 term", or: "For the office of Judge of the Municipal Court of

26 the county of Hennepin to which(name of judge)..... was

27 appointed," as the case may be. The official ballots shall show

28 in the spaces for the purpose the name of the judge whose

29 successor is to be elected. When any judge is a candidate ~~to~~ *

30 ~~succeed-himself~~ again, the word "incumbent" shall be printed

31 after ~~his~~ the judge's name where it appears among the names of *

32 the candidates for the office. When voting machines are used

33 and such statements cannot be inserted in full, the designation

34 shall be "Successor to(name of judge)..... (elected)",

35 or "Successor to(name of judge).....(appointed)", as the

36 case may be.

37 (f) Each person desiring to have ~~his~~ the person's name *

38 placed upon the primary ballot as a candidate for judge shall

39 state in ~~his~~ an affidavit of candidacy the office of the *

40 particular judge for which ~~he~~ the person is a candidate. The *

41 filing of this affidavit with the county auditor and a

42 compliance with all other requirements constitutes such person a

43 candidate for that office, and for that office only. No person

44 shall at any election be a candidate for more than one such

45 office.

46 No change for subd 4 to 6

47 Subd. 8. SALARIES. Each judge shall be paid by the

48 state an annual salary in the amount prescribed by section

49 15A.083. If a judge dies while in office, the amount of ~~his~~ the *

50 judge's salary remaining unpaid for the month in which ~~his~~ the *

51 death occurs shall be paid to ~~his~~ the judge's estate. Each *

52 judge shall be paid expenses by the state in the same manner and

53 amount as provided for judges of the district court in section

54 484.54.

55 NOTE: Subdivision 8 was also repealed by Laws 1977,

56 Chapter 432, Section 49.

57 Subd. 9. RETIRED JUDGES, ASSIGNMENTS. Upon the

58 retirement of any judge of the municipal court of Hennepin

59 county, ~~he~~ the judge may, with ~~his~~ the judge's consent, be *

60 appointed and assigned, by the then chief judge upon

61 authorization of a majority of the municipal court judges, to

62 hear any cause properly assignable to a judge of the municipal

63 court of Hennepin county and act thereon with full powers of

64 such a judge. When such retired judge undertakes such

65 service, ~~he~~ the retired judge shall be provided at the expense *

66 of the county a courtroom or hearing room for the purpose of

67 holding court or hearings, to be paid for by the county, and

68 shall be paid in addition to ~~his~~ a retirement compensation and *

69 not affecting the amount thereof, the sum of \$50 per diem for

70 such additional service, together with travel pay in the sum of

71 twelve cents per mile and ~~his~~ the retired judge's actual *

72 expenses incurred in such service, said payment to be made in

73 the same manner as the payment of salaries for district judges,

74 on certification by the presiding or senior judge of the

75 district or by the chief judge of the supreme court of the state

76 of Minnesota.

488A#03S

1 488A.03 CLERKS, DEPUTIES.

2 Subd. 2. OATH, BOND. (a) The clerk shall take and
3 subscribe an oath to support the Constitution of the United
4 States and the state of Minnesota and to perform faithfully the
5 duties of ~~his~~ the clerk's office. *

6 (b) The clerk shall execute to the county of Hennepin a
7 penal bond in such sum and with such surety as the county board
8 directs, conditioned that:

9 (1) ~~He~~ The clerk will account to and pay over to the county
10 treasurer as required by law all money belonging to or to be
11 paid to the county. *

12 (2) ~~He~~ The clerk will pay over to all persons on demand all
13 money to which they are entitled which comes into ~~his~~ the
14 clerk's hands as clerk. *

15 (3) At the expiration of ~~his~~ tenure in office ~~he~~ the clerk
16 will forthwith pay to such county all money to which it is
17 entitled and to ~~his~~ the clerk's successor in office all other
18 money then remaining in ~~his~~ the clerk's hands which came into
19 ~~his~~ the clerk's hands as clerk. *

20 (c) The clerk may not enter upon ~~his~~ official duties until
21 ~~his~~ the clerk's appointment, oath and bond are filed with the
22 county auditor. *

23 Subd. 3. Repealed, 1965 c 845 s 4

24 Subd. 3a. DEPUTY CLERKS. (a) The court has one
25 chief deputy clerk and such number of assistant chief deputy
26 clerks, Grade II, assistant chief deputy clerks, Grade I, deputy
27 clerks, and stenographers as the clerk, with the approval of a
28 majority of the judges, deems necessary from time to time, but
29 no new or additional positions may be created without the
30 consent of the county board.

31 (b) With the approval of a majority of the judges the clerk
32 shall appoint deputy clerks.

33 (c) Each appointment shall be made under the hand of the
34 clerk and seal of the court and the approval of a majority of
35 the judges shall be endorsed thereon.

36 (d) Each deputy shall take and subscribe an oath similar to
37 that prescribed for the clerk and shall execute a bond to the
38 county of Hennepin for the faithful performance of ~~his~~ his duties in
39 such amount and with such terms, conditions, and surety as the
40 county board directs. No deputy may enter upon ~~his~~ an office
41 and duties before ~~his~~ his appointment, oath, and bond are filed with
42 the county auditor. *

43 (e) The appointments of the deputy clerks shall be for
44 terms of six years from their respective dates of appointment
45 and shall not expire or be suspended by reason of the
46 suspension, removal, termination of appointment, death, or other
47 incapacity of the clerk. At any time within six months from the
48 date of ~~his~~ his initial appointment, a deputy clerk may be removed
49 and ~~his~~ the deputy clerk's appointment terminated, with or
50 without cause and without prior notice or hearing. At any time a
51 deputy clerk may be suspended without pay for a period not
52 exceeding 30 days, with or without cause, after hearing before a
53 majority of the judges. Except as otherwise provided herein, a
54 deputy clerk, during ~~his~~ the deputy clerk's term, may be removed
55 and ~~his~~ the appointment terminated only for cause after notice
56 and a hearing before a majority of the judges. Any termination,
57 removal, or suspension provided for in this subdivision shall be
58 made by a majority of the judges. *

59 (f) The clerk shall delegate, supervise, and expedite the
60 work and accounting of the deputy clerks. ~~He~~ The clerk is not
61 personally responsible for their acts beyond ~~his~~ the clerk's
62 responsibility for proper delegation and supervision. *

63 (g) Each deputy may administer oaths and affirmations, and
64 take acknowledgments and shall perform the duties and exercise
65 the powers of the clerk which are delegated to ~~him~~ the deputy by
66 the clerk or by a majority of the judges in the event of the
67 death or disability of the clerk. *

68 Subd. 4. POWERS AND DUTIES; SUPERVISION OF JUDGES.

69 (a) The clerk may administer oaths and affirmations and take
70 acknowledgments. ~~He~~ The clerk has all the powers and shall
71 perform all of the duties usually incident to the office of a
72 clerk of a court of record or necessary to carry out the
73 purposes of this act. *

74 (b) Under the supervision and approval of a majority of the
75 judges and with the consent of the county board the clerk shall

1 procure at the expense of the county all blanks, stationery,
2 books, furniture, furnishings, and supplies necessary for the
3 use of the court and its officers and jurors.

4 (c) In the performance of all ~~his~~ the clerk's duties the *
5 clerk is subject to the control and supervision of the judges.

6 No change for subd 5

7 Subd. 6. DISPOSITION OF FINES, FEES AND OTHER MONEYS;
8 ACCOUNTS. (a) Except as otherwise provided herein and except
9 as otherwise provided by law, the clerk of court shall pay to
10 the Hennepin county treasurer all fines and penalties collected
11 by ~~him~~ the clerk, all fees collected by ~~him~~ the clerk for *
12 ~~clerk's services of-himself~~, all sums forfeited to the court as *
13 hereinafter provided, and all other moneys received by the clerk.

14 (b) The clerk of court shall provide the county treasurer
15 with the name of the municipality or other subdivision of
16 government where the offense was committed and the name and
17 official position of the officer who prosecuted the offense for
18 each fine or penalty, and the total amount of fines or penalties
19 collected for each such municipality or other subdivision of
20 government or for the county.

21 (c) At the beginning of the first day of any month the
22 amount owing to any municipality or county in the hands of the
23 clerk shall not exceed \$5,000.

24 (d) On or before the last day of each month the county
25 treasurer shall pay over to the treasurer of each municipality
26 or subdivision of government in Hennepin county all fines or
27 penalties collected during the previous month for offenses
28 committed within such municipality or subdivision of government,
29 except that all such fines and penalties attributable to cases
30 in which the county attorney had charge of the prosecution shall
31 be retained by the county treasurer and credited to the county
32 general revenue fund.

33 (e) Amounts represented by checks issued by the clerk or
34 received by the clerk which have not cleared by the end of the
35 month may be shown on the monthly account as having been paid or
36 received, subject to adjustment on later monthly accounts.

37 (f) The clerk may receive negotiable instruments in payment
38 of fines, penalties, fees or other obligations as conditional
39 payments, and is not held accountable therefor until collection
40 in cash is made and then only to the extent of the net
41 collection after deduction of the necessary expense of
42 collection.

43 No change for subd 7

44 Subd. 8. ABANDONMENT OF DEPOSITS AND BAIL. (a) All
45 sums deposited with the clerk to cover witness fees, jury fees,
46 clerk's fees or the fees of police officers shall be deemed
47 abandoned and forfeited if the witness fees are not disbursed or
48 the services covered by the fees are not performed and the
49 person entitled to refund thereof does not file a written demand
50 for refund with the clerk within six months from the date of
51 trial, dismissal or striking of the cause as to jury fees and
52 from the date of deposit as to other fees.

53 (b) Any bail deposited with the clerk and not forfeited by
54 court order shall be deemed abandoned and forfeited if the
55 person entitled to refund does not file a written demand for
56 refund with the clerk within six months from the date when ~~he~~ *
57 the person became entitled to the refund. All such forfeited *
58 sums shall be paid over by the clerk to the county treasurer
59 promptly.

60 (c) Any judge may order any sums so forfeited under (a) or
61 (b) to be reinstated for cause and the clerk shall then refund
62 accordingly. The county treasurer shall reimburse the clerk if
63 the clerk refunds the deposit upon such an order and obtains a
64 receipt to be used as a voucher.

65 No change for subd 9

66 Subd. 10. ORDER FOR PRISONER RELEASE. When a person
67 is confined to the Minneapolis workhouse and a fine is remitted,
68 a sentence stayed or suspended, the person released on parole,
69 or the release of the person secured by payment of the fine in
70 default of which ~~he~~ the person was committed, the prisoner shall *
71 not be released except upon order of the court. A written
72 transcript of such order signed by the clerk and under the
73 court's seal shall be furnished to the superintendent of the
74 Minneapolis workhouse. All costs of confinement or imprisonment
75 in any jail or workhouse shall be paid by the municipality or
76 subdivision of government in Hennepin county in which the

1 violation occurred, except that the county shall pay all costs
2 of confinement or imprisonment incurred as a result of a
3 prosecution of a gross misdemeanor.

4 Subd. 11. FEES PAYABLE TO ADMINISTRATOR. (a) The
5 civil fees payable to the administrator for ~~his~~ services are the *
6 same in amount as the fees then payable to the district court of
7 Hennepin County for like services except that upon the filing of
8 an unlawful detainer action a fee of \$10 is payable by the
9 plaintiff, in addition to any library fee otherwise required,
10 when the action is entered in court or when the first paper on
11 the plaintiff's part is filed. Library and filing fees are not
12 required of the defendant in an unlawful detainer action. The
13 fees payable to the administrator for all other services of
14 ~~himself~~ the administrator or the court shall be fixed by rules *
15 promulgated by a majority of the judges.

16 (b) Fees are payable to the administrator in advance.

17 (c) Judgments will be entered only upon written
18 application.

19 (d) The following fees shall be taxed in all cases where
20 applicable: (a) The state of Minnesota and any governmental
21 subdivision within the jurisdictional area of any municipal
22 court herein established may present cases for hearing before
23 said municipal court; (b) In the event the court takes
24 jurisdiction of a prosecution for the violation of a statute or
25 ordinance by the state or a governmental subdivision other than
26 a city or town in Hennepin County, all fines, penalties, and
27 forfeitures collected shall be paid over to the treasurer of the
28 governmental subdivision which submitted a case for prosecution
29 under ordinance violation and to the county treasurer in all
30 other cases except where a different disposition is provided by
31 law, in which case, payment shall be made to the public official
32 entitled thereto. The following fees shall be taxed to the
33 county or to the state or governmental subdivision which would
34 be entitled to payment of the fines, forfeiture or penalties in
35 any case, and shall be paid to the clerk of the court for
36 disposing of the matter:

37 (1) In all cases where the defendant is brought into court
38 and pleads guilty and is sentenced, or the matter is otherwise
39 disposed of without trial \$5.

40 (2) In arraignments where the defendant waives a
41 preliminary examination \$10.

42 (3) In all other cases where the defendant stands trial or
43 has a preliminary examination by the court \$15.

44 (4) In all cases where a defendant was issued a statute,
45 traffic or ordinance violation tag and a fine is paid or the
46 case is otherwise disposed of in a violations bureau
47 \$1.

48 No change for subd 11a to 11b

49 Subd. 12a. SALARIES. (a) The annual salary of the
50 clerk is \$11,000 per year.

51 (b) The classifications and annual salaries of the deputy
52 clerks are:

53 (1) Chief deputy clerk, \$9,000.

54 (2) Assistant chief deputy clerks, Grade II, \$8,500.

55 (3) Assistant chief deputy clerks, Grade I, \$8,000.

56 (4) Deputy clerks, from \$4,800 to \$7,800.

57 (c) Stenographers, from \$3,600 to \$4,400 annually.

58 (d) All of the foregoing salaries are payable out of the
59 treasury of the county of Hennepin in semimonthly installments.

60 (e) Each deputy clerk shall serve in ~~his~~ the deputy clerk's *
61 classification for one year at the minimum salary for that *
62 classification, and ~~his~~ the deputy clerk's salary shall be
63 increased at the end of each year's service by \$300 until such
64 salaries reach the maximum salaries for such classification.
65 Laws 1965, Chapter 845, shall not be construed to reduce the
66 present salary of any deputy clerk. Deputy clerks returning
67 from active service in the armed forces of the United States
68 shall receive automatic salary increases in the same fashion as
69 though the time spent in said active service had been spent as a
70 deputy clerk.

71 No change for subd 13

488A#04S

72 488A.04 PROBATION OFFICERS.

73 Subdivision 1. APPOINTMENT; TERM; REMOVAL; SUSPENSION.

74 A majority of the judges shall appoint a chief probation
75 officer. With the approval of a majority of the judges, the

1 chief probation officer shall appoint a chief deputy probation
 2 officer, a case-work supervisor, and such number of deputy
 3 probation officers, clerks and stenographers as a majority of
 4 the judges may from time to time deem necessary, but no new or
 5 additional positions may be created without the consent of the
 6 board of county commissioners. Each appointment shall be for a
 7 term of four years from the respective date of appointment and
 8 shall not expire or be suspended by reason of the suspension,
 9 removal, termination of appointment, death or other incapacity
 10 of the chief probation officer. At any time within six months *
 11 from the date of ~~his~~ initial appointment, the chief probation *
 12 officer, the chief deputy probation officer, the case-work *
 13 supervisor, a deputy probation officer, a clerk or a *
 14 stenographer, may be removed and ~~his~~ the appointment terminated, *
 15 with or without cause and without prior notice or hearing. At *
 16 any time the chief probation officer, the chief deputy probation *
 17 officer, the case-work supervisor, a deputy probation officer, a *
 18 clerk or a stenographer may be suspended without pay for a *
 19 period not exceeding 30 days, with or without cause, after *
 20 hearing before a majority of the judges. Except as otherwise *
 21 provided herein, the chief probation officer, the chief deputy *
 22 probation officer, the case-work supervisor, a deputy probation *
 23 officer, a clerk or a stenographer, during ~~his~~ a term, may be *
 24 removed and ~~his~~ that employee's appointment terminated only for *
 25 cause after notice and a hearing before a majority of the *
 26 judges. Any termination, removal or suspension provided for in *
 27 this subdivision shall be made by a majority of the judges.

28 No change for subd 2 to 5

488A#05S

29 488A.05 COURT REPORTERS.

30 Subdivision 1. APPOINTMENT; OATH; TENURE; RETIREMENT.

31 Each judge may appoint as ~~his~~ the judge's court reporter a *
 32 competent person skilled in that profession. Each reporter *
 33 shall take and subscribe an oath to support the Constitutions of *
 34 the United States and the state of Minnesota and to discharge *
 35 and perform ~~his~~ duties as a court reporter faithfully and *
 36 honestly. Each reporter shall file ~~his~~ an oath with the county *
 37 auditor before ~~he~~ the reporter enters upon the duties of ~~his~~ *
 38 office. Each reporter is an officer of the court and holds ~~his~~ *
 39 an office during the pleasure of the judge appointing ~~him~~ the *
 40 reporter and until the judge's successor appoints a court *
 41 reporter to succeed ~~him~~ the reporter, notwithstanding any rule *
 42 or regulation heretofore or hereafter made by any board or *
 43 commission of the county establishing and fixing a compulsory *
 44 age for retirement of employees of the county. It is not *
 45 compulsory for any such court reporter who is a member of the *
 46 public employees' retirement association, to become a member of *
 47 any municipal pension or retirement fund.

48 Subd. 2. DUTIES. Each reporter shall take or cause *
 49 to be taken by another skilled court reporter full stenographic *
 50 notes of all the testimony and other proceedings in all civil *
 51 actions, all actions for forcible entry and unlawful detainer *
 52 and all preliminary hearings in criminal actions before the *
 53 judge so appointing ~~him~~ the reporter. Unless directed by the *
 54 judge to do so, ~~he~~ the reporter shall not take notes of the *
 55 opening statements of the judge or counsel, the questioning or *
 56 selection of the jurors or the arguments of counsel to the court *
 57 or jury. When requested by the judge, each reporter shall *
 58 transcribe such notes or any part thereof for the use of the *
 59 judge or for such other purpose in furtherance of justice as the *
 60 judge may order, without charge therefor. Each reporter shall *
 61 furnish a transcript of ~~his~~ the reporter's notes, or any part *
 62 thereof, at the request of any party to the action or any other *
 63 person. ~~He~~ The reporter shall be entitled to charge therefor at *
 64 the rates then prescribed by law for court reporters of the *
 65 district court for Hennepin county. Whenever a transcript has *
 66 been filed as required by law, the amount paid by any party for *
 67 the transcript, if the transcript be used upon a motion for a *
 68 new trial, appeal, or writ of certiorari, may be taxed and *
 69 allowed as a disbursement. Each reporter shall act in the *
 70 capacity of a private secretary to the judge so appointing *
 71 ~~him~~ the reporter in the performance of the judge's official *
 72 duties.

73 No change for subd 3

488A#06S

74 488A.06 BAILIFFS.

1 No change for subd 1 to 3
 2 Subd. 4. COMPENSATION; GRATUITIES. Except as
 3 provided in subdivision 3 above, such bailiffs shall be paid for
 4 their services only the compensation payable to them by the
 5 county as bailiffs. If any fee, gratuity, or reward is paid to
 6 any bailiff for ~~his~~ services while on duty as a bailiff of the
 7 court, ~~he~~ the bailiff shall forthwith pay it over to the clerk
 8 of court for the use of the county. Failure to do so is a
 9 misdemeanor and is punishable by a fine not exceeding \$100, or
 10 by imprisonment in the county jail or city workhouse for not
 11 more than 30 days.

*
*

12 No change for subd 5

488A#08S

13 488A.08 MISDEMEANOR VIOLATIONS BUREAUS.

14 No change for subd 1 to 3

15 Subd. 4. PROCEDURE BY PERSON RECEIVING MISDEMEANOR
 16 CITATION. A person who receives a misdemeanor or petty
 17 misdemeanor citation shall proceed as follows:

18 (a) If a fine for the violation may be paid at the bureau
 19 without appearance before a judge, the person charged may pay
 20 the fine in person or by mail to the bureau within the time
 21 specified in the citation. Payment of the fine shall be deemed
 22 to be the entry of a plea of guilty to the violation charged and
 23 a consent to the imposition of a sentence for the violation in
 24 the amount of the fine paid. A receipt shall be issued to
 25 evidence the payment and the receipt shall be satisfaction for
 26 the violation charged in that citation.

27 (b) When a fine is not paid, the person charged must
 28 appear at a bureau within the time specified in the citation,
 29 state whether ~~he~~ the person desires to enter a plea of guilty or
 30 not guilty, arrange for a date for arraignment in court and
 31 appear in court for arraignment on the date set by the bureau.

*

488A#09S

32 488A.09 PLEADING, PRACTICE, PROCEDURE, AND FORMS IN
33 CIVIL ACTIONS.

34 No change for subd 1 to 2

35 Subd. 3. NOTE OF ISSUE; DEMAND FOR JURY TRIAL; WAIVER
 36 OF JURY TRIAL. (a) A party desiring to place a cause upon
 37 the calendar for trial after issue is joined shall serve a note
 38 of issue on all other parties and file it with the clerk, with
 39 proof of service, within ten days after service. The note of
 40 issue shall state whether the issues are of law or fact, whether
 41 trial by jury is demanded or waived, whether a jury of 12 or six
 42 is demanded and the name and address of the respective counsel.

43 (b) If any other party to the action desires a trial by
 44 jury when none is demanded in the note of issue served upon ~~him~~
 45 the party or if any other party desires trial by a jury of 12
 46 when a jury of six is demanded in the note of issue served
 47 upon ~~him~~ the party, then ~~he~~ the party shall serve a demand for
 48 trial by a jury of six or 12 persons on all other parties to the
 49 action and file it with the clerk, with proof of service, within
 50 ten days after the note of issue was served upon ~~him~~ the party.

*
*
*
*

51 (c) The party demanding a jury trial shall pay to the clerk
 52 a jury fee of \$5 for a jury of six or \$10 for a jury of 12 at
 53 the time of filing ~~his~~ the note of issue or demand. If a party
 54 demands a jury of 12 when the note of issue previously served
 55 demanded a jury of six, ~~he~~ the party shall pay a fee of \$5 to
 56 the clerk at the time of filing ~~his~~ the party's demand.

*
*
*

57 (d) If a jury of six or 12 persons is not demanded at the
 58 time and in the manner provided in this act, all parties waive
 59 trial by a jury of six or of 12, as the case may be. Jury trial
 60 may be waived also in the manner provided by rule 38.02 of the
 61 rules for municipal courts promulgated by the supreme court of
 62 Minnesota, as amended from time to time.

63 Subd. 4. FIVE-SIXTHS VERDICT. In any civil action,
 64 after six hours of deliberation, the agreement of five-sixths of
 65 any jury is a valid verdict. The deliberation of the jury
 66 commences when the officer taking charge of the jury has been
 67 sworn. The clerk shall enter that time in ~~his~~ the clerk's
 68 records.

*

69 Subd. 5. COSTS ALLOWABLE. Costs shall be allowed in
 70 civil actions as follows:

71 (a) To the plaintiff upon a judgment in ~~his~~ the plaintiff's
 72 favor when an issue of fact or law has been joined;

*

73 (1) \$10 when the amount of the judgment or the value of the
 74 property recovered in a replevin action, exclusive of costs and

1 disbursements, exceeds \$150;

2 (2) \$5 in all other cases.

3 (b) \$5 to the plaintiff upon a judgment in ~~his~~ the *
4 plaintiff's favor when no issue of fact or law has been joined *
5 and the amount of the judgment or the value of the property
6 recovered, exclusive of costs and disbursements, exceeds \$150.

7 (c) To the defendant upon a judgment in ~~his~~ the defendant's *
8 favor on the merits:

9 (1) \$10 when the amount claimed in the complaint or the
10 alleged value of the property involved in a replevin complaint
11 exceeds \$150;

12 (2) \$5 in all other cases.

13 (d) \$5 to the defendant upon a dismissal or discontinuance
14 other than on the merits, regardless of the amount claimed or
15 the value of the property involved.

16 Subd. 6. NEW TRIAL OR OTHER DETERMINATION. In civil
17 actions the court may:

18 (a) Grant a new trial to all or any of the parties and on
19 all or part of the issues,

20 (b) Grant a motion for judgment notwithstanding the verdict
21 or notwithstanding the jury has disagreed and been discharged,

22 (c) Open the judgment if one has been entered,

23 (d) Take additional testimony in a case tried without a
24 jury,

25 (e) Amend findings of fact and conclusions of law, make new
26 findings and conclusions, and direct entry of a new judgment,

27 (f) Correct clerical mistakes in judgments, orders or other
28 parts of the record and errors therein arising from oversight or
29 omission, or

30 (g) Relieve a party or ~~his~~ a legal representative from a *
31 final judgment, order or other proceeding.

32 Subd. 7. LIEN OF JUDGMENT; FILING OF TRANSCRIPT. (a)
33 No judgment of the municipal court shall attach as a lien upon
34 real estate until a transcript of it is filed and docketed in
35 district court.

36 (b) Any person who holds a judgment for an amount exceeding
37 \$10, exclusive of interest and costs, may obtain from the clerk
38 a certified transcript of the judgment and may file the
39 transcript in the office of the clerk of the district court of
40 Hennepin county, who shall file and docket it as prescribed by
41 law or court rules;

42 (c) Upon the filing and docketing of the certified
43 transcript, the judgment becomes a lien upon the real estate of
44 the debtor to the same extent as a judgment of the district
45 court and the judgment thereafter is exclusively under the
46 control of the district court and may be enforced by its process
47 as though originally rendered by the district court.

48 (d) The clerk of municipal court shall not issue a
49 certified transcript while a writ of execution is outstanding on
50 the judgment. ~~He~~ The clerk shall note on the record of the *
51 judgment the fact that the transcript has been given and shall
52 not thereafter issue any writ of execution on the same judgment.

53 No change for subd 8 to 10
488A#10S

54 488A.10 PLEADING, PRACTICE, PROCEDURE, AND FORMS IN
55 CRIMINAL PROCEEDINGS.

56 No change for subd 1 to 7

57 Subd. 8. PROBATION, PAROLE, STAY, SUSPENSION. (a) *
58 At the time of imposing sentence, the judge~~-in-his-discretion~~ *
59 may stay execution of the sentence for a period not exceeding
60 one year upon such terms and conditions, including probation, as
61 ~~he~~ the judge may deem proper or may order release on parole *
62 after part of the sentence has been served. The parole shall be
63 for a period not exceeding one year from the date of commitment
64 and on such terms and conditions, including probation, as the
65 judge may deem proper.

66 (b) At the time of imposing sentence or at any time
67 thereafter, the sentencing judge, or any other judge when the
68 sentencing judge is not available, may suspend forever the
69 execution of any sentence or the balance of any sentence which
70 has been executed in part.

71 (c) When a person has been committed to the city workhouse
72 or county jail, the sentencing judge, or any other judge when
73 the sentencing judge is not available, ~~in-his-discretion~~ *
74 order the release of such person on parole after part of the
75 sentence is served when satisfied that ~~he~~ the person will *

1 thereafter keep the peace and be of good behavior. The parole
 2 shall be for a period not exceeding one year from the date of
 3 commitment and on such terms and conditions as the judge deems
 4 proper. If a request for parole is denied by the sentencing
 5 judge, or any other judge when the sentencing judge is not
 6 available, in-his-discretion under the judge's discretionary
 7 authority, then parole of that person may be granted thereafter
 8 only by order of a majority of all the judges. *

9 (d) If any person violates any terms or conditions of a
 10 stay, parole or probation, or commits a subsequent violation of
 11 any law, charter provision or ordinance, any judge may revoke
 12 the stay, parole or probation and cause such person to be
 13 arrested and committed for the sentence originally imposed or
 14 the balance thereof if a portion of the sentence has been
 15 previously served. The revocation may be based on such showing,
 16 oral or written, sworn or unsworn, as the judge deems
 17 sufficient, and may be made without notice or hearing.

18 Subd. 9. Repealed, 1979 c 233 s 42

19 No change for subd 10

20 Subd. 11. PROSECUTING ATTORNEYS. Except as otherwise
 21 provided in this subdivision and section 388.051, subdivision 2,
 22 the attorney of the municipality in which the violation is
 23 alleged to have occurred has charge of the prosecution of all
 24 violations of the state laws, including violations which are
 25 gross misdemeanors, and municipal charter provisions,
 26 ordinances, rules and regulations triable in the municipal court
 27 and shall prepare complaints for the violations. The county
 28 attorney has charge of the prosecution of a violation triable in
 29 municipal court and shall prepare a complaint for the violation:

30 (a) if ~~he~~ the county attorney is specifically designated by
 31 law as the prosecutor for the particular violation charged; or *

32 (b) if the alleged violation is of state law and is alleged
 33 to have occurred in a municipality or other subdivision of
 34 government whose population according to the most recent federal
 35 census is less than 2500 and whose governing body, or the town
 36 board in the case of a town, has accepted this paragraph by
 37 majority vote, and if the defendant is cited or arrested by a
 38 member of the staff of the sheriff of Hennepin county or by a
 39 member of the state patrol.

40 Paragraph (b) shall not apply to a municipality or other
 41 subdivision of government whose population according to the most
 42 recent federal decennial census is 2500 or more, regardless of
 43 whether or not it has previously accepted the paragraph.

44 No change for subd 12

488A#13S

45 488A.13 JUDGES; CLERKS; REPORTERS; SALARIES; QUARTERS.

46 Subdivision 1. JUDGES OF MUNICIPAL COURT SERVE AS
 47 JUDGES; REFEREES FOR CONCILIATION COURT. (a) The judges of
 48 the municipal court of the county of Hennepin shall serve as
 49 judges of the conciliation court for the periods and rotation as
 50 they determine. While serving they shall act and be known as
 51 conciliation judges.

52 (b) The municipal judge who conducts the conciliation court
 53 hearing shall act upon all applications to vacate a judgment or
 54 an order for judgment and sign the certificate upon a removed
 55 cause. However, any other municipal judge may act upon an
 56 application or sign a certificate in the event that the judge
 57 who conducted the hearing has not previously denied the
 58 application promptly or signed the certificate due to expiration
 59 of ~~his~~ the judge's term, death, disability, absence from the
 60 courthouse or any other cause. *

61 (c) A majority of the judges of municipal court may appoint
 62 one or more suitable persons to act as referees in conciliation
 63 court. A majority of the judges of municipal court shall
 64 establish qualifications for the office, specify the duties and
 65 length of service of referees, and fix their compensation not to
 66 exceed an amount per day determined by the board of county
 67 commissioners.

68 Subd. 2. CLERK OF MUNICIPAL COURT; DUTIES; RECORDS.

69 (a) The clerk of the municipal court shall serve as the clerk of
 70 the conciliation court. ~~He~~ The clerk shall delegate deputy
 71 clerks of the municipal court to assist ~~him~~ in performing ~~his~~
 72 the clerk's duties under sections 488A.12 to 488A.17. The clerk
 73 shall keep the records and accounts and perform other duties
 74 prescribed by the judges. ~~He~~ The clerk shall account for and
 75 pay over to the county of Hennepin all fees received by ~~him~~ the *

1 clerk in the same fashion as required in ~~his~~ the clerk's *
2 capacity as clerk of municipal court.

3 Under the supervision of the conciliation court judges, the
4 clerk shall explain to litigants the procedures and functions of
5 the conciliation court and shall assist them in filling out all
6 forms and pleadings necessary for the presentation of their
7 claims or counterclaims to the court. The clerk shall assist
8 judgment creditors and judgment debtors in the preparation of
9 the forms necessary to obtain satisfaction of a final judgment.
10 The performance of duties described in this subdivision shall
11 not constitute the practice of law.

12 (b) The clerk may, upon the consent of all the judges of
13 municipal court of the county of Hennepin, destroy or dispose of
14 all the following files and records of the court, which have
15 been on file for more than 20 years:

16 (1) Complaint files;
17 (2) Transcript receipts;
18 (3) Cash receipt books;
19 (4) Canceled checks.

20 Subd. 3. COURT REPORTER, DUTIES. Each court
21 reporter appointed by a judge of municipal court shall assist
22 that judge in performing ~~his~~ the judge's duties as conciliation *
23 judge, but, unless ordered to do so by that judge ~~he~~ the court *
24 reporter shall not take official notes of any trial or *
25 proceedings in conciliation court.

26 No change for subd 4 to 5

488A#14S

27 488A.14 COMMENCEMENT OF ACTION; FILING FEE; REQUISITES
28 OF CLAIM; SUMMONS; COUNTERCLAIM; REPLEVIN.

29 No change for subd 1

30 Subd. 2. FILING FEE, AFFIDAVIT OF INABILITY TO PAY.
31 If the plaintiff or the defendant signs and files with the clerk
32 an affidavit ~~that he has~~ claiming no money or property and ~~is~~ *
33 ~~unable~~ inability to pay a filing fee, no fee shall be required *
34 for the filing of ~~his~~ the affiant's claim or counterclaim. If *
35 the affiant prevails on ~~his~~ a claim or counterclaim, the amount *
36 of the filing fee which would have been payable by ~~him~~ the *
37 affiant shall be included in the order for judgment and paid to *
38 the clerk of conciliation court by the affiant out of any money *
39 recovered by ~~him~~ the affiant on the judgment. *

40 Subd. 3. CLAIM, VERIFICATION, CONTENTS. The claim *
41 must be verified by the plaintiff or ~~his~~ the plaintiff's *
42 attorney and shall contain a brief statement of the amount, date *
43 of accrual, and nature of the claim and the name and address of *
44 the plaintiff, the plaintiff's attorney (if any) and the *
45 defendant. If the plaintiff is not represented by an attorney,
46 the clerk shall draw up the claim on request.

47 No change for subd 3a

48 Subd. 4. HEARING, DATE; SUMMONS. When an action has
49 been properly commenced, the clerk shall set a date for court
50 hearing and advise the plaintiff of the date set. The clerk
51 shall promptly summon the defendant by mail or by personal
52 service in the manner provided for personal service of a summons
53 of the municipal court. The summons shall state the amount and
54 nature of the claim, require the defendant to appear at the
55 hearing, specify that if ~~he~~ the defendant does not appear *
56 judgment by default will be entered against ~~him~~ the defendant *
57 for the relief demanded and summarize the requirements for
58 filing a counterclaim. Unless otherwise ordered by a judge, the
59 hearing date shall be not less than 15 days from the date of
60 mailing or service of the summons.

61 Subd. 5. COUNTERCLAIM. (a) The defendant may
62 interpose as counterclaim any claim within the jurisdiction of
63 the court which ~~he~~ the defendant has against the plaintiff *
64 whether or not arising out of the transaction or occurrence *
65 which is the subject matter of the plaintiff's claim.

66 (b) The counterclaim shall be interposed by filing with the
67 clerk a brief statement of the amount, date of accrual and
68 nature of the counterclaim, verified by the defendant or ~~his~~ the *
69 defendant's attorney, and paying a filing fee of \$2 to the *
70 clerk. If the defendant is not represented by an attorney the
71 clerk shall draw up the counterclaim on request.

72 (c) The clerk shall note the filing of the counterclaim on
73 the original claim, promptly notify the plaintiff or ~~his~~ the *
74 plaintiff's attorney by mail of the filing and set the *
75 counterclaim for hearing on the same date as the original claim.

1 (d) The counterclaim shall be filed not less than five days
 2 before the date set for court hearing. The judge~~-in-his~~ *
 3 ~~discretion~~ may thereafter allow the filing of a written or oral *
 4 counterclaim before or after hearing the merits of the claim and
 5 counterclaim. The judge~~-in-his-discretion~~ may require the *
 6 payment of absolute or conditional costs up to \$25 by the
 7 defendant as a condition of allowing late filing in the event
 8 that a continuance is requested by the plaintiff and is granted
 9 because of such late filing.

10 (e) If the defendant has a counterclaim arising out of the
 11 same transaction or occurrence which exceeds the jurisdiction of
 12 the court and the defendant files an affidavit ~~by-himself,~~ *
 13 personally or his through an attorney, with the clerk not less *
 14 than five days before the date set for court hearing showing *
 15 that he the defendant has filed with the clerk of a specified *
 16 other court of competent jurisdiction a summons and complaint
 17 seeking recovery from the plaintiff on the counterclaim and
 18 stating the nature and amount thereof, the clerk shall strike
 19 the action from the calendar and so advise the plaintiff or ~~his~~ *
 20 the plaintiff's attorney by mail. If the plaintiff not less *
 21 than 30 days nor more than three years after the filing of such *
 22 an affidavit shall file an affidavit showing that he the *
 23 plaintiff has not been served with a summons in the other action *
 24 or that the other action has been finally determined, the clerk
 25 shall again set the cause for court hearing and summon the
 26 defendant in the same manner as for the initial hearing and the
 27 court shall proceed to hear and determine plaintiff's claim. If
 28 no such counter affidavit is filed by plaintiff within three
 29 years, ~~his the plaintiff's~~ original claim is dismissed without *
 30 prejudice without any further action by the clerk or any judge. *
 31 Prior to the expiration of this three year period the
 32 plaintiff's original claim may be dismissed by plaintiff or by
 33 court order at a hearing upon motion of the defendant.

34 Subd. 6. REPLEVIN. If the controversy concerns the
 35 ownership or possession, or both, of personal property the value
 36 of which does not exceed the sum of \$2,000, the judge ~~in-his~~ *
 37 ~~discretion~~ may direct an officer of the court to take *
 38 possession of the property immediately and hold it subject to
 39 the further order of the court, without the giving of any bond
 40 whatever.

41 No change for subd 7
 488A#15S

42 488A.15 HEARING; ATTORNEYS; EVIDENCE; CONCILIATION;
 43 DETERMINATION; DEFAULT; DISMISSAL; CONTINUANCE.

44 No change for subd 1

45 Subd. 2. APPEARANCE OF PARTIES, ATTORNEYS. Any
 46 party may appear in ~~his~~ the party's own behalf without an *
 47 attorney, or may retain and be represented by a duly admitted
 48 attorney who may participate in the hearing to the extent and in
 49 the manner that the judge, in ~~his~~ the judge's discretion, deems *
 50 helpful to accomplish the purposes of this act.

51 Subd. 3. EVIDENCE ADMISSIBLE. At the hearing the
 52 judge normally shall receive only evidence admissible under the
 53 rules of evidence, but in the interests of justice and the
 54 summary determination of causes before ~~him-he~~ the court the
 55 judge may receive evidence not so admissible. *
 56

56 No change for subd 4 to 6

57 Subd. 7. DEFENDANT, FAILURE TO APPEAR. If the
 58 defendant, after being summoned as provided by this act, fails
 59 to appear at the time set for hearing, the judge may hear the
 60 plaintiff or ~~his~~ the plaintiff's attorney and order judgment by *
 61 default or ~~he~~ the judge may fix a later date for hearing in *
 62 accordance with what appears just and reasonable. If a later
 63 date be set for hearing the clerk shall notify the defendant by
 64 mail.

65 Subd. 8. PLAINTIFF FAILING TO APPEAR, DEFENDANT
 66 APPEARING. (a) If the plaintiff fails to appear at the time
 67 set for hearing and the defendant does appear, the judge may
 68 hear the defendant and order judgment of dismissal on the
 69 merits, order the cause dismissed without prejudice, fix a later
 70 date for hearing or make such other disposition as is just and
 71 reasonable.

72 (b) If both parties are present or represented at the
 73 hearing, the judge~~-in-his-discretion~~, on motion of the *
 74 plaintiff, may grant dismissal without prejudice either before
 75 or after hearing evidence.

1 (c) If a later date be set for hearing the clerk shall
2 notify by mail any party not present or represented at the
3 hearing.

4 No change for subd 9

488A#16S

5 488A.16 NOTICE OF ORDER FOR JUDGMENT; ENTRY OF JUDGMENT;
6 COSTS AND DISBURSEMENTS; PAYMENTS; VACATING; DOCKETING.

7 No change for subd 1 to 2

8 Subd. 3. COSTS AND DISBURSEMENTS. The judge, in ~~his~~ *
9 the order for judgment, shall include any filing fee paid by the *
10 prevailing party, may include any disbursements incurred by the
11 prevailing party covering items taxable in civil actions in the *
12 municipal court, and may include or adjust for any sum which ~~he~~ *
13 the judge deems proper to cover all or part of conditional costs *
14 previously ordered to be paid by either party. No other costs
15 shall be allowed to a prevailing party.

16 Subd. 4. PAYMENT OF JUDGMENT, RECORD. The losing
17 party may pay all or any part of the judgment to the clerk for
18 the benefit of the prevailing party or may pay the prevailing
19 party directly and so advise the clerk. The clerk shall make an
20 appropriate entry on ~~his~~ the clerk's records when any payment *
21 has been made to ~~him~~ the clerk or when satisfied that any *
22 payment to the prevailing party has been made.

23 Subd. 5. VACATION OF ORDER FOR JUDGMENT WITHIN TWENTY
24 DAYS. When a default judgment or a judgment of dismissal on
25 the merits has been ordered for failure to appear, the judge,
26 within 20 days after notice thereof was mailed, may vacate the
27 order for judgment ex parte and grant a new hearing, if the
28 defaulting party shows lack of notice, mistake, inadvertence, or
29 excusable neglect as the cause of ~~his~~ the defaulting party's *
30 failure to appear. Absolute or conditional costs not exceeding
31 \$25 to the other party may be ordered as a prerequisite to that
32 relief. The clerk shall notify the other party by mail of the
33 new hearing date.

34 Subd. 6. VACATION OF JUDGMENT AFTER TWENTY DAYS.
35 When a defendant shows that ~~he~~ the defendant did not receive a *
36 summons before the hearing within sufficient time to permit a *
37 defense and that ~~he~~ the defendant did not receive notice of the *
38 order for default judgment within sufficient time to permit ~~him~~ *
39 the defendant to make application for relief within 20 days or *
40 shows other good cause within six months from the date of entry
41 of judgment, a judge may vacate a default judgment with or
42 without payment of absolute or conditional costs. The clerk
43 shall notify the parties by mail of the new hearing date.

44 Subd. 7. ABSOLUTE OR CONDITIONAL COSTS; FILING OF
45 ORDERS. When a judge orders payment of absolute or
46 conditional costs as a condition of an order under any provision
47 of this act, the amount shall be paid to the clerk before the
48 order becomes effective or is filed. Every such order is
49 invalid unless filed with the clerk within five days after its
50 date. Conditional costs shall be held by the clerk to abide the
51 final order entered in the cause. Absolute costs shall be paid
52 over by the clerk forthwith to the other party as ~~his~~ the other *
53 party's absolute property. *

54 Subd. 8. DOCKETING AND ENFORCEMENT IN MUNICIPAL COURT.

55 When a judgment has become finally effective under
56 subdivision 2, the judgment creditor may obtain a transcript of
57 the judgment from the clerk of conciliation court on payment of
58 a fee of fifty cents and file it with the clerk of the municipal
59 court of the county of Hennepin. After filing of the
60 transcript, the judgment becomes, and is enforceable as, a
61 judgment of the municipal court. No writ of execution or
62 garnishment summons may be issued out of conciliation court. If
63 (1) a conciliation court judgment has been docketed as a
64 municipal court judgment for a period of at least 30 days, (2)
65 the judgment is not satisfied, and (3) the parties have not
66 otherwise agreed, the municipal court shall, upon the request of
67 the judgment creditor, order the judgment debtor to mail to the
68 judgment creditor information as to the nature, amount,
69 identity, and location of all ~~his~~ the judgment debtor's assets, *
70 liabilities, and personal earnings. The information shall be
71 provided on a form prescribed by the supreme court and shall be
72 sufficiently detailed to enable the judgment creditor to obtain
73 satisfaction of the judgment by way of execution on nonexempt
74 assets and earnings of the judgment debtor. The form shall be
75 written in a clear and coherent manner using words with common

1 and everyday meanings, shall summarize the execution and
 2 garnishment exemptions and limitations applicable to assets and
 3 earnings, and shall permit the judgment debtor to identify on
 4 the form those assets and earnings that he the judgment debtor
 5 considers to be exempt from execution or garnishment. The order
 6 shall contain a notice that failure to complete the form and
 7 mail it to the judgment creditor within ten days after service
 8 of the order may result in a citation for contempt of court
 9 unless the judgment is satisfied prior to the expiration of that
 10 period. A judgment debtor who intentionally fails to comply
 11 with the order of the court may be cited for civil contempt of
 12 court.

488A#17S

13 488A.17 REMOVAL OF CAUSE TO MUNICIPAL COURT.

14 No change for subd 1

15 Subd. 2. PROCEDURE FOR REMOVAL OF CAUSE. No cause
 16 shall be removed by the aggrieved party unless all of the
 17 following acts are performed within 20 days after the date the
 18 clerk mailed to him the aggrieved party notice of the order for
 19 judgment:

20 (a) Serving on the opposing party or his the opposing
 21 party's attorney a demand for removal of the cause to the
 22 municipal court for trial de novo stating whether trial by a
 23 jury of six persons or by the court without a jury is demanded.
 24 Service shall be made upon a party by mail or by personal
 25 service in accordance with the provisions for personal service
 26 of a summons in the municipal court or shall be made upon the
 27 party's attorney in accordance with the provisions for service
 28 of a notice of motion upon an attorney in the municipal court.
 29 The demand shall show the office address of the attorney for
 30 each party and the residence address of each party who does not
 31 have an attorney.

32 (b) Filing with the clerk of conciliation court the
 33 original demand for removal and proof of service thereof. If
 34 the opposing party or his the opposing party's attorney cannot
 35 be found and service of the demand is made within the 20 day
 36 period, the aggrieved party may file with the clerk within the
 37 20 day period the original and a copy of the demand, together
 38 with an affidavit by himself-or-his the aggrieved party or the
 39 party's attorney showing that due and diligent search has been
 40 made and that the opposing party or his the opposing party's
 41 attorney cannot be found. The filing of this affidavit shall
 42 serve in lieu of making service and filing proof of service.
 43 When an affidavit is filed, the clerk shall mail the copy of the
 44 demand to the opposing party at his the opposing party's last
 45 known residence address.

46 (c) Filing with the clerk of conciliation court an
 47 affidavit by the aggrieved party or his the aggrieved party's
 48 attorney stating that the removal is made in good faith and not
 49 for the purpose of delay.

50 (d) Paying to the clerk of conciliation court \$2 when the
 51 demand is for trial by court or \$7 when the demand is for trial
 52 by a jury of six persons.

53 Subd. 3. LIMITED REMOVAL OF CAUSE, PROCEDURE. (a)
 54 When a motion for vacation of a judgment or an order for
 55 judgment under subdivision 5 or 6 of section 488A.16 has been
 56 denied, the aggrieved party may demand limited removal to the
 57 municipal court of the county of Hennepin for hearing de novo of
 58 his the motion. The demand for limited removal and notice of
 59 the hearing de novo must be served by the aggrieved party on the
 60 other party in accordance with the provisions of subdivision
 61 2(a). The original demand and notice, with proof of service,
 62 must be filed with the clerk of conciliation court within 20
 63 days after the motion has been denied, or the original and one
 64 copy of the demand and notice, together with an affidavit
 65 similar to that required by subdivision 2(b) must be filed with
 66 the clerk of conciliation court within the 20 day period. When
 67 an affidavit is filed, the clerk shall mail the copy of the
 68 demand and notice to the other party at his the other party's
 69 last known residence address. The aggrieved party shall pay a
 70 fee of \$2 to the clerk of conciliation court for filing the
 71 demand and notice. This fee shall not be recoverable as a
 72 disbursement. The notice shall set a date for hearing de novo
 73 at a special term of the municipal court not less than ten days
 74 nor more than thirty days subsequent to the date of filing the
 75 original demand and notice.

1 (b) The clerk of conciliation court thereupon shall pay
 2 over to the municipal court the \$2 fee and file in municipal
 3 court the removal demand and notice together with all orders,
 4 affidavits, and other papers filed in conciliation court. The
 5 clerk of municipal court shall then place the cause on the
 6 special term calendar of the municipal court for hearing on the
 7 date specified in the notice.

8 (c) A municipal judge, other than the conciliation judge
 9 who denied the motion, shall hear the motion de novo at special
 10 term and may deny the motion, without allowance of costs, or
 11 grant the motion, with or without the allowance of absolute or
 12 conditional costs. At the hearing de novo the municipal judge
 13 shall consider the entire file of the conciliation court
 14 together with any subsequent affidavits of showing made by
 15 either party.

16 (d) The clerk of municipal court shall send a copy of the
 17 order made after the de novo hearing to both parties and return
 18 the file to the clerk of conciliation court.

19 Subd. 4. DEMAND FOR TRIAL BY JURY. If the opposing
 20 party desires trial by a jury of six persons when none is
 21 demanded in the demand for removal, he the opposing party shall: *
 22 (a) serve a demand for trial by a jury of six persons on the
 23 aggrieved party, (b) file the demand with proof of service with
 24 the clerk of conciliation court within ten days after the demand
 25 for removal was served upon ~~him~~ the opposing party, and (c) pay *
 26 to the clerk of conciliation court at the time of such filing a
 27 fee of \$5.

28 No change for subd 5 to 6

29 Subd. 7. CLERK'S DUTIES UPON REMOVAL. After the
 30 judge's order and certificate have been filed, the clerk of
 31 conciliation court shall pay over to the municipal court the
 32 removal and jury fees paid to ~~him~~ the clerk hereunder and shall *
 33 file in municipal court all claims, orders, certificates and
 34 other papers filed in conciliation court in connection with the
 35 cause and its removal to municipal court.

36 No change for subd 8 to 9

37 Subd. 10. COSTS AND DISBURSEMENTS FOR PREVAILING
 38 PARTY. (a) The prevailing party in a removed cause may tax
 39 and recover from the other party \$5 as costs together with ~~his~~ *
 40 the prevailing party's disbursements incurred in conciliation *
 41 and municipal court; except that if the prevailing party, on
 42 appeal, is not the aggrieved party in the original action, the
 43 court may, in its discretion, allow such prevailing party to tax
 44 and recover from the aggrieved party an amount not to exceed \$50
 45 as costs.

46 (b) For the purpose of this subdivision, an "aggrieved
 47 party" means the party who demands removal to municipal court
 48 and means the first party who serves, or files in lieu of
 49 serving, a demand for removal if another party also demands
 50 removal, and an "opposing party" means any party as to whom the
 51 aggrieved party seeks a reversal in whole or in part by removal
 52 of the cause to municipal court.

53 (c) The aggrieved party is the prevailing party in
 54 municipal court:

55 (1) If the aggrieved party recovers any amount or any
 56 property in municipal court when the aggrieved party had been
 57 denied recovery of any amount or any property by the
 58 conciliation judge,

59 (2) If the opposing party does not recover any amount or
 60 any property from the aggrieved party in municipal court when
 61 the opposing party had recovered some amount or some property by
 62 the order of the conciliation judge,

63 (3) If the aggrieved party recovers an amount or value of
 64 property in municipal court which is at least \$25 in excess of
 65 the amount or value of property which the aggrieved party
 66 recovered by the order of the conciliation judge or

67 (4) If the opposing party recovers from the aggrieved party
 68 an amount or value of property in municipal court which is at
 69 least \$25 less than the amount or value of property which the
 70 opposing party recovered by the order of the conciliation judge.

71 (d) In all other situations the opposing party shall be
 72 deemed to be the prevailing party in municipal court.

73 (e) Costs or disbursements in the conciliation or municipal
 74 court shall not be considered in determining whether there was a
 75 recovery by either party in either court or in determining the
 76 difference in recovery under this subdivision.

1 No change for subd 11 to 12

488A#19S

2 488A.19 JUDGES.

3 No change for subd 1

4 Subd. 2. QUALIFICATIONS AND OATH. Each judge shall
5 be a person learned in the law who is admitted and qualified to
6 practice in the supreme court of this state and is a resident of
7 the county of Ramsey in this state. Before entering upon the
8 duties of office, each judge shall take and subscribe an oath,
9 in the form prescribed by law for judicial officers, and shall
10 file that oath in the office of the county auditor. No judge
11 shall practice as an attorney or counselor at law, except in
12 cases in which he the judge is a party in interest. *

13 Subd. 3. TERM; VACANCIES; APPOINTMENTS AND ELECTION.

14 (a) Each elected judge holds office for six years beginning
15 the first Monday in January next succeeding his the judge's
16 election. *

17 (b) Whenever there is a vacancy in the office of judge the
18 governor shall appoint a qualified person to fill the vacancy,
19 to hold office until his a successor is elected and qualified. *
20 The successor shall be elected for a six-year term at the next
21 general election occurring more than one year after such
22 appointment.

23 (c) At the general election immediately preceding the
24 expiration of his an elected judge's term the qualified voters
25 of the county of Ramsey shall elect the a successor ~~to-any~~
26 ~~elected-judge~~. *

27 (d) Each judge holds a separate nonpartisan office.

28 (e) When one or more judges of the court are to be
29 nominated or elected at an election, the notice of election
30 shall state the name of each judge whose successor is to be
31 nominated or elected. The official ballot shall contain the
32 names of all candidates for each such office, state the number
33 of judges to be elected and the number of candidates for whom an
34 elector may vote, and designate each candidacy as "For the
35 office of Judge of the Municipal Court of the county of Ramsey
36 to which(Name of Judge)..... was elected for the
37 regular term," or "For the office of Judge of the Municipal
38 Court of the county of Ramsey to which(Name of
39 Judge)..... was appointed," as the case may be. The official
40 ballots shall show in the spaces for the purpose the name of the
41 judge whose successor is to be elected. When any judge is a
42 candidate ~~to-succeed-himself~~ again, the word "incumbent" shall
43 be printed after his the judge's name where it appears among the
44 names of the candidates for the office. When voting machines are
45 used and such statements cannot be inserted in full, the
46 designation shall be "Successor to(Name of Judge)
47 (elected)", or "Successor to(Name of Judge).....
48 (appointed)", as the case may be. *

49 (f) Each person desiring to have his the person's name
50 placed upon the primary ballot as a candidate for judge shall
51 state in his an affidavit of candidacy the office of the
52 particular judge for which he the person is a candidate. The
53 filing of this affidavit with the county auditor and a
54 compliance with all other requirements constitutes such person a
55 candidate for that office, and for that office only. No person
56 shall at any election be a candidate for more than one such
57 office. *

58 Subd. 4. Repealed, 1973 c 708 s 37

59 No change for subd 5 to 7

60 Subd. 10. SALARIES. Each judge shall be paid by the
61 state an annual salary in the amount prescribed by section
62 15A.083. If a judge dies, the amount of his the judge's salary
63 remaining unpaid for the month in which his the death occurs
64 shall be paid to his the judge's estate. Each judge shall be
65 paid expenses by the state in the same manner and amount as
66 provided for judges of the district court in section 484.54. *

67 NOTE: Subdivision 10 was also repealed by Laws 1977,
68 Chapter 432, Section 49.

488A#20S

69 488A.20 ADMINISTRATOR; OTHER EMPLOYEES.

70 Subdivision 1. APPOINTMENT, TERM, REMOVAL, SUSPENSION.

71 (a) A majority of the judges shall appoint an administrator
72 of the court.

73 (b) The court shall have employees, consisting of those
74 persons employed in the municipal courts of the cities of New

1 Brighton, Roseville, Maplewood, North Saint Paul, White Bear
2 Lake and Saint Paul, as of December 31, 1974.

3 (c) Additional employees may be appointed by the
4 administrator with the approval of the majority of the judges
5 when the county board consents to the creation of such new
6 positions.

7 (d) The administrator and other employees of the court,
8 exclusive of court reporters, shall each be appointed for a term
9 of six years from the date of appointment. At any time within
10 six months from the date of initial appointment, each may be
11 removed and ~~his~~ the appointment terminated, with or without *
12 cause and without notice or hearing, by the appointing official
13 or officials. At any time, each may be suspended by the
14 appointing official or officials without pay for a period not to
15 exceed 30 days with or without cause pending a hearing for
16 removal and termination of appointment for cause before the
17 appointing official or officials.

18 (e) The administrator and all other employees of the court
19 shall be in the unclassified service of the county of Ramsey.

20 Subd. 2. OATH, BOND. (a) The administrator and
21 other employees of the court shall each take and subscribe an
22 oath to support the Constitutions of the United States and the
23 state of Minnesota and to perform faithfully the duties of ~~his~~ *
24 office.

25 (b) The administrator and other employees of the court
26 exclusive of court reporters shall each give bond to the county
27 of Ramsey in such sum and with such surety as the county board
28 directs, conditioned upon the faithful discharge of ~~his~~ official *
29 duties and for payment as required by law or order of the court
30 of all moneys coming into ~~his~~ the administrator's or other *
31 employee's hands. *

32 (c) Neither the administrator nor other employees of the
33 court shall enter upon their official duties until their
34 respective appointment, oath, and bond are filed with the county
35 auditor.

36 Subd. 3. POWERS AND DUTIES. (a) The administrator
37 and other employees of the court may each administer oaths and
38 affirmations and take acknowledgments.

39 (b) The administrator shall delegate and supervise the work
40 of the other employees of the court. ~~He~~ The administrator shall *
41 have all the powers and duties incident to the office of an
42 administrator of a court of record or necessary to carry out the
43 purposes of this act.

44 (c) The administrator shall make minutes, records and
45 indices of all proceedings; enter all orders, judgments or
46 sentences; issue all process; keep proper accounts; have custody
47 of all court records; and tax all costs and disbursements.

48 (d) In the performance of all ~~his~~ duties, the administrator *
49 is subject to the control and supervision of the judges.

50 Subd. 4. DISPOSITION OF FINES, FEES AND OTHER MONEYS;
51 ACCOUNTS. (a) Except as otherwise provided herein and except
52 as otherwise provided by law, the administrator shall pay to the
53 Ramsey county treasurer all fines and penalties collected by ~~him~~ *
54 the administrator, all fees collected by ~~him~~ for administrator's *
55 services of-himself, all sums forfeited to the court as *
56 hereinafter provided, and all other moneys received by the
57 administrator.

58 (b) The administrator of court shall for each fine or
59 penalty, provide the county treasurer with the name of the
60 municipality or other subdivision of government where the
61 offense was committed and the total amount of the fines or
62 penalties collected for each such municipality or other
63 subdivision of government.

64 (c) The state of Minnesota and any governmental subdivision
65 within the jurisdictional area of the municipal court herein
66 established may present cases for hearing before said municipal
67 court. In the event the court takes jurisdiction of a
68 prosecution for the violation of a statute or ordinance by the
69 state or a governmental subdivision other than a city or town in
70 Ramsey county, all fines, penalties and forfeitures collected
71 shall be paid over to the county treasurer except where a
72 different disposition is provided by law, and the following fees
73 shall be taxed to the state or governmental subdivision other
74 than a city or town within Ramsey County which would be entitled
75 to payment of the fines, forfeitures or penalties in any case,
76 and shall be paid to the administrator of the court for

1 disposing of the matter. The administrator shall deduct the
2 fees from any fine collected for the state of Minnesota or a
3 governmental subdivision other than a city or town within Ramsey
4 County and transmit the balance in accordance with the law, and
5 the deduction of the total of the fees each month from the total
6 of all the fines collected is hereby expressly made an
7 appropriation of funds for payment of the fees:

8 (1) In all cases where the defendant is brought into court
9 and pleads guilty and is sentenced, or the matter is otherwise
10 disposed of without a trial.....\$5

11 (2) In arraignments where the defendant waives a
12 preliminary examination.....\$10

13 (3) In all other cases where the defendant stands trial or
14 has a preliminary examination by the court.....\$15

15 (4) The court shall have the authority to waive the
16 collection of fees in any particular case.

17 (d) At the beginning of the first day of any month, the
18 amount in the hands of the administrator which is owing to any
19 municipality or county shall not exceed \$5,000.

20 (e) On or before the last day of each month, the county
21 treasurer shall pay over to the treasurer of each municipality
22 or subdivision of government in Ramsey county one-half of all
23 fines or penalties collected during the previous month from
24 those imposed for offenses committed within such municipality or
25 subdivision of government in violation of a statute, an
26 ordinance, charter provision, rule or regulation of a city. All
27 other fines and forfeitures and all fees and costs collected by
28 the county municipal court shall be paid to the treasurer of
29 Ramsey county who shall dispense the same as provided by law.

30 (f) Amounts represented by checks issued by the
31 administrator or received by the administrator which have not
32 cleared by the end of the month may be shown on the monthly
33 account as having been paid or received, subject to adjustment
34 on later monthly accounts.

35 (g) The administrator may receive negotiable instruments in
36 payment of fines, penalties, fees, or other obligations as
37 conditional payments, and is not held accountable therefor but
38 if collection in cash is made and then only to the extent of the
39 net collection after deduction of the necessary expense of
40 collection.

41 No change for subd 5 to 7

488A#22S

42 488A.22 COURT REPORTERS.

43 Subdivision 1. APPOINTMENT; OATH; TENURE. Each
44 judge shall have as ~~his~~ the judge's court reporter a competent *
45 person skilled in that profession appointed by the administrator
46 of this court at the direction of said judge. Each reporter
47 shall take and subscribe an oath to support the Constitutions of
48 the United States and the state of Minnesota and to discharge
49 and perform ~~his~~ duties as a court reporter faithfully and *
50 honestly. Each reporter shall file ~~his~~ an oath with the county *
51 auditor before ~~he~~ the reporter enters upon the duties of ~~his~~ *
52 office. Each reporter is an officer of the court and holds ~~his~~ *
53 office during the pleasure of the judge directing ~~his~~ the *
54 reporter's appointment and until the judge directs a court *
55 reporter to succeed ~~him~~ the reporter. *

56 Subd. 2. DUTIES. Each reporter shall take or cause
57 to be taken by another skilled court reporter full stenographic
58 notes of all the testimony and other proceedings in all civil
59 actions, all actions for forcible entry and unlawful detainer
60 and all preliminary hearings in criminal actions before the
61 judge so directing ~~his~~ the reporter's appointment. When *
62 requested by the judge, each reporter shall transcribe such
63 notes or any part thereof for the use of the judge or for such
64 other purpose in furtherance of justice as the judge may order,
65 without charge therefor. Each reporter shall furnish a
66 transcript of ~~his~~ the reporter's notes, or any part thereof, at *
67 the request of any party to the action or any other person. He *
68 The reporter shall be entitled to charge therefor at the rates *
69 then prescribed by law for court reporters of the district court
70 for Ramsey county. Each reporter shall act in the capacity of a
71 private secretary to the judge so directing ~~his~~ the reporter's *
72 appointment in the performance of the judge's official duties.

73 No change for subd 3

488A#23S

74 488A.23 FEES PAYABLE TO THE ADMINISTRATOR.

1 Subdivision 1. FEES IN CIVIL ACTIONS. Except as
 2 otherwise provided herein, the fees payable to the administrator
 3 for ~~his~~ services in civil actions shall be the same as those *
 4 payable to the clerk of the district court, second judicial
 5 district, for like services, exclusive of library fees. The
 6 fees payable to the administrator for all other services ~~of~~ *
 7 himself performed by the administrator or the court shall be *
 8 fixed by rules promulgated by a majority of the judges.

9 Subd. 2. Repealed, 1973 c 708 s 37

10 Subd. 3. Repealed, 1974 c 397 s 41

11 Subd. 4. Repealed, 1974 c 397 s 41

12 No change for subd 5 to 6

488A#24S

13 488A.24 PETIT JURORS.

14 No change for subd 1 to 4

15 Subd. 5. COMPENSATION. Any juror so summoned,
 16 attending as aforesaid and accepted as a juror in this court,
 17 shall be entitled to receive as compensation the same amount as
 18 jurors in the district court, which shall be paid out of the
 19 county treasury of the county of Ramsey. The administrator of
 20 this court shall deliver to each juror a certificate showing the
 21 number of days in attendance and the mileage for which ~~he~~ the
 22 juror is entitled to receive compensation. This certificate of *
 23 the administrator shall be filed with the county auditor, who *
 24 shall issue ~~his~~ a warrant on the treasurer of the county for the *
 25 amount due, which certificate shall be a proper and sufficient
 26 voucher for the issuance of such warrant.

27 No change for subd 6

488A#26S

28 488A.26 PLEADING, PRACTICE, PROCEDURE AND FORMS IN CIVIL
 29 ACTIONS.

30 No change for subd 1 to 2

31 Subd. 3. COSTS ALLOWABLE. Costs shall be allowed in
 32 civil actions as follows:

33 (a) To the plaintiff upon a judgment in ~~his~~ the plaintiff's *
 34 favor when an issue of fact or law has been joined:

35 (1) \$10 when the amount of the judgment or the value of the
 36 property recovered in a replevin action, exclusive of costs and
 37 disbursements, exceeds \$500;

38 (2) \$5 in all other cases.

39 (b) \$5 to the plaintiff upon a judgment in ~~his~~ the *
 40 plaintiff's favor when no issue of fact or law has been joined *
 41 and the amount of the judgment or the value of the property
 42 recovered, exclusive of costs and disbursements, exceeds \$500.

43 (c) To the defendant upon a judgment in ~~his~~ the defendant's *
 44 favor:

45 (1) \$10 when on the merits.

46 (2) \$5 in all other cases.

47 (d) \$5 to the defendant upon a dismissal or discontinuance
 48 other than on the merits, regardless of the amount claimed or
 49 the value of the property involved.

50 Subd. 4. LIEN OF JUDGMENT; FILING OF TRANSCRIPT.

51 (a) No judgment of this court shall attach as a lien upon real
 52 estate unless and until a transcript thereof is filed and
 53 docketed in district court.

54 (b) Any person who holds a judgment for an amount exceeding
 55 \$10, exclusive of interest and costs, may obtain from the
 56 administrator a certified transcript of such judgment and may
 57 file the transcript in the office of the clerk of the district
 58 court of Ramsey county, who shall file and docket it.

59 (c) Upon the filing and docketing of the certified
 60 transcript, the judgment becomes a lien upon the real estate of
 61 the debtor to the same extent as a judgment of the district
 62 court and the judgment thereafter is exclusively under the
 63 control of the district court and may be enforced by its process
 64 as though originally rendered by the district court.

65 (d) The administrator of this court shall not issue such a
 66 certified transcript while a writ of execution is outstanding on
 67 the judgment. ~~He~~ The administrator shall note on the record of *
 68 such judgment the fact that such transcript has been given and
 69 shall not thereafter issue any writ of execution on the same
 70 judgment.

71 No change for subd 5 to 7

488A#27S

72 488A.27 PLEADING, PRACTICE, PROCEDURE, AND FORMS IN
 73 CRIMINAL PROCEEDINGS.

1 No change for subd 1 to 7
 2 Subd. 8. SUSPENSION, ALTERATION OR MODIFICATION OF
 3 SENTENCES. At the time of imposing sentence, or at any time
 4 thereafter, the sentencing judge, or any other judge if the
 5 sentencing judge is not available, may ~~in his discretion,~~
 6 suspend, alter or modify the sentence imposed, upon such terms
 7 and conditions as such judge deems appropriate.
 8 Subd. 9. Repealed, 1979 c 233 s 42
 9 No change for subd 10 to 13

488A#30S

10 488A.30 JUDGES; ADMINISTRATOR; SALARIES; QUARTERS.
 11 Subdivision 1. JUDGES. (a) The judges of the
 12 municipal court shall serve as judges of the conciliation court
 13 for such periods and in such rotation as the judges may
 14 determine. While so serving they shall act and be known as
 15 conciliation judges.

16 (b) The municipal judge who conducts the conciliation court
 17 hearing shall act upon any applications to vacate a judgment or
 18 an order for judgment whatever the grounds may be and shall sign
 19 the certificate upon a removed cause, but any other municipal
 20 judge may act upon such an application or sign such a
 21 certificate in the event that the judge who conducted the
 22 hearing has not previously denied the application and cannot act
 23 upon the application promptly or sign the certificate due to
 24 expiration of ~~his~~ the judge's term, death, disability, absence
 25 from the courthouse or any other cause.

26 (c) A majority of the judges of the municipal court may
 27 appoint attorneys to act as referees in conciliation court. A
 28 majority of the judges of the municipal court shall establish
 29 qualifications for the office, specify the duties, compensation,
 30 and length of service of such referees. This compensation is
 31 payable out of the county treasury at the same time and in the
 32 same manner as salaries of the judges of conciliation court.

33 Subd. 2. ADMINISTRATOR, DUTIES. The administrator of
 34 the municipal court shall serve as the administrator of the
 35 conciliation court. ~~He~~ The administrator shall delegate
 36 necessary employees of the municipal court to assist ~~him~~
 37 performing ~~his~~ the administrator's duties under sections 488A.29
 38 to 488A.34. The administrator shall keep the records and
 39 accounts and perform other duties prescribed by the judges. ~~He~~
 40 The administrator shall account for and pay over to the county
 41 of Ramsey all fees received by ~~him~~ the administrator in the same
 42 fashion as required in ~~his~~ the administrator's capacity as
 43 administrator of municipal court.

44 Under the supervision of the conciliation court judges, the
 45 administrator of the conciliation court shall explain to
 46 litigants the procedures and functions of the conciliation court
 47 and shall assist them in filling out all forms and pleadings
 48 necessary for the presentation of their claims or counterclaims
 49 to the court. The administrator shall assist judgment creditors
 50 and judgment debtors in the preparation of the forms necessary
 51 to obtain satisfaction of a final judgment. The performance of
 52 duties described in this subdivision shall not constitute the
 53 practice of law.

54 No change for subd 3 to 4

488A#31S

55 488A.31 COMMENCEMENT OF ACTION.

56 No change for subd 1

57 Subd. 2. FILING FEE, AFFIDAVIT OF INABILITY TO PAY.
 58 If the plaintiff or the defendant signs and files with the
 59 administrator an affidavit ~~that he has~~ claiming no money or
 60 property and ~~is unable~~ inability to pay a filing fee, no fee
 61 shall be required for the filing of ~~his~~ the affiant's claim or
 62 counterclaim. If the affiant prevails on ~~his~~ a claim or
 63 counterclaim, the amount of the filing fee which would have been
 64 payable by ~~him~~ the affiant shall be included in the order for
 65 judgment and paid to the administrator of conciliation court by
 66 the affiant out of any money recovered by ~~him~~ the affiant on the
 67 judgment.

68 Subd. 3. CLAIM, VERIFICATION, CONTENTS. The claim
 69 must be verified by the plaintiff, ~~his~~ the plaintiff's attorney
 70 or agent and shall contain a brief statement of the amount, date
 71 of accrual, and nature of the claim and the name and address of
 72 the plaintiff, the plaintiff's attorney or agent, if any, and
 73 the defendant. The administrator shall draw up the claim on
 74 request.

1 No change for subd 3a
 2 Subd. 4. HEARING, DATE; SUMMONS. When an action has
 3 been commenced, the administrator shall set a date for court
 4 hearing and advise the plaintiff of the date set. The
 5 administrator shall promptly summon the defendant by mail. The
 6 summons shall state the amount and nature of the claim, require
 7 the defendant to appear at the hearing, specify that if he the *
 8 defendant does not appear judgment by default will be entered *
 9 against him the defendant for the relief demanded and summarize *
 10 the requirements for filing a counterclaim. Unless otherwise
 11 ordered by a judge, the hearing date shall be not less than 15
 12 days from the date of mailing or service of the summons.

13 Subd. 5. COUNTERCLAIM. (a) The defendant may
 14 interpose as a counterclaim any claim within the jurisdiction of
 15 the court which he the defendant has against the plaintiff *
 16 whether or not arising out of the transaction or occurrence
 17 which is the subject matter of the plaintiff's claim.

18 (b) The counterclaim shall be interposed by filing with the
 19 administrator a brief statement of the amount, date of accrual
 20 and nature of the counterclaim, verified by the defendant, his *
 21 the defendant's attorney or agent, and paying the filing fee set *
 22 by the board of Ramsey County commissioners to the
 23 administrator. The administrator shall draw up the counterclaim
 24 on request. No filing fee is payable by the county.

25 (c) The administrator shall note the filing of the
 26 counterclaim on the original claim, promptly notify the
 27 plaintiff by mail of the filing and set the counterclaim for
 28 hearing on the same date as the original claim.

29 (d) The counterclaim shall be filed not less than five days
 30 before the date set for court hearing. The judge, ~~in his~~ *
 31 ~~discretion,~~ may thereafter allow the filing of a written or oral *
 32 counterclaim before or after hearing the merits of the claim and
 33 counterclaim. The judge, ~~in his discretion,~~ *
 34 may require the payment of absolute or conditional costs up to \$50 by the
 35 defendant to the plaintiff as a condition of allowing late
 36 filing in the event that a continuance is requested by the
 37 plaintiff and is granted because of such late filing.

38 (e) If the defendant has a counterclaim which exceeds the
 39 jurisdiction of the court and the defendant files an
 40 affidavit ~~by himself, his~~ personally or through an attorney or *
 41 agent with the administrator not less than five days before the *
 42 date set for court hearing showing that he the defendant has
 43 filed with the administrator of a specified other court of *
 44 competent jurisdiction a complaint seeking recovery from the
 45 plaintiff on the counterclaim and stating the nature and amount
 46 thereof, the administrator shall strike the action from the
 47 calendar and so advise the plaintiff by mail. If the plaintiff
 48 not less than 30 days nor more than three years after the filing
 49 of such an affidavit shall file an affidavit showing that he the *
 50 plaintiff has not been served with a summons in the other action *
 51 or that the other action has been finally determined, the
 52 administrator shall again set the cause for court hearing and
 53 summon the defendant in the same manner as for the initial
 54 hearing and the court shall proceed to hear and determine
 55 plaintiff's claim. If no such counter-affidavit is filed by
 56 plaintiff within three years, his the plaintiff's original claim *
 57 is dismissed without prejudice without any further action by the
 58 administrator or any judge. Prior to the expiration of this
 59 three year period the plaintiff's original claim may be
 60 dismissed by plaintiff or by court order at a hearing upon
 61 motion of the defendant.

62 Subd. 6. REPLEVIN. If the controversy concerns the
 63 ownership or possession, or both, of personal property the value
 64 of which does not exceed the sum of \$2,000, the judge, ~~in his~~ *
 65 ~~discretion,~~ may direct an officer of the court to take *
 66 possession of the property immediately and hold it subject to
 67 the further order of the court, without the giving of any bond
 68 whatever.

488A#32S

69 488A.32 HEARING; EVIDENCE; CONCILIATION; DETERMINATION;
 70 DEFAULT; DISMISSAL; CONTINUANCE.

71 No change for subd 1
 72 Subd. 2. APPEARANCE OF PARTIES. Any party may
 73 appear in his the party's own behalf without an attorney, or may *
 74 retain and be represented by a duly admitted attorney who may
 75 participate in the hearing to the extent and in the manner that

1 the judge, ~~in his discretion~~, deems helpful. *

2 Subd. 3. EVIDENCE ADMISSIBLE. At the hearing the
3 judge normally shall receive only evidence admissible under the
4 rules of evidence, but in the interests of justice and the
5 summary determination of causes before ~~him~~ the court the
6 judge may receive evidence not so admissible. *

7 No change for subd 4 to 6

8 Subd. 7. DEFENDANT, FAILURE TO APPEAR. If the
9 defendant, after being summoned as provided by this act, fails
10 to appear at the time set for hearing, the judge may hear the
11 plaintiff, ~~his~~ the plaintiff's attorney or agent and order
12 judgment by default or ~~he~~ the judge may fix a later date for
13 hearing in accordance with what appears just and reasonable. If
14 a later date be set for hearing, the administrator shall notify
15 the defendant by mail. *

16 Subd. 8. PLAINTIFF FAILING TO APPEAR, DEFENDANT
17 APPEARING. (a) If the plaintiff fails to appear at the time
18 set for hearing and the defendant does appear, the judge may
19 hear the defendant and order judgment of dismissal on the
20 merits, order the cause dismissed without prejudice, fix a later
21 date for hearing or make such other disposition as is just and
22 reasonable. *

23 (b) If the plaintiff fails to appear at the time set for
24 hearing and the defendant does appear and the defendant has
25 filed a counterclaim, the judge may hear the defendant and order
26 judgment on the counterclaim by default or ~~he~~ the judge may fix
27 a later date for hearing in accordance with what appears just
28 and reasonable. *

29 (c) If both parties are present at the hearing, the judge,
30 ~~in his discretion~~, on motion of the plaintiff, may grant
31 dismissal without prejudice either before or after hearing
32 evidence. *

33 (d) If a later date be set for hearing, the administrator
34 shall notify by mail any party not present at the hearing.

35 No change for subd 9

488A#33S

36 488A.33 NOTICE OF ORDER FOR JUDGMENT; ENTRY OF JUDGMENT;
37 COSTS AND DISBURSEMENTS; PAYMENT; VACATING; DOCKETING.

38 No change for subd 1 to 2

39 Subd. 3. COSTS AND DISBURSEMENTS. The judge, in ~~his~~
40 the order for judgment, shall include any filing fee paid by the
41 prevailing party, may include any disbursements incurred by the
42 prevailing party covering items taxable in civil actions in the
43 municipal court, and may include or adjust for any sum which ~~he~~
44 the judge deems proper to cover all or part of conditional costs
45 previously ordered to be paid by either party. No other costs
46 shall be allowed to a prevailing party. *

47 Subd. 4. PAYMENT OF JUDGMENT, RECORD. The losing
48 party may pay all or any part of the judgment to the
49 administrator for the benefit of the prevailing party or may pay
50 the prevailing party directly and so advise the administrator.
51 The administrator shall make an appropriate entry on ~~his~~ the
52 administrator's records when any payment has been made to ~~him~~
53 the administrator or when satisfied that any payment to the
54 prevailing party has been made. *

55 Subd. 5. VACATION OF ORDER FOR JUDGMENT WITHIN 20 DAYS.
56 When a default judgment or a judgment of dismissal on the
57 merits has been ordered for failure to appear, the judge, within
58 20 days after notice thereof was mailed, may vacate the order
59 for judgment ex parte and grant a new hearing, if the defaulting
60 party shows lack of notice, mistake, inadvertence, or excusable
61 neglect as the cause of ~~his~~ the defaulting party's failure to
62 appear. Absolute or conditional costs not exceeding \$50 to the
63 other party may be ordered as a prerequisite to that relief.
64 The administrator shall notify the other party by mail of the
65 new hearing date. *

66 Subd. 6. ABSOLUTE OR CONDITIONAL COSTS; FILING OF
67 ORDERS. When a judge orders payment of absolute or
68 conditional costs as a condition of an order under any provision
69 of this act, the amount shall be paid to the administrator
70 before the order becomes effective or is filed. Every such
71 order is invalid unless filed with the administrator within five
72 days after its date. Conditional costs shall be held by the
73 administrator to abide the final order entered in the cause.
74 Absolute costs shall be paid over by the administrator forthwith
75 to the other party as ~~his~~ the other party's absolute property. *

1 Subd. 7. DOCKETING AND ENFORCEMENT IN MUNICIPAL COURT.
 2 When a judgment has become final under subdivision 2, the
 3 judgment creditor may obtain a transcript of the judgment from
 4 the administrator of conciliation court and file it with the
 5 administrator of the municipal court upon payment of the filing
 6 fees as prescribed for the municipal court. After filing of the
 7 transcript, the judgment becomes, and is enforceable as, a
 8 judgment of the municipal court. A transcript of a judgment
 9 payable in installments may not be obtained and filed until 20
 10 days after default in the payment of an installment. No writ of
 11 execution nor garnishment summons may be issued out of
 12 conciliation court. If (1) a transcript of a judgment has been
 13 filed for a period of at least 30 days, (2) the judgment is not
 14 satisfied or an installment of it remains overdue, and (3) the
 15 parties have not otherwise agreed, the municipal court shall,
 16 upon the request of the judgment creditor, order the judgment
 17 debtor to mail to the judgment creditor information as to the
 18 nature, amount, identity, and location of all ~~his~~ the judgment
 19 debtor's assets, liabilities, and personal earnings. The *
 20 information shall be provided on a form prescribed by the *
 21 supreme court and shall be sufficiently detailed to enable the
 22 judgment creditor to obtain satisfaction of the judgment by way
 23 of execution on nonexempt assets and earnings of the judgment
 24 debtor. The form shall be written in a clear and coherent
 25 manner using words with common and everyday meanings, shall
 26 summarize the execution and garnishment exemptions and
 27 limitations applicable to assets and earnings, and shall permit
 28 the judgment debtor to identify on the form those assets and
 29 earnings that ~~he~~ the judgment debtor considers to be exempt from *
 30 execution or garnishment. The order shall contain a notice that
 31 failure to complete the form and mail it to the judgment
 32 creditor within ten days after service of the order may result
 33 in a citation for contempt of court unless the judgment is
 34 satisfied prior to the expiration of that period. A judgment
 35 debtor who intentionally fails to comply with the order of the
 36 court may be cited for civil contempt of court.

37 Subd. 8. VACATION OF JUDGMENT AFTER 20 DAYS. When a
 38 defendant shows that ~~he~~ the defendant did not receive a summons *
 39 before the hearing within sufficient time to permit a defense *
 40 and that ~~he~~ the defendant did not receive notice of the order *
 41 for default judgment within sufficient time to permit ~~him~~ the *
 42 defendant to make application for relief within 20 days or shows *
 43 other good cause, a judge may vacate a default judgment after
 44 notice to the plaintiff and grant a new hearing on the merits
 45 with or without payment of absolute or conditional costs. The
 46 administrator shall notify the parties by mail of the new
 47 hearing date.

488A#34S

48 488A.34 REMOVAL OF CAUSE TO MUNICIPAL COURT.

49 No change for subd 1

50 Subd. 2. PROCEDURE FOR REMOVAL OF CAUSE. No cause
 51 shall be removed by the aggrieved party unless all of the
 52 following acts are performed within 20 days after the date the
 53 administrator mailed ~~him~~ to the aggrieved party notice of the *
 54 order for judgment:

55 (a) Serving on the opposing party or ~~his~~ the opposing *
 56 party's attorney a demand for removal of the cause to the *
 57 municipal court for trial de novo stating whether trial by a
 58 jury of six persons or by the court without a jury is demanded.
 59 Service shall be made upon a party by mail or by personal
 60 service in accordance with the provisions for personal service
 61 of a summons in the municipal court or shall be made upon the
 62 party's attorney in accordance with the provisions for service
 63 of a notice of motion upon an attorney in the municipal court.
 64 The demand shall show the office address of the attorney for
 65 each party and the residence address of each party who does not
 66 have an attorney.

67 (b) Filing with the administrator of conciliation court the
 68 original demand for removal and proof of service thereof. If
 69 the opposing party or ~~his~~ the opposing party's attorney cannot *
 70 be found and service of the demand is made within the 20 day
 71 period, the aggrieved party may file with the administrator
 72 within the 20 day period the original and a copy of the demand,
 73 together with an affidavit by ~~himself~~ the aggrieved party or ~~his~~ *
 74 the aggrieved party's attorney showing that due and diligent *
 75 search has been made and that the opposing party or ~~his~~ the *

1 opposing party's attorney cannot be found. The filing of this *
2 affidavit shall serve in lieu of making service and filing proof
3 of service. When an affidavit is filed, the administrator shall *
4 mail the copy of the demand to the opposing party at ~~his~~ the *
5 opposing party's last known address. *

6 (c) Filing with the administrator of conciliation court an
7 affidavit by the aggrieved party or ~~his~~ the opposing party's *
8 attorney stating that the removal is made in good faith and not
9 for the purpose of delay.

10 (d) Paying to the administrator of conciliation court the
11 fee set by the board of Ramsey County commissioners when the
12 demand is for trial by court, and the fee as set by the Ramsey
13 County commissioners when the demand is for trial by a jury of
14 six. The above fee is not payable by the county.

15 Subd. 3. DEMAND FOR TRIAL BY JURY. If the opposing
16 party desires trial by jury when trial by court has been
17 demanded in the removal, ~~he~~ the opposing party shall: (a) serve *
18 a demand for trial by jury on the aggrieved party, (b) file the
19 demand with proof of service with the administrator of municipal
20 court within ten days after the demand for removal was served
21 upon ~~him~~ the opposing party, and (c) pay to the administrator of *
22 municipal court at the time of such filing a fee of \$6.

23 No change for subd 4 to 5

24 Subd. 6. ADMINISTRATOR'S DUTIES UPON REMOVAL. After
25 the judge's order has been filed, the administrator of
26 conciliation court shall pay over to the municipal court the
27 removal fees paid to ~~him~~ the administrator hereunder and shall *
28 file in municipal court all claims, orders and other papers
29 filed in conciliation court in connection with the cause and its
30 removal to municipal court.

31 Subd. 7. PLEADINGS. No note of issue for trial in
32 municipal court need be filed. The removed cause shall be
33 brought on for trial in the same manner and substantially the
34 same order as though a note of issue had been filed in municipal
35 court on the date the claim was filed in conciliation court.
36 Pleadings conforming to the municipal court rules of civil
37 procedure may be served and filed. If any party fails to serve
38 and file written pleadings, the complaint or counterclaim in
39 conciliation court shall stand as the complaint or counterclaim
40 on appeal. If the opposing party fails to interpose a
41 responsive pleading to any pleading, the allegations of said
42 pleadings are deemed denied. Either party, at ~~his~~ the party's *
43 option, may serve pleadings. Either party may move the court at
44 a special term thereof for an order requiring a pleading or
45 pleadings in said matter. The court, on its own motion, may
46 order either or both parties to prepare and serve pleadings in
47 said matter.

48 No change for subd 8 to 11

49 Subd. 12. LIMITED REMOVAL OF CAUSE, PROCEDURE. (a)
50 When a motion for vacation of a judgment or an order for
51 judgment under section 488A.33, subdivisions 5 or 8, has been
52 denied, the aggrieved party may demand limited removal to the
53 municipal court for hearing de novo of ~~his~~ the aggrieved party's *
54 motion. The demand for limited removal and notice of the
55 hearing de novo must be served by the aggrieved party on the
56 other party in accordance with the provisions of subdivision 2,
57 clause (a). The original demand and notice, with proof of
58 service, must be filed with the administrator of conciliation
59 court within 20 days after the motion has been denied, or the
60 original and one copy of the demand and notice, together with an
61 affidavit similar to that required by subdivision 2, clause (b),
62 must be filed with the administrator of conciliation court
63 within the 20 day period. When an affidavit is filed, the
64 administrator shall mail the copy of the demand and notice to
65 the other party at ~~his~~ the other party's last known residence *
66 address. The aggrieved party shall pay a fee of \$3 to the clerk
67 of conciliation court for filing the demand and notice. This
68 fee shall not be recoverable as a disbursement. The notice
69 shall set a date for hearing de novo at a special term of the
70 municipal court not less than ten days nor more than 30 days
71 subsequent to the date of filing the original demand and notice.

72 (b) The administrator of conciliation court thereupon shall
73 pay over to the municipal court the \$3 fee and shall file in
74 municipal court the removal demand and notice together with all
75 orders, affidavits, and other papers filed in conciliation
76 court. The administrator of municipal court shall then place

1 the cause on the special term calendar of the municipal court
2 for hearing on the date specified in the notice.

3 (c) A municipal judge, other than the conciliation judge
4 who denied the motion, shall hear the motion de novo at special
5 term and may deny the motion, without allowance of costs, or
6 grant the motion, with or without the allowance of absolute or
7 conditional costs. At the hearing de novo the municipal judge
8 shall consider the entire file of the conciliation court
9 together with any subsequent affidavits of showing made by
10 either party.

11 (d) The administrator of municipal court shall send a copy
12 of the order made after the de novo hearing to both parties and
13 return the file to the administrator of conciliation court.

489*#01S

14 489.01 ELECTION; TERM; OFFICE ABOLISHED.

15 No change for subd 1 to 2

16 Subd. 3. COURT COMMISSIONER. In each county in the
17 state there shall be elected at the general election in 1918 a
18 court commissioner. The term of office of the court
19 commissioner shall be four years and begin on the first Monday
20 in January next succeeding ~~his~~ the election. One person may *
21 hold at the same time the offices of court commissioner and
22 probate judge.

489*#03S

23 489.03 OATH.

24 Before entering upon ~~his~~ duties, each court commissioner *
25 shall file ~~his~~ an oath of office, for record with the county *
26 recorder.

489*#04S

27 489.04 RECORDS; CLERKS.

28 The court commissioner shall keep a record of all
29 proceedings ~~had-before-him~~ in books procured at the expense of *
30 the county, and shall be supplied with necessary stationery,
31 which books and unused stationery shall be delivered to ~~his~~ a *
32 successor.

490*#025S

33 490.025 RETIREMENT OF SUPREME COURT JUSTICES.

34 Subdivision 1. REQUISITES. When a justice of the
35 supreme court, having served at least one term, arrives at the
36 age of 70 years, or having served at least two full terms or the
37 equivalent thereof, becomes incapacitated for the performance of
38 ~~his~~ official duties to the extent that the public service *
39 suffers therefrom, and makes written application to the governor
40 for ~~his~~ retirement, the governor, ~~if-he-determines~~ on *
41 determining that such justice has arrived at such age and has *
42 served at least one term or that such disability exists, shall *
43 direct ~~his~~ the retirement by written order which shall effect a *
44 vacancy in the office to be filled as provided by law.

45 No change for subd 2 to 3

46 Subd. 4. AGE LIMIT. Unless at the time of this
47 enactment a justice has already reached the age of 73, ~~he~~ the *
48 justice shall not acquire an increase of two and one-half *
49 percent of the compensation allotted to ~~his~~ the office in ~~his~~ *
50 retirement pay, as provided in subdivision 2, after ~~he~~ the *
51 justice has reached the age of 73 years. *

52 Subd. 5. COMMISSIONER. Upon retirement of a justice
53 of the supreme court, the court may appoint ~~him~~ the justice a *
54 commissioner of that court to aid and assist in the performance
55 of such of its duties as may be assigned ~~to-him~~ with ~~his~~ the *
56 justice's consent. *

57 Subd. 6. PRIOR RETIREMENT. Each justice and
58 commissioner of the supreme court who has heretofore retired
59 under the statutes in force at the time of ~~his~~ retirement shall, *
60 from the date of retirement, receive retirement compensation at
61 the rate and for the time provided in the statutes in force at
62 the time of retirement.

63 Subd. 7. Repealed, 1967 c 700 s 10

64 Subd. 8. Repealed, 1980 c 614 s 191

65 Subd. 9. Repealed, 1967 c 700 s 10

490*#101S

66 490.101 RETIREMENT OF DISTRICT JUDGE.

67 Subdivision 1. (a) When a judge of the district court who
68 has served for not less than 15 years as such judge, or as such
69 judge and as judge of a court of record, arrives at the age of
70 70 years and makes written application to the governor for
71 retirement, the governor shall direct ~~his~~ the retirement by a *

1 written order.

2 (b) When a judge of the district court who has served for
3 at least 24 years as such judge, and as judge of a court of
4 record, arrives at the age of 65 years and makes written
5 application to the governor for retirement, the governor shall
6 direct ~~his~~ the retirement by a written order. *

7 No change for subd 2 to 3

8 Subd. 4. When the term of any judge of the district court
9 would expire three years or less from the time when ~~he~~ the judge *
10 would become eligible to retire under the provisions of this
11 section and section 490.102, upon written application by such
12 judge to the governor stating ~~his~~ an intention to retire upon *
13 eligibility, the governor shall forthwith make a written order
14 accepting such retirement application, and extending ~~his~~ the *
15 term of office for three years or such proportion thereof as may *
16 be necessary ~~to make him eligible~~ for eligibility for such *
17 retirement.

490*#102S

18 490.102 COMPENSATION ALLOWANCE.

19 Subdivision 1. A judge who elects to retire under the
20 provisions of section 490.101 and who has an unexpired balance
21 of the elected term ~~for which he was elected~~ yet to run after *
22 such retirement, shall, in order to receive the retirement
23 compensation hereinafter outlined, waive in writing the *
24 compensation allotted to ~~his~~ the office, from the date of such *
25 retirement to the date of the expiration of the term for which
26 such judge was elected, and receive only during such period and
27 thereafter retirement pay as hereinafter outlined. This
28 subdivision shall not apply to any judge who has retired prior
29 to the effective date of this act.

30 Subd. 2. (a) If, at the time of retirement, ~~he~~ the judge *
31 has attained the age of at least 70 years and ~~he~~ has served for *
32 15 years as such judge, or as such judge and as judge of a court
33 of record, ~~he~~ the retiree shall receive for ~~the remainder of his~~ *
34 life, one-half the compensation allotted to the office at the
35 time of ~~his~~ retirement or on July 1, 1967, whichever is greater. *

36 (b) If, at the time of retirement, ~~he~~ the judge has *
37 attained the age of at least 65 years and ~~he~~ has served for 24 *
38 years as such judge, or as such judge and as a judge of a court
39 of record, ~~he~~ the retiree shall receive for ~~the remainder of his~~ *
40 life, one-half of the compensation allotted for the office at
41 the time of ~~his~~ retirement or on July 1, 1967, whichever is *
42 greater.

43 Except for per diem payments made pursuant to section
44 484.62, and retirement pay adjustments pursuant to section
45 490.025, subdivision 2, it is unlawful for any public officer to
46 pay a retired judge an amount greater than one-half of the
47 compensation allotted to the office of such retired judge at the
48 time of ~~his~~ retirement or on July 1, 1967, whichever is greater, *
49 except when said retired judge shall have been appointed by the
50 district court, or by the supreme court, to serve as a special
51 master in litigation before the district court; in which case
52 per diem payments may be made to said retired judge in amounts
53 equal to per diem payments made pursuant to section 484.62.
54 Where such payments are hereafter made in violation of this
55 subdivision, it is the duty of the public officer making such
56 payment to recover the amount so paid but without interest.
57 Such recovery may be made by as many as 30 installment
58 deductions from future retirement payments to a retired judge or
59 by action in the district court. Unrecovered overpayments
60 outstanding at the time of the death of a retired judge shall be
61 a lien upon ~~his~~ the judge's estate, in favor of the state of *
62 Minnesota.

63 Subd. 3. Any judge of the district court who is serving in
64 such capacity on April 24, 1949 and who has attained or
65 hereafter attains, the age of 73 or more years and has completed
66 15 years of service, as such judge, or as such judge and as
67 judge of a court of record, shall receive retirement pay
68 hereunder if ~~he~~ the judge applies for retirement within one year *
69 after becoming eligible, but not otherwise.

70 Any judge of the district court whose initial service as
71 such judge began after April 24, 1949, after reaching ~~his~~ a 70th *
72 birthday, shall apply for retirement within one year after such
73 birthday or forfeit all retirement benefits hereunder. However,
74 if a judge of the district court has not completed 15 years of
75 service on attaining the age of 70 years, ~~he~~ the judge shall *

1 receive retirement pay hereunder if ~~he~~ the judge applies for *
 2 retirement within six months of the date ~~he completes~~ of *
 3 completion of 15 years of service. Provided that any district *
 4 judge past the age of 74 years still serving on the bench and
 5 for whom retirement has been allowed by a previous act passed by
 6 the 1959 legislature shall be permitted retirement allowance
 7 if ~~he~~ the judge retires during ~~his~~ the current term of office or *
 8 during an extended term of three years thereafter which
 9 extension may be granted in the same manner as provided in
 10 section 490.101, subdivision 4.

11 Subd. 3a. If a judge of the district court has attained
 12 the age of at least 70 years and has completed ten or more years
 13 of service as a district court judge or fifteen or more years as
 14 a judge of a court of record including at least six years as a
 15 district court judge but less than the number of years required
 16 for maximum retirement benefits, ~~he~~ the judge may apply for *
 17 retirement and receive retirement pay of that portion of the
 18 maximum retirement allowance allotted to the office which the
 19 years of ~~his~~ service as a district court judge, prior to ~~his~~ *
 20 retirement, bears to the number of years required for the
 21 maximum retirement allowance of a district court judge. Years
 22 of service shall be determined by the whole year rather than a
 23 fraction thereof. Any district court judge presently serving
 24 who is over 70 years of age shall forfeit any benefits under
 25 this subdivision ~~if he shall serve~~ by serving beyond the *
 26 expiration of ~~his~~ the judge's present term. *

27 No change for subd 4 to 7

28 Subd. 8. On June 30 of each year, the executive director
 29 of the Minnesota state retirement system shall review the fiscal
 30 condition of the special survivor retirement account in the
 31 light of the prospective demands for payment therefrom in the
 32 next fiscal year. If the director determines that the balance
 33 in such account on June 30 plus the prospective receipts in the
 34 next fiscal year appear to be insufficient to meet the demands
 35 on such account during the next fiscal year, the director on
 36 July 1 of each year shall make an order increasing the rate of
 37 contribution to such account by the several judges of the
 38 district court from four percent of ~~his~~ salary to such rate of *
 39 contribution as will, in the judgment of the director, provide
 40 sufficient funds in said special survivor benefit account to pay
 41 all demand thereon during the next fiscal year. If on any
 42 following June 30, the director should determine that a lower
 43 rate of contribution will provide sufficient moneys to pay all
 44 demands on such special survivor benefit account, ~~he~~ the *
 45 director may on the next July 1, make and file an order reducing *
 46 the rate of contribution to such rate as will in ~~his~~ the *
 47 director's judgment provide sufficient moneys to meet all *
 48 demands on such special account in the current fiscal year but
 49 in no event lower than four percent. Deductions of contributions
 50 shall be made in accordance with rates prescribed by law or by
 51 order of the director, as the case may be.

490*#103S

52 490.103 PRIOR RETIREMENT.

53 A judge of the district court who has heretofore retired as
 54 provided by law shall hereafter receive one-half of the
 55 compensation allotted to the office from which ~~he~~ the judge *
 56 retired.

490*#105S

57 490.105 RETIREMENT COMPENSATION, CERTAIN DISTRICT AND
 58 SUPREME COURT JUDGES.

59 The pension of a judge of the district or supreme court who
 60 retires before June 3, 1967, or of the ~~widow~~ surviving spouse of *
 61 a judge of the district or supreme court who dies before June 3,
 62 1967, shall remain in the same amount as was payable prior to
 63 June 3, 1967.

490*#11S

64 490.11 RETIREMENT OF JUDGES OF PROBATE COURT.

65 When a probate judge shall become incapacitated physically
 66 or mentally from performing ~~his~~ judicial duties during the *
 67 remainder of ~~his~~ a term of office and shall make a written *
 68 application to the governor for ~~his~~ retirement, setting forth *
 69 the nature and extent of such disability, the governor shall
 70 make such investigation as ~~he shall deem~~ deemed advisable and if *
 71 ~~he~~ the governor shall thereby determine that such disability *
 72 exists, and that the public service is suffering and will
 73 continue to suffer by reason of such disability, ~~he~~ the governor *

1 shall thereupon, by written order to be filed in the office of
 2 the secretary of state, direct the retirement of such judge for
 3 the unexpired portion of the term for which such judge was
 4 elected, which retirement shall create a vacancy in the office,
 5 which shall be filled by appointment, as provided by law.

490*#12S

6 490.12 HALF PAY.

7 Subdivision 1. RETIREMENT UNDER SECTION 490.11.

8 When a probate judge shall be retired under the provisions of
 9 section 490.11, he the judge shall receive the compensation
 10 allotted to his the office for the remainder of his the judge's
 11 term. Thereafter, if then past 65 years of age, having served
 12 as such judge, or as such judge and as judge of a court of
 13 record, or as such judge and a referee in probate, for 24 years,
 14 or more, he the judge shall receive one-half of the compensation
 15 allotted to his the office at the time of such retirement
 16 for ~~the remainder of his~~ life, to be paid at the time and in the
 17 manner provided by law.

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*

18 Subd. 2. VOLUNTARY RETIREMENT. When a probate judge
 19 has attained the age of 70 years or more and has served as such
 20 judge, or as such judge and as judge of a court of record, or as
 21 such judge and as referee in probate, for 20 years or more, or
 22 when a probate judge has attained the age of 65 years or more
 23 and has served as such judge or as such judge and as judge of a
 24 court of record or as such judge and as referee in probate for
 25 24 years or more, he the judge may voluntarily retire from
 26 office, and after ~~he has so retired he~~ retiring shall receive
 27 one-half of the compensation allotted to his the office at the
 28 time of such retirement for ~~the remainder of his~~ life, to be
 29 paid at the time and in the manner provided by law for the
 30 payment of salaries of probate judges.

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31 Subd. 3. SERVICE NOT CONTINUOUS. In computing the
 32 period of service of any probate judge for retirement purposes
 33 he the judge shall receive credit for all periods of time served
 34 in the armed forces of the United States during any period when
 35 the United States was at war and for any period he served in the
 36 Minnesota national guard when the same had been mustered into
 37 federal service and was engaged in the Mexican border service
 38 between May 9, 1916, and March 24, 1917. Such period of service
 39 as a probate judge need not be continuous. The service of any
 40 judge in World War I and in the Mexican border service shall be
 41 deemed service hereunder, even though such service may have been
 42 prior to the commencement of any service as probate judge.

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*

43 No change for subd 4

44 Subd. 5. MEMBERSHIP IN OTHER RETIREMENT PENSION FUNDS.

45 The probate judges retirement pension as provided herein
 46 shall be reduced by the full amount of any retirement pension
 47 other than is herein provided received by a probate judge from
 48 the state, any political subdivision, or public employees
 49 retirement association, until the total reduction equals the
 50 amount of such other pension, if any, received prior to
 51 retirement as a probate judge plus the amount of the
 52 contribution, if any, made by the state or any political
 53 subdivision to fund any such other pension pursuant to section
 54 353.27, subdivisions 3 and 3a, in connection with service as
 55 probate judge or in any other capacity. The amount of each
 56 reduction shall be remitted by the county to each such
 57 contributing employer in proportion to its total contribution
 58 pursuant to section 353.27, subdivisions 3 and 3a. In the event
 59 the probate judge withdraws from any retirement pension fund
 60 other than as herein provided prior to his retirement as a
 61 probate judge, the amount contributed by the state or any
 62 political subdivision shall be computed and deducted from the
 63 probate judge's retirement over a five-year period commencing
 64 upon the date of such judge's retirement.

*

65 Subd. 6. EXTENSION OF TERM OF JUDGE NEAR RETIREMENT.

66 When the term of any judge of the probate court would expire
 67 three years or less from the time when he the judge would become
 68 eligible to retire under the provisions of this section, upon
 69 written application by such judge to the governor stating his an
 70 intention to retire upon eligibility, the governor shall
 71 forthwith make a written order accepting such retirement
 72 application, and extending his the judge's term of office for
 73 three years or such proportion thereof as may be necessary to
 74 ~~make him eligible for eligibility~~ for such retirement.

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75 Subd. 7. Repealed, 1979 c 296 s 7

1 Subd. 8. Repealed, 1979 c 296 s 7
2 No change for subd 9
490*#121S
3 490.121 DEFINITIONS.
4 No change for subd 1 to 16
5 Subd. 17. "Dependent child" means any natural or adopted
6 child of a deceased judge who has not reached the age of 18
7 years, or having reached the age of 18, is under age 22 and is a
8 full time student throughout the normal school year, unmarried
9 and actually dependent for more than one-half of ~~his~~ the child's *
10 support upon such judge for a period of at least 90 days prior
11 to the judge's death. It also includes any natural child of the *
12 judge born after ~~his~~ the judge's death.
13 No change for subd 18 to 21
490*#123S
14 490.123 JUDGES' RETIREMENT FUND.
15 No change for subd 1
16 Subd. 2. TREASURER. The state treasurer shall be ex
17 officio treasurer of the judges' retirement fund and ~~his~~ the *
18 treasurer's general bond to the state shall be so conditioned as *
19 to cover all liability for ~~his-acts~~ acting as treasurer of this *
20 fund. All moneys received by ~~him~~ the treasurer pursuant to this *
21 section shall be set aside in the state treasury to the credit
22 of the judges' retirement fund. ~~He~~ The treasurer shall transmit *
23 monthly to the executive director described in section 352.03,
24 subdivision 5, a detailed statement of all amounts so received
25 and credited ~~by-him~~ to the fund. ~~He~~ The treasurer shall pay out *
26 the fund only on warrants issued by the commissioner of finance,
27 upon vouchers signed by said executive director; provided that
28 vouchers for investment may be signed by the secretary of the
29 state board of investment.
30 Subd. 3. INVESTMENT. The director referred to in
31 subdivision 2 shall, from time to time, certify to the state
32 board of investment such portions of the judges' retirement fund
33 as in ~~his~~ the director's judgment may not be required for *
34 immediate use. Assets from the judges' retirement fund shall be
35 transferred to the Minnesota post-retirement investment fund for
36 retirement and disability benefits as provided in sections
37 11A.18 and 352.119. The state board of investment shall
38 thereupon invest and reinvest sums so transferred, or certified,
39 in such securities as are duly authorized legal investments for
40 such purposes under section 11A.24.
490*#124S
41 490.124 MATURITY OF BENEFITS; RETIREMENT AND SURVIVORS'
42 ANNUITIES.
43 No change for subd 1 to 2
44 Subd. 3. EARLY RETIREMENT. The retirement annuity
45 provided by subdivision 1 of any judge electing to retire at an
46 early retirement date shall be reduced by one-half of one
47 percent per month from ~~his~~ the retirement date to normal *
48 retirement date.
49 No change for subd 4 to 5
50 Subd. 6. PART-TIME JUDGES. Notwithstanding other
51 provisions of this section, except as provided herein, service
52 by a judge who was not paid an annual salary or who served in a
53 jurisdiction in which the judge was entitled to practice law
54 while serving as a judge shall be credited only at one-half of
55 the regular rate. Any period of part time uncredited judicial
56 service may be credited service for the purposes of sections
57 490.121 to 490.132 only if:
58 (a) The judge or ~~his~~ the judge's employer pays to the *
59 judges' retirement fund a sum equal to the rate of employee tax
60 specified in the Federal Insurance Contributions Act during the
61 period of part time service applied to one-half of the average
62 salary earned during the period of part time service, plus
63 accrued interest thereon at the rate of five percent per year
64 compounded annually from the period of service so credited to
65 the date payment is made;
66 (b) The payment is made in not more than 36 monthly
67 installments; and
68 (c) The judge shall elect to make the payment and shall
69 commence doing so within 90 days after the commencement of the
70 judge's first term in office.
71 Subd. 7. Repealed, 1977 c 432 s 49
72 Subd. 8. EXCLUSIVE NORMAL RETIREMENT BENEFITS. Any
73 judge who retires after December 31, 1973, shall be entitled to

1 a retirement pension, retirement compensation or other
 2 retirement payment under statutes applicable solely to judges
 3 pursuant to this section only, except that any such judge in
 4 office prior to January 1, 1974, who retires at or after normal
 5 retirement age may then elect to receive during ~~his~~ the judge's
 6 lifetime a normal retirement annuity computed on the basis of *
 7 retirement compensation provided for such judge under statutes
 8 in effect on December 31, 1973, in lieu of the amount of normal
 9 retirement annuity otherwise computed under sections 490.121 to
 10 490.132. For purposes of this subdivision, the conciliation
 11 court of the city of Duluth shall be deemed to have been a court
 12 of record by the statutes in effect on December 31, 1973.

13 Subd. 9. SURVIVORS' ANNUITY. Upon the death of a
 14 judge prior to retirement, or upon the death of a person who has
 15 qualified for an annuity but who ceases to be a judge prior to
 16 retirement and has not received a refund of contributions
 17 pursuant to subdivision 12, ~~his~~ a surviving spouse or, if there *
 18 be no surviving spouse, ~~his~~ dependent children, shall receive an *
 19 annuity, payable monthly, equal to 60 percent of the normal
 20 retirement annuity which would have been payable to the judge or
 21 former judge had the date of ~~his~~ death been the normal *
 22 retirement date, provided that the surviving spouse or dependent
 23 children shall receive an annuity of not less than 25 percent of
 24 the judge's or former judge's final average compensation.

25 If a judge, whose surviving spouse was not entitled to
 26 survivors benefits provided solely for judges under statutes in
 27 effect prior to January 1, 1974, shall have died prior to
 28 retirement on or after May 23, 1973 and before January 1, 1974,
 29 ~~his~~ a surviving spouse and dependent children, if any, shall be *
 30 entitled to survivors benefits as provided hereunder as if such
 31 judge had died on January 1, 1974.

32 No change for subd 10 to 11

33 Subd. 12. REFUND. Any person who ceases to be a
 34 judge but who does not qualify for a retirement annuity or other
 35 benefit under section 490.121 shall be entitled to a refund in
 36 an amount equal to all ~~his~~ the person's contributions to the *
 37 judges' retirement fund plus interest computed to the first day
 38 of the month in which the refund is processed based on fiscal
 39 year balances at the rate of five percent per annum compounded
 40 annually.

490*#125S

41 490.125 MANDATORY RETIREMENT.

42 Subdivision 1. Except as otherwise provided in sections
 43 490.121 to 490.132, each judge shall retire on ~~his~~ the judge's
 44 mandatory retirement date. *

45 No change for subd 2

490*#126S

46 490.126 PROCEDURES.

47 No change for subd 1 to 2

48 Subd. 3. APPLICATION FOR ANNUITY OR REFUND.

49 Application for an annuity or refund under sections 490.121 to
 50 490.132 may be made by the annuitant or by someone authorized to
 51 act ~~in-his-behalf~~ for the annuitant. Every application for an *
 52 annuity or refund, with proof of age and years of service when
 53 required, shall be submitted to the governing body of the
 54 Minnesota state retirement system in a form prescribed by it.

55 Subd. 4. MANNER OF PAYMENT. Unless otherwise
 56 specifically provided by statute or agreed upon by the annuitant
 57 and the governing body of the state retirement system, annuities
 58 payable under sections 490.121 to 490.132 shall be paid in the
 59 manner and at the intervals as prescribed by the executive
 60 director of the state retirement system. The annuity shall
 61 cease with the last payment received by the annuitant ~~in-his-or~~ *
 62 ~~her-lifetime~~ while living. *

490*#15S

63 490.15 ESTABLISHMENT; COMPOSITION.

64 Subdivision 1. The board on judicial standards is
 65 established and consists of one judge of the court of appeals,
 66 one judge of the district court, one judge of a municipal court,
 67 one judge of county court, two lawyers who have practiced law in
 68 the state for ten years and four citizens who are not judges,
 69 retired judges or lawyers. The executive secretary is appointed
 70 by the governor. Commencing July 1, 1980, the board shall
 71 appoint the executive secretary. All members shall be appointed
 72 by the governor with the advice and consent of the senate except
 73 that senate confirmation shall not be required for the judicial

1 members. No member shall serve more than two full four-year
 2 terms or their equivalent. Membership terminates if a member
 3 ceases to hold the position that qualified ~~him~~ the member for
 4 appointment. *

5 No change for subd 2

490*#16S

6 490.16 POWERS.

7 Subdivision 1. A judge is disqualified from acting as a
 8 judge, without loss of salary, while there is pending an
 9 indictment or any information charging ~~him~~ the judge with a
 10 crime punishable as a felony under Minnesota or federal law, or
 11 a recommendation to the supreme court by the board on judicial
 12 standards for ~~his~~ the judge's removal or retirement. *

13 Subd. 2. On recommendation of the board on judicial
 14 standards or on its own motion, the supreme court may suspend a
 15 judge from office without salary when ~~he~~ the judge pleads guilty
 16 or no contest or is found guilty of a crime punishable as a
 17 felony under Minnesota or federal law or any other crime that
 18 involves moral turpitude. If ~~his~~ the conviction is reversed,
 19 suspension terminates and ~~he~~ the judge shall be paid ~~his~~ a
 20 salary for the period of suspension. If ~~he~~ the judge is
 21 suspended and ~~his~~ the conviction becomes final, the supreme
 22 court shall remove ~~him~~ the judge from office. *

23 Subd. 3. On recommendation of the board on judicial
 24 standards, the supreme court may retire a judge for disability
 25 that seriously interferes with the performance of ~~his~~ duties and
 26 is or is likely to become permanent, and censure or remove a
 27 judge for action or inaction that may constitute persistent
 28 failure to perform ~~his~~ duties, incompetence in performing ~~his~~
 29 duties, habitual intemperance or conduct prejudicial to the
 30 administration of justice that brings the judicial office into
 31 disrepute. *

32 The board is specifically empowered to reopen any matter
 33 wherein any information or evidence was previously precluded by
 34 a statute of limitations or by a previously existing provision
 35 of time limitation.

36 Subd. 4. A judge retired by the supreme court shall be
 37 considered to have retired voluntarily. A judge removed by the
 38 supreme court is ineligible for judicial office and the question
 39 of ~~his~~ the removed judge's right to practice law in this state
 40 shall be referred to the proper authority for review. *

41 No change for subd 5

42 Subd. 6. Sections 490.15 and 490.16, shall not affect the
 43 right of a judge who is suspended, retired or removed hereunder
 44 from qualifying for any pension or other retirement benefits to
 45 which ~~he~~ the judge would otherwise be entitled by law. *

494*#01S

46 494.01 COMMUNITY DISPUTE RESOLUTION PROGRAM.

47 No change for subd 1 to 2

48 Subd. 3. GUIDELINES. The state court administrator
 49 shall develop guidelines for use by community dispute resolution
 50 programs and training programs for mediators and arbitrators for
 51 those community dispute resolution programs. The guidelines
 52 shall provide a method for insuring that participation in
 53 dispute resolution is voluntary and shall include procedures for
 54 case processing and program certification criteria which must be
 55 met in order to receive court referrals. The guidelines shall
 56 include standards for training mediators and arbitrators to
 57 recognize matters involving violence against a person. Any
 58 guidelines developed under this subdivision shall be submitted
 59 to the ~~chairmen~~ chair of the judiciary committees in the house
 60 of representatives and senate by February 1, 1985. The
 61 guidelines shall not constitute a rule nor shall they be a
 62 substantive or procedural law nor shall they take effect until
 63 the guidelines are enacted by the legislature. This shall not
 64 limit the existing authority of the state court administrator. *

65 No change for subd 4 to 5

500*#04S

66 500.04 CONVEYANCE BY OWNER OF FEE TAIL ESTATE.

67 Where lands, tenements, or hereditaments heretofore have
 68 been devised, granted, or otherwise conveyed by a tenant in
 69 tail, and the person to whom such devise, grant, or other
 70 conveyance has been made, ~~his~~ or that person's heirs or assigns,
 71 have from the time such devise took effect, or from the time
 72 such grant or conveyance was made, to the day of passing this
 73 chapter, been in the uninterrupted possession of such lands, *

1 tenements, or hereditaments, and claiming and holding the same
 2 under or by virtue of such devise, grant, or other conveyance,
 3 they shall be deemed as good and legal to all intents and
 4 purposes as if such tenant in tail had, at the time of making
 5 such devise, grant, or other conveyance, been seized in fee
 6 simple of such lands, tenements, or hereditaments, any law to
 7 the contrary notwithstanding.

500*#05S

8 500.05 DIVISION OF REALTY OR PERSONALTY.

9 Estates of inheritance and for life shall be denominated
 10 estates of freehold; estates for years shall be denominated
 11 chattels real; and estates at will or by sufferance shall be
 12 chattel interests, but shall not be liable as such to sale on
 13 execution.

14 An estate for the life of a third person, whether limited
 15 to heirs or otherwise, shall be deemed a freehold only during
 16 the life of the grantee or devisee, but after ~~his~~ the death of of
 17 the grantee or devisee it shall be deemed a chattel real. *
 *

500*#09S

18 500.09 REVERSIONS.

19 A reversion is the residue of an estate left in the
 20 grantor, or ~~his~~ the grantor's heirs, or in the heirs of a *
 21 testator, commencing in possession on the determination of a
 22 particular estate granted or devised.

500*#14S

23 500.14 FUTURE ESTATES; CONSTRUCTION, VALIDITY, AND
24 EFFECT OF CREATING INSTRUMENTS.

25 Subdivision 1. FAILURE OF HEIRS OR ISSUE. Unless a
 26 different intent is effectively manifested, whenever property is
 27 limited upon the death of any person without "heirs" or "heirs
 28 of the body" or "issue" general or special, or "descendants" or
 29 "offspring" or "children" or any such relative described by
 30 other terms, the limitation is to take effect only when that
 31 person dies not having such relative living at the time of ~~his~~
 32 the person's death, or in gestation and born alive thereafter, *
 33 and is not a limitation to take effect upon the indefinite *
 34 failure of such relatives; nor, unless a different intent is
 35 effectively manifested, does the limitation mean that death
 36 without such relative is restricted in time to the lifetime of
 37 the creator of the interest.

38 No change for subd 2 to 4

39 Subd. 5. POSTHUMOUS CHILDREN AS REMAINDERMEN *
40 REMAINDERPERSONS. When a future estate is limited to heirs, *

41 or issue, or children, posthumous children shall be entitled to
 42 take in the same manner as if living at the death of their
 43 parent.

44 No change for subd 6

500*#19S

45 500.19 DIVISION.

46 No change for subd 1 to 3

47 Subd. 4. CONVERTING ESTATES. An owner of an interest
 48 in real estate may convey the interest directly to himself that *
 49 owner and one or more other persons as joint tenants. *

50 No change for subd 5

500*#221S

51 500.221 RESTRICTIONS ON ACQUISITION OF TITLE.

52 Subdivision 1. DEFINITIONS. For purposes of this
 53 section, "agricultural land" means land capable of use in the
 54 production of agricultural crops, livestock or livestock
 55 products, poultry or poultry products, milk or dairy products,
 56 or fruit and other horticultural products but does not include
 57 any land zoned by a local governmental unit for a use other than
 58 and nonconforming with agricultural use. For the purposes of
 59 this section, "interest in agricultural land" includes any
 60 leasehold interest. For the purposes of this section, a
 61 "permanent resident alien of the United States" is a natural
 62 person who has been lawfully admitted to the United States for
 63 permanent residence and in fact maintains ~~his~~ that person's *
 64 principal, actual dwelling place within the United States for at
 65 least six months out of every consecutive 12 month period
 66 without regard to intent. For the purposes of this section,
 67 "commissioner" means the commissioner of agriculture.

68 No change for subd 1a to 2a

69 Subd. 2b. INVESTIGATION BY COMMISSIONER. The
 70 commissioner, upon the request of any person or upon receipt of
 71 any information which leads ~~him~~ the commissioner to believe that *

1 a violation of this section may exist, may issue subpoenas
 2 requiring the appearance of witnesses, the production of
 3 relevant records and the giving of relevant testimony. ~~if~~ On
 4 concluding, as a result of ~~his~~ the investigation, ~~the~~
 5 ~~commissioner-concludes~~ that a violation of this section may have
 6 occurred, ~~he~~ the commissioner shall provide the landowner or ~~his~~
 7 the landowner's designee with the opportunity to meet with the
 8 commissioner or ~~his~~ the commissioner's designee in the county
 9 where the land is located to exchange information relating to
 10 the compliance with this section and any necessity for
 11 divestiture. The commissioner shall have the power to issue
 12 additional subpoenas for the meeting. The landowner and any
 13 person subpoenaed by the commissioner may be represented by
 14 counsel. Notwithstanding the provisions of chapter 14, the
 15 preliminary investigation and the meeting do not constitute a
 16 contested case hearing.

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17 Subd. 3. ENFORCEMENT. ~~if, after investigation, the~~
 18 ~~commissioner-has~~ With reason to believe, after investigation,
 19 that any person is violating this section, ~~he~~ the commissioner
 20 shall commence an action in the district court in which any
 21 agricultural land relative to the violation is situated, or if
 22 situated in two or more counties, in any county in which a
 23 substantial part of the land is situated. The commissioner
 24 shall file for record with the county recorder or the registrar
 25 of titles of each county in which any portion of the land is
 26 located a notice of the pendency of the action as provided in
 27 section 557.02. If the court finds that the land in question is
 28 being held in violation of subdivision 2, it shall enter an
 29 order so declaring. The commissioner shall file for record any
 30 order with the county recorder or the registrar of titles of
 31 each county in which any portion of the land is located.
 32 Thereafter, the natural person, corporation, partnership,
 33 limited partnership, trustee or other business entity, shall
 34 have a period of one year from the date of the order to divest
 35 itself of the lands. The aforementioned one year limitation
 36 period shall be deemed a covenant running with the title to the
 37 land against any grantee or assignee or successor corporation or
 38 any noncorporation entity acting as agent, assignee, or
 39 successor on behalf of a corporation. Any land not so divested
 40 within the time prescribed shall be sold at public sale in the
 41 manner prescribed by law for the foreclosure of a mortgage by
 42 action. No title to land shall be invalid or subject to
 43 forfeiture by reason of the alienage of any former owner or
 44 person having a former interest therein.

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45 No change for subd 3a to 5

500*#24S

46 500.24 CORPORATE FARMING.

47 No change for subd 1 to 4

48 Subd. 5. ENFORCEMENT. ~~if the attorney general has~~
 49 With reason to believe that a corporation or pension or
 50 investment fund is violating subdivision 3, ~~he~~ the attorney
 51 general shall commence an action in the district court in which
 52 any agricultural lands relative to such violation are situated,
 53 or if situated in two or more counties, in any county in which a
 54 substantial part of the lands are situated. The attorney
 55 general shall file for record with the county recorder or the
 56 registrar of titles of each county in which any portion of said
 57 lands are located a notice of the pendency of the action as
 58 provided in section 557.02. If the court finds that the lands
 59 in question are being held in violation of subdivision 3, it
 60 shall enter an order so declaring. The attorney general shall
 61 file for record any such order with the county recorder or the
 62 registrar of titles of each county in which any portion of said
 63 lands are located. Thereafter, the pension or investment fund
 64 or corporation owning such land shall have a period of five
 65 years from the date of such order to divest itself of such
 66 lands. The aforementioned five year limitation period shall be
 67 deemed a covenant running with the title to the land against any
 68 pension or investment fund or corporate grantee or assignee or
 69 the successor of such pension or investment fund or
 70 corporation. Any lands not so divested within the time
 71 prescribed shall be sold at public sale in the manner prescribed
 72 by law for the foreclosure of a mortgage by action. In
 73 addition, any prospective or threatened violation may be
 74 enjoined by an action brought by the attorney general in the
 75 manner provided by law.

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500*#25S

1 500.25 RIGHTS OF FARM TENANTS ON TERMINATION OF LIFE
2 ESTATES.

3 No change for subd 1

4 Subd. 2. CONTINUATION OF TENANCY. Upon the death of
5 a life tenant between March 2 and the following October 31, a
6 farm tenancy granted by the life tenant shall continue until the
7 earlier of the following March 1, the completion of harvest, or
8 the expiration of the lease by its terms. If a life tenant dies
9 between November 1 and the following March 1, the farm tenancy
10 shall continue for the following crop year and shall terminate
11 on the earlier of the March 1 following that crop year, the
12 completion of harvest, or the expiration of the lease by its
13 terms. However, if the lease is binding upon the remainderman
14 remainderperson by specific commitment of the remainderman
15 remainderperson, the lease shall terminate as provided by that
16 commitment.

17 Subd. 3. RENTAL VALUE. A remainderman
18 remainderperson who is required by subdivision 2 to continue a
19 tenancy shall be entitled to a rental amount equal to the
20 prevailing fair market rental amount in the area. If the
21 parties cannot agree on a rental amount, either party may
22 petition the district court for a declaratory judgment setting
23 the rental amount. The costs of the action shall be apportioned
24 between the parties by the court.

501*#03S

25 501.03 RIGHT OF POSSESSION AND PROFITS A LEGAL ESTATE.

26 Every person who, by virtue of any grant, assignment, or
27 devise, is entitled to the actual possession of lands, and the
28 receipt of the rents and profits thereof, in law or equity,
29 shall be deemed to have a legal estate therein of the same
30 quality and duration, and subject to the same conditions, as his
31 the person's beneficial interests.

501*#09S

32 501.09 LIMITING THE EFFECT OF SECTION 501.07.

33 Section 501.07 shall not extend to cases where the alienee
34 named in the conveyance has taken the same as an absolute
35 conveyance in his the alienee's own name, without the knowledge
36 or consent of the person paying the consideration, or when such
37 alienee, in violation of some trust, has purchased the lands so
38 conveyed with moneys belonging to another person.

501*#11S

39 501.11 EXPRESS TRUSTS, PURPOSES.

40 Express trusts may be created for any of the following
41 purposes:

- 42 (1) To sell lands for the benefit of creditors;
- 43 (2) To sell, mortgage, or lease lands for the benefit of
44 legatees, or for the purpose of satisfying any charge thereon;
- 45 (3) To receive the rents and profits of lands, and apply
46 them to the use of any person, during the life of the person, or
47 for any shorter term, subject to the rules prescribed in chapter
48 500;
- 49 (4) To receive the rents and profits of lands, and to
50 accumulate them, for either of the purposes, and within the
51 limits prescribed in chapter 500;
- 52 (5) To receive and take charge of any money, stocks, bonds,
53 or valuable chattels of any kind and to invest and loan them for
54 the benefit of the beneficiaries of the express trust; and the
55 district and county courts of the state shall, upon petition and
56 hearing, have power to appoint a trustee for the purpose herein
57 set forth, requiring the trustee to give a bond for the faithful
58 execution of the express trust as the court deems right and
59 proper; and express trusts created under the provisions of this
60 paragraph shall be administered under the direction of the court;
- 61 (6) For the beneficial interests of any person, whether the
62 trust embraces real or personal property or both, when the trust
63 is fully expressed and clearly defined on the face of the
64 instrument creating it, provided that the trust shall not
65 continue for a period longer than the life or lives of specified
66 persons in being at the time of its creation, and for 21 years
67 after the death of the survivor of them, and that the free
68 alienation of the legal estate by the trustee is not suspended
69 for a period exceeding the limit prescribed in chapter 500;
70 provided, however, that the aforesaid limitation on the period
71 of continuance of trusts shall not apply to a trust forming a
72 part of a disability, medical, or other employee welfare plan or

1 a part of a stock bonus, pension, or profit sharing plan of an
 2 employer or an employee organization for the exclusive benefit
 3 of some or all of ~~his~~ the employees or members of an employee *
 4 organization, nor to a trust forming a part of a retirement plan
 5 created by and for the benefit of self-employed persons for the
 6 purpose of receiving their contributions thereunder and
 7 investing, accumulating, and distributing to those persons or
 8 their beneficiaries the corpus, profits, and earnings of the
 9 trust in accordance with the plan.

10 (7) Any city may receive, by grant, gift, devise, or
 11 bequest, and take charge of, invest, and administer, free from
 12 taxation, in accordance with the terms of the trust, real or
 13 personal property, or both, for the benefit of any public
 14 library, or any public cemetery, or any public park, located in,
 15 or within ten miles of, the city, or for the purpose of
 16 establishing or maintaining a school or institution of learning
 17 therein.

18 Provided that the city shall, with the approval of the
 19 district court of the county in which the city is located, sell,
 20 lease, or otherwise dispose of, freed of the provisions of the
 21 trust, any tract, lot, parcel, reserve, block, or subdivision of
 22 the platted part of the city, embraced within the area described
 23 in the grant, gift, devise, or bequest when the tract, lot,
 24 parcel, reserve, block, or subdivision of the platted part of
 25 the city is found to be unfit for the uses and purposes
 26 expressed in the grant, gift, devise or bequest.

27 The income realized from the sale, lease, or disposal of
 28 the trust property shall be credited to the funds of the trust
 29 of the city in which the property is located.

30 Each city in this state, in addition to the foregoing, may
 31 receive by grant, gift, devise, or bequest, and take charge of,
 32 convert, invest, and administer, free from taxation, in
 33 accordance with the terms of the trust, real or personal
 34 property, or both, of any kind or nature and wherever located,
 35 for any public or charitable purpose, or to provide, enlarge,
 36 improve, lease, and maintain for the use and benefit of the
 37 inhabitants of the city, animal, bird, fish, game, and hunting
 38 preserves, public parks, public grounds, public waterways,
 39 public bath houses and grounds used in connection therewith, and
 40 public playgrounds within or without the limits of the city,
 41 whether within or without this state, or for the support,
 42 medical treatment, and nursing of the worthy poor residing in
 43 the city.

501*#12S

44 501.12 EXPRESS TRUSTS FOR CHARITABLE, EDUCATIONAL,
 45 RELIGIOUS, AND OTHER PUBLIC USES.

46 No change for subd 1 to 2

47 Subd. 3. LIBERAL INTERPRETATION; ADMINISTRATION.

48 Such trust shall be liberally construed by the courts so that
 49 the intentions of the donor thereof shall be carried out when
 50 possible and no such trust shall fail solely because the donor
 51 has imperfectly outlined the purpose and object of such charity
 52 or the method of administration. When it shall appear to the
 53 district or county court of the proper county that the purpose
 54 and object of such charity is imperfectly expressed, or the
 55 method of administration is incomplete or imperfect, or that the
 56 circumstances have so changed since the execution of the
 57 instrument creating the trust as to render impracticable,
 58 inexpedient, or impossible a literal compliance with the terms
 59 of such instrument, such court may, upon the application and
 60 with the consent of the trustee, and upon such notice as the
 61 court may direct, make an order directing that such trust shall
 62 be administered or expended in such manner as in the judgment of
 63 the court will, as nearly as can be, accomplish the general
 64 purposes of the instrument and the object and intention of the
 65 donor without regard to, and free from any, specific
 66 restriction, limitation, or direction contained therein. No
 67 such order shall be made without the consent of the donor of the *
 68 trust if ~~he-is~~ then living and mentally competent. The attorney
 69 general shall represent the beneficiaries in all cases arising *
 70 under this section and ~~it~~ shall ~~be-his-duty-to~~ enforce such
 71 trusts by proper proceedings in the courts.

72 No change for subd 4

73 Subd. 5. DETERMINATION OF TRUST, GIFT BEQUEST, DEVISE.

74 Where any gift or trust has been made or created by any
 75 living person or persons prior to April 15, 1927, or when any

1 gift, bequest, devise or trust has been made or created by or
 2 under the will of any person whose decease occurred prior to
 3 April 15, 1927, and such gift, trust, bequest or devise has been
 4 made for any charitable, benevolent, educational, religious or
 5 other public use or trust or upon a condition, limitation or
 6 restriction of any kind that the property so given, bequeathed,
 7 devised, or entrusted be used only for the charitable,
 8 benevolent, educational, religious or other public use or trust
 9 therein expressed, the grantee, devisee, trustee or other holder
 10 of such property may have determined in the district court the
 11 legal rights and relationship of such holder, of the public, and
 12 the grantor, ~~his~~ the grantor's heirs, representatives or assigns *
 13 in and to such property. Notice of the application for such
 14 determination shall be personally served upon the donor, if
 15 living, and upon the attorney general. Service upon all other
 16 interested persons may be made by three weeks published notice,
 17 provided however, that the court may direct personal service or
 18 service by mail at the last known address of any person or
 19 persons. If it shall appear to the court that circumstances
 20 have so changed since the execution of the instrument as to
 21 render impracticable, inexpedient or impossible a literal
 22 compliance with the terms or conditions of such instrument but
 23 the terms and purposes of such instrument may be substantially
 24 performed, the court may make an order directing that the terms
 25 of such instrument shall be performed and such property shall be
 26 administered or expended in such manner as in the judgment of
 27 the court will, as nearly as can be, accomplish the general
 28 purposes of the instrument and the object and intention of the
 29 donor without regard to, and free from any, specific
 30 restriction, limitation, condition, or direction therein
 31 contained. No such order shall be made without the consent of
 32 the donor if ~~he-is~~ then living and mentally competent. *

501*#14S

33 501.14 TRUST PROFIT SURPLUS SUBJECT TO CREDITORS' RIGHTS.

34 When a trust is created to receive the rents and profits of
 35 lands and no valid direction for accumulation is given, the
 36 surplus of such rents and profits, beyond the sum necessary for
 37 the education and support of the person for whose benefit the
 38 trust is created, shall be subject in equity to the claims of
 39 ~~his~~ creditors in the same manner as other personal property *
 40 which cannot be reached by an execution at law.

501*#18S

41 501.18 SECTION 501.17 QUALIFIED.

42 Section 501.17 shall not prevent any person creating a
 43 trust from declaring to whom the lands to which the trust
 44 relates shall belong in the event of the failure or termination
 45 of the trust; nor ~~shall-it-prevent-him~~ from granting or devising *
 46 such lands, subject to the execution of the trust; ~~and~~. Every *
 47 such grantee shall have a legal estate in the lands as against
 48 all persons, except the trustees and those lawfully claiming
 49 under them.

501*#19S

50 501.19 REVERSION IN GRANTOR.

51 When an express trust is created, every estate and interest
 52 not embraced in the trust, and not otherwise disposed of, shall
 53 remain in or revert to the person creating the trust, or ~~his~~ the *
 54 creator's heirs, as a legal estate. *

501*#195S

55 501.195 REVERSIONARY INTERESTS; POSSIBILITIES OF
56 REVERTER; RESULTING TRUSTS.

57 It is hereby declared to be the law of Minnesota that no
 58 express trust of property, whether real or personal, heretofore
 59 or hereafter created under the laws of this state shall under
 60 any circumstances be deemed to give rise, by operation of law or
 61 otherwise, to any reversionary interest, possibility of reverter
 62 or resulting trust of the trust property or of any interest or
 63 estate therein in the settlor of the trust or the estate of the
 64 settlor or the heirs at law of the settlor as such, if by the
 65 terms of the controlling trust instrument the settlor manifested
 66 irrevocably ~~his~~ the intention to ~~divest-himself~~ be divested of *
 67 all interest in said trust property or in said interest or
 68 estate therein, as the case may be, or expressly and irrevocably
 69 surrendered the right to revoke the trust and the right to make
 70 the settlor or the estate of the settlor a beneficiary of said
 71 trust property, or of said interest or estate therein, as the
 72 case may be. In any case where, but for the application of the

1 principles herein expressed, a reversionary interest,
 2 possibility of reverter or resulting trust would be recognized
 3 in the settlor of the trust or the estate of the settlor or the
 4 heirs at law of the settlor as such, the subject matter thereof
 5 shall be deemed to be held upon a resulting trust for the state
 6 of Minnesota.

501*#211S

7 501.211 DISCLAIMER OF INTERESTS PASSING BY DEED,
 8 ASSIGNMENT, UNDER CERTAIN NON-TESTAMENTARY INSTRUMENTS OR UNDER
 9 CERTAIN POWERS OF APPOINTMENT.

10 Subdivision 1. As used in this section, unless otherwise
 11 clearly required by the context:

12 (a) "Beneficiary" means and includes any person entitled,
 13 but for ~~his~~ the person's disclaimer, to take an interest: as *
 14 grantee; as donee; under any assignment or instrument of
 15 conveyance or transfer; by succession to a disclaimed interest,
 16 other than by will, intestate succession or through the exercise
 17 or nonexercise of a testamentary power of appointment; as
 18 beneficiary of an inter vivos trust or insurance contract;
 19 pursuant to the exercise or nonexercise of a nontestamentary
 20 power of appointment; as donee of a power of appointment created
 21 by a nontestamentary instrument; or otherwise under any
 22 nontestamentary instrument.

23 (b) "Interest" means and includes the whole of any
 24 property, real or personal, legal or equitable, or any
 25 fractional part, share or particular portion or specific assets
 26 thereof or any estate in any such property or power to appoint,
 27 consume, apply or expend property or any other right, power,
 28 privilege or immunity relating thereto;

29 (c) "Disclaimer" means a written instrument which declines,
 30 refuses, releases or disclaims an interest which would otherwise
 31 be succeeded to by a beneficiary, which instrument defines the
 32 nature and extent of the interest disclaimed thereby and which
 33 must be signed, witnessed and acknowledged by the disclaimant in
 34 the manner provided for deeds of real estate.

35 Subd. 2. A beneficiary may disclaim any interest in whole
 36 or in part, or with reference to specific parts, shares,
 37 portions or assets thereof, by filing a disclaimer in court in
 38 the manner hereinafter provided. A guardian, executor,
 39 administrator or other personal representative of the estate of
 40 a minor, incompetent, or deceased beneficiary, ~~if he deems on~~ *
 41 deeming it in the best interests of those interested in the *
 42 estate of such beneficiary and of those who take the
 43 beneficiary's interest by virtue of the disclaimer and not
 44 detrimental to the best interests of the beneficiary, with or
 45 without an order of the probate court, may execute and file a
 46 disclaimer on behalf of the beneficiary within the time and in
 47 the manner in which the beneficiary ~~himself~~ could disclaim if he *
 48 ~~were~~ living, of legal age and competent. A beneficiary likewise *
 49 may execute and file a disclaimer by agent or attorney so
 50 empowered.

51 Subd. 3. Such disclaimer shall be filed at any time after
 52 the creation of the interest, but in all events within nine
 53 months after the effective date of the nontestamentary
 54 instrument creating the interest, or, if the disclaimant is not
 55 then finally ascertained as a beneficiary or ~~his~~ the *
 56 disclaimant's interest has not then become indefeasibly fixed *
 57 both in quality and in quantity, such disclaimer shall be filed
 58 not later than nine months after the event which would cause ~~him~~ *
 59 the disclaimant so to become finally ascertained and ~~his~~ the *
 60 interest to become indefeasibly fixed both in quality and
 61 quantity.

62 No change for subd 4

63 Subd. 5. Unless otherwise provided in the nontestamentary
 64 instrument creating the interest with reference to the
 65 possibility of a disclaimer by the beneficiary, the interest
 66 disclaimed shall be distributed or otherwise be disposed of in
 67 the same manner as if the disclaimant had died immediately
 68 preceding the death or other event which causes ~~him~~ the *
 69 disclaimant to become finally ascertained as a beneficiary *
 70 and ~~his~~ the interest to become indefeasibly fixed both in *
 71 quality and quantity and, in any case, the disclaimer shall
 72 relate for all purposes to that date, whether filed before or
 73 after such death or other event. However, one disclaiming an
 74 interest in a non-residuary gift under a trust instrument or
 75 otherwise shall not be excluded, unless ~~his~~ the disclaimer so *

1 provides, from sharing in a gift of the residue even though,
2 through lapse, such residue includes the assets disclaimed.

3 Subd. 6. The right to disclaim otherwise conferred by this
4 section shall be barred if the beneficiary is insolvent at the
5 time of the event giving rise to the right to disclaim. Any
6 voluntary assignment or transfer of, or contract to assign or
7 transfer, an interest in real or personal property, or written
8 waiver of the right to disclaim the succession to any interest
9 in real or personal property, by any beneficiary or any sale or
10 other disposition of an interest in real or personal property
11 pursuant to judicial process, made before ~~he~~ the beneficiary has *
12 disclaimed, as herein provided, bars the right otherwise hereby
13 conferred on such beneficiary to disclaim as to such interest.

14 Subd. 7. The right to disclaim granted by this section
15 shall exist irrespective of any limitation imposed on the
16 interest of the disclaimant in the nature of an express or
17 implied spendthrift provision or similar restriction. A
18 disclaimer, when filed as provided in this section, or a written
19 waiver of the right to disclaim, shall be binding upon the
20 disclaimant or beneficiary so waiving and all parties thereafter
21 claiming by, through or under ~~him~~ the disclaimant or waiving *
22 beneficiary, except that a beneficiary so waiving may thereafter *
23 transfer, assign or release ~~his~~ the waiving beneficiary's *
24 interest if such is not prohibited by an express or implied
25 spendthrift provision. If an interest in real estate is
26 disclaimed and the disclaimer is duly filed in accordance with
27 the provisions of subdivision 4, the spouse of the disclaimant,
28 if such spouse has consented to the disclaimer in writing, shall
29 thereupon be automatically debarred from any spouse's statutory
30 or common law right or estate by curtesy or in dower or
31 otherwise in such real estate to which such spouse, except for
32 such disclaimer, would have been entitled.

33 No change for subd 8 to 10

501*#22S

34 501.22 TRUST ESTATES.

35 No change for subd 1

36 Subd. 2. SALE, MORTGAGE. The district or county
37 court of the county wherein such property held in trust is
38 situate, may, by order, on such terms and conditions as seem
39 just and proper, authorize any such trustee, whether ~~he~~ the *
40 trustee be beneficially interested in such trust property or *
41 not, to mortgage or sell such real property or any part thereof
42 when it appears to the satisfaction of the court that it is for
43 the best interest of such estate, or that it is necessary or for
44 the benefit of the estate or of the persons beneficially
45 interested therein holding the first and present estate,
46 interest or use, and that it will do no substantial injury to
47 the heirs in tail, or others in expectancy, succession,
48 reversion, or remainder.

49 No change for subd 3 to 6

50 Subd. 7. FINAL ORDER; BOND. After taking proof of
51 the facts, either before the court or a referee, and hearing the
52 parties and fully examining into the matter, the court must make
53 a final order upon the application. In case the application is
54 granted the final order must authorize the real property
55 affected by the trust or some portion thereof, to be mortgaged,
56 sold, or leased upon such terms and conditions as the court may
57 prescribe. In case a mortgage or sale of any portion of such
58 real property is authorized, the final order must direct the
59 disposition of the proceeds of such mortgage or sale and must
60 require the trustee to give bond in such amount and with such
61 sureties as the court directs, conditioned for the faithful
62 discharge of ~~his~~ the trust and for the due accounting for all *
63 moneys received by ~~him~~ the trustee pursuant to the order. If *
64 the trustee elects not to give such bond, the final order must
65 require the proceeds of such mortgage or sale to be paid into
66 court to be disposed of or invested as the court shall specially
67 direct. Before a mortgage, sale, or lease can be made pursuant
68 to the final order, the trustee must enter into an agreement
69 therefor, subject to the approval of the court and report the
70 agreement to the court under oath. Upon the confirmation
71 thereof, by order of the court ~~he~~ the trustee must execute, as *
72 directed by the court, a mortgage, deed, or lease.

73 No change for subd 8 to 9

74 Subd. 10. RIGHTS OF PURCHASER. A person who shall
75 actually and in good faith pay a sum of money to a trustee,

1 which the trustee is authorized to receive, shall not be
 2 responsible for the proper application of the money, according
 3 to the trust; and any right or title derived by ~~him~~ the person
 4 from the trustee in consideration of the payment shall not be
 5 impeached or called in question in consequence of a
 6 misapplication by the trustee of the money paid.

501*#23S

7 501.23 SALE, MORTGAGE, PLEDGE, OR LEASE OF PROPERTY IN
 8 TRUST CREATED BY WRITTEN INSTRUMENT; VOID, WHEN; COURT POWERS.
 9 When any trust is expressed in the instrument creating the
 10 trust estate every sale, conveyance, or other act of the trustee
 11 in contravention of the trust shall be absolutely void, except
 12 as in sections 501.23 to 501.32 provided. The district or
 13 county court of the county wherein the property, whether real or
 14 personal, or any part thereof, held in trust is situate may, by
 15 order, on such terms and conditions as seem just and proper,
 16 authorize any such trustee, whether ~~he~~ the trustee be
 17 beneficially interested in such trust property or not, to sell
 18 or otherwise dispose of, mortgage, or pledge all or any part of
 19 such trust property, whether real or personal, when it appears
 20 to the satisfaction of the court that it is necessary, or for
 21 the best interest, or for the benefit of the trust estate, or of
 22 the person or persons beneficially interested therein holding
 23 the first and present estate, interest, or use, and that it will
 24 do no substantial injury to the heirs or next of kin, or others
 25 in succession, expectancy, reversion, or remainder, in respect
 26 of such property.

501*#26S

27 501.26 NOTICE OF HEARING; SERVICE.

28 Notice of such hearing stating the time and place thereof
 29 and the objects of the petition shall be served upon all persons
 30 named in the petition as having any right, title, interest,
 31 estate, or lien in or upon the trust property, or who, by the
 32 terms of the instrument creating such trust, may, at any time
 33 thereafter, have any such right, title, interest, estate, or
 34 lien. Such notice shall be served, except as provided in
 35 section 501.27, in the same manner as a summons in a civil
 36 action, at least ten days before such time of hearing. If any
 37 such person, whose name is set out in the petition, be not a
 38 resident of the state, or if ~~his~~ the person's place of residence
 39 be unknown to the petitioner, then, upon the filing in the court
 40 of an affidavit of the petitioner, ~~his~~ the petitioner's agent or
 41 attorney, alleging ~~that he believes~~ belief that such person is
 42 not a resident of the state, and that ~~he~~ the petitioner or the
 43 petitioner's agent or attorney has mailed a copy of such notice
 44 to ~~him~~ the person at ~~his~~ the last known place of residence, or
 45 that ~~his~~ the person's place of residence is not known and cannot
 46 be ascertained by the affiant, the service of such notice upon
 47 such person may be made by publication thereof for two
 48 successive weeks in a qualified newspaper. Service of such
 49 notice may be had upon all persons named and described in such
 50 petition and notice, as unknown persons interested in the trust
 51 property, by publication of such notice in the same manner and
 52 for the same time, as in the case of non-residents whose names
 53 are set out in the petition upon the filing in the court of an
 54 affidavit by the petitioner, ~~his~~ the petitioner's agent or
 55 attorney, stating that there are, or that affiant is informed or
 56 believes there are, certain persons, in addition to those whose
 57 names are set out in such petition, who have, or claim to have,
 58 or may have some right, title, interest, estate, or lien in or
 59 upon the trust property, the nature of which is, as well as the
 60 names and places of residence of whom are, to affiant unknown.

501*#28S

61 501.28 HEARING; FINAL ORDER; REPORT OF SALE; CONVEYANCE
 62 BY TRUSTEE; DISPOSITION OF PROCEEDS; BONDS.

63 Upon proof being filed of the service of such notice, the
 64 court, at the time and place therein fixed or to which the
 65 hearing may be adjourned, shall hear all competent evidence
 66 offered for and against the granting of such petition,
 67 regulating the order of proof as it may deem best, and make and
 68 enter a final order upon the application. If the application is
 69 granted, the final order shall authorize the sale or other
 70 disposition, or the mortgaging, pledging, or leasing, as the
 71 case may be, of such trust property, or any part thereof, in
 72 manner and upon such terms as the court may prescribe. Any such
 73 sale or other disposition, mortgaging, pledging, or leasing of

1 such trust property, by such trustee, shall be reported to the
 2 court for confirmation and confirmed by the court, before the
 3 same shall become effective and valid. Upon such confirmation,
 4 such trustee shall make, execute, and deliver, subject to such
 5 terms and conditions as the court in its order of confirmation
 6 may impose, good and sufficient instruments of conveyance,
 7 assignment, and transfer or mortgage, pledge, or lease, as the
 8 case may be. On receipt by such trustee of the money or other
 9 proceeds derived from any such sale or other disposition, or
 10 mortgaging, pledging, or leasing of such trust property, such
 11 money or other proceeds shall be held, administered,
 12 distributed, or otherwise dealt with by such trustee under and
 13 pursuant to the terms of the deed, will, or other written
 14 instrument creating the trust estate, but subject, at all times,
 15 to the direction and order of the court. The court in its
 16 discretion may require such trustee to give bond in such amount
 17 and with such sureties as the court shall direct, conditioned
 18 for accounting for all such money or other proceeds so received
 19 by such trustee and for the faithful discharge of ~~his~~ the trust. *

501*#33S

20 501.33 TRUSTEE; CONFIRMATION OF APPOINTMENT; COURT
 21 JURISDICTION.

22 Upon petition of any person appointed as trustee of an
 23 express trust by any will or other written instrument, or upon
 24 petition of any beneficiary of such trust, the district or
 25 county court of the county wherein such trustee resides or has
 26 ~~his~~ a place of business, or the district or county court of the
 27 county wherein the will is being probated in the case of an
 28 express trust by will, shall consider the application to confirm
 29 the appointment of the trustee and specify the manner in which
 30 ~~he~~ the trustee shall qualify. Thereafter such district or
 31 county court, or the court to which jurisdiction is transferred,
 32 shall have jurisdiction of such trust as a proceeding in rem. *

501*#35S

33 501.35 MAY APPLY TO COURT FOR INSTRUCTIONS.

34 Any trustee of an express trust by will or other written
 35 instrument whose appointment has been confirmed, or any
 36 beneficiary of that trust, may petition the court then having
 37 jurisdiction of the trust as a proceeding in rem, and any
 38 trustee of an express trust by will or other written instrument
 39 whose appointment has not been confirmed, or any beneficiary of
 40 that trust, may petition the district or county court of the
 41 county in which the unconfirmed trustee resides or has ~~his~~ a
 42 place of business, for instructions in the administration of the
 43 trust, for the confirmation of any action taken by the trustee,
 44 for a construction of the trust instrument, or upon or after the
 45 filing of any account, for the settlement and allowance
 46 thereof. Upon the filing of the petition, the court shall make
 47 an order fixing a time and place for hearing it, unless hearing
 48 has been waived in writing by the beneficiaries of the trust
 49 then in being. Notice of hearing shall be given by publishing a
 50 copy of the order one time in a legal newspaper of the county at
 51 least 20 days before the date of the hearing, and by mailing a
 52 copy of it to each beneficiary of the trust then in being, at
 53 ~~his~~ each beneficiary's last known address, at least ten days
 54 before the date of the hearing or in any other manner as the
 55 court orders. If the court deems further notice necessary, it
 56 shall be given in the manner specified in the order. At the
 57 hearing the court shall make such order as it deems
 58 appropriate. The order shall be final and conclusive as to all
 59 matters determined by it and binding in rem upon the trust
 60 estate and upon the interests of all beneficiaries, vested or
 61 contingent, even though unascertained or not in being, except
 62 that appeal may be taken in the manner provided in section
 63 487.39. *

501*#36S

64 501.36 GUARDIAN MAY BE APPOINTED.

65 If any person upon whom the court has ordered that personal
 66 service be made is a minor or otherwise incompetent to act in
 67 ~~his~~ the person's own behalf and has no general guardian within
 68 the state, or if any party in interest is unascertained or not
 69 in being, or unknown to the trustee or outside this state, the
 70 court shall be deemed to represent such person, but may, upon
 71 the application of the trustee, or any other person interested
 72 therein, appoint a guardian ad litem for any such minor or
 73 incompetent person. *

501*#41S

1 501.41 TRUST TO VEST IN DISTRICT COURT ON DEATH OF
2 TRUSTEE.

3 Upon the death of the surviving trustee of an express
4 trust, the trust estate shall not descend to ~~his~~ the trustee's *
5 heirs, nor pass to ~~his~~ the trustee's personal representatives; *
6 but the trust, if then unexecuted, shall vest in the district
7 court with all the powers and duties of the original trustees,
8 and shall be executed by some person appointed for that purpose,
9 under the direction of the court.

501*#42S

10 501.42 RESIGNATION OF TRUSTEE.

11 Upon the petition of any trustee of an express trust, the
12 district or county court may accept ~~his~~ the trustee's *
13 resignation and discharge ~~him~~ the trustee from the trust, under *
14 such regulations as it shall establish for that purpose and upon
15 such terms as the rights and interests of the person interested
16 in the execution of the trust require.

501*#43S

17 501.43 REMOVAL OF TRUSTEE.

18 Any person interested in an express trust may petition the
19 district or county court wherein a trustee resides or has ~~his~~ a *
20 place of business for the removal of that trustee for cause at
21 any time. Upon filing of the petition the court shall fix a
22 time and place for hearing. Notice shall be given to the
23 trustee and other interested parties pursuant to the provisions
24 of section 501.35 or as the court shall otherwise order.

25 Cause for removal exists when removal is in the best
26 interests of the trust estate, when the trustee has violated ~~his~~ *
27 the trust, has become incapable of discharging the duties of ~~his~~ *
28 office, or has mismanaged the trust estate. In determining the
29 best interests of the trust estate, the trustee's compensation
30 and fees, and administrative expenses, shall also be considered.

501*#45S

31 501.45 FIDUCIARY POWERS, SUSPENSION DURING WAR SERVICE.

32 Subdivision 1. DEFINITIONS. When used in this
33 section unless the context otherwise requires:

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

37 (1) Active membership in the military, naval, or air forces
38 of the United States or any of its allies;

39 (2) Acceptance for membership in the military, naval, or
40 air forces of the United States or any of its allies and
41 awaiting induction into that service;

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

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

47 (5) Any service arising out of or in connection with the
48 war or other major military engagement, which in the opinion of
49 the court prevents the fiduciary from giving the proper
50 attention to ~~his~~ duties. *

51 (b) "Fiduciary" refers to a trustee of a testamentary trust
52 or of an express trust, a guardian of the person or estate of
53 any person, an executor of a will, an administrator of the
54 estate of the decedent, or an advisor or consultant in a
55 testamentary or express trust.

56 Subd. 2. POWERS OF FIDUCIARY MAY BE SUSPENDED;

57 PETITION. Whenever any fiduciary contemplates entering war
58 service, such fiduciary may petition, or whenever any fiduciary
59 is engaged in war service, such fiduciary or co-fiduciary or any
60 interested person may petition the proper court having
61 jurisdiction in matters of that nature for the suspension of the
62 powers and duties of the fiduciary during the period of ~~his~~ war *
63 service and until the further order of the court, and in like
64 manner any one of such persons may petition for the
65 reinstatement of such fiduciary upon ~~his~~ the fiduciary's return. *

66 No change for subd 3

67 Subd. 4. HEARING; ORDER. Upon a hearing on the
68 petition or in the case of an executor, administrator, or
69 guardian on the court's own motion, the court may:

70 (a) Order the suspension of the powers and duties of the
71 fiduciary who is in war service for the period of the war
72 service and until the further order of the court;

1 (b) Appoint a successor fiduciary to serve for the period
 2 of suspension of the powers and duties of the fiduciary and
 3 until the further order of the court, if upon suspension of ~~his~~ *
 4 powers and duties, there is no fiduciary to exercise the powers
 5 and duties of the fiduciary who is in war service, or if in the
 6 opinion of the court the appointment of a cofiduciary is
 7 advisable.

8 (c) Decree that the ownership and title to the trust res
 9 shall vest in the successor fiduciary or cofiduciary, as the
 10 case may be, and that the duties, powers and discretions, or
 11 such of the powers and discretions as are not personal to the
 12 fiduciary, may be exercised by the cofiduciary or successor
 13 fiduciary; or

14 (d) Make such further orders in the premises as the court
 15 may deem advisable with respect to the trust estate or its
 16 administration, and authorize a reasonable compensation to the
 17 successor fiduciary.

18 (e) Reserve jurisdiction for the entry of further orders
 19 and for the reinstatement of the fiduciary.

20 Upon a petition therefor, the court shall thereafter order
 21 the reinstatement of the fiduciary when ~~his~~ the fiduciary's war *
 22 service has terminated if it appears that the trust is not fully
 23 executed or administration of the estate is not completed.

24 Subd. 5. RESPONSIBILITY OF FIDUCIARY. The fiduciary
 25 shall have no responsibility for the acts and doings of ~~his~~ the *
 26 cofiduciary or successor fiduciary during the period of the
 27 suspension of ~~his~~ the fiduciary's powers and duties, but ~~he~~ is *
 28 not hereby relieved of responsibility for ~~his~~ the fiduciary's *
 29 own acts or doings in the administration of the trust fund or
 30 estate. A successor fiduciary appointed hereunder shall have no
 31 responsibility for the acts and doing of the predecessor
 32 fiduciary.

501*#46S

33 501.46 TRUSTS FORMING PART OF RETIREMENT PLANS FOR
 34 PARTICIPATING MEMBERS.

35 In case of a trust forming part of a retirement plan
 36 created by and for the benefit of self-employed persons for the
 37 purpose of receiving their contributions thereunder and
 38 investing, accumulating, and distributing to such persons or
 39 their beneficiaries the corpus, profits, and earnings of the
 40 trust in accordance with the plan, the power of any person
 41 beneficially interested in such trust to sell, assign or
 42 transfer such beneficial interest, to anticipate payments
 43 thereunder, or to terminate the trust, may be limited or
 44 withheld in accordance with the provisions of the plan, whether
 45 or not ~~he~~ the person furnished consideration for the creation of *
 46 the trust.

501*#48S

47 501.48 UNIFORM PRINCIPAL AND INCOME ACT; DEFINITIONS.

48 No change for subd 1 to 3
 49 Subd. 4. "~~Remainderman~~ Remainderperson" means the person *
 50 entitled to principal, including income which has been
 51 accumulated and added to principal.

52 No change for subd 5

501*#49S

53 501.49 DUTY OF TRUSTEE AS TO RECEIPTS AND EXPENDITURE.

54 Subdivision 1. A trust shall be administered with due
 55 regard to the respective interests of income beneficiaries and
 56 ~~remaindermen~~ remainderpersons. A trust is so administered with *
 57 respect to the allocation of receipts and expenditures if a
 58 receipt is credited or an expenditure is charged to income or
 59 principal or partly to each

60 (a) in accordance with the terms of the trust instrument,
 61 notwithstanding contrary provisions of sections 501.48 to 501.63;

62 (b) in the absence of any contrary terms of the trust
 63 instrument, in accordance with the provisions of sections 501.48
 64 to 501.63; or

65 (c) if neither of the preceding rules of administration is
 66 applicable, in accordance with what is reasonable and equitable
 67 in view of the interests of those entitled to income as well as
 68 of those entitled to principal, and in view of the manner in
 69 which ~~men~~ persons of ordinary prudence, discretion and judgment *
 70 would act in the management of their own affairs.

71 No change for subd 2

501*#50S

72 501.50 INCOME; PRINCIPAL; CHARGES.

1 No change for subd 1
 2 Subd. 2. Principal is the property which has been set
 3 aside by the owner or the person legally empowered so that it is
 4 held in trust eventually to be delivered to a remainderman *
 5 remainderperson while the return or use of the principal is in *
 6 the meantime taken or received by or held for accumulation for
 7 an income beneficiary. Principal includes
 8 (a) consideration received by the trustee on the sale or
 9 other transfer of principal or on repayment of a loan or as a
 10 refund or replacement or change in the form of principal;
 11 (b) proceeds of property taken on eminent domain
 12 proceedings;
 13 (c) proceeds of insurance upon property forming part of the
 14 principal except proceeds of insurance upon a separate interest
 15 of an income beneficiary;
 16 (d) stock dividends, receipts on liquidation of a
 17 corporation, and other corporate distributions as provided in
 18 section 501.52;
 19 (e) receipts from the disposition of corporate securities
 20 as provided in section 501.53;
 21 (f) royalties and other receipts from disposition of
 22 natural resources as provided in sections 501.55 and 501.56;
 23 (g) receipts from other principal subject to depletion as
 24 provided in section 501.57;
 25 (h) any profit resulting from any change in the form of
 26 principal except as provided in section 501.58 on unproductive
 27 property;
 28 (i) receipts from disposition of unproductive property as
 29 provided in section 501.58;
 30 (j) any allowances for depreciation established under
 31 sections 501.54 and 501.59, subdivision 1, clause (b).
 32 No change for subd 3

501*#51S

33 501.51 WHEN RIGHT TO INCOME ARISES; APPORTIONMENT OF
 34 INCOME.

35 Subdivision 1. An income beneficiary is entitled to income
 36 from the date specified in the trust instrument or, if none is
 37 specified, from the date an asset becomes subject to the trust.
 38 In the case of an asset becoming subject to a trust by reason of
 39 a will, it becomes subject to the trust as of the date of the
 40 death of the testator or date of receipt in his the estate if *
 41 acquired after death, even though there is an intervening period
 42 of administration of the testator's estate during which the
 43 beneficiary may have no right to a distribution of the income.

44 No change for subd 2 to 3

45 Subd. 4. On termination of an income interest, the income
 46 beneficiary whose interest is terminated, or his the income *
 47 beneficiary's estate, is entitled to *

48 (a) income undistributed on the date of termination;

49 (b) income due but not paid to the trustee on the date of
 50 termination;

51 (c) income in the form of periodic payments other than
 52 corporate distributions to stockholders, including rent,
 53 interest, or annuities, not due on the date of termination,
 54 accrued from day to day.

55 No change for subd 5

501*#55S

56 501.55 DISPOSITION OF NATURAL RESOURCES.

57 No change for subd 1

58 Subd. 2. If ~~a trustee, on January 1, 1970, held~~ holding an *
 59 item of depletable property of a type specified in this *
 60 section ~~he~~ on January 1, 1970, a trustee shall allocate receipts
 61 from the property in the manner used before January 1, 1970, but
 62 as to all depletable property acquired after January 1, 1970 by
 63 an existing or new trust, the method of allocation provided
 64 herein shall be used.

65 No change for subd 3

501*#58S

66 501.58 UNPRODUCTIVE PROPERTY.

67 No change for subd 1 to 2

68 Subd. 3. An income beneficiary or his the income *
 69 beneficiary's estate is entitled to delayed income under this *
 70 section as if it accrued from day to day ~~during-the-time-he-was~~ *
 71 while a beneficiary. *

72 No change for subd 4

501*#59S

1 501.59 CHARGES AGAINST INCOME AND PRINCIPAL.

2 Subdivision 1. The following charges shall be made against
3 income:

4 (a) Ordinary expenses incurred in connection with the
5 administration, management, or preservation of the trust
6 property, including regularly recurring taxes assessed against
7 any portion of the principal, water rates, premiums on insurance
8 taken upon the interests of the income beneficiary, remainderman *
9 remainderperson, or trustee, interest paid by the trustee, and *
10 ordinary repairs;

11 (b) A reasonable allowance for depreciation on property
12 subject to depreciation under generally accepted accounting
13 principles, but no allowance shall be made for depreciation of
14 that portion of any real property used by a beneficiary as a
15 residence or for depreciation of any property held by the
16 trustee on January 1, 1970 for which the trustee is not then
17 making an allowance for depreciation;

18 (c) Court costs, attorney's fees, and other fees on
19 accountings or judicial proceedings if the matter primarily
20 concerns the income interest, unless the court directs otherwise;

21 (d) Trustee's compensation for services performed for the
22 income beneficiary or in the production of income and all
23 expenses reasonably incurred for current management of principal
24 and application of income;

25 (e) Any tax levied upon receipts defined as income under
26 sections 501.48 to 501.63 or the trust instrument and payable by
27 the trustee.

28 No change for subd 2

29 Subd. 3. The following charges shall be made against
30 principal:

31 (a) Trustee's compensation not chargeable to income under
32 subdivision 1(d), expenses reasonably incurred in connection
33 with principal, court costs and attorney's fees primarily
34 concerning matters of principal, and trustee's compensation
35 computed on principal as an acceptance, distribution, or
36 termination fee;

37 (b) Charges not provided for in subdivision 1, including
38 the cost of investing and reinvesting principal, the payments on
39 principal of an indebtedness, including a mortgage amortized by
40 periodic payments of principal, expenses for preparation of
41 property for rental or sale, and, unless the court directs
42 otherwise, expenses incurred in maintaining or defending any
43 action to construe the trust or protect it or the property or
44 assure the title of any trust property;

45 (c) Extraordinary repairs or expenses incurred in making a
46 capital improvement to principal, including special assessments,
47 but, a trustee may establish an allowance for depreciation out
48 of income to the extent permitted by subdivision 1, clause (b),
49 and by section 501.54;

50 (d) Any tax levied upon profit, gain, or other receipts
51 allocated to principal notwithstanding denomination of the tax
52 as an income tax by the taxing authority;

53 (e) If an estate or inheritance tax is levied in respect of
54 a trust in which both an income beneficiary and a remainderman *
55 remainderperson have an interest, any amount apportioned to the *
56 trust, including interest and penalties, even though the income
57 beneficiary also has rights in the principal.

58 No change for subd 4

501*#66S

59 501.66 ENUMERATED POWERS OF TRUSTEE.

60 No change for subd 1 to 17

61 Subd. 18. The trustee may sell or exercise stock
62 subscription or conversion rights, participate in foreclosures,
63 reorganizations, consolidations, mergers or liquidations, and to
64 consent, directly or through a committee or other agent, to
65 corporate sales, leases and encumbrances. In the exercise of
66 such powers the trustee shall be authorized, where he the *
67 trustee deems such course expedient, to deposit stocks, bonds or *
68 other securities with any protective or other similar committee,
69 under such terms and conditions respecting the deposit thereof
70 as the trustee may approve.

71 No change for subd 19 to 27

72 Subd. 28. The trustee may employ attorneys, accountants,
73 investment advisors, agents or other persons, even if they are
74 associated with the trustee, to advise or assist the trustee in
75 the performance of his duties; to act without independent *

1 investigation upon their recommendations; and instead of acting
2 personally, to employ one or more agents to perform any act of
3 administration, whether or not discretionary.

4 Subd. 29. The trustee may prosecute or defend actions,
5 claims or proceedings for the protection of trust assets and of
6 the trustee in the performance of ~~his~~ duties. *

7 No change for subd 30

8 Subd. 31. The trustee may advance money for the protection
9 of the trust or its assets, and for all expenses and liabilities
10 sustained or incurred in or about the administration or
11 protection of the trust, or because of the holding or ownership
12 of any trust assets, for which advances with interest thereon
13 the trustee shall have a lien on the trust assets, and may
14 ~~reimburse-himself~~ be reimbursed out of the trust assets. *

15 No change for subd 32 to 33

501*#76S

16 501.76 FILING OF ANNUAL REPORTS.

17 No change for subd 1

18 Subd. 2. SUSPENSION OF FILING. The attorney general
19 may suspend the filing of reports as to a particular charitable
20 trust for a reasonable, specifically designated time upon
21 written application of the trustee filed with the attorney
22 general and if the attorney general files in the register of
23 charitable trusts a written statement that the interests of the
24 beneficiaries will not be prejudiced thereby and that annual
25 reports are not required for proper supervision by ~~his~~ the
26 attorney general's office. *

501*#78S

27 501.78 INVESTIGATORY POWERS OF THE ATTORNEY GENERAL;
28 CUSTODIANS TO FURNISH COPIES OF RECORDS.

29 Subdivision 1. The attorney general may conduct
30 investigations reasonably necessary for the administration of
31 sections 501.71 to 501.81 and for the purpose of determining
32 whether the property held for charitable purposes is properly
33 administered. In connection with an investigation under this
34 section the attorney general may obtain discovery from any
35 agent, trustee, fiduciary, beneficiary, institution,
36 association, corporation or other person regarding any matter,
37 fact or circumstance, not privileged, which is relevant to the
38 subject matter involved in the investigation, in accordance with
39 the provisions of this subdivision. The discovery may be
40 obtained without commencement of a civil action and without
41 leave of court, except as expressly required by the provisions
42 of subdivision 2. The applicable protective provisions of rules
43 26.02, 30.02, 30.04 and 31.04 of the rules of civil procedure
44 for the district court shall apply to any discovery procedures
45 instituted pursuant to this section. The attorney general or any
46 person to whom discovery is directed may apply to and obtain
47 leave of the district court in order to reduce or extend the
48 time requirements of this subdivision, and upon a showing of
49 good cause the district court shall order a reduction or
50 extension. In order to obtain discovery, the attorney general
51 may:

52 (a) Serve written interrogatories on any person. Within 20
53 days after service of interrogatories, separate written answers
54 and objections to each interrogatory shall be mailed to the
55 attorney general.

56 (b) Upon reasonable written notice of no less than 15 days,
57 require any person to produce for inspection and copying any
58 documents, papers, books, accounts, letters, photographs,
59 objects, or tangible things which are in ~~his~~ the person's
60 possession, custody, or control. *

61 (c) Upon reasonable written notice of no less than 15 days,
62 take the testimony of any person by deposition as to any fact or
63 opinion relevant to the subject matter involved in the pending
64 investigation.

65 Subd. 2. If any person fails or refuses to answer
66 interrogatories, to produce materials, or to be examined under
67 oath, as required by the provisions of subdivision 1, the
68 attorney general may give notice that ~~he~~ the attorney general
69 will apply to the district court in the county where the person
70 receiving it resides or is found, and the court, on a showing by
71 the attorney general of cause therefor, may issue an order as
72 may be required to compel compliance with the discovery
73 procedures authorized by this section.

74 Subd. 3. The custodians of the records of a court having *

1 jurisdiction of probate matters or of charitable trusts, and any
 2 custodian of records of any department, agency or political
 3 subdivision of this state shall furnish free of charge copies of
 4 papers, records and files of ~~his~~ the custodian's office relating *
 5 to the subject of sections 501.71 to 501.81 as the attorney
 6 general requires.

7 No change for subd 4

501*#79S

8 501.79 BREACH OF TRUST; PROCEEDINGS TO SECURE COMPLIANCE.

9 Subdivision 1. The attorney general may institute
 10 appropriate proceedings to secure compliance with the provisions
 11 of sections 501.71 to 501.81 and to secure the proper
 12 administration of any charitable trust. The powers and duties
 13 of the attorney general provided herein are in addition to ~~his~~ *
 14 existing powers and duties.

15 No change for subd 2 to 3

16 Subd. 4. A judgment or order rendered in proceedings
 17 without service of process and pleadings upon the attorney
 18 general, are voidable, unenforceable, and may be set aside at
 19 the option of the attorney general upon ~~his~~ the attorney *
 20 general's motion seeking relief. With respect to those *
 21 proceedings, no compromise, settlement agreement, contract or
 22 judgment agreed to by any or all of the parties having or
 23 claiming to have an interest in any charitable trust is valid
 24 unless the attorney general was made a party to the proceedings
 25 and joined in the compromise, settlement agreement, contract or
 26 judgment, or unless the attorney general, in writing waives ~~his~~ *
 27 the right to participate. The attorney general is expressly *
 28 authorized to enter into a compromise, settlement agreement,
 29 contract or judgment as in ~~his~~ the attorney general's opinion *
 30 may be in the best interests of the people of the state and the
 31 uncertain or indefinite beneficiaries.

32 No change for subd 5

33 Subd. 6. The failure of a trustee to register as required
 34 by section 501.75, or to file annual reports as required by
 35 section 501.76, or to administer and manage property held for
 36 charitable purposes in accordance with law or consistent with
 37 ~~his~~ fiduciary obligations constitutes a breach of trust. *

38 Subd. 7. The attorney general may institute a civil action
 39 in order to remedy and redress a breach of trust, as described
 40 in subdivision 6 or as otherwise provided by law, committed by a
 41 trustee subject to the provisions of sections 501.71 to 501.81.
 42 Whenever it appears to the attorney general that a breach of
 43 trust has been committed, ~~he~~ the attorney general is entitled to *
 44 sue for and have:

45 (a) Injunctive relief in any court of competent
 46 jurisdiction against the breach of trust or threatened breach of
 47 trust;

48 (b) The removal of a trustee who has committed or is
 49 committing a breach of trust;

50 (c) The recovery of damages; and

51 (d) Any other appropriate remedy.

502*#70S

52 502.70 POWERS OF CREDITOR OF DONEE.

53 When a donee is authorized either to appoint to ~~himself~~ the *
 54 donee or to appoint to ~~his~~ the donee's estate all or part of the *
 55 property covered by a power of appointment, a creditor of the
 56 donee, during the life of the donee, may subject to ~~his~~ the *
 57 creditor's claim all property which the donee could then appoint *
 58 to ~~himself~~ the donee and, after the death of the donee, may *
 59 subject to ~~his~~ the creditor's claim all property which the donee *
 60 could at ~~his~~ death have appointed to ~~his~~ the donee's estate, but *
 61 only to the extent that other property available for the payment
 62 of ~~his~~ the creditor's claim is insufficient for such payment. *

63 When a donee has exercised such a power by deed, the rules
 64 relating to fraudulent conveyances shall apply as if the
 65 property transferred to the appointee had been owned by the
 66 donee. When a donee has exercised such a power by will in favor
 67 of a taker without value or in favor of a creditor, a creditor
 68 of the donee or a creditor of ~~his~~ the donee's estate may subject *
 69 such property to the payment of ~~his~~ the creditor's claim, but *
 70 only to the extent that other property available for the payment
 71 of the claim is insufficient for such payment.

502*#71S

72 502.71 EFFECT OF DEED.

73 When the donee of a power of appointment makes a deed

1 purporting to transfer all of ~~his~~ the donee's property, the *
 2 property covered by the power is included in such transfer
 3 unless it be shown that the donee did not so intend.

502*#75S

4 502.75 POWER PASSES TO ASSIGNEE.

5 Under a general assignment for the benefit of creditors, a
 6 power of appointment in the assignor by which ~~he~~ the assignor is *
 7 authorized to appoint the property to ~~himself~~ the assignor *
 8 passes to the assignee.

502*#76S

9 502.76 POWER OF REVOCATION.

10 When the grantor in a conveyance personally reserves ~~to~~ *
 11 ~~himself~~, for ~~his~~ the grantor's own benefit, an absolute power of *
 12 revocation, such grantor is still the absolute owner of the
 13 estate conveyed, so far as the rights of creditors and
 14 purchasers are concerned.

502*#79S

15 502.79 RELEASE OF POWERS OF PROPERTY HELD IN TRUST.

16 No change for subd 1 to 4

17 Subd. 5. The word "release" as used in subdivisions 2 to 5
 18 shall include (a) an instrument wherein the person who executes
 19 it in substance states that ~~he~~ that person wholly releases, or *
 20 agrees in no respect to exercise or participate in the exercise
 21 of, a power of appointment; and (b) an instrument wherein the
 22 person who executes it in substance states that ~~he~~ that person *
 23 releases all right to exercise, or participate in the exercise
 24 of, a power of appointment otherwise than within the limits
 25 therein defined, or agrees not to exercise, or participate in
 26 the exercise of, a power of appointment otherwise than within
 27 the limits there defined.

28 No change for subd 6

504*#02S

29 504.02 CANCELATION OF LEASES IN CERTAIN CASES;
 30 ABANDONMENT OR SURRENDER OF POSSESSION.

31 In case of a lease of real property, when the landlord has
 32 a subsisting right of reentry for the failure of the tenant to
 33 pay rent ~~he~~ the landlord may bring an action to recover *
 34 possession of the property and such action is equivalent to a
 35 demand for the rent and a reentry upon the property; but if, at
 36 any time before possession has been delivered to the plaintiff
 37 on recovery in the action, the lessee or ~~his~~ a successor in *
 38 interest as to the whole or any part of the property pays to the
 39 plaintiff or brings into court the amount of the rent then in
 40 arrears, with interest and costs of the action, and an
 41 attorney's fee not exceeding \$5, and performs the other
 42 covenants on the part of the lessee, ~~he~~ the lessee or successor *
 43 may be restored to the possession and hold the property
 44 according to the terms of the original lease.

45 If the lease under which the right of reentry is claimed is
 46 a lease for a term of more than 20 years, reentry cannot be made
 47 into the land or such action commenced by the landlord unless,
 48 after default, ~~he~~ the landlord shall serve upon the tenant, also *
 49 upon all creditors having a lien of record legal or equitable
 50 upon the leased premises or any part thereof, a written notice
 51 that the lease will be canceled and terminated unless the
 52 payment or payments in default shall be made and the covenants
 53 in default shall be performed within 30 days after the service
 54 of such notice, or within such greater period as the lessor
 55 shall specify in the notice, and if such default shall not be
 56 removed within the period specified within the notice, then the
 57 right of reentry shall be complete at the expiration of the
 58 period and may be exercised as provided by law. If any such
 59 lease shall provide that the landlord, after default, shall give
 60 more than 30 days' notice in writing to the tenant of ~~his~~ the *
 61 landlord intention to terminate the tenancy by reason of default *
 62 in terms thereof, then the length of the notice to terminate
 63 shall be the same as provided for and required by the lease.

64 As to such leases for a term of more than 20 years, if at
 65 any time before the expiration of six months after possession
 66 obtained by the plaintiff by abandonment or surrender of
 67 possession by the tenant or on recovery in the action, the
 68 lessee or ~~his~~ a successor in interest as to the whole or part of *
 69 the property, or any creditor having a lien legal or equitable
 70 upon the leased premises or any part thereof, pays to the
 71 plaintiff, or brings into court, the amount of rent then in
 72 arrears, with interest and the costs of the action, and performs

1 the other covenants on the part of the lessee, he the lessee or *
 2 successor may be restored to the possession and hold the *
 3 property according to the terms of the original lease. The
 4 provisions of this section shall not apply to any action or
 5 proceeding now pending in any of the courts of this state.

6 Upon recovery of possession by the landlord in the action a
 7 certified copy of the judgment shall be recorded in the office
 8 of the county recorder of the county where the land is situated
 9 if unregistered land or in the office of the registrar of titles
 10 of such county if registered land and upon recovery of
 11 possession by the landlord by abandonment or surrender by the
 12 tenant an affidavit by the landlord or his the landlord's *
 13 attorney setting forth such fact shall be recorded in a like *
 14 manner and such recorded certified copy of such judgment or such *
 15 recorded affidavit shall be prima facie evidence of the facts *
 16 stated therein in reference to the recovery of possession by
 17 such landlord.

504*#03S

18 504.03 TENANT MAY NOT DENY TITLE; EXCEPTION.

19 When any person enters into the possession of real property
 20 under a lawful lease he the person shall not while so in *
 21 possession deny the title of his the landlord in an action *
 22 brought by such landlord, or any person claiming under him the *
 23 landlord, to recover possession of the property; but such *
 24 estoppel shall not apply to any lessee who, at and prior to the
 25 lease, is in possession of the premises under a claim of title
 26 adverse or hostile to that of the lessor.

504*#04S

27 504.04 PERSON IN POSSESSION LIABLE FOR RENT; EVIDENCE.

28 Every person in possession of land out of which any rent is
 29 due, whether it was originally demised in fee, or for any other
 30 estate of freehold or for any term of years, shall be liable for
 31 the amount or proportion of rent due from the land in his *
 32 possession, although it be only a part of the land originally *
 33 demised. Such rent may be recovered in a civil action, and the
 34 deed, demise, or other instrument showing the provisions of the
 35 lease may be used in evidence by either party to prove the
 36 amount due from the defendant. Nothing herein contained shall
 37 deprive landlords of any other legal remedy for the recovery of
 38 rent, whether secured to them by their leases or provided by law.

504*#05S

39 504.05 RENT LIABILITY; DESTROYED UNTENANTABLE TENEMENTS.

40 The lessee or occupant of any building which, without the *
 41 fault or neglect on-his-part of that lessee or occupant, is *
 42 destroyed or is so injured by the elements or any other cause as
 43 to be untenantable or unfit for occupancy, is not liable
 44 thereafter to pay rent to the lessor or owner thereof, unless
 45 otherwise expressly provided by written agreement; and the
 46 lessee or occupant may thereupon quit and surrender possession
 47 of such premises.

504*#08S

48 504.08 NOTICE TO BE GIVEN OF VACATION OF BUILDING.

49 Every person who shall, between the 15th day of November
 50 and the 15th day of April following, remove from, abandon, or
 51 vacate any building, or part thereof, occupied by him, or in his *
 52 the possession, of that person as tenant, except upon the *
 53 termination of his the tenancy, and which contains any plumbing, *
 54 water, steam, or other pipe liable to injury from freezing,
 55 without first giving to the landlord, owner, or agent in charge
 56 of such building three days' notice of his intention so to *
 57 remove shall be guilty of a misdemeanor.

504*#09S

58 504.09 NOTICE OF CANCELANATION OF LEASES.

59 When a notice of the cancelation or termination of a lease
 60 of real property, or a copy of the notice, with proof of service
 61 thereof, and the affidavit of the lessor, his or the lessor's *
 62 agent or attorney, showing that the lessee has not complied with
 63 the terms of the notice, shall be presented for recording at the
 64 office of the county recorder in which the lease has been duly
 65 recorded, it shall be the duty of the county recorder to record
 66 the notice, proof of service thereof and affidavit, and the
 67 record thereof shall be prima facie evidence of the facts
 68 therein stated.

504*#18S

69 504.18 COVENANTS OF LESSOR OR LICENSOR.

70 Subdivision 1. In every lease or license of residential

1 premises, whether in writing or parol, the lessor or licensor
2 covenants:

3 (a) That the premises and all common areas are fit for the
4 use intended by the parties.

5 (b) To keep the premises in reasonable repair during the
6 term of the lease or license, except when the disrepair has been
7 caused by the willful, malicious, or irresponsible conduct of
8 the lessee or licensee or a person under ~~his~~ the direction or
9 control of the lessee or licensee. *
*

10 (c) To maintain the premises in compliance with the
11 applicable health and safety laws of the state and of the local
12 units of government where the premises are located during the
13 term of the lease or license, except when violation of the
14 health and safety laws has been caused by the willful,
15 malicious, or irresponsible conduct of the lessee or licensee or
16 a person under ~~his~~ the direction or control of the lessee or
17 licensee. *
*

18 The parties to a lease or license of residential premises
19 may not waive or modify the covenants imposed by this section.

20 No change for subd 2 to 6

504*#20S

21 504.20 INTEREST ON SECURITY DEPOSITS; WITHHOLDING
22 SECURITY DEPOSITS; DAMAGES.

23 No change for subd 1 to 4

24 Subd. 5. Upon termination of the landlord's interest in
25 the premises, whether by sale, assignment, death, appointment of
26 receiver or otherwise, the landlord or ~~his~~ the landlord's agent *
27 shall, within a reasonable time, do one of the following acts, *
28 either of which shall relieve ~~him~~ the landlord or agent of
29 further liability with respect to such deposit:

30 (a) Transfer such deposit, or any remainder after any
31 lawful deductions made under subdivision 3, with interest
32 thereon as provided in subdivision 2, to the landlord's
33 successor in interest and thereafter notify the tenant of such
34 transfer and of the transferee's name and address; or

35 (b) Return such deposit, or any remainder after any lawful
36 deductions made under subdivision 3, with interest thereon as
37 provided in subdivision 2, to the tenant.

38 No change for subd 6

39 Subd. 7. The bad faith retention by a landlord of the
40 deposit, the interest thereon, or any portion thereof, in
41 violation of this section shall subject the landlord to punitive
42 damages not to exceed \$200 in addition to the damages provided
43 in subdivision 4. If the landlord has failed to comply with the
44 provisions of subdivision 3, ~~his~~ retention of the deposit shall *
45 be presumed to be in bad faith unless ~~he~~ the landlord returns *
46 the deposit within two weeks after the commencement of any
47 action for the recovery of the deposit.

48 No change for subd 7a to 9

504*#21S

49 504.21 RESTRICTION ON AUTOMATIC RENEWALS OF LEASES.

50 Notwithstanding the provisions of any lease of real
51 property used for residential purposes, no person shall have the
52 right to enforce any automatic renewal clause of a lease of an
53 original term of two months or more which states, in effect,
54 that the term thereof shall be deemed renewed for a specified
55 additional period of time of two months or more unless the
56 lessee or tenant gives notice to the lessor of ~~his~~ an intention *
57 to quit the premises at the expiration of the term due to *
58 expire, unless the lessor or ~~his~~ the lessor's agent, within 15 *
59 days prior to the time that the lessee or tenant is required to *
60 furnish notice of ~~his~~ an intention to quit, but not more than 30 *
61 days prior thereto, shall give to the tenant written notice,
62 served personally or by certified mail, directing the lessee's
63 or tenant's attention to the automatic renewal provision of the
64 lease.

504*#22S

65 504.22 DEFINITIONS, DISCLOSURE AND ACTIONS.

66 No change for subd 1 to 3

67 Subd. 4. If subdivisions 2 and 3, except for the provision
68 requiring posting of a notice stating the availability of a
69 summary of landlord-tenant law provided in section 504.22,
70 subdivision 3, have not been complied with and a person desiring
71 to make service of process upon or give a notice or demand to
72 the owner does not know the name and address of the owner or ~~his~~ *
73 the owner's agent, as that term is used in subdivision 2, then a *

1 caretaker or manager of the premises or an individual to whom
 2 rental payments for the premises are made shall be deemed to be
 3 an agent authorized to accept service of process and receive and
 4 give receipt for notices and demands on behalf of the owner. In
 5 case of service of process upon or receipt of notice or demand
 6 by a person who is deemed to be an agent pursuant to this
 7 subdivision, this person shall give the process, notice, or
 8 demand, or a copy thereof, to an owner personally or shall send
 9 it by certified mail, return receipt requested, to an owner at
 10 the owner's last known address.

11 No change for subd 4a to 7

504*#24S

12 504.24 PROPERTY ABANDONMENT.

13 No change for subd 1

14 Subd. 2. If a landlord, ~~his~~ an agent or other person *
 15 acting under the landlord's direction or control, in possession
 16 of a tenant's personal property, fails to allow the tenant to
 17 retake possession of the property within 24 hours after written
 18 demand by the tenant or ~~his~~ the tenant's duly authorized *
 19 representative or within 48 hours, exclusive of weekends and
 20 holidays, after written demand by the tenant or ~~his~~ a duly *
 21 authorized representative when the landlord, ~~his~~ the landlord's *
 22 agent or person acting under the landlord's direction or control
 23 has removed and stored the personal property in accordance with
 24 subdivision 1 in a location other than the premises, the tenant
 25 shall recover from the landlord punitive damages not to exceed
 26 \$300 in addition to actual damages and reasonable attorney's
 27 fees. In determining the amount of punitive damages the court
 28 shall consider (a) the nature and value of the property; (b) the
 29 effect the deprivation of the property has had on the tenant;
 30 (c) if the landlord, ~~his~~ an agent or other person acting under *
 31 the landlord's direction or control unlawfully took possession
 32 of the tenant's property; and (d) if the landlord, ~~his~~ an agent *
 33 or other person under the landlord's direction or control acted *
 34 in bad faith in failing to allow the tenant to retake possession
 35 of the property. The provisions of this subdivision shall not
 36 apply to personal property which has been sold or otherwise
 37 disposed of by the landlord in accordance with subdivision 1, or
 38 to landlords who are housing authorities, created or authorized
 39 to be created by sections 462.415 to 462.705, and their agents
 40 and employees, in possession of a tenant's personal property,
 41 except that housing authorities must allow the tenant to retake
 42 possession of the property in accordance with this subdivision.

43 Subd. 3. If the landlord, ~~his~~ an agent or other person *
 44 acting under the landlord's direction or control has unlawfully
 45 taken possession of a tenant's personal property the landlord
 46 shall be responsible for paying the cost and expenses relating
 47 to the removal, storage or care of the property.

504*#25S

48 504.25 UNLAWFUL OUSTER OR EXCLUSION; PENALTY.

49 A landlord, agent of the landlord or person acting under
 50 the landlord's direction or control who unlawfully and
 51 intentionally removes or excludes a tenant from lands or
 52 tenements or intentionally interrupts or causes the interruption
 53 of electrical, heat, gas or water services to the tenant with
 54 intent to unlawfully remove or exclude the tenant from lands or
 55 tenements is guilty of a misdemeanor. In any trial under this
 56 subdivision, it shall be presumed that the landlord, agent or
 57 other person acting under the landlord's direction or control
 58 interrupted or caused the interruption of the service with
 59 intent to unlawfully remove or exclude the tenant from lands or
 60 tenements, if it is established by evidence that the landlord,
 61 ~~his~~ an agent or a other person acting under the landlord's *
 62 direction or control intentionally interrupted or caused the
 63 interruption of the service to the tenant. The burden is upon
 64 the landlord to rebut the presumption.

504*#255S

65 504.255 UNLAWFUL OUSTER OR EXCLUSION; DAMAGES.

66 If a landlord, ~~his~~ an agent, or a other person acting under *
 67 the landlord's direction or control, unlawfully and in bad faith
 68 removes or excludes a tenant from a residential premises, the
 69 tenant may recover from the landlord up to treble damages and
 70 reasonable attorney's fees.

504*#26S

71 504.26 UNLAWFUL TERMINATION OF UTILITIES.

72 Except as otherwise provided in this subdivision, if a

1 landlord, ~~his~~ an agent or a other person acting under the *
 2 landlord's direction or control, interrupts or causes the
 3 interruption of electricity, heat, gas, or water services to the
 4 tenant, the tenant may recover from the landlord treble damages
 5 and reasonable attorney's fees. It is a defense to any action
 6 brought under this subdivision that the interruption was the
 7 result of the deliberate or negligent act or omission of a
 8 tenant or anyone acting under ~~his~~ the direction or control of *
 9 the tenant. The tenant may recover only actual damages under *
 10 this subdivision if:

11 (a) the tenant has not given the landlord, ~~his~~ an agent or *
 12 other person acting under the landlord's direction or control, *
 13 notice of the interruption; or

14 (b) the landlord, ~~his~~ an agent or other person acting under *
 15 the landlord's direction or control, after receiving notice of
 16 the interruption from the tenant and within a reasonable period
 17 of time after the interruption, taking into account the nature
 18 of the service interrupted and the effect of the interrupted
 19 service on the health, welfare and safety of the tenants, has
 20 reinstated or made a good faith effort to reinstate the service
 21 or has taken other remedial action; or

22 (c) the interruption was for the purpose of repairing or
 23 correcting faulty or defective equipment or protecting the
 24 health and safety of the occupants of the premises involved and
 25 the service was reinstated or a good faith effort was made to
 26 reinstate the service or other remedial action was taken by the
 27 landlord, ~~his~~ an agent, or other person acting under the *
 28 landlord's direction or control within a reasonable period of
 29 time, taking into account the nature of the defect, the nature
 30 of the service interrupted and the effect of the interrupted
 31 service on the health, welfare and safety of the tenants.

505*#01S

32 505.01 PLATS, DONATIONS.

33 Plats of land may be made in accordance with the provisions
 34 of this chapter, and, when so made and recorded, every donation
 35 to the public or any person or corporation noted thereon shall
 36 operate to convey the fee of all land so donated, for the uses
 37 and purposes named or intended, with the same effect, upon the
 38 donor and ~~his~~ the donor's heirs, and in favor of the donee, as *
 39 though such land were conveyed by warranty deed. Land donated
 40 for any public use in any municipality shall be held in the
 41 corporate name in trust for the purposes set forth or intended.

505*#03S

42 505.03 INSTRUMENTS OF DEDICATION; SURVEYOR'S CERTIFICATE.

43 Subdivision 1. On the plat shall be written an instrument
 44 of dedication, which shall be signed and acknowledged by the
 45 owner of the land. All signatures on the plat shall be written
 46 with black ink (not ball point). The instrument shall contain a
 47 full and accurate description of the land platted and set forth
 48 what part of the land is dedicated, and also to whom, and for
 49 what purpose these parts are dedicated. The surveyor shall
 50 certify on the plat that the plat is a correct representation of
 51 the survey, that all distances are correctly shown on the plat,
 52 that all monuments have been correctly placed in the ground as
 53 shown, that the outside boundary lines are correctly designated
 54 on the plat. If there are no wet lands or public highways to be
 55 designated in accordance with section 505.02, ~~he~~ the surveyor *
 56 shall so state. The certificate shall be sworn to before any
 57 officer authorized to administer an oath. The plat shall,
 58 except in cities whose charters provide for official supervision
 59 of plats by municipal officers or bodies, together with an
 60 abstract and certificate of title, be presented for approval to
 61 the council of the city or town board of towns wherein there
 62 reside over 5,000 people in which the land is located; and, if
 63 the land is located outside the limits of any city, or such
 64 town, then to the board of county commissioners of the county in
 65 which the land is located.

66 Subd. 2. Any proposed preliminary plat which includes
 67 lands abutting upon any existing or established trunk highway or
 68 proposed highway which has been designated by a centerline order
 69 filed in the office of the county recorder shall first be
 70 presented to the commissioner of transportation for ~~his~~ written *
 71 comments and recommendations. Where any preliminary plat
 72 includes land abutting upon an existing or established county or
 73 county state aid highway, it shall first be submitted to the
 74 county engineer for ~~his~~ written comments and recommendations. *

1 Preliminary plats involving both a trunk highway and a highway
2 under county jurisdiction shall be submitted to the commissioner
3 of transportation and the county highway engineer. Plats shall
4 be submitted for review at least 30 days prior to the home rule
5 charter or statutory city, town or county taking final action on
6 the preliminary plat. The commissioner of transportation and/or
7 the county highway engineer shall submit the written comments
8 and recommendations to the city, town, or county within 30 days
9 after receipt by them of such a plat. Final action on such plat
10 by the city, town, or county shall not be taken until after
11 these required comments and recommendations have been received
12 or until the 30 day period has elapsed. A legible preliminary
13 drawing or print of a proposed preliminary plat shall be
14 acceptable for purposes of review by the commissioner of
15 transportation or the county highway engineer. To such drawing
16 or print there shall be attached a written statement describing:
17 (1) the outlet for and means of disposal of surface waters from
18 the proposed platted area, (2) the land use designation or
19 zoning category of the proposed platted area, (3) the locations
20 of ingress and egress to the proposed platted area, and (4) a
21 preliminary site plan for the proposed platted area, if one has
22 been prepared. Failure to obtain the written comments and
23 recommendations of the commissioner of transportation or the
24 county highway engineer shall in no manner affect the title to
25 the lands included in the plat or the platting of said lands. A
26 certificate or other evidence shall be required to or upon the
27 plat for filing in the office of the county recorder or
28 registrar of titles as to the submission of or the obtaining of
29 such written comments and recommendations. The home rule
30 charter or statutory city, town or county shall provide the
31 certificate or other evidence to the county recorder or
32 registrar of titles.

33 No change for subd 3

505*#06S

34 505.06 CERTAIN STATUTORY CITY PLATS TO BE RECORDED.

35 Any statutory city plat which has been heretofore filed in
36 the office of the county recorder of the county in which the
37 statutory city is located, but not recorded, but has been and
38 has remained on file in the office of the county recorder for
39 more than 15 years prior to the passage of this section, shall,
40 upon the request of any property owner whose property is
41 affected by or included in the plat, and upon the payment of his *
42 legal fees therefor, be recorded by the county recorder; and, to
43 entitle any such plat to be so recorded, it shall not be
44 necessary to have the same approved by the council of such
45 statutory city, nor shall it be necessary to have the
46 certificate of the recorder of such statutory city or the
47 auditor of such county to or upon the plat or to have any
48 certificate upon such plat, not on the same at the time such
49 plat was so filed in the office of the county recorder.

505*#08S

50 505.08 PREPARATION OF PLAT; FILING; CERTIFICATION; FEES;
51 PENALTIES.

52 Subdivision 1. All plats shall be of either of two
53 standard sizes measuring 20 by 30 or 30 by 40 inches from outer
54 edge to outer edge. A border line shall be placed one-half inch
55 inside the outer edges of the plat on the top, bottom, and right
56 hand side of the plat; a border line shall be placed two inches
57 inside the outer edge on the left hand side of the plat. A
58 north arrow and the scale of the plat shall be shown on the
59 plat, which scale shall be of such dimension that the plat may
60 be easily interpreted. A plat shall consist of one or more
61 sheets, and if more than one sheet, the sheets shall be numbered
62 progressively. Two or more identical copies of each plat shall
63 be prepared in black on white mat surface photographic card
64 stock with double cloth back mounting, or material of equal
65 quality. One plat shall be labelled "Official Plat" and each
66 other copy shall be labelled "copy". One exact transparent
67 reproducible copy shall be prepared, by a reproduction print on
68 linen tracing cloth by a photographic process, or on material of
69 equal quality. Every official plat when duly certified, signed,
70 witnessed, and acknowledged, as provided in section 505.03,
71 shall be filed in the office of the county recorder, together
72 with an exact copy and an exact transparent reproducible copy
73 thereof. When the plat includes both registered and
74 nonregistered land, the official plat, and the exact transparent

1 reproducible copy together with two exact copies shall be filed
 2 with the county recorder. The official plat and said
 3 transparent reproducible copy shall be placed under the direct
 4 supervision of the county recorder and open to inspection only
 5 in the presence of the county recorder or ~~his~~ the recorder's *
 6 representative. Upon request of the county auditor of the
 7 county wherein the land is situated, the county recorder shall
 8 cause a reproduction copy of the official plat, or of the exact
 9 reproducible copy, to be made and filed with such county
 10 auditor, at the expense of the county.

11 Subd. 2. The copies of the official plat or of the exact
 12 reproducible copy shall be compared and certified to by the
 13 county recorder in the manner in which certified copies of
 14 records are issued in ~~his~~ the recorder's office, and the copy *
 15 thereof shall be bound in a proper volume for the use of the
 16 general public and anyone shall have access to and may inspect
 17 such certified copy at their pleasure. When the plat includes
 18 both registered and nonregistered land two copies thereof shall
 19 be so certified and bound, one for such general public use in
 20 each of the offices of the county recorder and registrar of
 21 titles; provided, however, that only one such copy so certified
 22 and bound shall be provided for general public use in those
 23 counties wherein the office quarters of the county recorder and
 24 registrar of titles are one and the same. When the copy, or any
 25 part thereof, shall become unintelligible from use or wear or
 26 otherwise, at the request of the county recorder it shall be the
 27 duty of the county surveyor to make a reproduction copy of the
 28 official plat, or the exact transparent reproducible copy under
 29 the direct supervision of the county recorder, who shall compare
 30 the copy, certify that it is a correct copy thereof, by proper
 31 certificate as above set forth, and it shall be bound in the
 32 volume, and under the page, and in the place of the discarded
 33 copy. In counties not having a county surveyor the county
 34 recorder shall employ a registered land surveyor to make such
 35 reproduction copy, at the expense of the county. The county
 36 recorder shall receive as a fee for filing these plats, as
 37 aforesaid described, 50 cents per lot, but shall receive not
 38 less than \$30 for any plat filed in ~~his~~ the recorder's office. *
 39 Reproductions from the exact transparent reproducible copy
 40 shall be available to any person upon request and the cost of
 41 such reproductions shall be paid by the person making such
 42 request. If a copy of the official plat is requested the county
 43 recorder shall ~~have-the-same-prepared~~ prepare it and duly *
 44 ~~certified-by-him~~ certify that it is a copy of the official plat *
 45 and the cost of such copy shall be paid by the person making
 46 such request.

47 No change for subd 2a to 3

505*#09S

48 505.09 COUNTY BOARD TO CONTROL PLATTING OF LAND.

49 Subdivision 1. The county board of any county shall have
 50 power to control and regulate the platting of subdivision of
 51 land and the laying out of streets and other public ways without
 52 the boundaries of municipalities. The board shall not approve
 53 any plat of land lying in any town which has appointed a
 54 planning and zoning commission unless and until such zoning
 55 commission shall have approved such plat and the laying of
 56 streets and other public ways shown thereon, which approval
 57 shall be endorsed thereon and signed by the ~~chairman~~ chair and *
 58 secretary of such commission.

59 No change for subd 2

505*#14S

60 505.14 VACATION.

61 Upon the application of the owner of land included in any
 62 plat, and upon proof that all taxes assessed against such land
 63 have been paid, and the notice hereinafter provided for given,
 64 the district court may vacate or alter all, or any part, of such
 65 plat, and adjudge the title to all streets, alleys, and public
 66 grounds to be in the persons entitled thereto; but streets or
 67 alleys connecting separate plats or lying between blocks or
 68 lots, shall not be vacated between such lots, blocks, or plats
 69 as are not also vacated, unless it appears that the street or
 70 alley or part thereof sought to be vacated is useless for the
 71 purpose for which it was laid out. The petitioner shall cause
 72 two weeks published and posted notice of such application to be
 73 given, the last publication to be at least ten days before the
 74 term at which it shall be heard; and the petitioner shall also

1 serve personally, or cause to be served personally, notice of
 2 such application, at least ten days before the term at which the
 3 application shall be heard, upon the mayor of the city, the
 4 president of the statutory city, or the chairman chair of the *
 5 town board of the town where such land is situated. The court
 6 shall hear all persons owning or occupying land that would be
 7 affected by the proposed vacation, and if, in the judgment of
 8 the court, the same would be damaged, the court may determine
 9 the amount of such damage and direct its payment by the
 10 applicant before the vacation or alteration shall take effect.
 11 A certified copy of the order of the court shall be filed with
 12 the county auditor, and recorded by the county recorder. The
 13 district court shall not vacate or alter any street, alley, or
 14 public ground dedicated to the public use in or by any such plat
 15 in any city or town organized under a charter or special law
 16 which provides a method of procedure for the vacation of streets
 17 and public grounds by the municipal authorities of such city or
 18 town.

505*#176S

19 505.176 APPROVAL OF CERTIFICATES; FILING AND RECORDING.
 20 When the certificate has been approved by the governing
 21 body of the area involved and a certificate stating that said
 22 plat certificate has been approved by the governing body signed
 23 by the clerk of said body is attached to said plat certificate,
 24 the county recorder of the county in which the land so platted
 25 or subdivided is located shall accept each such certificate for
 26 filing and recording in ~~his~~ the recorder's office upon payment *
 27 of a fee therefor commensurate with the length of the
 28 certificate. Neither witnesses nor an acknowledgment shall be
 29 required on any such certificate, but it shall be signed by the
 30 registered surveyor and shall state following ~~his~~ the signature *
 31 that ~~he~~ the surveyor is a registered surveyor in the state of *
 32 Minnesota. The county recorder shall make suitable notations on *
 33 ~~his~~ the record of the plat or subdivision to which such *
 34 certificate refers to direct the attention of anyone examining
 35 such plat or subdivision to the record of such certificate.

505*#1792S

36 505.1792 STREETS, ROADS, HIGHWAYS AND RIGHTS OF WAY.
 37 Subdivision 1. In order to give supplemental information
 38 to the public as to the location of streets, county roads,
 39 county state-aid highways, and town roads and the right of way
 40 thereof, the governing body of any city, town, or county may
 41 file for record in the office of the county recorder and the
 42 registrar of titles of said county such maps or plats showing
 43 such information as the governing body shall determine
 44 necessary. The map or plat shall be subscribed by the mayor or
 45 chairman chair of the governing body and the county surveyor, *
 46 together with a certified copy of the resolution of the
 47 governing body setting forth the necessity for said plat, and
 48 shall be entitled to record without compliance with the
 49 provisions of this chapter. Any amendments, alterations, or
 50 vacations of such maps or plats so filed may be entitled to
 51 record in like manner.
 52 Subd. 2. Said plats shall be uniform in size measuring 20
 53 by 30 inches from outer edge to outer edge. A border line shall
 54 be placed one-half inch inside the outer edges of the plat or
 55 map on the top, bottom, and right hand side; a border line shall
 56 be placed two inches inside the outer edge on the left hand
 57 side. A north arrow and scale of the plat shall be shown on the
 58 plat which scale shall be of such dimension that the plat may be
 59 easily interpreted. The plat may consist of more than one sheet
 60 but if more than one sheet, they shall be numbered progressively
 61 and match lines of the right of way shall be indicated on each
 62 sheet. An official and one or more identical copies of each
 63 plat shall be prepared in black on white mat photographic card
 64 stock with double cloth back mounting or material of equal
 65 quality. One exact reproducible copy of the official plat shall
 66 be prepared on linen tracing cloth by a photographic process or
 67 on material of equal quality. The plat on white card stock
 68 shall be labeled "Official Plat" and the reproducible copy shall
 69 be labeled "Reproducible Copy of Official Plat". The
 70 reproducible copy shall be compared with the official plat and
 71 certified to by the county recorder in the manner in which
 72 certified copies of records are issued in ~~his~~ the recorder's *
 73 office, and the copies shall be bound in a proper volume for the
 74 use of the general public. The official plat may be inspected

1 by any member of the public but only in the presence of the
 2 county recorder or the registrar of titles or ~~his~~ a deputy. Any *
 3 member of the public may have made a copy of the official plat
 4 by paying to the proper officer the cost of reproduction
 5 together with a fee of 50 cents for certification by the filing
 6 officer. Reproductions from the exact transparent reproducible
 7 copy shall be available to any person upon request and the cost
 8 of such reproductions shall be paid by the person making such
 9 request. If the abutting property is abstract property the plat
 10 shall be filed with the county recorder; if registered property,
 11 with the registrar of titles; if both registered and
 12 nonregistered property, then with both the county recorder and
 13 the registrar of titles, and when so filed with the registrar of
 14 titles ~~he,~~ the registrar shall enter a reference to said plat as *
 15 a memorial on all certificates of title of registered lands
 16 which abut the right of way shown on the map or plat filed.

17 In counties having microfilming capabilities, a plat may be
 18 prepared on sheets of suitable mylar or on linen tracing cloth
 19 by photographic process or on material of equal quality. The
 20 plat shall be labeled "Official Plat". Notwithstanding any other
 21 provisions of this subdivision to the contrary, no other copies
 22 of the plat need to be filed.

23 No change for subd 3 to 4

505*#31S

24 505.31 ENTRY UPON LAND; NOTICE.

25 It is lawful for any surveyor to enter upon any land for
 26 the purpose of locating existing survey or reference monuments
 27 or landmarks, provided, however, such surveyor shall be
 28 responsible to the landowner for any and all damages as a result
 29 of such entry, and no surveyor may enter upon any land unless ~~he~~ *
 30 ~~shall~~ first ~~notify~~ notifying the owner or occupant of ~~his~~ the *
 31 intended entry for such purpose.

507*#02S

32 507.02 CONVEYANCES BY HUSBAND-AND-WIFE SPOUSES; POWERS *
 33 OF ATTORNEY.

34 If the owner is married, no conveyance of the homestead,
 35 except a mortgage for purchase money unpaid thereon, a
 36 conveyance between spouses pursuant to section 500.19,
 37 subdivision 4, or a severance of a joint tenancy pursuant to
 38 section 500.19, subdivision 5, shall be valid without the
 39 signatures of both ~~husband-and-wife~~ spouses. *

40 A husband and wife, by their joint deed, may convey the
 41 real estate of either. ~~The-husband~~ A spouse, by ~~his~~ separate *
 42 deed, may convey any real estate owned by ~~him~~ that spouse, *
 43 except the homestead, subject to the rights of ~~his-wife~~ the *
 44 other spouse therein; ~~and-the-wife,-by-her-separate-deed,-may~~ *
 45 ~~convey-any-real-estate-owned-by-her,-except-the-homestead,-~~ *
 46 ~~subject-to-the-rights-of-her-husband-therein;~~ and either husband *
 47 or-wife spouse may, by separate conveyance, relinquish ~~his-or~~ *
 48 ~~her~~ all rights in the real estate so conveyed by the other *
 49 spouse. Subject to the foregoing provisions, either husband-or *
 50 wife spouse may separately appoint an attorney to sell or convey *
 51 any real estate owned by ~~such-husband-or-wife~~ that spouse, or *
 52 join in any conveyance made by or for the other spouse. A minor *
 53 husband-or-wife spouse has legal capacity to join in a *
 54 conveyance of real estate owned by ~~his-or-her~~ the other spouse, *
 55 so long as the minor husband-or-wife spouse is not incapacitated *
 56 because of some reason other than ~~his-or-her~~ that spouse's minor *
 57 age.

507*#021S

58 507.021 CONVEYANCES RECORDED 15 YEARS VALIDATED.

59 When a deed, assignment, or other instrument affecting the
 60 title to real estate shall have been filed or recorded in the
 61 office of the county recorder of any county, or in any public
 62 office authorized to receive such instrument for filing or
 63 recording, and shall have continued on record for 15 years and
 64 such instrument does not affirmatively show whether the grantor
 65 or assignor or person who executed the instrument was married
 66 such filing or recording and continuance thereof for such
 67 15-year period shall be prima facie evidence that such grantor
 68 or assignor or person who executed the instrument was an
 69 unmarried person at the time of the making and delivery of such
 70 instrument, unless prior to January 1, 1924, any person claiming
 71 any estate in the land affected by such instrument, by, through
 72 or under such person or ~~his-or-her~~ the person's spouse, heirs or *
 73 devisees, shall commence an action to recover such estate and

1 shall file a notice of lis pendens at the time of the
2 commencement of the action in the office of the county recorder
3 in the county where such land is situated.

507*#03S

4 507.03 PURCHASE-MONEY MORTGAGE; NON-JOINDER OF SPOUSE.

5 When a ~~husband-or-wife~~ spouse purchases land during
6 coverture and mortgages ~~his-or-her~~ the estate in such land to
7 secure the payment of the purchase price or any portion thereof
8 the surviving spouse shall not be entitled to any inchoate or
9 contingent right in such land as against the mortgagee or those
10 claiming under the mortgagee although such survivor did not join
11 in such mortgage.

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507*#04S

12 507.04 CONVEYANCE, SPOUSE OF INSANE OR INCOMPETENT
13 PERSON.

14 Subdivision 1. The ~~husband-or-wife~~ spouse of any person
15 who is adjudged by a court of competent jurisdiction to be
16 insane or incompetent to transact ~~his-or-her~~ business or manage
17 ~~his-or-her~~ that person's estate, and for whose person or estate,
18 or both, a guardian is appointed by a probate court of this
19 state, may, with the guardian's approval, by separate deed
20 convey any real estate, the title to which is in such ~~husband-or~~
21 ~~wife~~ spouse, as fully as ~~he-or-she~~ the spouse could do if
22 unmarried. A duly certified copy of the letters of guardianship
23 of the guardian shall be recorded in the office of the county
24 recorder of the county in which the real estate is situated.
25 The approval of the conveyance by the guardian shall be in
26 writing, after being first authorized to do so by an order of
27 the probate court, and shall be endorsed on the instrument of
28 the conveyance. Without the approval of the guardian, a
29 conveyance by the ~~husband-or-wife~~ competent spouse does not
30 affect the rights of the insane or incompetent spouse.

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31 Subd. 2. Where no guardian has been appointed of the
32 person or estate of such insane or incompetent spouse and such
33 insanity or incompetency has existed or may exist for three
34 years subsequent to the adjudication of the insanity or
35 incompetency of the insane or incompetent spouse, the ~~husband-or~~
36 ~~wife~~ spouse of the insane or incompetent person may convey any
37 real estate, the title to which is in the ~~husband-or-wife~~
38 spouse, as fully as ~~he-or-she~~ the spouse could do if unmarried.

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39 No change for subd 3 to 6

507*#07S

40 507.07 WARRANTY AND QUITCLAIM DEEDS; FORMS.

41 Warranty and quitclaim deeds may be substantially in the
42 following forms:

43 WARRANTY DEED

44 A.B., grantor, of (here insert the place of residence), for
45 and in consideration of (here insert the consideration), conveys
46 and warrants to C.D., grantee, of (here insert the place of
47 residence), the following described real estate in the county of
48, in the state of Minnesota: (here
49 describe the premises).

50 Dated this day of, 19.....

51 (Signature)

52 Every such instrument, duly executed as required by law,
53 shall be a conveyance in fee simple of the premises described to
54 the grantee, ~~his~~ the grantee's heirs and assigns, with covenants
55 on the part of the grantor, ~~his~~ the grantor's heirs and personal
56 representatives, that ~~he~~ the grantor is lawfully seized of the
57 premises in fee simple and has good right to convey the same;
58 that the premises are free from all encumbrances; that ~~he~~ the
59 grantor warrants to the grantee, ~~his~~ the grantee's heirs and
60 assigns, the quiet and peaceable possession thereof; and that ~~he~~
61 the grantor will defend the title thereto against all persons
62 who may lawfully claim the same. Such covenants shall be
63 obligatory upon any grantor, ~~his~~ the grantor's heirs and
64 personal representatives, as fully and with like effect as if
65 written at length in such deed.

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66 QUITCLAIM DEED

67 A.B., grantor, of (here insert the place of residence), for
68 the consideration of (here insert the consideration), conveys
69 and quitclaims to C.D., the grantee, of (here insert the place
70 of residence), all interest in the following described real
71 estate in the county of, in the state
72 of Minnesota: (here describe the premises).

73 Dated this day of, 19.....

1 (Signature)
 2 Every such instrument, duly executed, shall be a conveyance
 3 to the grantee, ~~his~~ the grantee's heirs and assigns, of all *
 4 right, title, and interest of the grantor in the premises
 5 described, but shall not extend to after acquired title, unless
 6 words expressing such intention be added.

507*#10S

7 507.10 CERTIFIED COPIES OF FORMS TO BE PRESERVED.
 8 The board of county commissioners of each county in this
 9 state shall provide the county recorder and the judge of probate
 10 of the county with one copy of each form so approved, a copy of
 11 sections 507.09 to 507.14, a copy of the certificate of the
 12 Minnesota uniform conveyancing blanks commission contained in
 13 the book of forms filed in the office of the commissioner of
 14 commerce, and a copy of ~~his~~ the filing certificate, to be *
 15 certified as herein provided. Upon presentation to ~~him~~ the *
 16 commissioner of commerce of sufficient number of true copies of *
 17 such forms, laws, and certificates in book form to carry out *
 18 this provision, the commissioner ~~of-commerce~~ shall, without *
 19 charge, certify the same to be true copies thereof. Each county
 20 recorder and each judge of probate shall thereafter preserve one
 21 such certified copy on file in their respective offices for the
 22 convenient use of the public.

507*#15S

23 507.15 UNIFORM SHORT FORM MORTGAGE.
 24 No change for subd 1 to 5
 25 Subd. 6. All the obligations of the mortgagor as set forth
 26 in this section shall be construed as applying to ~~his~~ the *
 27 mortgagor's heirs, executors, and administrators or successors; *
 28 and all the rights and powers of the mortgagee shall inure for
 29 the benefit of and may be exercised by ~~his~~ the mortgagee's *
 30 executors, administrators, successors, or assigns.
 31 No change for subd 7 to 8

507*#19S

32 507.19 CONVEYANCE BY TENANT FOR LIFE OR YEARS; NO
 33 FORFEITURE.
 34 A conveyance made by a tenant for life or years, purporting
 35 to grant a greater estate than ~~he~~ the tenant possessed or could *
 36 lawfully convey, shall not work a forfeiture of ~~his~~ the estate *
 37 of a tenant for life or years, but shall pass to the grantee all *
 38 the estate which such tenant could lawfully convey.

507*#20S

39 507.20 GRANTOR TO MAKE KNOWN ENCUMBRANCE.
 40 In all conveyances by deed or mortgage of real estate upon
 41 which any encumbrance exists, the grantor, whether ~~he-executes~~ *
 42 executing the same in ~~his~~ the grantor's own right, or as *
 43 executor, administrator, assignee, trustee, or otherwise by
 44 authority of law, shall, before the consideration is paid, by
 45 exception in the deed or otherwise, make known to the grantee
 46 the existence and nature of such encumbrance, so far as ~~he~~ the *
 47 grantor has knowledge thereof. *

507*#21S

48 507.21 LIABILITY OF GRANTOR WHO COVENANTS AGAINST
 49 ENCUMBRANCES.
 50 Whoever conveys real estate by deed or mortgage containing
 51 a covenant that it is free from all encumbrances, when an
 52 encumbrance, whether known to ~~him~~ the person conveying or not, *
 53 appears of record to exist thereon, but does not exist in fact,
 54 shall be liable in an action of contract to the grantee, ~~his~~ the *
 55 grantee's heirs, executors, administrators, successors, or *
 56 assigns, for all damages sustained in removing the same.

507*#23S

57 507.23 INCOMPLETE CONVEYANCE, HOW PROVEN.
 58 When any grantor dies, or departs from or resides out of
 59 the state, not having acknowledged ~~his~~ the grantor's conveyance, *
 60 the execution thereof may be proved before any court of record
 61 by proving the handwriting of the grantor.

507*#31S

62 507.31 RAILROAD LANDS.
 63 Subdivision 1. CERTIFIED LISTS FILED IN COUNTIES.
 64 Every railroad company to whom lands have been or shall be
 65 conveyed by the state to aid in the construction of its road
 66 shall prepare, at its own expense, separate lists of such lands
 67 lying within the several counties, according to the government
 68 surveys, which lists shall be compared by the commissioner of
 69 finance with the original lists in ~~his~~ the commissioner's office *

1 received from the interior department of the general government;
 2 and each list when corrected by ~~him~~ the commissioner shall have
 3 appended thereto ~~his~~ a certificate that the same is a correct
 4 and complete list of the lands in the county certified to the
 5 state and by it conveyed to such company. Such lists so
 6 certified shall be filed by the companies with the county
 7 recorders of the respective counties where such lands lie, who
 8 shall keep the same as public records, and they shall be prima
 9 facie evidence of the title of such companies. In all cases
 10 where any railroad company has failed to comply with the
 11 provisions of this section, the board of county commissioners of
 12 any county in this state is hereby authorized to direct the
 13 county recorder of the county to transcribe directly from the
 14 original patents or approved lists from the United States
 15 government to the state of Minnesota and the record of deeds
 16 from the state of Minnesota to the railroad company receiving
 17 such lands. Such original patents and record of deeds being on
 18 file in the commissioner of finance's office, the commissioner
 19 of finance shall offer the needed conveniences to any county
 20 recorder who desires to make a transcript as herein provided.
 21 The county board shall furnish the county recorder with the
 22 necessary books and records. It shall be the duty of the
 23 commissioner of finance to carefully compare such transcribed
 24 copies of patents, approved lists or deeds with the original
 25 instruments and records on file in ~~his~~ the commissioner's
 26 office, and when compared ~~he shall~~ to so duly certify to each
 27 instrument. Such transcribed records duly certified by the
 28 commissioner of finance when deposited with the county recorder
 29 of any county shall be prima facie evidence of the facts therein
 30 set forth and of the original instruments so recorded; and an
 31 official transcript therefrom shall be admissible as evidence in
 32 all the courts of the state. The commissioner of finance shall
 33 receive no fees for ~~his~~ services rendered. The county recorder
 34 shall receive the same fees as allowed by law for recording
 35 original instruments in ~~his~~ the county recorder's office, which
 36 sum shall be paid by the county upon the approval of the board
 37 of county commissioners.

38 Subd. 2. Repealed, 1984 c 618 s 61

507*#32S

39 507.32 RECORD, WHEN NOTICE TO PARTIES; ASSIGNMENT OF
40 MORTGAGE.

41 The record, as herein provided, of any instrument properly
 42 recorded shall be taken and deemed notice to parties. The
 43 record of an assignment of a mortgage shall not in itself be
 44 notice of such assignment to the mortgagor, ~~his~~ the mortgagor's
 45 heirs or personal representatives, so as to invalidate any
 46 payment made by either of them to the mortgagee.

507*#34S

47 507.34 UNRECORDED CONVEYANCES VOID IN CERTAIN CASES.

48 Every conveyance of real estate shall be recorded in the
 49 office of the county recorder of the county where such real
 50 estate is situated; and every such conveyance not so recorded
 51 shall be void as against any subsequent purchaser in good faith
 52 and for a valuable consideration of the same real estate, or any
 53 part thereof, whose conveyance is first duly recorded, and as
 54 against any attachment levied thereon or any judgment lawfully
 55 obtained at the suit of any party against the person in whose
 56 name the title to such land appears of record prior to the
 57 recording of such conveyance. The fact that such first recorded
 58 conveyance is in the form, or contains the terms of a deed of
 59 quitclaim and release shall not affect the question of good
 60 faith of such subsequent purchaser or be of itself notice to ~~him~~
 61 the subsequent purchaser of any unrecorded conveyance of the
 62 same real estate or any part thereof.

507*#38S

63 507.38 WHEN DEED NOT DEFEATED BY DEFEASANCE.

64 When a deed purports to be an absolute conveyance but is
 65 made or intended to be made defeasible by force of an instrument
 66 of defeasance the original conveyance shall not thereby be
 67 defeated or affected as against any person other than the maker
 68 of the defeasance, or ~~his~~ the maker's heirs or devisees, or
 69 persons having actual notice thereof, unless the instrument of
 70 defeasance is recorded in the county where the lands lie.

507*#40S

71 507.40 MORTGAGES, HOW DISCHARGED.

72 A mortgage may be discharged by filing for record a

1 certificate of its satisfaction executed and acknowledged by the
 2 mortgagee, ~~his~~ the mortgagee's personal representative, or *
 3 assignee, as in the case of a conveyance. The county recorder
 4 shall enter the number of such certificate and the book and page
 5 of its record upon the record of the mortgage or on a microfilm
 6 card whenever possible. If a mortgage be recorded in more than
 7 one county and discharged of record in one of them, a certified
 8 copy of such discharge may be recorded in another county with
 9 the same effect as the original. If the discharge be by
 10 marginal entry, heretofore made, such copy shall include the
 11 record of the mortgage. In all cases the discharge shall be
 12 entered in the reception book and indexes as conveyances are
 13 entered.

507*#41S

14 507.41 PENALTY FOR FAILURE TO DISCHARGE.

15 When any mortgagee, ~~his~~ mortgagee's personal *
 16 representative, or assignee, upon full performance of the *
 17 conditions of the mortgage, shall fail to discharge the same
 18 within ten days after being thereto requested and after tender
 19 of ~~his~~ the mortgagee's reasonable charges therefor, ~~he~~ that *
 20 mortgagee shall be liable to the mortgagor, ~~his~~ the mortgagor's *
 21 heirs or assigns, for all actual damages thereby occasioned; and
 22 a claim for such damages may be asserted in an action for
 23 discharge of the mortgage. If the defendant be not a resident
 24 of the state, such action may be maintained upon the expiration
 25 of 60 days after the conditions of the mortgage have been
 26 performed, without such previous request or tender.

508*#03S

27 508.03 APPLICATION.

28 An application for registration may be made by any of the
 29 following persons:

- 30 (1) The person or persons who singly or collectively own
 31 the land; tenants in common shall join in the application;
 32 (2) The person or persons who singly or collectively have
 33 the power of disposing of the land;
 34 (3) Infants and other persons under disability, by their
 35 guardian duly appointed by the proper court in this state;
 36 (4) A corporation, by its proper officer, or by an agent
 37 duly authorized by the board of directors;
 38 (5) Any executor, administrator or personal representative
 39 duly appointed by the proper court in this state;
 40 (6) A municipal corporation, by its mayor and city clerk,
 41 in the case of a city, after a resolution passed by its city
 42 council so directing, and by the county auditor and ~~chairman~~ *
 43 chair of the county board, in the case of a county, after a *
 44 resolution passed by its county board so directing;
 45 (7) Any person may make application when, for at least 15
 46 years, the land has been in the adverse possession of the
 47 applicant or those through whom ~~he~~ the applicant claims title; *
 48 (8) A partnership by one or more of its general partners;
 49 (9) The state of Minnesota, by the county auditor and *
 50 ~~chairman~~ chair of the county board of the county in which the *
 51 land is located, at the direction of the county board of such
 52 county, in the case of lands forfeited to the state for taxes,
 53 and held by it in trust for its taxing districts, or otherwise.

54 This provision is in addition to all other laws by which
 55 the state may register the title to land.

508*#05S

56 508.05 APPLICATION, HOW SIGNED AND VERIFIED.

57 The application shall be in writing and signed and verified
 58 by the applicant, or by ~~his~~ an agent thereunto lawfully *
 59 authorized in writing. If the application is signed and
 60 verified by any agent, except an officer of a corporation, the
 61 authority of such agent shall be executed and acknowledged in
 62 the manner required for the execution and acknowledgment of a
 63 deed and recorded with the county recorder for the county
 64 wherein the land is situated before the filing of the
 65 application. If the application is made by a corporation, it
 66 shall be verified by some officer of the corporation. If the
 67 applicant is married, the ~~husband-or-wife~~ spouse of the *
 68 applicant may assent thereto in writing by a duly acknowledged
 69 endorsement thereon, or by a separate instrument duly
 70 acknowledged and filed with the application, but otherwise the
 71 spouse shall be made a defendant and served with summons.

508*#06S

72 508.06 CONTENTS OF APPLICATION; RIGHTS AND PRIVILEGES OF

1 CLAIMANTS.

2 The application shall set forth substantially:

3 (1) The full name, age, and residence of the applicant; if
4 the application is made by any person acting in behalf of
5 another, the application shall likewise state the full name and
6 residence of the person so acting, and the capacity in which he
7 that person acts;

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*

8 (2) Whether the applicant is or is not married and, if
9 married, the full name and residence of the husband-or-wife
10 spouse; it shall state whether or not the applicant is under any
11 legal disability, and if so, the nature of the disability; and
12 whether the applicant has ever been divorced and, if so, when,
13 where, and by what court the divorce was granted;

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*

14 (3) A correct description of the land, together with the
15 estimated market value of the fee simple interest therein,
16 exclusive of improvements, according to the last official
17 assessment; the description of an appurtenant easement shall be
18 accompanied by a description of the fee simple estate to which
19 it is appurtenant;

20 (4) The estate or interest of the applicant in the land,
21 and whether or not it is subject to an estate of homestead;

22 (5) The names of all persons or parties, except the
23 applicant, who appear of record, or who are known to the
24 applicant to have or to claim any right, title, estate, lien, or
25 interest in the land and the nature and character of it;

26 (6) Whether the land is occupied or unoccupied; if occupied
27 by any other person than the applicant, it shall state the full
28 name and address of each occupant and the nature of the estate,
29 interest, lien, or charge which the occupant or occupants have,
30 or claim to have, in the land;

31 (7) Whether the land is subject to any lien or encumbrance,
32 recorded or unrecorded, together with the character and amount
33 of it, and the name and post office address of each holder of
34 it; if recorded, it shall state the place, book, and page of
35 record;

36 (8) If the application is on behalf of a minor, it shall
37 state the age of the minor and that a duly certified copy of the
38 letters of guardianship has been recorded with the county
39 recorder in the county in which the land is situated;

40 (9) When the place of residence of any person whose
41 residence is required to be given is unknown to the applicant,
42 it may be so stated in the application and also that, after due
43 and diligent search, the applicant has been unable to ascertain
44 it;

45 (10) If it is desired to fix and establish the boundary
46 lines of the land, the full names and post office addresses of
47 all owners of adjoining lands which are in any manner affected
48 by it shall be fully stated.

49 Any person having or claiming any right, title, interest,
50 or estate in land, or any lien or charge upon or against it, may
51 assent in writing to its registration . The person assenting
52 need not be named as a defendant in the registration proceeding
53 or, if already named as a defendant in it, need not be served
54 with the summons in it. The assent shall be executed and
55 acknowledged in the manner required by law for the execution and
56 acknowledgment of a deed and filed with the clerk of the court.

508*#07S

57 508.07 NONRESIDENT APPLICANT; AGENT.

58 If ~~the applicant is~~ not a resident of the state, he the
59 applicant shall file for record with the county recorder a
60 written agreement, duly executed and acknowledged, appointing an
61 agent residing in the state. He The applicant shall state
62 therein the full name and post office address of this agent and
63 therein agree that the service of any legal process in
64 proceedings under or growing out of any application shall be of
65 the same legal effect when made on this agent as if made on the
66 applicant within the state. If the agent so appointed dies or
67 removes from the state, the applicant shall at once appoint
68 another agent in like manner and, ~~if he fails on failing~~ so to
69 do, the court may in its discretion dismiss the application. In
70 any subsequent application made ~~by the applicant~~, he the
71 applicant may refer to such written authority so recorded,
72 provided the same is sufficiently comprehensive to include such
73 subsequent application.

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508*#11S

74 508.11 APPLICATION FILED WITH CLERK; DOCKET; ABSTRACT.

1 The application shall be filed with the clerk, who shall
 2 docket the same in a book to be known as the "Land Registration
 3 Docket". All orders, judgments, and decrees of the court in the
 4 proceeding shall be minuted in such docket. All final orders or
 5 decrees shall be recorded by the clerk and proper reference made
 6 thereto in such docket. At the time of the filing of the
 7 application with the clerk, a copy thereof, duly certified by
 8 ~~him~~ the clerk, shall be filed for record with the county
 9 recorder, and shall be notice forever to purchasers and
 10 encumbrancers of the pendency of the proceeding and of all
 11 matters referred to in the court files and records pertaining to
 12 the proceeding. The applicant shall file with the clerk, as
 13 soon after the filing of the application as is practicable, an
 14 abstract of title to the land described in the application,
 15 satisfactory to the examiner. If required so to do by the
 16 examiner, the applicant shall likewise cause the land to be
 17 surveyed by some competent surveyor, and file with the clerk a
 18 plat of the land duly certified by such surveyor.

508*#12S

19 508.12 EXAMINERS OF TITLES.

20 Subdivision 1. EXAMINER AND DEPUTY EXAMINER. The
 21 judges of the district court shall appoint a competent attorney
 22 in each county within their respective districts to be an
 23 examiner of titles and legal adviser to the registrar in said
 24 county, and may appoint one deputy examiner who shall act in the
 25 name of the examiner and under ~~his~~ the examiner's supervision
 26 and control, and ~~his~~ the deputy's acts shall be the acts of the
 27 examiners. The examiner of titles shall hold office subject to
 28 the will and discretion of the district court by ~~which he is~~
 29 whom appointed. ~~His~~ The examiner's compensation and that of ~~his~~
 30 the examiner's deputies shall be fixed and determined by the
 31 court and paid in the same manner as the compensation of other
 32 county employees is paid except that in all counties having less
 33 than 75,000 inhabitants, and in Stearns county and Dakota county
 34 the fees and compensations of the examiners for services as
 35 legal adviser to the registrar shall be determined by the judge
 36 of the district court and, paid in the same manner as the
 37 compensation of other county employees is paid, but in every
 38 other instance shall be paid by the person applying to have ~~his~~
 39 the person's title registered or for other action or relief
 40 which requires the services, certification or approval of the
 41 examiner.

42 No change for subd 2

43 Subd. 3. DEPUTY EXAMINERS IN THE SECOND AND FOURTH
 44 JUDICIAL DISTRICTS. In the second judicial district the
 45 judges of the district court may appoint not more than three
 46 full time deputy examiners, in addition to the deputy examiner
 47 above provided for; and in the fourth judicial district the
 48 judges of the district court may appoint not more than five full
 49 time deputy examiners, in addition to the deputy examiner above
 50 provided for; or, in the event any said full time deputy
 51 examiners provided for in this paragraph or the paragraph
 52 immediately above are not appointed, two part time deputy
 53 examiners may be appointed for each such full time deputy
 54 examiner not so appointed. All deputy examiners shall be
 55 competent attorneys and shall act in the name of the examiner
 56 and under ~~his~~ the examiner's supervision and control and their
 57 acts shall be the acts of the examiner. All deputies shall hold
 58 office subject to the will and discretion of the district court
 59 by which they are appointed and their compensation shall be
 60 fixed and determined by the court and paid in the same manner as
 61 the compensation of other county employees is paid.

508*#13S

62 508.13 REFERENCES TO EXAMINERS; POWERS; REPORTS.

63 Immediately after the filing of the abstract of title, the
 64 court shall enter an order referring the application to an
 65 examiner of titles, who shall proceed to examine into the title
 66 of the land described in the application, and into the truth of
 67 all matters set forth therein. ~~He~~ The examiner shall ascertain
 68 whether or not the land is occupied, and, if occupied, ~~he~~ shall
 69 ascertain the nature thereof, and by what right the occupation
 70 is held. ~~He~~ The examiner shall also ascertain whether or not
 71 any judgments exist which may be a lien upon the land. ~~He~~ The
 72 examiner shall search all public records, and fully investigate
 73 all facts pertaining to the title which may be brought to ~~his~~
 74 the examiner's notice, and shall file in the case a full report

1 thereof, together with ~~his~~ the examiner's opinion upon the *
 2 title. The court shall not be bound by any report of the
 3 examiner of titles, but may require further or other proof. An
 4 examiner of titles shall have full power to administer oaths and
 5 examine witnesses concerning any matter involved in ~~his~~ the *
 6 examiner's investigation of titles. When, in the opinion of the *
 7 examiner, the state has any interest in, or lien upon, the land,
 8 ~~he~~ the examiner shall state the nature and character thereof *
 9 in ~~his~~ the examiner's report, and in such cases, the state shall *
 10 be joined as a party, and named in the summons as a party
 11 thereto, in order that its interest, estate or lien may be
 12 defined and preserved. The clerk shall give notice to the
 13 applicant of the filing of such report. If the report of the
 14 examiner is adverse to the applicant, ~~he~~ the applicant shall *
 15 have a reasonable time in which to proceed further, or to
 16 withdraw ~~his~~ the application. This election shall be made in *
 17 writing and filed with the clerk. Examiners shall, upon the
 18 request of the registrar, advise ~~him~~ the registrar upon any act *
 19 or duty pertaining to the conduct of ~~his~~ the office, or prepare *
 20 the form of any memorial to be made or entered by the registrar.

21 In all cases where under the provisions of this chapter
 22 application is made to the court for any order or decree, the
 23 court may refer the matter to the examiner of titles for hearing
 24 and report in like manner as herein provided for the reference
 25 of the initial application for registration.

508*#14S

26 508.14 SURVEY IN CERTAIN COUNTIES.

27 In any county of this state having more than 200,000
 28 inhabitants, the county surveyor thereof shall, at the request
 29 of the examiner of titles for such county, make a survey of the
 30 plat described in any application for registration under this
 31 chapter, and file with the clerk of the district court of such
 32 county a plat of such land, duly certified, showing the
 33 dimensions of the land, the location of all structures, fences,
 34 and other improvements thereon and such other facts as may be
 35 required by the examiner. The surveyor shall also at the
 36 request of the registrar of titles of such county, make a survey
 37 of any registered land designated by ~~him~~ the registrar and file *
 38 with such registrar a plat of such land, duly certified showing
 39 its dimensions and such other facts as the registrar may require.
 40 Such plat shall be numbered and entered as a memorial on the
 41 original owner's duplicate certificate of such land and
 42 transferred with each subsequent certificate affecting such
 43 land. In any county in which the county surveyor receives fees
 44 in lieu of a salary, ~~he~~ the county surveyor shall be paid such *
 45 compensation for ~~his~~ services as the county board may determine; *
 46 in all other counties, ~~he~~ the county surveyor shall receive no *
 47 other compensation than the salary paid ~~him~~ for other county *
 48 work.

508*#16S

49 508.16 FORM OF SUMMONS; SERVICE.

50 Subdivision 1. The summons shall be subscribed by the
 51 clerk, directed to the defendants, and require them to appear
 52 and answer the application of the applicant, within 20 days
 53 after the service of the summons, exclusive of the day of such
 54 service. It shall be served in the manner as provided by law
 55 for the service of a summons in civil actions in the district
 56 court, except as herein otherwise provided. It shall be served
 57 upon the state by delivering a copy thereof to the attorney
 58 general, a deputy attorney general or an assistant attorney
 59 general who shall transmit the same to the county attorney of
 60 the county in which the land described therein is situated, and
 61 thereupon such county attorney shall appear in such proceeding,
 62 and represent the state therein. It shall be served upon a
 63 domestic corporation governed by chapter 302A whose charter has
 64 terminated by dissolution, expiration, or otherwise, by
 65 delivering a copy of it to a person, known to the applicant, who
 66 held office in the corporation at the time of dissolution and
 67 can be found in the state or, if no officer known to the
 68 applicant can be found in the state, by publishing the summons
 69 in a newspaper printed and published in the county where the
 70 application is filed, once each week for three consecutive
 71 weeks. It shall be served upon all persons not personally
 72 served who are not residents of the state or who cannot be found
 73 therein, and upon domestic corporations not governed by chapter
 74 302A whose charter has terminated by dissolution, expiration, or

1 otherwise more than three years prior to the commencement of the
 2 action, and upon unknown successors in interests of such
 3 corporations, and upon "all other persons or parties unknown
 4 claiming any right, title, estate, lien, or interest in the real
 5 estate described in the application herein" by publishing the
 6 same in a newspaper printed and published in the county wherein
 7 the application is filed, once each week for three consecutive
 8 weeks; provided, if the order for summons or a supplemental
 9 order of the court, filed before, during or after the
 10 publication of the summons, shall so direct, the summons may be
 11 personally served without the state upon any one or more of the
 12 defendants who are nonresidents of the state or who cannot be
 13 found therein, in like manner and with like effect as such
 14 service in a summons in a civil action in the district court;
 15 and provided further, that any nonresident defendant, natural or
 16 corporate, who can be found in the state of Minnesota and can be
 17 personally served therein, may be served personally. The clerk
 18 shall also, at least 20 days before the entry of the decree
 19 which shall be entered in the matter, send a copy of the summons
 20 by mail to all defendants not served personally who are not
 21 residents of the state, and whose place of address is known to
 22 applicant or stated in the application, or in the order
 23 directing the issuance of the summons. The certificate of the
 24 clerk that ~~he~~ the clerk has mailed the summons, as herein *
 25 provided, shall be conclusive evidence thereof. Other or
 26 further notice of the application for registration may be given
 27 in such manner and to such persons as the court or any judge
 28 thereof may direct. The summons shall be served at the expense
 29 of the applicant and proof of the service shall be made in the
 30 same manner as in civil actions. The summons shall be
 31 substantially in the following form:

32 SUMMONS IN APPLICATION FOR REGISTRATION OF LAND

33 State of Minnesota

34 ss.

35 County of

36 District Court Judicial District.

37 In the matter of the application of (name of applicant) to
 38 register the title to the following described real estate
 39 situated in county, Minnesota, namely:

40 (description of land)

41 Applicant,

42 vs

43 (names of defendants) and "all other persons or parties
 44 unknown claiming any right, title, estate, lien or interest in
 45 the real estate described in the application herein."

46 Defendants.

47 THE STATE OF MINNESOTA TO THE ABOVE NAMED DEFENDANTS:

48 You are hereby summoned and required to answer the
 49 application of the applicant in the above entitled proceeding
 50 and to file your answer to the said application in the office of
 51 the clerk of said court, in said county, within 20 days after
 52 service of this summons upon you exclusive of the day of such
 53 service, and, if you fail to answer the application within the
 54 time aforesaid, the applicant in this proceeding will apply to
 55 the court for the relief demanded therein.

56 Witness clerk of said court, and the seal thereof,
 57 at, in said county, this day of,
 58 19...

59 (Seal)

60

61

62

63 No change for subd 2

508*#17S

64 508.17 ANSWER.

65 Any person claiming any right, title, estate, or interest
 66 in or lien upon the land, whether named in the summons or not,
 67 may file an answer therein, within the time named in the
 68 summons, or within such further time as may be allowed by the
 69 court. The answer shall state all objections to the
 70 application, set forth the right, title, estate, interest, or
 71 lien claimed by the party filing the same, and be signed and
 72 verified by the defendant, or by some person in his the
 73 defendant's behalf. *

508*#22S

74 508.22 DECREE OF REGISTRATION; EFFECT.

1 If, after hearing, the court finds the applicant has a
 2 title proper for registration, whether as stated in ~~his~~ the *
 3 application or otherwise, it shall make and file its decree
 4 therein, confirming the title of the applicant and ordering its
 5 registration. Except as herein otherwise provided, every decree
 6 of registration shall bind the land described in it, forever
 7 quiet the title to it, and be forever binding and conclusive
 8 upon all persons, regardless of whether they were mentioned in
 9 the application or in the report of the examiner or whether they
 10 possessed an interest in the land not referred to in the
 11 application or in the report of the examiner, whether they were
 12 mentioned by name in the summons, or included in the phrase,
 13 "all other persons or parties unknown claiming any right, title,
 14 estate, lien, or interest in the real estate described in the
 15 application herein." The decree shall not be opened, vacated,
 16 or set aside by reason of the absence, infancy, or other
 17 disability of any person affected by it, nor by any proceeding
 18 at law or in equity for opening, vacating, setting aside, or
 19 reversing judgments and decrees, except as herein especially
 20 provided. The decree shall forever determine, bind, and
 21 conclude all the right, title, interest, estate, or lien in the
 22 land described in it of the ~~husband-or-wife~~ spouse of any *
 23 defendant acquired or growing out of the marriage relation as *
 24 though the ~~husband-or-wife~~ spouse had been expressly named in
 25 the decree.

508*#23S

26 508.23 CONTENTS OF DECREE; COPY FILED.

27 Subdivision 1. Every decree of registration shall bear the
 28 date, hour, and minute of its entry and be signed by one of the
 29 judges of the district court. It shall state the age of the
 30 owner of the land, and whether married, or unmarried, and, if
 31 married, the name of the ~~husband-or-wife~~ spouse; if the owner of *
 32 the land is under disability, it shall state the nature
 33 thereof. It shall contain an accurate description of the land
 34 as finally determined by the court, and set forth the estate of
 35 the owner and also, in such manner as to show their relative
 36 priority, all particular estates, mortgages, easements, liens,
 37 attachments, and other encumbrances, including spousal rights of *
 38 ~~husband-and-wife~~, if any, to which the land or the owner's *
 39 estate is subject, and any other facts properly to be determined
 40 by the court. Immediately upon the filing of the decree of
 41 registration, the clerk shall file a certified copy thereof with
 42 the registrar.

43 No change for subd 1a to 2

508*#24S

44 508.24 REGISTRATION RUNS WITH LAND; WITHDRAWAL.

45 Subdivision 1. The obtaining of a decree of registration,
 46 and the receiving of a certificate of title shall be deemed as
 47 an agreement running with the land and binding upon the
 48 applicant and ~~his~~ successors in the title that the land shall be *
 49 and forever remain registered land, unless withdrawn therefrom
 50 as hereinafter provided, and subject to the provisions of this
 51 chapter and to all acts amendatory thereof. All dealings with
 52 the land, or any estate or interest therein, and all liens,
 53 encumbrances, and charges upon the same, after the land has been
 54 registered, and while it remains registered, shall be expressly
 55 subject to the terms and provisions of this chapter.

56 Subd. 2. PETITION; NONMETROPOLITAN COUNTIES. The
 57 registered owner of land in counties not containing a city of
 58 the first class may apply by verified petition to the district
 59 court of the county wherein the land is situated for its
 60 withdrawal from registration. The application shall be heard by
 61 the district court on not less than 20 days' written notice to
 62 all persons appearing of record or known to the petitioner to
 63 have or claim an interest in the property. The notice shall be
 64 served in the manner provided by law for the service of a
 65 summons in a civil action in the district court unless otherwise
 66 specified by the court. At the hearing any person interested in
 67 any manner in the land or who may be affected by its withdrawal
 68 from registration, may appear and be heard in favor of or in
 69 opposition to the application. After hearing the court may
 70 order that the land be withdrawn from registration, subject to
 71 encumbrances, liens, and other incidents of title then existing,
 72 and if so ordered shall require that a certified copy of the
 73 order, a certified copy of the original decree of registration,
 74 and certified copies of all undischarged instruments

1 memorialized on the certificate of title, be recorded in the
 2 office of the county recorder at the expense of the petitioner.
 3 In its order the court shall reconcile any differences in
 4 description of the land as originally registered and as
 5 described in the last certificate of title. Upon the recording
 6 of the instruments and upon filing a certified copy of the order
 7 in the office of the registrar of titles, and surrender to ~~him~~
 8 the registrar of the duplicates of the last certificate of
 9 title, the land shall be withdrawn from registration and become
 10 unregistered property.

508*#26S

11 508.26 OPENING DECREE.

12 Any person having any right, title, or interest in or lien
 13 upon the land upon whom the summons has not been actually
 14 served, and who had no notice or knowledge of the filing of the
 15 application or of the pendency of such proceeding prior to the
 16 entry of the decree therein, may at any time within 60 days
 17 after the entry of such decree, and not afterwards, file ~~his~~ a
 18 duly verified petition setting forth such facts and praying for
 19 leave to file ~~his~~ an answer therein. If the court is satisfied
 20 of the truth of the matter set forth in such verified petition,
 21 it shall make an order permitting such petitioner to answer the
 22 application. Upon the filing of such answer, and upon not less
 23 than ten days' notice to the applicant, and to such other
 24 persons or parties as the court may order, and in such manner as
 25 it may direct, the court shall proceed to review the case, and,
 26 if satisfied that its decision or decree ought to be opened, it
 27 shall so order. Thereupon the court shall proceed to hear and
 28 try the case de novo and to make such further order, decision,
 29 or decree therein as shall be according to equity.

508*#31S

30 508.31 REGISTRAR'S BOND.

31 Before entering upon the duties of ~~his~~ office, the
 32 registrar of titles shall execute a bond to the state for such
 33 amount and with such sureties as may be determined by the county
 34 board. Such bond shall be approved by the district court, filed
 35 in the office of the county recorder, and conditioned for the
 36 faithful discharge of ~~his~~ duties. A copy of the bond shall be
 37 filed and entered upon the records of the court.

508*#32S

38 508.32 UNDER CONTROL OF COURT; AFFIXING SEAL.

39 The registrar of titles shall be at all times under the
 40 control of the court, which may adopt such rules governing the
 41 conduct of ~~his~~ office as it may deem wise. Every registrar of
 42 titles shall have an official seal and affix the same to all
 43 documents requiring ~~his~~ the registrar's official signature.
 44 Provided, however, that instead of affixing ~~his~~ the said
 45 official seal to certificates of title ~~he~~ the registrar may use
 46 a printed facsimile thereof at all points in said certificate
 47 where ~~his~~ the official seal is required.

508*#33S

48 508.33 DEPUTIES.

49 The registrar of titles may, ~~in his discretion,~~ appoint one
 50 or more deputy registrars of titles, who may also be deputy
 51 county recorders, to act in ~~his~~ the registrar's stead. Deputy
 52 registrars shall act in the name of the registrar and their acts
 53 shall be ~~his~~ the registrar's acts. The registrar shall be
 54 liable for any neglect or omission of a deputy to the same
 55 extent as for ~~his~~ the registrar's own neglect or omission. The
 56 registrar may, with the consent of the county board, employ such
 57 clerks as may be required to properly perform the duties of ~~his~~
 58 office. In all counties in which the county recorder does not
 59 receive the fees of the office in lieu of a salary, the county
 60 board shall fix the compensation of all deputy registrars and
 61 clerks appointed or employed by the registrar which shall be
 62 paid out of any county funds not otherwise appropriated.

508*#34S

63 508.34 REGISTER OF TITLES.

64 Immediately upon the filing of the decree of registration
 65 with the registrar, ~~he~~ the registrar shall proceed to register
 66 the title pursuant to the terms of the decree in the manner
 67 herein provided. ~~He~~ The registrar shall keep a book known as
 68 the "Register of Titles," ~~wherein he~~ and shall enter all first
 69 and subsequent certificates of title by binding or entering them
 70 therein in the order of their numbers, beginning with number
 71 one. The entering of the certificate of title in the register

1 of titles shall constitute the act of registration. The term
 2 "certificate of title" shall be deemed to include all memorials
 3 and notations thereon, and each certificate of title shall
 4 contain proper blanks for the entry of the memorials and
 5 notations thereon. Each certificate shall constitute a separate
 6 page of such book, and all memorials and notations that may be
 7 entered by the registrar shall be entered by ~~him~~ the registrar
 8 upon the page whereon the latest certificate of title is entered.

*

508*#35S

9 508.35 FORM OF CERTIFICATE.

10 The certificate of title shall contain the name and
 11 residence of the owner, a description of the land, and of the
 12 estate of the owner therein, and shall by memorial contain a
 13 description of all encumbrances, liens, and interests in which
 14 the estate of the owner is subject. It shall state ~~his~~ the
 15 owner's age and, if under disability, the nature of it. It
 16 shall also state whether or not the owner is married and, if
 17 married, the name of the husband-or-wife spouse. In case the
 18 land is held in trust or subject to any condition or limitation,
 19 it shall state the nature and character of it. It shall be
 20 substantially in the following form:

*

*

*

21 CERTIFICATE OF TITLE

22 First certificate of title, pursuant to the order of the
 23 district court, judicial district, county of
 24, and state of Minnesota, date.....
 25 19.....

26 REGISTRATION

27 State of Minnesota)
 28) ss.
 29 County of)

30 This is to certify that, of the
 31 of, county of
 32, and state of, is now
 33 the owner of an estate, to-wit, of and
 34 in the following described land situated in the county of
 35 and state of Minnesota, to-wit,
 36

37 Subject to the encumbrances, liens, and interest noted by
 38 the memorial underwritten or endorsed hereon; and subject to the
 39 following rights or encumbrances subsisting, as provided in Laws
 40 1905, chapter 305, section 24, namely:

- 41 (1) Liens, claims, or rights arising under the laws or the
- 42 Constitution of the United States, which the statutes of this
- 43 state cannot require to appear of record;
- 44 (2) Any real property tax or special assessment for which a
- 45 sale of the land has not been had at the date of the certificate
- 46 of title;
- 47 (3) Any lease for a period not exceeding three years, when
- 48 there is actual occupation of the premises under the lease;
- 49 (4) All rights in public highways upon the land;
- 50 (5) Such right of appeal or right to appear and contest the
- 51 application as is allowed by law;
- 52 (6) The rights of any person in possession under deed or
- 53 contract for deed from the owner of the certificate of title;
- 54 (7) Any outstanding mechanics lien rights which may exist
- 55 under sections 514.01 to 514.17.

56 That the said is of the
 57 age of years, is married
 58, and is under
 59 disability.

60 In witness whereof, I have hereunto subscribed my name and
 61 affixed the seal of my office, this day of
 62, 19.....

63
 64 Registrar of Titles, in and for the county of
 65 and State of Minnesota.

66 All certificates issued subsequent to the first certificate
 67 of title shall be in like form except that they shall be
 68 entitled "Transfer from number (here give the number of the next
 69 previous certificate relating to the same land)," and shall also
 70 contain the words "Originally registered (date, volume, and page
 71 of registration)."

508*#36S

72 508.36 CERTIFICATES AND COPIES AS EVIDENCE.

73 The original certificate of title in the registrar of
 74 titles, any copy of it duly certified by the registrar, or by

1 ~~his~~ a deputy, and authenticated by ~~his~~ the registrar's seal, and *
 2 likewise the owner's duplicate certificate of title shall be
 3 received in evidence in all the courts of this state and be
 4 conclusive evidence of all matters and things contained in it.
 5 In case of variance between the owner's duplicate certificate
 6 and the original certificate of title, the original certificate
 7 shall prevail. Deeds, mortgages, leases, or other conveyances
 8 of real estate, and all instruments in any manner affecting the
 9 title to registered land, together with any notations,
 10 endorsements, or memorials upon the same made by the registrar
 11 of titles, as required by law, heretofore or hereafter filed
 12 with the registrar, shall be received in evidence in all the
 13 courts of this state, without further or other proof, and be
 14 prima facie evidence of the contents of it. Duly authenticated
 15 copies of these instruments, or any of them, may likewise be
 16 received in evidence in any court in this state with like force
 17 and effect as the original instruments.

508*#37S

18 508.37 TRACT INDEXES, RECEPTION BOOKS.

19 Subd. 1a. BOOKS. The registrar shall likewise keep *
 20 tract indexes, in which ~~he~~ the registrar shall enter an accurate
 21 description of all registered land, together with the names of
 22 the respective owners thereof, and a reference to the volume and
 23 page of the register of titles in which the same is registered.
 24 The registrar shall keep two books, to be known as the grantors'
 25 and grantees' reception books respectively.

26 The grantors' reception book shall be a grantors' index of
 27 instruments filed with the registrar. Each page shall be
 28 divided into columns. The surname and given name of the grantor
 29 shall be entered under the first column and under the succeeding
 30 columns there shall be entered respectively the name of the
 31 grantee; the date of registration, specifying the month, day,
 32 year and hour and whether ante meridian or post meridian; the
 33 number of the instrument; the book and page of the register of
 34 titles where the land is registered; the type of instrument; and
 35 a description of the property by lot or section, block or
 36 township, range, addition and other pertinent information.

37 The grantees' reception book shall be a grantees' index of
 38 instruments filed with the registrar. Each page shall be
 39 divided into columns. The surname and given name of the grantee
 40 shall be entered under the first column and under the succeeding
 41 columns there shall be entered respectively the name of the
 42 grantor; the date of registration, specifying the month, day,
 43 year and hour and whether ante meridian or post meridian; the
 44 number of the instrument; the book and page of the register of
 45 titles where the land is registered; the type of instrument; and
 46 a description of the property by lot or section, block or
 47 township, range, addition and other pertinent information.

48 Subd. 2. The registrar shall enter in each of these books
 49 in the order and manner aforesaid, and as soon as the same are
 50 received, all instruments affecting the title to land which are
 51 filed with ~~him~~ the registrar and, as far as may be the *
 52 particulars of the instruments in the appropriate column of
 53 these books. The pages of each of the reception books shall be
 54 lettered in alphabetical order, a convenient number of
 55 consecutive pages being allotted to each letter of the alphabet,
 56 and each entry shall be made in the grantors' reception book
 57 under the initial letter of the grantor's surname, and in the
 58 grantees' reception book, under the initial letter of the
 59 grantee's surname, and all the entries under each letter shall
 60 appear in the order as to time in which the instruments were
 61 filed.

508*#38S

62 508.38 FORMS OF RECORDS ADOPTED.

63 Every instrument affecting the title to land, filed with
 64 the registrar, shall be numbered by ~~him~~ the registrar *
 65 consecutively, and ~~he~~ the registrar shall endorse upon the same *
 66 the number thereof, together with the date, hour, and minute
 67 when the same is filed, and a reference to its proper
 68 certificate of title. Every such instrument shall be retained by
 69 ~~him~~ the registrar and regarded as registered from the time of *
 70 filing except that such instruments may be copied or reproduced
 71 as provided by section 15.17, as amended, and the copies or
 72 reproductions thereof substituted for the originals with the
 73 equal force and effect of the same, which originals may be then
 74 destroyed as provided by said section 15.17. When the memorial

1 of any instrument is made upon any certificate, the date,
 2 number, and time of filing thereof shall likewise be endorsed
 3 upon such certificate. All records and papers relating to
 4 registered land in the office of the registrar, shall be open to
 5 the inspection of the public at such times and under such
 6 conditions as the court may prescribe. Duplicates of all
 7 instruments, voluntary or involuntary, filed and registered with
 8 the registrar, may be presented with the originals, and shall
 9 thereupon be attested and sealed by ~~him~~ the registrar, and *
 10 endorsed with the file number, and other memoranda on the
 11 originals, and returned to the person presenting the same. The
 12 registrar shall furnish certified copies of the instruments
 13 filed and registered in ~~his~~ the registrar's office, upon payment *
 14 of a fee as provided in section 357.18. The court shall adopt
 15 general forms of memorials and notations to be used by the
 16 registrars in registering the common forms of conveyance and
 17 other instruments.

508*#39S

18 508.39 NOTICES AFTER REGISTRATION; SERVICE.

19 All notices required by this law, after the original
 20 registration, either by the registrar or by the court, shall be
 21 served on the persons to be notified in the following manner:
 22 The notice shall be served upon a resident of the state in the
 23 manner now provided by law for the service of a summons in a
 24 civil action, and the same proof of such service shall be made.
 25 It shall be served upon a person who is not a resident of the
 26 state by sending the same by mail to such person at ~~his~~ the *
 27 person's post office address, as stated in the certificate or in *
 28 any registered instrument on file with the registrar. The
 29 certificate of the registrar or clerk that any notice has been
 30 mailed as aforesaid shall be conclusive proof of the service of
 31 such notice, but the court may, in any case, order different or
 32 other service thereof by publication or otherwise.

508*#40S

33 508.40 OWNER'S DUPLICATE RECEIPT.

34 At the time the original certificate of title is entered,
 35 the registrar shall make a duplicate thereof, endorsing across
 36 the face of such duplicate the words "Owner's Duplicate
 37 Certificate" and deliver the same to the owner or ~~his~~ an *
 38 authorized attorney. The registrar shall, in every case, when
 39 it is practicable so to do, take from such owner a receipt for
 40 such duplicate certificate, which shall be signed by the owner
 41 in person. In the case of multiple owners the receipt may be
 42 executed by any one of such owners. Such receipt, when signed
 43 and delivered in the office of the registrar, shall be witnessed
 44 by ~~him~~ the registrar or ~~his~~ the registrar's deputy. If such *
 45 receipt is signed elsewhere, it shall be acknowledged in the
 46 same manner as a deed. Such receipt shall be prima facie
 47 evidence of the genuineness of such signature.

508*#44S

48 508.44 LOSS OF DUPLICATE CERTIFICATES.

49 No change for subd 1

50 Subd. 2. In lieu of the court directive to the registrar
 51 to issue a new duplicate certificate under subdivision 1, the
 52 registrar of titles shall issue such a duplicate certificate
 53 when directed to do so by the examiner of titles. The directive
 54 of the examiner shall be in writing after posting a notice
 55 addressed "TO WHOM IT MAY CONCERN" fixing a time when ~~he~~ the *
 56 examiner shall direct the issuance of a new duplicate *
 57 certificate of title unless valid objections thereto are *
 58 delivered to ~~his~~ the examiner's office prior to the specified
 59 time. The notice shall be posted on a bulletin board provided
 60 for the posting of legal notices at the courthouse at least
 61 seven days prior to the date fixed for the issuance of the
 62 directive. No such directive shall be issued by the examiner
 63 unless all persons in interest have signed and verified a
 64 statement setting forth the facts relating to the reasons why
 65 the duplicate certificate cannot be produced, the statement is
 66 memorialized upon the certificate of title and there is
 67 satisfactory evidence as to the identity of the signers and the
 68 facts relating to the loss or destruction of the duplicate
 69 certificate of title. Persons in interest in the case of an
 70 owner's duplicate certificate are the registered owners or their
 71 probate representatives, and in the case of the mortgagee's or
 72 lessee's duplicate certificate the persons in interest are the
 73 registered owners of the mortgage or lease, as the case may be,

1 or their probate representative.

508*#45S

2 508.45 COURT MAY ORDER DUPLICATE CERTIFICATE PRODUCED.
3 If the registrar of titles is requested to enter a new
4 certificate in pursuance of an instrument which purports to be
5 executed by the registered owner, or by reason of any instrument
6 or proceeding which divests the title of the registered owner
7 against ~~his~~ the registered owner's consent, and the outstanding *
8 owner's duplicate certificate is not presented for cancellation
9 when such request is made, the registrar of titles shall not
10 enter a new certificate, until authorized so to do by order of
11 the district court. The person who claims to be entitled
12 thereto may make application therefor to the district court, and
13 after due notice and hearing, the court may order the registered
14 owner, or any person withholding the duplicate certificate, to
15 surrender it, and direct the entry of a new certificate upon
16 such surrender. If the person withholding the duplicate
17 certificate is not amenable to the process of the court, or if
18 for any reason the outstanding owner's duplicate certificate
19 cannot be delivered up, the court may by decree annul it, and
20 order a new certificate of title to be entered. If an
21 outstanding mortgagee's or lessee's duplicate certificate is not
22 produced and surrendered when the mortgage or lease is
23 discharged, assigned, or extinguished, the same proceedings may
24 be had to obtain registration as in the case of the
25 non-production of an owner's duplicate.

508*#47S

26 508.47 REGISTERED LANDS; TRANSFER, SURVEYS.
27 Subdivision 1. CONVEYANCES. An owner of registered
28 land may convey, mortgage, lease, charge, or otherwise deal with
29 the same as fully as if it had not been registered. He An owner *
30 of registered land may use any form of deed, mortgage, lease, or *
31 other voluntary instrument sufficient in law for the purpose
32 intended. No voluntary instrument of conveyance purporting to
33 convey or affect registered land, except a will, and a lease for
34 a term not exceeding three years, shall take effect as a
35 conveyance, or bind or affect the land, but shall operate only
36 as a contract between the parties, and as authority to the
37 registrar to make registration. The act of registration shall
38 be the operative act to convey or affect the land.

39 No change for subd 2 to 3

40 Subd. 4. SURVEY; REQUISITES; FILING; COPIES. The
41 registered land survey shall correctly show the legal
42 description of the parcel of unplatted land represented by said
43 registered land survey and the outside measurements of the
44 parcel of unplatted land and of all tracts delineated therein,
45 the direction of all lines of said tracts to be shown by angles
46 or bearings or other relationship to the outside lines of said
47 registered land survey, and the surveyor shall place monuments
48 in the ground at appropriate corners, and all tracts shall be
49 lettered consecutively beginning with the letter "A." A
50 registered land survey which delineates multilevel tracts shall
51 include a map showing the elevation view of the tracts with
52 their upper and lower boundaries defined by elevations
53 referenced to National Geodetic Vertical Datum, 1929
54 adjustment. None of said tracts or parts thereof may be
55 dedicated to the public by said registered land survey. Except
56 in counties having microfilming capabilities, a reproduction
57 copy of the registered land survey shall be delivered to the
58 county auditor. The registered land survey shall be on paper,
59 mounted on cloth, shall be a black on white drawing, the scale
60 to be not smaller than one inch equals 200 feet, and shall be
61 certified to be a correct representation of said parcel of
62 unplatted land by a registered surveyor. The mounted drawing
63 shall be exactly 17 inches by 14 inches and not less than 2-1/2
64 inches of the 14 inches shall be blank for binding purposes, and
65 such survey shall be filed in triplicate with the registrar of
66 titles. Before filing, however, any such survey shall be
67 approved in the manner required for the approval of subdivision
68 plats, which approval shall be endorsed thereon or attached
69 thereto.

70 At the time of filing, a certificate from the treasurer
71 that current taxes have been paid must be presented before the
72 survey is accepted by the registrar for filing.

73 In counties having microfilming capabilities, the survey
74 may be prepared on sheets of suitable mylar or on linen tracing

1 cloth by photographic process or on material of equal quality.
2 Notwithstanding any provisions of subdivision 5 to the contrary,
3 no other copies of the survey need be filed.

4 The registrar shall duly certify and furnish to any person
5 a copy of said registered land survey, ~~duly-certified-by-him~~
6 which shall be admissible in evidence.

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7 Subd. 5. FILING REGISTERED LAND SURVEY. The
8 registered land survey shall be filed in the office of the
9 registrar of titles, who shall number each registered land
10 survey, the numbers to run consecutively beginning with the
11 number "1". One copy of each registered land survey shall be
12 retained by the registrar of titles as a master copy, one copy
13 filed in a registered land survey register in ~~his~~ the
14 registrar's office and made available to the public, and one
15 copy delivered to the county auditor ~~which-he~~ who may thereafter
16 refer to it in connection with the tax descriptions when he
17 ~~finds-it~~ convenient. Thereafter the tracts in each registered
18 land survey shall be known as Tract, registered land
19 survey No., files of registrar of titles, county of,
20 and all conveyances shall describe said property accordingly;
21 but the registrar shall not accept for filing and registration
22 any conveyance of unplatted registered land if the land is
23 described in the conveyance according to a registered land
24 survey which has not been approved as provided in subdivision 4
25 unless the approval of the body authorized to approve
26 subdivision plats is endorsed thereon or attached thereto.

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27 No change for subd 6 to 7

508*#51S

28 508.51 OWNER'S DUPLICATE PRESENTED; EXCEPTION.

29 No new certificate of title shall be entered or issued, and
30 no memorial shall be made upon any certificate of title in
31 pursuance of any deed or other voluntary instrument, unless the
32 owner's duplicate is presented therewith, except in cases
33 provided for in this law or upon the order of the court. When
34 such order is made, a memorial thereof shall be entered, or a
35 new certificate issued as directed thereby. When any voluntary
36 instrument is presented for registration the production of the
37 owner's duplicate certificate shall authorize the registrar to
38 enter a new certificate or to make a memorial of registration in
39 accordance with such instrument, and the new certificate or
40 memorial shall be binding upon the registered owner and upon all
41 persons claiming under ~~him~~ the registered owner in favor of
42 every purchaser for value and in good faith. In all cases of
43 registration which are procured by fraud, the owner may pursue
44 all ~~his~~ legal and equitable remedies against the parties to such
45 fraud, without prejudice to the rights of any innocent holder
46 for value of a certificate of title.

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508*#52S

47 508.52 CONVEYANCE; CANCELATION OF OLD AND ISSUANCE OF
48 NEW CERTIFICATE.

49 An owner of registered land who desires to convey the land,
50 or a portion thereof, in fee, shall execute a deed of
51 conveyance, and file the deed, together with ~~his~~ the owner's
52 duplicate certificate, with the registrar. The registrar shall
53 require an affidavit by the grantee, or some person in ~~his~~ the
54 grantee's behalf, which affidavit shall set forth the name, age,
55 and residence of the grantee, and whether the grantee is or is
56 not under legal disability, whether or not married, and, if
57 married, the name of the ~~husband-or-wife~~ spouse. The deed of
58 conveyance shall be filed and endorsed with the number and place
59 of registration of the owner's certificate. Before canceling
60 the outstanding certificate of title the registrar shall show by
61 memorial thereon the registration of the deed on the basis of
62 which it is canceled. The encumbrances, claims, or interests
63 adverse to the title of the registered owner shall be stated
64 upon the new certificate, except so far as they may be
65 simultaneously released or discharged. The owner's duplicate
66 certificate and the original certificate of title shall be
67 marked "Canceled" by the registrar, who shall enter in the
68 register a new certificate of title to the grantee, and prepare
69 and deliver to the grantee a new owner's duplicate certificate.
70 If a deed in fee is for a portion of the land described in a
71 certificate of title, the memorial of the deed entered by the
72 registrar shall include the legal description contained in the
73 deed and the registrar shall enter a new certificate of title to
74 the grantee for the portion of the land conveyed and, except as

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1 otherwise provided in this section, issue a residue certificate
 2 of title to the grantor for the portion of the land not
 3 conveyed. The registrar shall prepare and deliver to each of
 4 the parties a new owner's duplicate certificate for their
 5 respective certificates. In lieu of canceling the grantor's
 6 certificate of title and issuing a residue certificate and
 7 owner's duplicate certificate to ~~him~~ the grantor for the portion *
 8 of the land not conveyed, the registrar may~~, in his discretion~~ *
 9 if the grantor's deed does not divide a parcel of unplatted
 10 land, and in the absence of a request to the contrary by the
 11 registered owner, mark by the land description on both the
 12 owner's duplicate certificate of title and the original
 13 certificate of title "Part of land conveyed, see memorials".
 14 The fee for a residue certificate of title shall be paid to the
 15 registrar only when the grantor's certificate of title is
 16 canceled after the conveyance by the grantor of a portion of the
 17 land described in ~~his~~ the grantor's certificate of title. When *
 18 two or more successive conveyances of the same property are
 19 filed for registration on the same day the registrar may~~, in his~~ *
 20 ~~discretion~~, enter a certificate in favor of the grantee or *
 21 grantees in the last of the successive conveyances, and the
 22 memorial of the previous deed or deeds entered on the prior
 23 certificate of title shall have the same force and effect as
 24 though the prior certificate of title had been entered in favor
 25 of the grantee or grantees in the earlier deed or deeds in the
 26 successive conveyances. The fees for the registration of the
 27 earlier deed or deeds shall be the same as the fees prescribed
 28 for the entry of memorials. The registrar of titles ~~in his~~ *
 29 ~~discretion~~, with the consent of the transferee, may mark "See *
 30 memorials for new owner(s)" by the names of the registered
 31 owners on both the original certificate of title and the owner's
 32 duplicate certificate of title and also add to the memorial of
 33 the transferring conveyance a statement that the memorial shall
 34 serve in lieu of a new certificate of title in favor of the
 35 grantee or grantees therein noted and may refrain from canceling
 36 the certificate of title until the time it is canceled by a
 37 subsequent transfer, and the memorial showing such transfer of
 38 title shall have the same effect as the entry of a new
 39 certificate of title for the land described in the certificate
 40 of title; the fee for the registration of a conveyance without
 41 cancellation of the certificate of title shall be the same as
 42 the fee prescribed for the entry of a memorial.

508*#55S

43 508.55 REGISTRATION OF MORTGAGE; MEMORIAL ENTERED ON
 44 CERTIFICATE.

45 The registration of a mortgage shall be made in the
 46 following manner: The owner's duplicate certificate shall be
 47 presented to the registrar, together with the mortgage deed, or
 48 other instrument to be registered, and the registrar shall enter
 49 upon the original certificate of title and also upon the owner's
 50 duplicate certificate a memorial of the purport of the
 51 instrument registered, the exact time of filing, and its file
 52 number. ~~He~~ The registrar shall also note upon the registered *
 53 instrument the time of filing and a reference to the volume and
 54 page where it is registered. The registrar shall also, at the
 55 request of the mortgagee or ~~his~~ assignee of the mortgagee, make *
 56 and deliver to ~~him~~ the mortgagee or assignee a duplicate *
 57 certificate of title like the owner's duplicate certificate,
 58 except that the words "Mortgagee's Duplicate" shall be written
 59 or printed diagonally across its face in large letters. A
 60 memorandum of the issuance of the mortgagee's duplicate shall be
 61 made upon the original certificate of title.

508*#57S

62 508.57 FORECLOSURE; NOTICE.

63 Mortgages upon registered land may be foreclosed in the
 64 same manner as mortgages upon unregistered land. Where the
 65 mortgage is upon registered land it shall be sufficient to
 66 authorize the foreclosure thereof by advertisement, if such
 67 mortgage and all assignments thereof shall have been registered,
 68 and a memorial thereof duly entered upon the certificate of
 69 title. When a mortgage upon registered land is foreclosed by
 70 advertisement, the notice of foreclosure shall state the date of
 71 the mortgage, when and where registered, and the fact of
 72 registration. All laws relating to the foreclosure of mortgages
 73 upon unregistered land shall apply to mortgages upon registered
 74 land, or any estate or interest therein, except as herein

1 provided, and except that a notice of the pendency of any suit
 2 or proceeding to enforce or foreclose the mortgage or other
 3 charge upon the land shall be filed with the registrar, and a
 4 memorial thereof entered on the register at the time of or prior
 5 to the commencement of such action or proceeding. A notice so
 6 filed and registered shall be notice to the registrar and to all
 7 persons thereafter dealing with the land or any part thereof.
 8 When a mortgagee's duplicate certificate has been issued it
 9 shall be presented to the registrar at the time of filing and a
 10 memorial thereof entered therein. In all such foreclosures all
 11 certificates and affidavits permitted or required by law to be
 12 recorded with the county recorder shall be filed with and
 13 registered by the registrar ~~and-registered-by-him~~.

508*#58S

14 508.58 REGISTRATION AFTER FORECLOSURE; NEW CERTIFICATE.
 15 Any person who has, by an action or other proceeding to
 16 enforce or foreclose a mortgage, lien, or other charge upon
 17 registered land, become the owner in fee of the land, or any
 18 part thereof, may have ~~his~~ the title registered. ~~He~~ The owner
 19 shall apply by duly verified petition to the court for a new
 20 certificate of title to such land, and the court shall
 21 thereupon, after due notice to all parties in interest and upon
 22 such hearing as the court may direct, make an order or decree
 23 for the issuance of a new certificate of title to the person
 24 entitled thereto, and the registrar shall thereupon enter a new
 25 certificate of title to the land, or of the part thereof to
 26 which the applicant is entitled, and issue an owner's duplicate
 27 as in the case of a voluntary conveyance.

508*#59S

28 508.59 REGISTRATION OF JUDGMENT OR FINAL DECREE.
 29 A judgment or decree affecting registered land shall be
 30 registered upon the presentation of a certified copy thereof to
 31 the registrar, who shall enter a memorial thereof upon the
 32 original certificate of title, and upon the owner's duplicate,
 33 and upon any outstanding mortgagee's or lessee's duplicate, if
 34 practicable so to do. When the registered owner of such land is
 35 by such judgment or decree divested of ~~his~~ an estate in fee
 36 therein, or of any part thereof, the prevailing party shall be
 37 entitled to a new certificate of title for the land, or so much
 38 thereof as may be described in the judgment and decree, and the
 39 registrar shall enter such new certificate of title and issue a
 40 new owner's duplicate certificate as in the case of a voluntary
 41 conveyance. No such new certificate shall be entered except
 42 upon the written certification of the examiner of titles as to
 43 the legal sufficiency of the documents presented for filing for
 44 the purpose of issuance of a new certificate or upon the order
 45 of the district court directing the issuance thereof.

508*#61S

46 508.61 TRUST AND OTHER DEEDS OF LIMITATION; NEW TRUSTEE;
 47 CORPORATE DISSOLUTION.
 48 No change for subd 1
 49 Subd. 2. When a new trustee of registered land is
 50 appointed a new certificate of title shall be entered in ~~his~~ the
 51 new trustee's name upon presentation to the registrar of a
 52 certified copy of the decree or other instrument appointing ~~him~~
 53 the new trustee and the surrender of the owner's duplicate
 54 certificate.
 55 Subd. 3. Where a corporate owner did adopt a resolution
 56 for voluntary dissolution pursuant to chapter 301, the registrar
 57 of titles shall enter a new certificate of title in the name of
 58 the trustee in dissolution upon the surrender of the owner's
 59 duplicate certificate and the presentation of a certified copy
 60 of the certificate setting forth the adoption of the resolution
 61 together with the certificate of the secretary of state that
 62 said certificate of dissolution has been filed for record in ~~his~~
 63 the secretary's office.

508*#62S

64 No change for subd 4
 65 508.62 TRUSTEE'S CONVEYANCE.
 66 No instrument executed by an owner whose fee title to
 67 registered land is held in trust which transfers or plats the
 68 land, shall be registered except upon the written certification
 69 of the examiner of titles that the instrument is executed in
 70 accordance with a power conferred in the instrument of trust or
 71 is authorized by law, or upon the order of the district court
 72 directing its registration. The examiner shall not certify any

1 such instrument unless the trust is administered by the court or
2 unless the document creating the trust, or a certified copy of
3 it, is registered as a memorial upon the certificate of title.
4 The certified copy of the certificate setting forth the adoption
5 of the resolution for voluntary dissolution of a corporate
6 registered owner together with the certificate of the secretary
7 of state that said certificate of dissolution has been filed for
8 record in ~~his~~ the secretary's office shall be deemed the
9 document creating the trust. *

508*#65S

10 508.65 PLAINTIFF'S ATTORNEY; NAME AND ADDRESS ENDORSED;
11 NOTICE.

12 The name and address of the attorney for the party giving
13 the notice shall be endorsed upon the instrument which is
14 registered pursuant to section 508.64. ~~He~~ The attorney shall be
15 deemed to be the attorney for that party until the party files a
16 written notice as a memorial upon the certificate of title
17 stating that the designated attorney has ceased to be the
18 party's attorney. *

508*#67S

19 508.67 ACQUIRING TITLE BY ACTION; NEW CERTIFICATE.

20 Upon the expiration of the time allowed by law for
21 redemption of registered land, after it has been set off, or
22 sold on execution, or taken or sold for the enforcement of any
23 lien, or charge of any nature, the person who claims under such
24 execution, or under any certificate, deed, or other instrument
25 made in the course of proceedings to enforce such execution or
26 lien, may apply to the court for an order directing the entry of
27 a new certificate to ~~him~~ that person, and upon such notice, the
28 court may require, the petition shall be heard and a proper
29 order or decree rendered therein. In case the claim of title is
30 based upon a tax certificate, tax or assessment deed, the
31 petition or application shall be filed with the clerk of the
32 court, who shall docket the same in the land registration
33 docket, and a copy thereof, certified by the clerk, shall, by
34 the petitioner, be filed with the registrar who shall enter upon
35 the register a memorial thereof, which shall have the force and
36 effect of a lis pendens. Such an application of the petitioner
37 shall be referred to the examiner of titles for examination and
38 report in like manner as herein provided for the reference of
39 initial applications for registration. The summons shall be
40 issued in the form and served in the manner as in initial
41 applications. Such an application shall be heard by the court
42 and the applicant shall be required to show affirmatively that
43 all the requirements of the statute to entitle ~~him~~ the applicant
44 to register ~~his~~ the title have been complied with. The decree
45 shall show the condition of the title to such land and who is
46 the owner thereof. It shall provide, if the applicant is found
47 to be the owner, for the cancellation of the outstanding
48 certificate and the registrar shall issue a new certificate for
49 the land in lieu and in place of the outstanding certificate
50 upon presentation to ~~him~~ the registrar of a duly certified copy
51 of such decree, according to its terms. If the applicant is not
52 adjudged to be the owner then the decree shall provide for the
53 cancellation of the memorial of the registration of the
54 certified copy of the application. *

508*#671S

55 508.671 DETERMINATION OF BOUNDARIES.

56 Subdivision 1. PETITION. An owner of registered land
57 may apply by a duly verified petition to the court to have all
58 or some of the boundary lines judicially determined. The
59 petition shall contain the full names and post office addresses
60 of all owners of adjoining lands which are in any manner
61 affected by the boundary determination. At the time of the
62 filing of the petition with the clerk, a copy of it, duly
63 certified by ~~him~~ the clerk, shall be filed for record with the
64 county recorder. If any of the adjoining lands are registered,
65 the certified copy of the petition also shall be filed with the
66 registrar of titles and entered as a memorial on the certificate
67 of title for those lands. When recorded or filed, the certified
68 copy of the petition shall be notice forever to purchasers and
69 encumbrancers of the pendency of the proceeding and of all
70 matters referred to in the court files and records pertaining to
71 the proceeding. The owner shall have the premises surveyed by a
72 registered land surveyor and shall file in the proceedings a
73 plat of the survey showing the correct location of the boundary *

1 line or lines to be determined. There also shall be filed with
 2 the clerk a memorandum abstract, satisfactory to the examiner,
 3 showing the record owners and encumbrancers of the adjoining
 4 lands which are in any manner affected by the boundary line
 5 determination. The petition shall be referred to the examiner
 6 of titles for examination and report in the manner provided for
 7 the reference of initial applications for registration. Notice
 8 of the proceeding shall be given to all interested persons by
 9 the service of a summons which shall be issued in the form and
 10 served in the manner as in initial applications.

11 No change for subd 2 to 3

508*#68S

12 508.68 DEATH OF OWNER; ISSUANCE OF NEW CERTIFICATES.

13 When the owner of registered land, or of any estate or
 14 interest therein, dies, having devised the same by will, the
 15 persons entitled thereto may file with the registrar a certified
 16 copy of such will and the personal representative's deed of
 17 distribution together with any order of distribution, if there
 18 be one, or certified copy of any final decree, if there be one,
 19 assigning the same, and the duplicate certificate issued to the
 20 testator, and thereupon the registrar shall cancel the duplicate
 21 certificate issued to the testator and issue a new duplicate
 22 certificate to the persons designated. When the owner of
 23 registered land, or of any estate or interest therein, dies, not
 24 having devised the same, the persons entitled thereto by law may
 25 file with the registrar the personal representative's deed of
 26 distribution together with a certified copy of any order of
 27 distribution, if there be one, or a certified copy of any final
 28 decree of the court assigning the same, together with the
 29 duplicate certificate issued to the intestate, and thereupon the
 30 registrar shall cancel the duplicate certificate issued to the
 31 intestate and issue a new duplicate certificate to the persons
 32 entitled thereto. Unless restricted by letters of testamentary
 33 or letters of administration, a personal representative may
 34 sell, convey, or mortgage registered land in the same manner as
 35 if the land were registered in ~~his~~ the representative's name. *
 36 Such personal representative shall first file with the registrar
 37 a certified copy of any will of the decedent and a certified
 38 copy of ~~his~~ the representative's letters. *

508*#69S

39 508.69 JURISDICTION OF COURT NOT IMPAIRED.

40 A personal representative may sell, mortgage or lease any
 41 real property of the estate as authorized by section 524.3-715.
 42 Nothing contained in this chapter shall impair or affect the
 43 jurisdiction of the court to license any personal
 44 representative, conservator or guardian to sell or mortgage
 45 registered land. A purchaser or mortgagee receiving a deed or
 46 mortgage executed by a personal representative, conservator or
 47 guardian shall be entitled to register ~~his~~ the title and to the *
 48 entry of a new certificate of title or memorial of registration
 49 in the same manner as upon any similar voluntary transfer of
 50 registered land. No certificate shall be issued pursuant to the
 51 provisions of this section or of section 508.68 except upon the
 52 written certification of the examiner of titles as to the legal
 53 sufficiency of the documents presented for filing for the
 54 purpose of issuance of a new certificate or upon the order of
 55 the district court directing the issuance thereof.

508*#70S

56 508.70 SUBSEQUENT ADVERSE CLAIM, HOW REGISTERED; COSTS.

57 Any person claiming any right, title, or interest in
 58 registered land adverse to the registered owner thereof arising
 59 subsequent to the date of the original registration, may, if no
 60 other provision is made in this chapter for registering the
 61 same, file with the registrar ~~his~~ a verified statement in *
 62 writing setting forth fully ~~his~~ the alleged right or interest, *
 63 and how or from whom it was acquired, and a reference to the
 64 volume and page of the certificate of title of the registered
 65 owner, together with a description of the land, the adverse
 66 claimant's residence, and designating a place at which all
 67 notices may be served upon ~~him~~ the adverse claimant. Such *
 68 statement shall be entitled to registration as an adverse claim,
 69 and the court, upon the petition of any party in interest, shall
 70 grant a speedy hearing upon the validity of such adverse claim
 71 and enter such decision and decree therein as justice and equity
 72 may require. If the adverse claim is adjudged to be invalid,
 73 the registration thereof shall be canceled. The court may, in

1 any case, award such costs and damages, including a reasonable
2 attorney's fee, as it may deem just.

508*#71S

3 508.71 ALTERATIONS ON REGISTER; ORDER OF COURT;
4 DIRECTIVE OF EXAMINER; NEW CERTIFICATES.

5 No change for subd 1

6 Subd. 2. COURT ORDER. A registered owner or other
7 person in interest may, at any time, apply by petition to the
8 court, upon the ground that (1) registered interests of any
9 description, whether vested, contingent, expectant, or inchoate,
10 have terminated and ceased; (2) new interests have arisen or
11 been created which do not appear upon the certificate; (3) any
12 error or omission was made in entering a certificate or any
13 memorial thereon, or on any duplicate certificate; (4) the name
14 of any person on the certificate has been changed; (5) the
15 registered owner has married, or, if registered as married, that
16 the marriage has been terminated; (6) a corporation which owned
17 registered land and has been dissolved has not conveyed it
18 within three years after its dissolution; or (7), upon any
19 reasonable ground, that any other alteration or adjudication
20 should be made. The court may hear and determine the petition
21 after notice given to all parties in interest, as determined by
22 the examiner of titles, by a summons issued in the form and
23 served in the manner as in initial applications or by an order
24 to show cause, as the court may deem appropriate. After notice
25 has been given as ordered, the court may order the entry of a
26 new certificate, the entry, amendment, or cancellation of a
27 memorial upon a certificate, or grant any other relief upon the
28 terms, requiring security if necessary, as it may consider
29 proper. The provisions of this section shall not give the court
30 authority to open the original decree of registration, and
31 nothing shall be done or ordered by the court which shall impair
32 the title or other interest of a purchaser who holds a
33 certificate for value and in good faith, or of ~~his~~ the
34 purchaser's heirs or assigns without ~~his-or-their~~ written
35 consent of the purchaser or heirs or assigns. A certified copy
36 of the petition may be filed as a memorial on any appropriate
37 certificate of title which shall be notice forever to purchasers
38 and encumbrancers of the pendency of the proceeding and all
39 matters referred to in the court files and records pertaining to
40 the proceeding.

41 Subd. 3. DIRECTIVE BY EXAMINER. At the request of a
42 registered owner or other person in interest, the examiner of
43 titles by a written directive may order the amendment or
44 cancellation of a memorial relating to racial restrictions,
45 rights which are barred by a statute or rights which have
46 expired by the terms of the instrument creating the rights. The
47 registrar of titles may register the directives of the examiner
48 of titles upon the certificates of title, and ~~he~~ shall give full
49 faith to the directives.

50 No change for subd 4 to 6

508*#72S

51 508.72 AGENCY; POWER TO BE REGISTERED.

52 Any act which may legally be done or performed by any
53 person under this chapter may be done and performed by ~~his~~ an
54 agent when duly authorized in writing. The instrument or power
55 of attorney shall be filed with and registered by the registrar
56 ~~and-registered-by-him~~ if it is executed and acknowledged as
57 required by law in the case of a deed. Any instrument revoking
58 the power of attorney may be filed and registered if it is
59 executed and acknowledged in the same way. A written instrument
60 of revocation of an unregistered power of attorney, executed and
61 acknowledged by a person having a registered interest in land,
62 may be filed for registration as a memorial upon the certificate
63 of title.

508*#73S

64 508.73 EMINENT DOMAIN; REVERSION.

65 If the land of a registered owner, or any right, title,
66 interest, or estate therein is taken by eminent domain, the
67 state or body politic, or other authority which exercises such
68 right, shall file for registration a written instrument
69 containing a description of the land so taken, together with the
70 name of each owner thereof, and referring to each certificate of
71 title by its number and place of registration in the register of
72 titles, and stating what estate or interest in the land is
73 taken, and for what purpose. A memorial of the right, title,

1 interest, or estate thus taken shall be made upon each
 2 certificate of title by the registrar, and if the fee is taken,
 3 a new certificate shall be entered in the name of the owner for
 4 the land remaining to ~~him~~ the owner after such taking. If the *
 5 owner has a lien for damages upon the land thus taken ~~for his~~ *
 6 damages, this fact shall be stated in the memorial of *
 7 registration. All fees on account of any memorial of
 8 registration or entry of new certificates for land thus taken
 9 shall be paid by the state or body politic or other authority
 10 which takes the land. If land which was taken for public use
 11 reverts, by operation of law, to the owner or to ~~his~~ the owner's *
 12 heirs or assigns, the district court, upon the application of
 13 the person entitled to the benefit of such reversion, and after
 14 due notice and hearing, may order the entry of a new certificate
 15 of title to the person entitled thereto.

508*#75S

16 508.75 ASSURANCE FUND; INVESTMENT.

17 All money received by the registrar under the provisions of
 18 sections 508.74 and 508.82, clause (1) shall be paid quarterly
 19 by ~~him~~ the registrar or the county treasurer to the state *
 20 treasurer and placed in the real estate assurance account as an
 21 assurance fund. There is annually appropriated to the state
 22 treasurer from the real estate assurance account sums sufficient
 23 to pay claims ordered by a district court.

508*#76S

24 508.76 DAMAGES THROUGH ERRONEOUS REGISTRATION; ACTION.

25 Any person who, without negligence on ~~his~~ that person's *
 26 part, sustains any loss or damage by reason of any omission,
 27 mistake or misfeasance of the registrar or ~~his~~ the registrar's *
 28 deputy, or of any examiner or of any clerk of court, or of ~~his~~ a *
 29 deputy of the clerk or examiner, in the performance of their *
 30 respective duties under this law, and any person who, without *
 31 negligence on ~~his~~ that person's part, is wrongfully deprived of *
 32 any land or of any interest therein by the registration thereof,
 33 or by reason of the registration of any other person, as the
 34 owner of such land, or by reason of any mistake, omission, or
 35 misdescription in any certificate of title, or in any entry or
 36 memorial, or by any cancelation, in the register of titles, and
 37 who, by the provisions of this law, is precluded from bringing
 38 an action for the recovery of such land, or of any interest
 39 therein, or from enforcing any claim or lien upon the same, may
 40 institute an action in the district court to recover
 41 compensation out of the assurance fund for such loss or damage.

508*#77S

42 508.77 PARTIES DEFENDANT; JUDGMENT; EXECUTION.

43 If such action is brought to recover any loss or damage
 44 occasioned solely by the registration of such land, or solely by
 45 the registration of any other person as the owner thereof, or if
 46 such action be brought for the recovery of any loss or damage
 47 occasioned solely by the omission, mistake or misfeasance of the
 48 registrar or ~~his~~ the registrar's deputy, or of any examiner or *
 49 of any clerk of court, or ~~his~~ a deputy of the clerk or examiner, *
 50 in the performance of their respective duties, the state *
 51 treasurer, in ~~his~~ the treasurer's official capacity, shall be *
 52 the sole defendant. If such action be brought to recover for
 53 any loss or damage occasioned either wholly, or in part, by the
 54 fraud or wrongful act of some person other than the officers
 55 herein named, or to recover for any loss or damage caused
 56 jointly by the fraud or wrongful act, and by the omission,
 57 mistake or misfeasance of the officers above named, or any of
 58 them, and of some other person, the state treasurer, in ~~his~~ the *
 59 treasurer's official capacity, and such other person shall be *
 60 joined as defendants therein. In any action where there are
 61 defendants other than the state treasurer, no execution shall
 62 issue against such treasurer until execution against all other
 63 defendants against whom judgment has been recovered has been
 64 returned unsatisfied, either in whole or in part. An officer
 65 returning such execution shall certify thereon that the amount
 66 still due upon the execution cannot be collected from them.
 67 Thereupon the court, being satisfied as to the truth of the
 68 return, shall order the state treasurer to pay the amount due
 69 upon such execution out of the assurance fund. If the assurance
 70 fund is insufficient to pay the amount of any judgment in full,
 71 the unpaid balance thereof shall bear interest at the legal rate
 72 and be paid out of the first moneys coming into the assurance
 73 fund. The attorney general or, at the request of either the

1 attorney general or the board of county commissioners of the
 2 county in which the land or a major part of it lies, the county
 3 attorney of that county shall defend the state treasurer in all
 4 such actions.

508*#79S

5 508.79 LIMITATION OF ACTION.

6 Any action or proceeding pursuant to section 508.76 to
 7 recover damages out of the assurance fund, shall be commenced
 8 within six years from the time when the right to commence the
 9 same accrued, and not afterwards. If at the time the right
 10 accrued or thereafter within the six year period, the person
 11 entitled to bring such action or proceeding is a minor, or
 12 insane, or imprisoned, or absent from the United States in its
 13 service or the service of the state, such person, or anyone
 14 claiming under ~~him~~ that person, may commence such action or
 15 proceeding within two years after such disability is removed. *

508*#81S

16 508.81 CLERK'S FEES; NOTICES.

17 In counties having a population of less than 600,000 and
 18 containing a city of the first class, on the filing of any
 19 application for registration, the applicant shall pay the clerk
 20 of the court the sum of \$3, which shall be in full of all
 21 clerk's fees and charges in such proceedings on ~~his~~ the *
 22 applicant's behalf. Any defendant on entering ~~his~~ an *
 23 appearance shall pay a like sum, which shall be in full of all clerk's fees *
 24 on ~~his~~ the defendant's behalf. When any number of defendants *
 25 enter their appearance jointly but one fee shall be paid. Every
 26 publication in a newspaper required by this law shall be paid
 27 for by the party on whose application the publication is made.
 28 The party at whose request any notice is issued shall pay for
 29 the service of the same, except when sent by mail by the clerk
 30 or by the registrar. In all other counties the fees of the
 31 clerk of the district court for services performed in connection
 32 with ~~his~~ duties in proceedings for the registration of a land *
 33 title shall be governed by the provisions of section 357.021.

508*#82S

34 508.82 REGISTRAR'S FEES.

35 The fees to be paid to the registrar shall be as follows:

36 (1) of the fees provided herein, five percent of the fees
 37 collected under clauses (3), (4), (11), (13), (14), (15), (17),
 38 and (18) for filing or memorializing shall be paid to the state
 39 treasurer and credited to the real estate assurance account;

40 (2) for registering each original certificate of title, and
 41 issuing a duplicate of it, \$20;

42 (3) for registering each instrument transferring the fee
 43 simple title for which a new certificate of title is issued and
 44 for the issuance and registration of the new certificate of
 45 title, \$20;

46 (4) for the entry of each memorial on a certificate and
 47 endorsements upon duplicate certificates, \$10;

48 (5) for issuing each mortgagee's or lessee's duplicate, \$10;

49 (6) for issuing each residue certificate, \$20;

50 (7) for exchange certificates, \$10 for each certificate
 51 canceled and \$10 for each new certificate issued;

52 (8) for each certificate showing condition of the register,
 53 \$10;

54 (9) for any certified copy of any instrument or writing on
 55 file in ~~his~~ the registrar's office, the same fees allowed by law *
 56 to county recorders for like services;

57 (10) for a noncertified copy of any instrument or writing
 58 on file in the office of the registrar of titles, or any
 59 specified page or part of it, an amount as determined by the
 60 county board for each page or fraction of a page specified. If
 61 computer or microfilm printers are used to reproduce the
 62 instrument or writing, a like amount per image;

63 (11) for filing two copies of any plat in the office of the
 64 registrar, \$30;

65 (12) for any other service under this chapter, such fee as
 66 the court shall determine;

67 (13) for issuing a duplicate certificate of title pursuant
 68 to the directive of the examiner of titles in counties in which
 69 the compensation of the examiner is paid in the same manner as
 70 the compensation of other county employees, \$50, plus \$10 to
 71 memorialize;

72 (14) for issuing a duplicate certificate of title pursuant
 73 to the directive of the examiner of titles in counties in which

- 1 the compensation of the examiner is not paid by the county or
- 2 pursuant to an order of the court, \$10;
- 3 (15) for filing a condominium floor plan or an amendment to
- 4 it in accordance with chapter 515, \$30;
- 5 (16) for a copy of a condominium floor plan filed pursuant
- 6 to chapters 515 and 515A, the fee shall be \$1 for each page of
- 7 the floor plan with a minimum fee of \$10;
- 8 (17) for filing a condominium declaration and floor plans
- 9 or an amendment to it in accordance with chapter 515A, \$10 for
- 10 each certificate upon which the document is registered and \$30
- 11 for the filing of the floor plans or an amendment thereto;
- 12 (18) for the filing of a certified copy of a plat of the
- 13 survey pursuant to section 508.23 or 508.671, \$10;
- 14 (19) for filing a registered land survey in triplicate in
- 15 accordance with section 508.47, subdivision 4, \$30;
- 16 (20) for furnishing a certified copy of a registered land
- 17 survey in accordance with section 508.47, subdivision 4, \$10.

508*#84S

508.84 INSTRUMENTS OF ENCUMBRANCE; DISPOSAL.

18 The registrar of titles is hereby authorized to destroy
 19 instruments of encumbrance which have been satisfied of record
 20 or extinguished by operation of law for a period of five years
 21 together with the assignments and satisfactions thereof. When
 22 the discharge of an encumbrance is by virtue of a judicial or
 23 statutory sale, the instruments evidencing the encumbrance of
 24 the foreclosure thereof, shall not be destroyed until six months
 25 after entry of an unappealed order for issuance of a new
 26 certificate of title to the purchaser at such sale or to ~~his~~ the
 27 purchaser's assignee. Nothing herein contained shall relieve *
 28 such registrar from maintaining the books and index records *
 29 required under sections 508.34 and 508.37.
 30

508A#01S

508A.01 REGISTRATION; PURPOSE; DEFINITION.

32 No change for subd 1 to 2

33 Subd. 3. DEFINITION. For the purposes of sections
 34 508A.01 to 508A.85, the term "possessory estate in land" means a
 35 fee simple estate held by an owner who (1) has been found on
 36 examination by the examiner of titles pursuant to section
 37 508A.13 to be the record owner of the land described; (2) has
 38 satisfied the examiner of titles that ~~he~~ the owner and ~~his~~
 39 predecessors in title have had actual or constructive possession *
 40 of the land described for a period of not less than 15
 41 consecutive years prior to the date of entry of the first CPT;
 42 and (3) has paid the taxes on the land described for at least
 43 five consecutive years during the 15 year period.

508A#06S

508A.06 CONTENTS OF APPLICATION; RIGHTS AND PRIVILEGES OF CLAIMANTS.

46 The application shall set forth substantially:

- 47 (1) The full name, age, and residence of the applicant; if
- 48 the application is made by any person acting in behalf of
- 49 another, the application shall likewise state the full name and
- 50 residence of the person so acting, and the capacity in which ~~he~~
 51 the person acts; *
 52
- 53 (2) Whether the applicant is or is not married and if
- 54 married, the full name and residence of the ~~husband-or-wife~~
 55 spouse; it shall state whether or not the applicant is under any *
 56 legal disability, and if so the nature of the disability; and *
 57 whether the applicant has ever been divorced and if so, when,
 58 where, and by what court the divorce was granted;
- 59 (3) A correct description of the land, together with the
- 60 estimated market value of the fee simple interest in it,
- 61 exclusive of improvements, according to the last official
- 62 assessment;
- 63 (4) The estate or interest of the applicant in the land,
- 64 and whether or not it is subject to an estate of homestead;
- 65 (5) The names of all persons or parties, except the
- 66 applicant, who appear of record, or who are known to the
- 67 applicant to have or to claim any right, title, estate, lien, or
- 68 interest in the land and the nature and character of it;
- 69 (6) Whether the land is occupied or unoccupied; if occupied
- 70 by any other person than the applicant, it shall state the full
- 71 name and address of each occupant and the nature of the estate,
- 72 interest, lien, or charge which the occupant or occupants have,
- 73 or claim to have, in the land;
- (7) Whether the land is subject to any lien or encumbrance,

1 recorded or unrecorded, together with the character and amount
2 of the same, and the name and post office address of each holder
3 thereof; if recorded, it shall state the place, book, and page
4 of record;

5 (8) If the application is on behalf of a minor, it shall
6 state the age of the minor and that a duly certified copy of the
7 letters of guardianship has been recorded with the county
8 recorder in the county in which the land is situated;

9 (9) When the place of residence of any person whose
10 residence is required to be given is unknown to the applicant,
11 it shall be so stated in the application and also that, after
12 due and diligent search, the applicant has been unable to
13 ascertain it;

14 (10) The facts supporting applicant's claim to a possessory
15 estate in land as defined in section 508A.01, subdivision 3.

508A#07S

16 508A.07 NONRESIDENT APPLICANT; AGENT.

17 If ~~the applicant is~~ not a resident of the state, he the *
18 applicant shall file for record with the county recorder a *
19 written agreement, duly executed and acknowledged, appointing an *
20 agent residing in the state. ~~He~~ The applicant shall state in it *
21 the full name and post office address of this agent and agree in
22 it that the service of any legal process in proceedings under or
23 growing out of any application shall be of the same legal effect
24 when made on this agent as if made on the applicant within the
25 state. If the agent so appointed dies or removes from the
26 state, the applicant shall at once appoint another agent in like
27 manner and, if ~~he fails~~ failing so to do, the examiner of titles *
28 may ~~in his discretion~~ dismiss the application. In any *
29 subsequent application made ~~by the applicant~~, he the applicant *
30 may refer to the written authority so recorded, provided it is
31 sufficiently comprehensive to include the subsequent application.

508A#13S

32 508A.13 EXAMINER'S REPORTS.

33 Subdivision 1. EXAMINATION OF DOCUMENTS. After the
34 filing of the application for a CPT, the examiner of titles
35 shall proceed to prepare a full written report to the applicant
36 or ~~his~~ the applicant's attorney based upon ~~his~~ the examiner's *
37 examination of the application, abstract of title, and the
38 public records.

39 Subd. 2. REPORT. The examiner's report shall set
40 forth all rights, titles, estates, liens, and interests in the
41 real property. When in the opinion of the examiner the state
42 has any interest in or lien upon the real property, this shall
43 be fully set forth. The report shall be mailed to the applicant
44 or ~~his~~ the applicant's attorney and a copy shall be retained by *
45 the examiner.

46 Subd. 3. SUSPENSION OF PROCEEDINGS. The proceeding
47 shall be suspended so long as the report of the examiner is
48 adverse to the applicant or so long as valid written objections
49 are still outstanding. The examiner shall mail written notice
50 of the suspension to the applicant or ~~his~~ the applicant's *
51 attorney.

52 Subd. 4. MAILED NOTICE. The applicant or ~~his~~ the *
53 applicant's attorney shall furnish the examiner on a prescribed *
54 form a list of the names and addresses of the persons listed by
55 the examiner as having any right, title, estate, lien, or
56 interest in the land sought to be registered under sections
57 508A.01 to 508A.85. If the addresses of any of these persons
58 cannot be ascertained after a due and diligent search, the
59 applicant or ~~his~~ the applicant's attorney shall certify that *
60 fact.

61 There also shall be furnished to the examiner stamped
62 envelopes addressed to those parties listed by the examiner
63 whose addresses can be ascertained and a copy of the notice for
64 each of these parties in the form prescribed in subdivision 5.
65 The examiner shall then send by mail a copy of the notice to
66 each of these parties. The certificate of the examiner that ~~he~~ *
67 the examiner has mailed the notice shall be conclusive proof of *
68 mailing and shall be retained as a part of ~~his~~ the examiner's *
69 files.

70 No change for subd 5

71 Subd. 6. DUTY TO ADVISE REGISTRAR. The examiner,
72 upon the request of the registrar, shall advise ~~him~~ the *
73 registrar upon any act or duty pertaining to the conduct of ~~his~~ *
74 office, and prepare the form of any memorial to be entered by

1 the registrar.

508A#21S

2 508A.21 WITHDRAWAL OF APPLICATION FOR CPT; CONVERSION TO
3 A FULL REGISTRATION.

4 At any time prior to the issuance of the first CPT, the
5 applicant or ~~his~~ successor in interest may withdraw the
6 application by filing for record in the office of the county
7 recorder a verified statement of withdrawal, and a duplicate of
8 it shall be delivered to the examiner of titles. The applicant
9 may convert ~~his~~ the application to a full registration pursuant
10 to chapter 508, at any time ~~provided-that-he-comply~~ on complying
11 with all of the requirements of it. If any proceeding has been
12 suspended as provided in section 508A.13, subdivision 3, for
13 more than 30 days, the examiner may file in the office of the
14 county recorder a notice of termination of the proceeding.

508A#22S

15 508A.22 EXAMINER'S DIRECTIVE; SUPPLEMENTAL DIRECTIVES;
16 FEES.

17 Subdivision 1. DIRECTIVE. The examiner of titles,
18 upon being satisfied that the applicant is entitled to a CPT,
19 but not earlier than 20 days from the date of mailing of the
20 notice required by section 508A.13, shall issue a written
21 directive to the registrar of titles directing that the first
22 CPT be issued and entered in the name of the applicant, subject
23 only to the following: (a) the exceptions set out in section
24 508A.25; (b) all outstanding rights, titles, estates, liens, and
25 interests set forth in the examiner's report; and (c) the rights
26 of persons in possession, if any, and any rights which would be
27 disclosed by a survey. The examiner's directive shall contain
28 an accurate description of the land and shall set forth the
29 address of the applicant and, if the applicant be an individual,
30 ~~his~~ the applicant's age and whether married or unmarried, and if
31 married, the name of the ~~husband-or-wife~~ spouse; if the
32 applicant is under disability, the nature of it shall be
33 stated. From the date of filing the examiner's directive with
34 the registrar of titles, all instruments affecting title to the
35 land which are registered shall be filed in the office of the
36 registrar of titles and be memorialized upon the CPT.

37 Subd. 2. SUPPLEMENTAL DIRECTIVE. When the directive
38 has been issued pursuant to subdivision 1, the abstract of title
39 shall be continued through the date the directive was filed with
40 the registrar of titles and then delivered to the examiner. ~~If~~
41 ~~the-examiner-determines~~ On determining that the applicant is the
42 record owner after an examination of the continued abstract and
43 the public records, ~~he~~ the examiner shall issue a supplemental
44 directive to the registrar of titles directing ~~him~~ the registrar
45 to show by memorial that the five year statute of limitations
46 provided by section 508A.17 will begin on the date the
47 supplemental directive is filed on the CPT, to show as memorials
48 any additional liens, encumbrances, or other interests affecting
49 the land, and to delete the memorials of any liens, encumbrances
50 or other interests which were satisfied, released or discharged
51 prior to the issuance of the CPT. The supplemental directive of
52 the examiner shall then be filed as a memorial upon the CPT.
53 Each additional lien, encumbrance, or other interest noted in
54 the supplemental directive shall be shown as a separate memorial
55 on the CPT in addition to the memorial of the supplemental
56 directive. The abstract of title shall be delivered to the
57 registrar of titles ~~and-be-retained-by-him~~ who shall retain it,
58 but it shall not be entered as a memorial on the CPT. Until the
59 abstract of title has been delivered to the registrar of titles,
60 ~~he~~ the registrar shall not deliver the owner's duplicate CPT to
61 the registered owner nor ~~shall-he~~ accept for filing any
62 instrument executed by the registered owner.

63 No change for subd 3

508A#24S

64 508A.24 REGISTRATION RUNS WITH LAND.

65 The receiving of a CPT shall be deemed to be an agreement
66 running with the land and binding upon the applicant and ~~his~~
67 successors in the possessory title to the effect that the land
68 shall be and forever remain registered land, subject to the
69 provisions of sections 508A.01 to 508A.85. All dealings with
70 the land, or any estate or interest in it, after the land has
71 been registered shall be expressly subject to the terms and
72 provisions of sections 508A.01 to 508A.85.

508A#27S

1 508A.27 TITLE ACQUIRED PENDING ISSUANCE OF EXAMINER'S
 2 SUPPLEMENTAL DIRECTIVE.
 3 If, after the issuance of a CPT in favor of the applicant,
 4 the records disclose that the applicant's estate in the land has
 5 been transferred to another person prior to the issuance of the
 6 CPT, the examiner shall not issue his a supplemental directive *
 7 until an application by the transferee has been filed in the
 8 manner provided in sections 508A.01 to 508A.85. Upon the filing
 9 of the application and being satisfied that the transferee is
 10 entitled to a CPT, the examiner shall issue a supplemental
 11 directive pursuant to section 508A.22, subdivision 2, which
 12 shall further direct the registrar to cancel the outstanding CPT
 13 and issue a new CPT to the transferee.

508A#31S

14 508A.31 REGISTRAR'S BOND. *
 15 Before entering upon the duties of his office, the *
 16 registrar of titles shall execute a bond to the state for an
 17 amount and with sureties as may be determined by the county
 18 board. The bond shall be approved by the district court, filed
 19 in the office of the county recorder, and conditioned for the
 20 faithful discharge of his duties. A copy of the bond shall be *
 21 filed and entered upon the records of the court.

508A#32S

22 508A.32 UNDER CONTROL OF COURT; AFFIXING SEAL. *
 23 The registrar of titles shall be at all times under the *
 24 control of the district court, which may adopt rules governing
 25 the conduct of his office as it may deem wise. Every registrar *
 26 of titles shall have an official seal and affix it to all
 27 documents requiring his the registrar's official signature. *
 28 Provided, however, that instead of affixing his the registrar's *
 29 official seal to CPTs he, the registrar may use a printed *
 30 facsimile of it at all points in the CPT where his the official *
 31 seal is required.

508A#33S

32 508A.33 DEPUTIES. *
 33 The registrar of titles may, ~~in his discretion,~~ appoint one *
 34 or more deputy registrars of titles, who may also be deputy
 35 county recorders, to act in his the registrar's stead. Deputy *
 36 registrars shall act in the name of the registrar and their acts *
 37 shall be his the registrar's acts. The registrar shall be *
 38 liable for any neglect or omission of a deputy to the same *
 39 extent as for his the registrar's own neglect or omission. The *
 40 registrar may, with the consent of the county board, employ *
 41 clerks as may be required to properly perform the duties of his *
 42 office. In all counties in which the county recorder does not
 43 receive the fees of the office in lieu of a salary, the county
 44 board shall fix the compensation of all deputy registrars and
 45 clerks appointed or employed by the registrar which shall be
 46 paid out of any county funds not otherwise appropriated.

508A#35S

47 508A.35 FORMS OF CPT. *
 48 The CPT shall contain the name and residence of the owner,
 49 a description of the land and of the estate of the owner, and
 50 shall by memorial contain a description of all encumbrances,
 51 liens, and interests known to the owner to which the estate of
 52 the owner is subject. It shall state his the owner's age and if *
 53 under disability, the nature of it. It shall also state whether
 54 or not the owner is married and if married, the name of
 55 the ~~husband-or-wife~~ spouse. In case the land is held in trust *
 56 or subject to any condition or limitation, it shall state the
 57 nature and character of it. It shall be in substantially the
 58 following form:

59 CERTIFICATE OF POSSESSORY TITLE (CPT)
 60 First Certificate of Possessory Title, pursuant to the
 61 Directive of the Examiner of Titles, County of, and
 62 State of Minnesota, date, 19...
 63 Registration of Possessory Title
 64 State of Minnesota)
 65)ss
 66 County of)
 67 This is to certify that, of the
 68 of County of,
 69 and State of, is now the owner of a fee
 70 simple estate, to-wit,
 71 Subject to the encumbrances, liens, and interests noted by the
 72 memorial underwritten or endorsed hereon; and subject to the

- 1 following rights or encumbrances subsisting, namely:
- 2 (1) Liens, claims, or rights arising under the laws of the
- 3 Constitution of the United States, which the statutes of this
- 4 state cannot require to appear of record;
- 5 (2) Any real property tax or special assessment for which a
- 6 sale of the land has not been had at the date of the CPT;
- 7 (3) Any lease for a period not exceeding three years, when
- 8 there is actual occupation of the premises under the lease;
- 9 (4) All rights in public highways upon the land;
- 10 (5) The rights, titles, estates, liens, and interests of
- 11 any person who has acquired an interest set forth in the
- 12 Examiner's Supplemental Directive issued pursuant to section
- 13 508A.22, subdivision 2;
- 14 (6) The rights of any person in possession under deed or
- 15 contract for deed from the owner of the CPT;
- 16 (7) Any claims that may be made pursuant to section 508A.17
- 17 within five years from the date the Examiner's Supplemental
- 18 Directive is filed on the CPT; and
- 19 (8) Any outstanding mechanics lien rights which may exist
- 20 under sections 514.01 to 514.17.

21 In witness whereof, I have hereunto subscribed my name and

22 affixed the seal of my office, this day of

23, 19...

24

25 Registrar of Titles, in and for the

26 County of and

27 State of Minnesota.

28 All CPTs issued subsequent to the first shall be in like

29 form except that they shall be entitled "Transfer from number

30 (here give the number of the next previous CPT relating to the

31 same land)," and shall also contain the words "Originally

32 registered (date, volume, and page of registration)."

33 CPTs shall be indexed and maintained in the same manner as

34 provided for certificates of title under chapter 508.

508A#38S

35 508A.38 FORMS OF RECORDS ADOPTED.

36 Every instrument affecting the title to land, filed with

37 the registrar pursuant to sections 508A.01 to 508A.85, shall be

38 numbered by ~~him~~ and he the registrar who shall endorse upon it *
 39 the number of it, together with the date, hour, and minute when
 40 the same is filed, and a reference to its proper CPT. Every
 41 instrument shall be retained by ~~him~~ the registrar and regarded *
 42 as registered from the time of filing except that the
 43 instruments may be copied or reproduced as provided by section
 44 15.17, and the copies or reproductions of them substituted for
 45 the originals with the equal force and effect as they have. The
 46 originals may be then destroyed as provided by section 15.17.
 47 When the memorial of any instrument is made upon any CPT, the
 48 date, number, and time of filing of it shall also be endorsed
 49 upon the CPT. All records and papers relating to registered
 50 land in the office of the registrar shall be open to the
 51 inspection of the public at the times and under the conditions
 52 as the court may prescribe. Duplicates of all instruments,
 53 voluntary or involuntary, filed and registered with the
 54 registrar, may be presented with the originals, and shall *
 55 thereupon be attested and sealed by ~~him~~ the registrar, and
 56 endorsed with the file number, and other memoranda on the
 57 originals, and returned to the person presenting it. The
 58 registrar shall furnish certified copies of the instruments *
 59 filed and registered in ~~his~~ the registrar's office, upon payment *
 60 of a fee as provided in section 357.18. The court shall adopt
 61 general forms of memorials and notations to be used by the
 62 registrars in registering the common forms of conveyance and
 63 other instruments.

508A#39S

64 508A.39 NOTICES AFTER REGISTRATION; SERVICE.

65 All notices required by sections 508A.01 to 508A.85, after

66 the original registration, either by the registrar or by the

67 court, shall be served on the persons to be notified in the

68 following manner: The notice shall be served upon a resident of

69 the state in the manner now provided by law for the service of a

70 summons in a civil action, and the same proof of service shall

71 be made. It shall be served upon a person who is not a resident

72 of the state by sending the same by mail to the person at ~~his~~ *
 73 the person's post office address, as stated in the CPT or in any *
 74 registered instrument on file with the registrar. The

1 certificate of the registrar or clerk that any notice has been
 2 mailed as required shall be conclusive proof of the service of
 3 the notice, but the court may, in any case, order different or
 4 other service of it by publication or otherwise.

508A#40S

5 508A.40 OWNER'S DUPLICATE RECEIPT.

6 At the time the first CPT is entered, the registrar shall
 7 make a duplicate of it, endorsing across the face of the
 8 duplicate the words "Owner's Duplicate CPT" and deliver it to
 9 the owner or ~~his~~ the owner's authorized attorney. The registrar *
 10 shall, in every case, when it is practicable so to do, take from
 11 the owner a receipt for the duplicate CPT, which shall be signed
 12 by the owner in person. In the case of multiple owners the
 13 receipt may be executed by any one of the owners. The receipt,
 14 when signed and delivered in the office of the registrar, shall
 15 be witnessed by ~~him~~ the registrar or ~~his~~ the registrar's *
 16 deputy. If the receipt is signed elsewhere, it shall be
 17 acknowledged in the same manner as a deed. The receipt shall be
 18 prima facie evidence of the genuineness of the signature.

508A#44S

19 508A.44 LOSS OF DUPLICATE CPTS.

20 No change for subd 1

21 Subd. 2. ALTERNATE PROCEEDING. In lieu of the court
 22 directive to the registrar to issue a new duplicate CPT under
 23 subdivision 1, the registrar of titles shall issue a duplicate
 24 CPT when directed to do so by the examiner of titles. The
 25 directive of the examiner shall be in writing after posting a
 26 notice addressed "TO WHOM IT MAY CONCERN" fixing a time when ~~he~~
 27 the examiner shall direct the issuance of a new duplicate CPT *
 28 unless valid objections to it are delivered to ~~his~~ the *
 29 examiner's office prior to the specified time. The notice shall *
 30 be posted on a bulletin board provided for the posting of legal *
 31 notices at the courthouse at least seven days prior to the date
 32 fixed for the issuance of the directive. No directive shall be
 33 issued by the examiner unless all persons in interest have
 34 signed and verified a statement setting forth the facts relating
 35 to the reasons why the duplicate CPT cannot be produced, the
 36 statement is memorialized upon the CPT and there is satisfactory
 37 evidence as to the identity of the signers and the facts
 38 relating to the loss or destruction of the duplicate CPT.
 39 Persons in interest in the case of an owner's duplicate CPT are
 40 the registered owners or their probate representatives; and in
 41 the case of the mortgagee's or lessee's duplicate CPT, the
 42 persons in interest are the registered owners of the mortgage or
 43 lease, as the case may be, or their probate representative.

508A#45S

44 508A.45 COURT MAY ORDER DUPLICATE CPT PRODUCED.

45 If the registrar of titles is requested to enter a new CPT
 46 in pursuance of an instrument which purports to be executed by
 47 the registered owner, or by reason of any instrument or
 48 proceeding which divests the title of the registered owner
 49 against ~~his~~ the registered owner's consent, and the outstanding *
 50 owner's duplicate CPT is not presented for cancelation when the
 51 request is made, the registrar of titles shall not enter a new
 52 CPT until authorized so to do by order of the district court.
 53 The person who claims to be entitled to it may apply for it to
 54 the district court, and after due notice and hearing, the court
 55 may order the registered owner, or any person withholding the
 56 duplicate CPT, to surrender it, and direct the entry of a new
 57 CPT upon the surrender. If the person withholding the duplicate
 58 CPT is not amenable to the process of the court, or if for any
 59 reason the outstanding owner's duplicate CPT cannot be delivered
 60 up, the court may by decree annul it, and order a new CPT to be
 61 entered. If an outstanding mortgagee's or lessee's duplicate
 62 CPT is not produced and surrendered when the mortgage or lease
 63 is discharged, assigned, or extinguished, the same proceedings
 64 may be had to obtain registration as in the case of the
 65 non-production of an owner's duplicate.

508A#47S

66 508A.47 REGISTERED LANDS; TRANSFER, SURVEYS.

67 Subdivision 1. CONVEYANCES. An owner of land
 68 registered under sections 508A.01 to 508A.85 may convey,
 69 mortgage, lease, charge, or otherwise deal with the same as
 70 fully as if it had not been registered. ~~He~~ The owner may use *
 71 any form of deed, mortgage, lease, or other voluntary instrument
 72 sufficient in law for the purpose intended. No voluntary

1 instrument of conveyance purporting to convey or affect the
2 registered land, except a will, and a lease for a term not
3 exceeding three years, shall take effect as a conveyance, or
4 bind or affect the land, but shall operate only as a contract
5 between the parties, and as authority to the registrar to make
6 registration. The act of registration shall be the operative
7 act to convey or affect the land.

8 No change for subd 2 to 3

9 Subd. 4. SURVEY; REQUISITES; FILING; COPIES. The
10 registered land survey shall correctly show the legal
11 description of the parcel of unplatted land represented by the
12 registered land survey and the outside measurements of the
13 parcel of unplatted land and of all tracts delineated therein,
14 the direction of all lines of the tracts to be shown by angles
15 or bearings or other relationship to the outside lines of the
16 registered land survey, and the surveyor shall place monuments
17 in the ground at appropriate corners, and all tracts shall be
18 lettered consecutively beginning with the letter "A." A
19 registered land survey which delineates multilevel tracts shall
20 include a map showing the elevation view of the tracts with
21 their upper and lower boundaries defined by elevations
22 referenced to National Geodetic Vertical Datum, 1929
23 adjustment. None of the tracts or parts of them may be
24 dedicated to the public by the registered land survey. Except
25 in counties having microfilming capabilities, a reproduction
26 copy of the registered land survey shall be delivered to the
27 county auditor. The registered land survey shall be on paper,
28 mounted on cloth, shall be a black on white drawing, the scale
29 to be not smaller than one inch equals 200 feet, and shall be
30 certified to be a correct representation of the parcel of
31 unplatted land by a registered surveyor. The mounted drawing
32 shall be exactly 17 inches by 14 inches and not less than 2-1/2
33 inches of the 14 inches shall be blank for binding purposes.
34 The survey shall be filed in triplicate with the registrar of
35 titles. Before filing, however, any survey shall be approved in
36 the manner required for the approval of subdivision plats, which
37 approval shall be endorsed on it or attached to it.

38 In counties having microfilming capabilities, the survey
39 may be prepared on sheets of suitable mylar or on linen tracing
40 cloth by photographic process or on material of equal quality.
41 Notwithstanding any provisions of subdivision 5 to the contrary,
42 no other copies of the survey need be filed.

43 The registrar shall duly certify and furnish to any person *
44 a copy of the registered land survey, ~~duly-certified-by-him.~~ *
45 The copy shall be admissible in evidence.

46 Subd. 5. FILING REGISTERED LAND SURVEY. The
47 registered land survey shall be filed in the office of the
48 registrar of titles, who shall number each registered land
49 survey, the numbers to run consecutively beginning with the
50 number "1." One copy of each registered land survey shall be
51 retained by the registrar of titles as a master copy, one copy
52 filed in a registered land survey register in his the *
53 registrar's office and made available to the public, and one *
54 copy delivered to the county auditor which-he who may thereafter *
55 refer to it in connection with the tax descriptions when he *
56 ~~finds-it~~ convenient. Thereafter the tracts in each registered *
57 land survey shall be known as Tract, registered land
58 survey No., files of registrar of titles, county of,
59 and all conveyances shall describe said property accordingly;
60 but the registrar shall not accept for filing and registration
61 any conveyance of unplatted registered land if the land is
62 described in the conveyance according to a registered land
63 survey which has not been approved as provided in subdivision 4
64 unless the approval of the body authorized to approve
65 subdivision plats is endorsed on it or attached to it.

66 No change for subd 6 to 7

508A#51S

67 508A.51 OWNER'S DUPLICATE PRESENTED; EXCEPTION.

68 No new CPT shall be entered or issued, and no memorial
69 shall be made upon any CPT in pursuance of any deed or other
70 voluntary instrument, unless the owner's duplicate is presented
71 with it, except in cases provided for in sections 508A.01 to
72 508A.85, or upon the order of the court. When an order or
73 directive is made, a memorial of it shall be entered, or a new
74 CPT issued as directed. When any voluntary instrument is
75 presented for registration, the production of the owner's

1 duplicate CPT shall authorize the registrar to enter a new CPT
 2 or to make a memorial of registration in accordance with the
 3 instrument, and the new CPT or memorial shall be binding upon
 4 the registered owner and upon all persons claiming under ~~him~~ the *
 5 registered owner in favor of every purchaser for value and in *
 6 good faith. In all cases of registration which are procured by
 7 fraud, the owner may pursue all ~~his~~ legal and equitable remedies *
 8 against the parties to the fraud, without prejudice to the
 9 rights of any innocent holder for value of a CPT.

508A#52S

10 508A.52 CONVEYANCE; CANCELATION OF OLD AND ISSUANCE OF
 11 NEW CPT.

12 An owner of land registered under sections 508A.01 to
 13 508A.85 who desires to convey the land, or a portion of it, in
 14 fee, shall execute a deed of conveyance, and file the deed,
 15 together with ~~his~~ the owner's duplicate CPT, with the registrar. *
 16 The registrar shall require an affidavit by the grantee, or some *
 17 person in ~~his~~ the grantee's behalf, which affidavit shall set *
 18 forth the name, age, and residence of the grantee, and whether
 19 the grantee is or is not under legal disability, whether or not
 20 married, and if married, the name of the ~~husband-or-wife~~
 21 spouse. The deed of conveyance shall be filed and endorsed with *
 22 the number and place of registration of the owner's CPT. Before *
 23 canceling the outstanding CPT, the registrar shall show by
 24 memorial on it the registration of the deed on the basis of
 25 which it is canceled. The encumbrances, claims, or interests
 26 adverse to the title of the registered owner shall be stated
 27 upon the new CPT, except so far as they may be simultaneously
 28 released or discharged. The owner's duplicate CPT and the
 29 original CPT shall be marked "Canceled" by the registrar, who
 30 shall enter in the register a new CPT to the grantee, and
 31 prepare and deliver to the grantee a new owner's duplicate CPT.
 32 If a deed in fee is for a portion of the land described in a
 33 CPT, the memorial of the deed entered by the registrar shall
 34 include the legal description contained in the deed and the
 35 registrar shall enter a new CPT to the grantee for the portion
 36 of the land conveyed and, except as otherwise provided in this
 37 section, issue a residue CPT to the grantor for the portion of
 38 the land not conveyed. The registrar shall prepare and deliver
 39 to each of the parties a new owner's duplicate CPT for their
 40 respective CPTs. In lieu of canceling the grantor's CPT and
 41 issuing a residue CPT and owner's duplicate CPT to ~~him~~ the *
 42 grantor for the portion of the land not conveyed, the registrar *
 43 ~~may, in his discretion~~ if the grantor's deed does not divide a *
 44 parcel of unplatted land, and in the absence of a request to the
 45 contrary by the registered owner, mark by the land description
 46 on both the owner's duplicate CPT and the original CPT "Part of
 47 land conveyed, see memorials." The fee for a residue CPT shall
 48 be paid to the registrar only when the grantor's CPT is canceled
 49 after the conveyance by the grantor of a portion of the land
 50 described in ~~his~~ the grantor's CPT. When two or more successive *
 51 conveyances of the same property are filed for registration on *
 52 the same day the registrar ~~may, in his discretion,~~ enter a CPT *
 53 in favor of the grantee or grantees in the last of the
 54 successive conveyances, and the memorial of the previous deed or
 55 deeds entered on the prior CPT shall have the same force and
 56 effect as though the prior CPT had been entered in favor of the
 57 grantee or grantees in the earlier deed or deeds in the
 58 successive conveyances. The fees for the registration of the
 59 earlier deed or deeds shall be the same as the fees prescribed
 60 for the entry of memorials. The registrar of titles ~~in his~~ *
 61 ~~discretion,~~ with the consent of the transferee, may mark "See *
 62 memorials for new owner(s)" by the names of the registered
 63 owners on both the original CPT and the owner's duplicate CPT
 64 and also add to the memorial of the transferring conveyance a
 65 statement that the memorial shall serve in lieu of a new CPT in
 66 favor of the grantee or grantees noted in it and may refrain
 67 from canceling the CPT until the time it is canceled by a
 68 subsequent transfer, and the memorial showing the transfer of
 69 title shall have the same effect as the entry of a new CPT for
 70 the land described in the CPT. The fee for the registration of
 71 a conveyance without cancelation of the CPT shall be the same as
 72 the fee prescribed for the entry of a memorial.

508A#55S

73 508A.55 REGISTRATION OF MORTGAGE; MEMORIAL ENTERED ON
 74 CERTIFICATE.

1 The registration of a mortgage shall be made in the
 2 following manner: The owner's duplicate CPT shall be presented
 3 to the registrar, together with the mortgage deed, or other
 4 instrument to be registered, and the registrar shall enter upon
 5 the original CPT and also upon the owner's duplicate CPT a
 6 memorial of the purport of the instrument registered, the exact
 7 time of filing, and its file number. ~~He~~ The registrar shall *
 8 also note upon the registered instrument the time of filing and
 9 a reference to the volume and page where it is registered. The
 10 registrar shall also, at the request of the mortgagee or ~~his~~ *
 11 assignee of the mortgagee, make and deliver to ~~him~~ the mortgagee *
 12 or assignee a duplicate CPT like the owner's duplicate CPT, *
 13 except that the words "Mortgagee's Duplicate" shall be written
 14 or printed diagonally across its face in large letters. A
 15 memorandum of the issuance of the mortgagee's duplicate shall be
 16 made upon the original CPT.

508A#57S

17 508A.57 FORECLOSURE; NOTICE.

18 Mortgages upon land registered under sections 508A.01 to
 19 508A.85 may be foreclosed in the same manner as mortgages upon
 20 unregistered land. Where the mortgage is upon registered land
 21 it shall be sufficient to authorize the foreclosure of it by
 22 advertisement, if the mortgage and all assignments of it have
 23 been registered, and a memorial of it duly entered upon the
 24 CPT. When a mortgage upon the registered land is foreclosed by
 25 advertisement, the notice of foreclosure shall state the date of
 26 the mortgage, when and where registered, and the fact of
 27 registration. All laws relating to the foreclosure of mortgages
 28 upon unregistered land shall apply to mortgages upon land
 29 registered under sections 508A.01 to 508A.85, or any estate or
 30 interest therein, except as herein provided, and except that a
 31 notice of the pendency of any suit or proceeding to enforce or
 32 foreclose the mortgage or other charge upon the land shall be
 33 filed with the registrar, and a memorial of it entered on the
 34 register at the time of or prior to the commencement of the
 35 action or proceeding. A notice so filed and registered shall be
 36 notice to the registrar and to all persons thereafter dealing
 37 with the land or any part of it. When a mortgagee's duplicate
 38 CPT has been issued it shall be presented to the registrar at
 39 the time of filing and a memorial of it entered. In all
 40 foreclosures, all certificates and affidavits permitted or
 41 required by law to be recorded with the county recorder shall be
 42 filed with the registrar ~~and registered by him~~ who shall *
 43 register them. *

508A#58S

44 508A.58 REGISTRATION AFTER FORECLOSURE; NEW CPT.

45 Any person who has, by an action or other proceeding to
 46 enforce or foreclose a mortgage, lien, or other charge upon land
 47 registered under sections 508A.01 to 508A.85, become the owner
 48 in fee of the land, or any part of it, may have ~~his~~ the title *
 49 registered. ~~He~~ The person shall apply by duly verified petition *
 50 to the court for a new CPT to the land, and the court shall
 51 then, after due notice to all parties in interest and upon the
 52 hearing as the court may direct, make an order or decree for the
 53 issuance of a new CPT to the person entitled thereto, and the
 54 registrar shall then enter a new CPT to the land, or of the part
 55 of it to which the applicant is entitled, and issue an owner's
 56 duplicate as in the case of a voluntary conveyance.

508A#59S

57 508A.59 REGISTRATION OF JUDGMENT OR FINAL DECREE.

58 A judgment or decree affecting land registered under
 59 sections 508A.01 to 508A.85 shall be registered upon the
 60 presentation of a certified copy of it to the registrar, who
 61 shall enter a memorial of it upon the original CPT, and upon the
 62 owner's duplicate, and upon any outstanding mortgagee's or
 63 lessee's duplicate, if practicable so to do. When the
 64 registered owner of the land is by the judgment or decree
 65 divested of ~~his~~ an estate in fee in it, or of any part of it, *
 66 the prevailing party shall be entitled to a new CPT for the
 67 land, or so much of it as is described in the judgment and
 68 decree. The registrar shall enter the new CPT and issue a new
 69 owner's duplicate CPT as in the case of a voluntary conveyance.
 70 No new CPT shall be entered except upon the written
 71 certification of the examiner of titles as to the legal
 72 sufficiency of the documents presented for filing for the
 73 purpose of issuance of a new CPT or upon the order of the

1 district court directing the issuance of it.

508A#61S

2 508A.61 TRUST AND OTHER DEEDS OF LIMITATION; NEW
3 TRUSTEE; CORPORATE DISSOLUTION.

4 No change for subd 1

5 Subd. 2. NEW TRUSTEE. When a new trustee of land
6 registered under sections 508A.01 to 508A.85 is appointed, a new
7 CPT shall be entered in ~~his~~ the new trustee's name upon *
8 presentation to the registrar of a certified copy of the decree *
9 or other instrument appointing ~~him~~ the new trustee and the
10 surrender of the owner's duplicate CPT.

11 Subd. 3. VOLUNTARY DISSOLUTION. Where a corporate
12 owner did adopt a resolution for voluntary dissolution pursuant
13 to chapter 301, the registrar of titles shall enter a new CPT in
14 the name of the trustee in dissolution upon the surrender of the
15 owner's duplicate CPT and the presentation of a certified copy
16 of the certificate setting forth the adoption of the resolution
17 together with the certificate of the secretary of state that the
18 certificate of dissolution has been filed for record in ~~his~~ the
19 secretary's office. *

20 No change for subd 4

508A#62S

21 508A.62 TRUSTEE'S CONVEYANCE.

22 No instrument executed by an owner, whose fee title to land
23 is registered under sections 508A.01 to 508A.85 and is held in
24 trust, which transfers or plats the land, shall be registered
25 except upon the written certification of the examiner of titles
26 that the instrument is executed in accordance with a power
27 conferred in the instrument of trust or is authorized by law, or
28 upon the order of the district court directing the registration
29 of it. The examiner shall not certify any instrument unless the
30 trust is administered by the court or unless the document
31 creating the trust, or a certified copy thereof, is registered
32 as a memorial upon the CPT. The certified copy of the
33 certificate setting forth the adoption of the resolution for
34 voluntary dissolution of a corporate registered owner together
35 with the certificate of the secretary of state that the
36 certificate of dissolution has been filed for record in ~~his~~ the
37 secretary's office shall be deemed the document creating the *
38 trust. *

508A#65S

39 508A.65 PLAINTIFF'S ATTORNEY; NAME AND ADDRESS ENDORSED;
40 NOTICE.

41 The name and address of the attorney for the party giving
42 the notice shall in all cases be endorsed upon the instrument
43 which is registered pursuant to section 508A.64. ~~He~~ The
44 attorney shall be deemed to be the attorney for that party until *
45 the party files a written notice as a memorial upon the CPT *
46 stating that the designated attorney has ceased to be the
47 party's attorney.

508A#67S

48 508A.67 ACQUIRING TITLE BY ACTION; NEW CPT.

49 Upon the expiration of the time allowed by law for
50 redemption of land registered under sections 508A.01 to 508A.85,
51 after it has been set off, or sold on execution, or taken or
52 sold for the enforcement of any lien, or charge of any nature,
53 the person who claims under the execution, or under any
54 certificate, deed, or other instrument made in the course of
55 proceedings to enforce the execution or lien, may apply to the
56 court for an order directing the entry of a new CPT to ~~him~~ the
57 person, and upon the notice the court may require, the petition *
58 shall be heard and a proper order or decree rendered therein. *

508A#68S

59 508A.68 DEATH OF OWNER; ISSUANCE OF NEW CPTS.

60 When the owner of land registered under sections 508A.01 to
61 508A.85, or of any estate or interest in it, dies, having
62 devised the same by will, the persons entitled to it may file
63 with the registrar a certified copy of the will and the personal
64 representative's deed of distribution together with any order of
65 distribution, if there is one, or certified copy of any final
66 decree, if there is one, assigning it, and the duplicate CPT
67 issued to the testator. The registrar shall then cancel the
68 duplicate CPT issued to the testator and issue a new duplicate
69 CPT to the persons designated. When the owner of land
70 registered under sections 508A.01 to 508A.85, or of any estate
71 or interest therein, dies, not having devised it, the persons

1 entitled to it by law may file with the registrar the personal
 2 representative's deed of distribution together with a certified
 3 copy of any order of distribution, if there be one, or a
 4 certified copy of any final decree of the court assigning it,
 5 together with the duplicate CPT issued to the intestate. The
 6 registrar shall then cancel the duplicate CPT issued to the
 7 intestate and issue a new duplicate CPT to the persons entitled
 8 to it. Unless restricted by letters of testamentary or letters
 9 of administration, a personal representative may sell, convey,
 10 or mortgage land registered under sections 508A.01 to 508A.85 in
 11 the same manner as if the land were registered in ~~his~~ the
 12 representative's name. The personal representative shall first
 13 file with the registrar a certified copy of any will of the
 14 decedent and a certified copy of ~~his~~ the representative's
 15 letters.

508A#69S

16 508A.69 JURISDICTION OF COURT NOT IMPAIRED.
 17 A personal representative may sell, mortgage or lease any
 18 real property of the estate as authorized by section 524.3-715.
 19 Nothing contained in sections 508A.01 to 508A.85 shall impair or
 20 affect the jurisdiction of the court to license any personal
 21 representative, conservator or guardian to sell or mortgage land
 22 registered under sections 508A.01 to 508A.85. A purchaser or
 23 mortgagee receiving a deed or mortgage executed by a personal
 24 representative, conservator or guardian shall be entitled to
 25 register ~~his~~ the title and to the entry of a new CPT or memorial
 26 of registration in the same manner as upon any similar voluntary
 27 transfer of registered land. No CPT shall be issued pursuant to
 28 the provisions of this section or of section 508A.68 except upon
 29 the written certification of the examiner of titles as to the
 30 legal sufficiency of the documents presented for filing for the
 31 purpose of issuance of a new CPT or upon the order of the
 32 district court directing its issuance.

508A#70S

33 508A.70 SUBSEQUENT ADVERSE CLAIM, HOW REGISTERED; COSTS.
 34 Any person claiming any right, title, or interest in land
 35 registered under sections 508A.01 to 508A.85 adverse to the
 36 registered owner of it arising subsequent to the date of the
 37 CPT, may, if no other provision is made in sections 508A.01 to
 38 508A.85 for registering the same, file with the registrar ~~his~~ a
 39 verified statement in writing setting forth fully ~~his~~ the
 40 alleged right or interest, and how or from whom it was acquired,
 41 and a reference to the volume and page of the CPT of the
 42 registered owner, together with a description of the land, the
 43 adverse claimant's residence, and designating a place at which
 44 all notices may be served upon ~~him~~ the adverse claimant. The
 45 statement shall be entitled to registration as an adverse claim,
 46 and the court, upon the petition of any party in interest, shall
 47 grant a speedy hearing upon the validity of the adverse claim
 48 and enter a decision and decree therein as justice and equity
 49 may require. If the adverse claim is adjudged to be invalid,
 50 the registration of it shall be canceled. The court may, in any
 51 case, award costs and damages, including a reasonable attorney's
 52 fee, as it may deem just.

508A#71S

53 508A.71 ALTERATIONS ON REGISTER; ORDER OF COURT;
 54 DIRECTIVE OF EXAMINER; NEW CERTIFICATES.
 55 No change for subd 1 to 2
 56 Subd. 3. CANCELANATION OF MEMORIAL. At the request of
 57 a registered owner or other person in interest the examiner of
 58 titles by a written directive may order the amendment or
 59 cancelation of a memorial relating to racial restrictions,
 60 rights which are barred by a statute or rights which have
 61 expired by the terms of the instrument creating the rights. The
 62 registrar of titles shall register the directives of the
 63 examiner of titles upon the CPTs, and ~~he~~ shall give full faith
 64 to the directives.

65 No change for subd 4 to 6

508A#72S

66 508A.72 AGENCY; POWER TO BE REGISTERED.
 67 Any act which may legally be done or performed by any
 68 person under sections 508A.01 to 508A.85 may be done and
 69 performed by ~~his~~ an agent when duly authorized in writing. The
 70 instrument or power of attorney shall be filed with ~~the~~
 71 registrar and registered by ~~him~~ the registrar if it is executed
 72 and acknowledged as required by law in the case of a deed. Any

1 instrument revoking the power of attorney may be filed and
 2 registered if it is executed and acknowledged in the same way.
 3 A written instrument of revocation of an unregistered power of
 4 attorney, executed and acknowledged by a person having a
 5 registered interest in land, may be filed for registration as a
 6 memorial upon the certificate of title.

508A#73S

7 508A.73 EMINENT DOMAIN; REVERSION.

8 If the land of a registered owner, or any right, title,
 9 interest, or estate in it is taken by eminent domain, the state
 10 or body politic, or other authority which exercises the right,
 11 shall file for registration a written instrument containing a
 12 description of the land taken, together with the name of each
 13 owner of it, and referring to each CPT by its number and place
 14 of registration in the register of titles, and stating what
 15 estate or interest in the land is taken, and for what purpose.
 16 A memorial of the right, title, interest, or estate thus taken
 17 shall be made upon each CPT by the registrar. If the fee is
 18 taken, a new CPT shall be entered in the name of the owner for
 19 the land remaining to him the owner after the taking. If the
 20 owner has a lien for damages upon the land thus taken ~~for his~~
 21 ~~damages~~, this fact shall be stated in the memorial of
 22 registration. All fees on account of any memorial of
 23 registration or entry of new CPTs for land thus taken shall be
 24 paid by the state or body politic or other authority which takes
 25 the land. If land which was taken for public use reverts, by
 26 operation of law, to the owner or to ~~his~~ heirs or assigns, the
 27 district court, upon the application of the person entitled to
 28 the benefit of the reversion, and after due notice and hearing,
 29 may order the entry of a new CPT to the person entitled to it.

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508A#76S

30 508A.76 DAMAGES THROUGH ERRONEOUS REGISTRATION; ACTION.

31 Any person who, without negligence on ~~his~~ that person's
 32 part, sustains any loss or damage by reason of any omission,
 33 mistake or misfeasance of the registrar or ~~his~~ the registrar's
 34 deputy, or of any examiner or of any clerk of court, or of ~~his~~ a
 35 deputy of the clerk or examiner, in the performance of their
 36 respective duties under sections 508A.01 to 508A.85, and any
 37 person who, without negligence on ~~his~~ that person's part, is
 38 wrongfully deprived of any land or of any interest in it by the
 39 registration of it, or by reason of the registration of any
 40 other person, as the owner of the land, or by reason of any
 41 mistake, omission, or misdescription in any CPT, or in any entry
 42 or memorial, or by any cancelation, in the register of titles,
 43 and who, by the provisions of sections 508A.01 to 508A.85, is
 44 precluded from bringing an action for the recovery of the land,
 45 or of any interest in it, or from enforcing any claim or lien
 46 upon the same, may institute an action in the district court to
 47 recover compensation out of the assurance fund for the loss or
 48 damage.

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508A#77S

49 508A.77 PARTIES DEFENDANT; JUDGMENT; EXECUTION.

50 If an action is brought to recover any loss or damage
 51 occasioned solely by the registration of the land, or solely by
 52 the registration of any other person as the owner thereof, or if
 53 the action be brought for the recovery of any loss or damage
 54 occasioned solely by the omission, mistake or misfeasance of the
 55 registrar or ~~his~~ the registrar's deputy, or of any examiner or
 56 of any clerk of court, or ~~his~~ of a deputy of the clerk or
 57 examiner, in the performance of their respective duties, the
 58 state treasurer, in ~~his~~ the treasurer's official capacity, shall
 59 be the sole defendant. If the action is brought to recover for
 60 any loss or damage occasioned either wholly, or in part, by the
 61 fraud or wrongful act of some person other than the officers
 62 herein named, or to recover for any loss or damage caused
 63 jointly by the fraud or wrongful act, and by the omission,
 64 mistake or misfeasance of the officers above named, or any of
 65 them, and of some other person, the state treasurer, in ~~his~~ the
 66 treasurer's official capacity, and the other person shall be
 67 joined as defendants in it. In any action where there are
 68 defendants other than the state treasurer, no execution shall
 69 issue against the treasurer until execution against all other
 70 defendants against whom judgment has been recovered has been
 71 returned unsatisfied, either in whole or in part. An officer
 72 returning the execution shall certify on it that the amount
 73 still due upon the execution cannot be collected from them. The

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1 court, being satisfied as to the truth of the return, shall then
 2 order the state treasurer to pay the amount due upon the
 3 execution out of the assurance fund. If the assurance fund is
 4 insufficient to pay the amount of any judgment in full, the
 5 unpaid balance on it shall bear interest at the legal rate and
 6 be paid out of the first moneys coming into the assurance fund.
 7 The attorney general or, at the request of either the attorney
 8 general or the board of county commissioners of the county in
 9 which the land or a major part of it lies, the county attorney
 10 of that county shall defend the state treasurer in all these
 11 actions.

508A#79S

12 508A.79 LIMITATION OF ACTION.

13 Any action or proceeding pursuant to section 508A.76 to
 14 recover damages out of the assurance fund shall be commenced
 15 within six years from the time when the right to commence the
 16 same accrued, and not afterwards. If at the time the right
 17 accrued or thereafter within the six year period, the person
 18 entitled to bring the action or proceeding is a minor, or
 19 insane, or imprisoned, or absent from the United States in its
 20 service or the service of the state, the person, or anyone
 21 claiming under ~~him~~ the person, may commence the action or
 22 proceeding within two years after the disability is removed.

508A#82S

23 508A.82 REGISTRAR'S FEES.

24 The fees to be paid to the registrar shall be as follows:
 25 (1) of the fees provided herein, five percent of the fees
 26 collected under clauses (3), (4), (11), (13), (14), (15), and
 27 (17) for filing or memorializing shall be paid to the state
 28 treasurer and credited to the real estate assurance account;
 29 (2) for registering each original CPT, and issuing a
 30 duplicate of it, \$20;
 31 (3) for registering each instrument transferring the fee
 32 simple title for which a new CPT is issued and for the issuance
 33 and registration of the new CPT, \$20;
 34 (4) for the entry of each memorial on a certificate and
 35 endorsements upon duplicate CPTs, \$10;
 36 (5) for issuing each mortgagee's or lessee's duplicate, \$10;
 37 (6) for issuing each residue CPT, \$20;
 38 (7) for exchange CPTs, \$10 for each CPT canceled and \$10
 39 for each new CPT issued;
 40 (8) for each certificate showing condition of the register,
 41 \$10;
 42 (9) for any certified copy of any instrument or writing on
 43 file in ~~his~~ the registrar's office, the same fees allowed by law
 44 to county recorders for like services;
 45 (10) for a noncertified copy of any instrument or writing
 46 on file in the office of the registrar of titles, or any
 47 specified page or part of it, an amount as determined by the
 48 county board for each page or fraction of a page specified. If
 49 computer or microfilm printers are used to reproduce the
 50 instrument or writing, a like amount per image;
 51 (11) for filing two copies of any plat in the office of the
 52 registrar, \$30;
 53 (12) for any other service under sections 508A.01 to
 54 508A.85, the fee the court shall determine;
 55 (13) for issuing a duplicate CPT pursuant to the directive
 56 of the examiner of titles in counties in which the compensation
 57 of the examiner is paid in the same manner as the compensation
 58 of other county employees, \$50, plus \$10 to memorialize;
 59 (14) for issuing a duplicate CPT pursuant to the directive
 60 of the examiner of titles in counties in which the compensation
 61 of the examiner is not paid by the county or pursuant to an
 62 order of the court, \$10;
 63 (15) for filing a condominium floor plan or an amendment to
 64 it in accordance with chapter 515, \$30;
 65 (16) for a copy of a condominium floor plan filed pursuant
 66 to chapters 515 and 515A, the fee shall be \$1 for each page of
 67 the floor plan with a minimum fee of \$10;
 68 (17) for filing a condominium declaration and floor plans
 69 or an amendment to it in accordance with chapter 515A, \$10 for
 70 each certificate upon which the document is registered and \$30
 71 for the filing of the floor plans or an amendment to it;
 72 (18) in counties in which the compensation of the examiner
 73 of titles is paid in the same manner as the compensation of
 74 other county employees, for each parcel of land contained in the

1 application for a CPT, as the number of parcels is determined by
2 the examiner, \$50;
3 (19) for filing a registered land survey in triplicate in
4 accordance with section 508A.47, subdivision 4, \$30;
5 (20) for furnishing a certified copy of a registered land
6 survey in accordance with section 508A.47, subdivision 4, \$10.

508A#84S

7 508A.84 INSTRUMENTS OF ENCUMBRANCE; DISPOSAL.

8 The registrar of titles is authorized to destroy
9 instruments of encumbrance which have been satisfied of record
10 or extinguished by operation of law for a period of five years,
11 together with the assignments and satisfactions of them. When
12 the discharge of an encumbrance is by virtue of a judicial or
13 statutory sale, the instruments evidencing the encumbrance of
14 the foreclosure of it, shall not be destroyed until six months
15 after entry of an unappealed order for issuance of a new CPT to
16 the purchaser at the sale or to ~~his~~ the purchaser's assignee. *
17 Nothing herein contained shall relieve the registrar from
18 maintaining the books and index records required under sections
19 508A.34 and 508A.37.

508A#85S

20 508A.85 CHANGEOVER FROM CPT TO CERTIFICATE OF TITLE.

21 Subdivision 1. OWNER'S ELECTION. The owner of an
22 outstanding CPT, at ~~his~~ the owner's election, may apply to the *
23 district court at any time to commence a registration in
24 accordance with the provisions of chapter 508.

25 No change for subd 2 to 5

509*#01S

26 509.01 RECORDATION.

27 Any person engaged in, or any corporation or association
28 whose members are engaged in, manufacturing, bottling, or
29 selling soda waters, mineral or aerated waters, porter, ale,
30 cider, ginger ale, small beer, lager beer, Weiss beer, beer,
31 white beer, malt extract, other beverages, milk, cream, ice
32 cream, or butter in any kind of receptacle having the name of
33 such person, corporation, or association, or other mark or
34 device printed, stamped, engraved, etched, blown, impressed,
35 riveted, or otherwise produced or permanently fixed upon the
36 same, may file in the office of the secretary of state for
37 record a description of the name, mark, or device so used and
38 cause such description to be printed once in each week for three
39 successive weeks in a newspaper published in the county in which
40 the principal place of business of such person, corporation, or
41 association is located, or if the principal place of business of
42 such person, corporation, or association is located in another
43 state, then in the county wherein the principal office or depot
44 within this state is located. It shall be the duty of the
45 secretary of state to issue to the person, corporation, or
46 association so filing for record a description of such name,
47 mark, or device in ~~his~~ the office of the secretary of state a *
48 duly attested certificate of the record of the same ~~for which he~~ *
49 ~~shall receive~~ upon receipt of a fee of \$10. Such certificate in *
50 all prosecutions under sections 509.01 to 509.06 shall be prima
51 facie evidence of the adoption of such name, mark, or device and
52 of the right of the person, corporation, or association named
53 therein to adopt and use the same.

509*#04S

54 509.04 RECOVERY OF RECEPTACLES; SEARCH WARRANT.

55 When any person who has filed for record any name, mark, or
56 device or who has acquired from the owner in writing the
57 ownership of the name, mark, or device or the right to the
58 exclusive use of it, or anyone representing the person, swears
59 before any judge that ~~he~~ the person has reason to believe and *
60 does believe that any receptacle bearing the name, mark, or
61 device is being unlawfully used or filled or possessed by any
62 person, the judge shall issue a search warrant to discover and
63 obtain the receptacle. The judge may also cause the person
64 possessing the receptacle to be brought before ~~him~~, he the court *
65 and shall then inquire into the circumstances of possession. *
66 If ~~the person is~~ found guilty of violating any provisions of *
67 sections 509.01 to 509.06, ~~he~~ the person shall be punished as *
68 prescribed and the possession of the property taken upon the *
69 warrant shall be awarded to its owner. The remedy provided by
70 this section is not exclusive, and violators of any provision of
71 those sections may also be prosecuted as in case of other
72 misdemeanors.

510*#01S

1 510.01 HOMESTEAD DEFINED; EXEMPT; EXCEPTION.

2 The house owned and occupied by a debtor as ~~his~~ the *
 3 debtor's dwelling place, together with the land upon which it is *
 4 situated to the amount hereinafter limited and defined, shall *
 5 constitute the homestead of such debtor and ~~his~~ the debtor's *
 6 family, and be exempt from seizure or sale under legal process
 7 on account of any debt not lawfully charged thereon in writing,
 8 except such as are incurred for work or materials furnished in
 9 the construction, repair, or improvement of such homestead, or
 10 for services performed by laborers or servants.

510*#05S

11 510.05 LIMITATIONS.

12 Such homestead exemption shall not extend to any mortgage
 13 lawfully obtained thereon, to any valid lien for taxes or
 14 assessments, to a claim filed pursuant to section 256B.15 or
 15 section 246.53 or to any charge arising under the laws relating
 16 to laborers or ~~materialmen's~~ material suppliers' liens. *

510*#07S

17 510.07 SALE OR REMOVAL PERMITTED; NOTICE.

18 The owner may sell and convey the homestead without
 19 subjecting it, or the proceeds of such sale for the period of
 20 one year after sale, to any judgment or debt from which it was
 21 exempt in ~~his~~ the owner's hands. ~~He~~ The owner may remove *
 22 therefrom without affecting such exemption, if ~~he~~ do the owner *
 23 does not thereby abandon the same as ~~his~~ the place of abode. If *
 24 ~~he~~ the owner shall cease to occupy such homestead for more than *
 25 six consecutive months ~~he~~ the owner shall be deemed to have *
 26 abandoned the same unless, within such period, ~~he~~ the owner *
 27 shall file with the county recorder of the county in which it is
 28 situated a notice, executed, witnessed, and acknowledged as in
 29 the case of a deed, describing the premises and claiming the
 30 same as ~~his~~ the owner's homestead. In no case shall the *
 31 exemption continue more than five years after such filing,
 32 unless during some part of the term the premises shall have been
 33 occupied as the actual dwelling place of the debtor or ~~his~~ the *
 34 debtor's family. *

510*#08S

35 510.08 SELECTION AFTER LEVY.

36 If the premises so owned and occupied by the debtor or
 37 claimed under ~~him~~ the debtor by another as exempt shall exceed *
 38 the area herein prescribed, and the homestead shall not have
 39 been set apart as such and its boundaries defined, an attachment
 40 or execution may be levied upon the whole. Thereupon the person
 41 entitled to the benefits of such exemption shall deliver to the
 42 officer making the levy a description of the part claimed as
 43 exempt, and the remainder only shall be subject to the levy so
 44 made.

513*#03S

45 513.03 GRANTS OF TRUST, WHEN VOID.

46 Every grant or assignment of any existing trust in goods or
 47 things in action, unless the same is in writing, subscribed by
 48 the party making the same, or by ~~his~~ the party's lawfully *
 49 authorized agent, shall be void.

513*#04S

50 513.04 CONVEYANCE OF ESTATE OR INTEREST IN LAND; CERTAIN
 51 LEASES EXCEPTED.

52 No estate or interest in lands, other than leases for a
 53 term not exceeding one year, nor any trust or power over or
 54 concerning lands, or in any manner relating thereto, shall
 55 hereafter be created, granted, assigned, surrendered, or
 56 declared, unless by act or operation of law, or by deed or
 57 conveyance in writing, subscribed by the parties creating,
 58 granting, assigning, surrendering, or declaring the same, or by
 59 their lawful agent thereunto authorized by writing. This
 60 section shall not affect in any manner the power of a testator
 61 in the disposition of ~~his~~ real estate by will; nor prevent any *
 62 trust from arising or being extinguished by implication or
 63 operation of law.

513*#05S

64 513.05 LEASES; CONTRACTS FOR SALE OF LANDS.

65 Every contract for the leasing for a longer period than one
 66 year or for the sale of any lands, or any interest in lands,
 67 shall be void unless the contract, or some note or memorandum
 68 thereof, expressing the consideration, is in writing and
 69 subscribed by the party by whom the lease or sale is to be made,

1 or by ~~his~~ the party's lawful agent thereunto authorized in *
2 writing; and no such contract, when made by an agent, shall be
3 entitled to record unless the authority of such agent be also
4 recorded.

513*#07S

5 513.07 LOGS; EXTENSION OF TIME OF PAYMENT FOR LABOR.
6 Every agreement extending the time of payment for manual
7 labor, performed or to be performed in cutting, hauling,
8 banking, or driving logs, beyond the time of the completion of
9 such labor, shall be void, unless such agreement, expressing the
10 consideration, be in writing subscribed by the party to be
11 charged therewith, and unless, at the time of making such
12 agreement or completing such labor, the person for whom it is to
13 be or has been performed deliver to such laborer ~~his~~ a *
14 negotiable promissory note for payment of the agreed
15 compensation, with interest. Every lien allowed by law on
16 account of such labor shall pass by the transfer of such note,
17 and be enforceable by the holder thereof.

513*#08S

18 513.08 VOID WHEN MADE TO DEFRAUD, EXCEPTION.
19 Every conveyance of any estate or interest in lands, or the
20 rents and profits thereof, and every charge upon lands, or upon
21 the rents and profits thereof, made or created with the intent
22 to defraud prior or subsequent purchasers for a valuable
23 consideration of the same lands, rents, or profits, as against
24 any such purchasers, shall be void; but no conveyance or charge
25 shall be deemed fraudulent, in favor of a subsequent purchaser
26 who had actual or constructive notice thereof at the time of ~~his~~ *
27 purchase, unless it appears that the grantee in such conveyance,
28 or the person to be benefited by such charge, was privy to the
29 intended fraud.

513*#11S

30 513.11 PREMATURE CONVEYANCE.
31 If a conveyance to a purchaser under either section 513.09
32 or 513.10 is made before the person making the same is entitled
33 to execute ~~his~~ power of revocation, it shall nevertheless be *
34 valid from the time the power of revocation actually vests in
35 such person, in the same manner and to the same extent as if
36 then made.

513*#20S

37 513.20 DEFINITIONS.
38 In sections 513.20 to 513.32 "assets" of a debtor means *
39 property not exempt from liability for ~~his~~ debts. To the extent *
40 that any property is liable for any debts of the debtor, such
41 property shall be included in ~~his~~ the debtor's assets.

42 "Conveyance" includes every payment of money, assignment,
43 release, transfer, lease, mortgage or pledge of tangible or
44 intangible property, and also the creation of any lien or
45 encumbrance.

46 "Creditor" is a person having any claim, whether matured or
47 unmatured, liquidated or unliquidated, absolute, fixed or
48 contingent.

49 "Debt" includes any legal liability, whether matured or
50 unmatured, liquidated or unliquidated, absolute, fixed or
51 contingent.

513*#21S

52 513.21 INSOLVENCY DEFINED.

53 (1) A person is insolvent when the present fair salable
54 value of ~~his~~ the person's assets is less than the amount that *
55 will be required to pay ~~his~~ probable liability on ~~his~~ the *
56 person's existing debts as they become absolute and matured. *

57 (2) In determining whether a partnership is insolvent there
58 shall be added to the partnership property the present fair
59 salable value of the separate assets of each general partner in
60 excess of the amount probably sufficient to meet the claims of
61 ~~his~~ the partner's separate creditors, and also the amount of any *
62 unpaid subscription to the partnership of each limited partner,
63 provided the present fair salable value of the assets of such
64 limited partner is probably sufficient to pay ~~his~~ debts, *
65 including such unpaid subscription.

513*#23S

66 513.23 CONVEYANCE BY INSOLVENT.

67 Every conveyance made and every obligation incurred by a
68 person who is or will be thereby rendered insolvent is
69 fraudulent as to creditors without regard to ~~his~~ the person's *
70 actual intent if the conveyance is made or the obligation is

1 incurred without a fair consideration.

513*#24S

2 513.24 SPECIFICATIONS OF LEGAL FRAUD.

3 Every conveyance made without fair consideration when the
4 person making it is engaged or is about to engage in a business
5 or transaction for which the property remaining ~~in-his-hands~~ on
6 hand after the conveyance is an unreasonably small capital, is
7 fraudulent as to creditors and as to other persons who become
8 creditors during the continuance of such business or transaction
9 without regard to ~~his~~ the person's actual intent.

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513*#25S

10 513.25 CONVEYANCE BY A PERSON ABOUT TO INCUR DEBTS.

11 Every conveyance made and every obligation incurred without
12 fair consideration when the person making the conveyance or
13 entering into the obligation intends or ~~believes-that-he~~
14 will expects to incur debts ~~beyond-his-ability-to-pay~~ that
15 cannot be paid as they mature, is fraudulent as to both present
16 and future creditors.

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513*#27S

17 513.27 CONVEYANCE OF PARTNERSHIP PROPERTY.

18 Every conveyance of partnership property and every
19 partnership obligation incurred when the partnership is or will
20 be thereby rendered insolvent, is fraudulent as to partnership
21 creditors, if the conveyance is made or obligation is incurred:

- 22 (1) To a partner, whether with or without a the partner's
23 promise by-him to pay partnership debts, or
- 24 (2) To a person not a partner without fair consideration to
25 the partnership as distinguished from consideration to the
26 individual partners.

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513*#28S

27 513.28 RIGHTS OF CREDITORS WHOSE CLAIMS HAVE MATURED.

28 (1) Where a conveyance or obligation is fraudulent as to a
29 creditor, such creditor, when ~~his~~ the claim has matured, may, as
30 against any person except a purchaser for fair consideration
31 without knowledge of the fraud at the time of the purchase, or
32 one who has derived title immediately or mediately from such a
33 purchaser:

- 34 (a) Have the conveyance set aside or obligation annulled to
35 the extent necessary to satisfy ~~his~~ the claim, or
- 36 (b) Disregard the conveyance and attach or levy execution
37 upon the property conveyed.
- 38 (2) A purchaser who without actual fraudulent intent has
39 given less than a fair consideration for the conveyance or
40 obligation, may retain the property or obligation as security
41 for repayment.

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513*#29S

42 513.29 RIGHTS OF CREDITORS WHOSE CLAIMS HAVE NOT MATURED.

43 Where a conveyance made or obligation incurred is
44 fraudulent as to a creditor whose claim has not matured ~~he, the~~
45 creditor may proceed in a court of competent jurisdiction
46 against any person against whom ~~he~~ the creditor could have
47 proceeded had ~~his~~ the claim matured, and the court may:

- 48 (1) Restrain the defendant from disposing of ~~his~~ the
49 property;
- 50 (2) Appoint a receiver to take charge of the property;
- 51 (3) Set aside the conveyance or annul the obligation; or
- 52 (4) Make any order which the circumstances of the case may
53 require.

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514*#011S

54 514.011 NOTICE.

55 Subdivision 1. CONTRACTORS. Every person who enters
56 into a contract with the owner for the improvement of real
57 property and who has contracted or will contract with any
58 subcontractors or ~~materialmen~~ material suppliers to provide
59 labor, skill or materials for the improvement shall include in
60 any written contract with the owner the notice required in this
61 subdivision and shall provide the owner with a copy of the
62 written contract. If no written contract for the improvement is
63 entered into, the notice must be prepared separately and
64 delivered personally or by certified mail to the owner or ~~his~~
65 the owner's authorized agent within ten days after the work of
66 improvement is agreed upon. The notice, whether included in a
67 written contract or separately given, must be in at least
68 10-point bold type, if printed, or in capital letters, if
69 typewritten and must state as follows:
70 (a) persons or companies furnishing labor or materials for

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1 the improvement of real property may enforce a lien upon the
2 improved land if they are not paid for their contributions, even
3 if the parties have no direct contractual relationship with the
4 owner;

5 (b) Minnesota law permits the owner to withhold from ~~his~~ *
6 the owner's contractor as much of the contract price as may be *
7 necessary to meet the demands of all other lien claimants, pay
8 directly the liens and deduct the cost of them from the contract
9 price, or withhold amounts from ~~his~~ the owner's contractor until *
10 the expiration of 120 days from the completion of the
11 improvement unless the contractor furnishes to the owner waivers
12 of claims for mechanics' liens signed by persons who furnished
13 any labor or material for the improvement and who provided the
14 owner with timely notice.

15 A person who fails to provide the notice shall not have the
16 lien and remedy provided by this chapter.

17 The notice required by this subdivision is not required of
18 any person who is an owner of the improved real estate, to any
19 corporate contractor of which the owner of the improved real
20 estate is an officer or controlling shareholder, to any
21 contractor who is an officer or controlling shareholder of a
22 corporation which is the owner of the improved real estate, or
23 to any corporate contractor managed or controlled by
24 substantially the same persons who manage or control a
25 corporation which is the owner of the improved real estate.

26 Subd. 2. SUBCONTRACTOR TO GIVE NOTICE. Every person
27 who contributes to the improvement of real property so as to be
28 entitled to a lien pursuant to section 514.01, except a party
29 under direct contract with the owner must, as a necessary
30 prerequisite to the validity of any claim or lien, cause to be
31 given to the owner or ~~his~~ the owner's authorized agent, either *
32 by personal delivery or by certified mail, not later than 45
33 days after the lien claimant has first furnished labor, skill or
34 materials for the improvement, a written notice in at least
35 10-point bold type, if printed, or in capital letters, if
36 typewritten, which shall state:

37 "Please take notice that persons or companies furnishing
38 labor or materials for the improvement of real property may
39 enforce a lien upon the improved land if they are not paid for
40 their contributions, even if the parties have no direct
41 contractual relationship with the owner.

42 We
43 (name and address of subcontractor)
44 have been hired by your contractor
45 (name of your contractor)
46 to provide or for
47 (type of service) (material)
48 use in improving your property. We estimate our charges
49 will be
50 (value of service or material)

51 If we are not paid by your contractor, we can file a claim
52 against your property for the price of our services unless,
53 prior to your receipt of this notice, you have paid to your
54 contractor the full amount of all improvements furnished.

55 To protect yourself, Minnesota law permits you, as the
56 owner, to withhold from your contractor as much of the contract
57 price as may be necessary to meet our demands, pay us directly
58 and deduct the cost of them from the contract price, or withhold
59 the amount of our claim from your contractor until the
60 expiration of 120 days from the completion of the improvement
61 unless your contractor furnishes to you a waiver of claim for
62 mechanics' liens signed by me (us)."

63 Subd. 3. MATERIALMEN MATERIAL SUPPLIERS, MAY REQUEST *
64 INFORMATION. A contractor who contracts with any *
65 subcontractors or materialmen material suppliers to provide *
66 labor, skill or materials for the improvement shall upon request
67 provide the subcontractor or materialman material supplier with *
68 the name and address of the owner within 10 days of the initial
69 request. Any contractor who fails to supply the information
70 requested pursuant to this subdivision, is liable for any actual
71 damages sustained or expenses incurred by the subcontractor or
72 material supplier because of the contractor's failure to provide
73 the information, plus reasonable attorney fees and costs.

74 Subd. 4. Repealed, 1981 c 213 s 4

75 No change for subd 4a to 5

1 514.02 NONPAYMENT FOR IMPROVEMENT; PENALTY.

2 Subdivision 1. ACTS CONSTITUTING. ~~Whoever~~ If a *
 3 person, on any improvement to real estate within the meaning of *
 4 section 514.01, fails to use the proceeds of any payment made *
 5 to ~~him~~ that person on account of such improvement by the owner *
 6 of such real estate or person having any improvement made, for
 7 the payment for labor, skill, material, and machinery
 8 contributed to such improvement, knowing that the cost of any
 9 such labor performed, or skill, material, or machinery furnished
 10 for such improvement remains unpaid, and who has not furnished
 11 to the person making such payment either a valid lien waiver as
 12 to any unpaid labor performed, or skill, material, or machinery
 13 furnished for such improvement, or a payment bond in the basic
 14 amount of the contract price for such improvement, conditioned
 15 for the prompt payment to any person or persons entitled thereto
 16 for the performance of labor or the furnishing of skill,
 17 material, or machinery for the improvement, shall be guilty of
 18 theft of the proceeds of such payment and upon conviction shall
 19 be fined not more than \$3,000 or imprisoned not more than one
 20 year, or both.

21 Subd. 2. NOTICE OF NONPAYMENT. Notice of nonpayment
 22 of the cost of labor, skill, material, and machinery
 23 contributing to the improvement of the real estate to the person
 24 paid for such improvement may be given by the person who made
 25 payment for such improvement, or by any person furnishing the
 26 labor, skill, material, or machinery contributing to the
 27 improvement and who has not been paid for ~~his~~ the contribution. *
 28 Notice may be given in any reasonable manner. Notice shall be
 29 in writing and in any terms that identify the real estate
 30 improved and the nonpayment complained of.

31 No change for subd 3

514*#03S

32 514.03 EXTENT AND AMOUNT OF LIEN.

33 Subdivision 1. With respect to any contract or improvement
 34 as to which notice is not required by section 514.011, the lien
 35 shall be as follows:

36 (a) If the contribution is made under a contract with the
 37 owner and for an agreed price, the lien as against ~~him~~ the owner *
 38 shall be for the sum agreed upon.

39 (b) In all other cases, it shall be for the reasonable
 40 value of the work done, and of the skill, material, and
 41 machinery furnished.

42 Subd. 2. With respect to any contract or improvement as to
 43 which notice is required by section 514.011, the lien shall be
 44 as follows:

45 (a) If the contribution is made under a contract with the
 46 owner and for an agreed price, the lien as against ~~him~~ the owner *
 47 shall be for the sum agreed upon;

48 (b) In all other cases, it shall be for the reasonable
 49 value of the work done, and of the skill, material, and
 50 machinery furnished. Provided, however:

51 (c) The total sum of all liens, whether the contribution is
 52 made under a contract with the owner or otherwise, shall not
 53 exceed the total of said contract price plus the contract price
 54 or reasonable value of any additional contract or contracts
 55 between the owner and the contractor or additional work ordered
 56 by the owner, less the total of the following:

57 (i) Payments made by the owner or ~~his~~ the owner's agent to *
 58 the contractor prior to receiving any notice prescribed by
 59 section 514.011, subdivision 2;

60 (ii) Payments made by the owner or ~~his~~ the owner's agent to *
 61 discharge any lien claims as authorized by section 514.07; and

62 (iii) Payments made by the owner or ~~his~~ the owner's agent *
 63 pursuant to presentation of valid lien waivers from persons or
 64 companies contributing to the improvement who have previously
 65 given the notice required by section 514.011, subdivision 2.

66 No change for subd 3

514*#05S

67 514.05 WHEN LIEN ATTACHES; NOTICE.

68 All such liens, as against the owner of the land, shall
 69 attach and take effect from the time the first item of material
 70 or labor is furnished upon the premises for the beginning of the
 71 improvement, and shall be preferred to any mortgage or other
 72 encumbrance not then of record, unless the lienholder had actual
 73 notice thereof. As against a bona fide purchaser, mortgagee, or
 74 encumbrancer without notice, no lien shall attach prior to the

1 actual and visible beginning of the improvement on the ground,
 2 but a person having a contract for the furnishing of labor,
 3 skill, material, or machinery for such improvement, may file for
 4 record with the county recorder of the county within which the
 5 premises are situated, or, if claimed under section 514.04, with
 6 the secretary of state, a brief statement of the nature of such
 7 contract, which statement shall be notice of ~~his~~ that person's *
 8 lien. Engineering or land surveying services with respect to
 9 real estate shall not constitute the actual and visible
 10 beginning of the improvement on the ground referred to in this
 11 section, except when such engineering or land surveying services
 12 include a visible staking of the premises. No lien shall attach
 13 for engineering or land surveying services rendered with respect
 14 to a purchaser for value if the value of those services does not
 15 exceed \$250.

514*#06S

16 514.06 TITLE OF VENDOR OR CONSENTING OWNER, SUBJECT TO.
 17 When land is sold under an executory contract requiring the
 18 vendee to improve the same, and such contract is forfeited or
 19 surrendered after liens have attached by reason of such
 20 improvements, the title of the vendor shall be subject thereto;
 21 but ~~he~~ the vendor shall not be personally liable if the contract *
 22 was made in good faith. When improvements are made by one
 23 person upon the land of another, all persons interested therein
 24 otherwise than as bona fide prior encumbrancers or lienors shall
 25 be deemed to have authorized such improvements, in so far as to
 26 subject their interests to liens therefor. Any person who has
 27 not authorized the same may protect ~~his~~ that person's interest *
 28 from such liens by serving upon the persons doing work or
 29 otherwise contributing to such improvement within five days
 30 after knowledge thereof, written notice that the improvement is
 31 not being made at ~~his~~ that person's instance, or by posting like *
 32 notice, and keeping the same posted, in a conspicuous place on
 33 the premises. As against a lessor no lien is given for repairs
 34 made by or at the instance of ~~his~~ the lessee. *

514*#07S

35 514.07 PAYMENTS WITHHELD; LIEN WAIVERS.
 36 The owner may withhold from ~~his~~ the owner's contractor as *
 37 much of the contract price as may be necessary to meet the
 38 demands of all persons, other than the contractor, having a lien
 39 upon the premises for labor, skill, or material furnished for
 40 the improvement, and for which the contractor is liable. ~~He~~ The *
 41 owner may pay and discharge all these liens and deduct the cost *
 42 of them from the contract price. No owner shall be required to
 43 pay ~~his~~ the owner's contractor until the expiration of 120 days *
 44 from the completion of the improvement, except to the extent
 45 that the contractor furnishes to the owner waivers of claims for
 46 mechanics' liens signed by persons who furnished labor, skill or
 47 material for the improvement and who have given the notice
 48 required by section 514.011, subdivision 2. The owner, within
 49 15 days after the completion of the contract, may require any
 50 person having a lien hereunder, by written request therefor, to
 51 furnish to ~~him~~ the owner an itemized and verified account of ~~his~~ *
 52 the person's lien claim, the amount of it, and ~~his~~ the person's *
 53 name and address. No action or other proceeding may be
 54 commenced for the enforcement of the lien until ten days after
 55 the statement is furnished. The word "owner," as used in this
 56 section, includes any person interested in the premises other
 57 than as a lienor.

514*#08S

58 514.08 STATEMENT; NOTICE; NECESSITY FOR RECORDING;
 59 CONTENTS.

60 Subdivision 1. NOTICE REQUIRED. The lien ceases at
 61 the end of 120 days after doing the last of the work, or
 62 furnishing the last item of skill, material, or machinery,
 63 unless within this period:

64 (1) a statement of the claim is filed for record with the
 65 county recorder of the county in which the improved premises are
 66 situated, or, if the claim is made under section 514.04, with
 67 the secretary of state; and

68 (2) a copy of the statement is served personally or by
 69 certified mail on the owner or ~~his~~ the owner's authorized agent *
 70 or the person who entered into the contract with the contractor.

71 Subd. 2. Such statement shall be made by or at the
 72 instance of the lien claimant, be verified by the oath of some
 73 person shown by such verification to have knowledge of the facts

1 stated, and shall set forth:

2 (1) A notice of intention to claim and hold a lien, and the
3 amount thereof;

4 (2) That such amount is due and owing to the claimant for
5 labor performed, or for skill, material, or machinery furnished,
6 and for what improvement the same was done or supplied;

7 (3) The names of the claimant, and of the person for or to
8 whom performed or furnished;

9 (4) The dates when the first and last items of the
10 claimant's contribution to the improvement were made;

11 (5) A description of the premises to be charged,
12 identifying the same with reasonable certainty;

13 (6) The name of the owner thereof at the time of making
14 such statement, according to the best information then had;

15 (7) The post office address of the claimant. (The failure
16 to insert such post office address shall not invalidate the lien
17 statement);

18 (8) That a copy of such statement has been served or mailed
19 to the owner, ~~his~~ the owner's authorized agent or the person who
20 entered into the contract with the contractor as provided
21 herein; and *

22 (9) That notice as required by section 514.011, subdivision
23 2, if any, was given.

514*#09S

24 514.09 TWO OR MORE BUILDINGS.

25 A lienholder who has contributed to the erection,
26 alteration, removal, or repair of two or more buildings or other
27 improvements situated upon or removed to one lot, or upon or to
28 adjoining lots, under or pursuant to the purposes of one general
29 contract with the owner, may file one statement for ~~his~~ the
30 entire claim, embracing the whole area so improved; or, if he so
31 elect ~~electing~~, he the lienholder may apportion ~~his~~ the
32 demand between the several improvements, and assert a lien for a
33 proportionate part upon each, and upon the ground appurtenant to
34 each, respectively. *

514*#10S

35 514.10 FORECLOSURE OF LIENS.

36 Such liens may be enforced by action in the district court
37 of the county in which the improved premises or some part
38 thereof are situated, or, if claimed under section 514.04, of
39 any county through or into which the railway or other line
40 extends, which action shall be begun and conducted in the same
41 manner as actions for the foreclosure of mortgages upon real
42 estate, except as herein otherwise provided, but the owner or
43 any person or party having an interest in or lien upon the
44 property against which a lien has been filed under the
45 provisions of this chapter may bring an action to remove the
46 lien in the nature of an action to determine adverse claims and
47 subject to all the provisions of law regarding actions to
48 determine adverse claims.

49 When an action has been brought, either by the lien
50 claimant to enforce ~~his~~ the lien or by the owner, person or
51 party having an interest in or a lien upon the property against
52 which a lien claim has been filed to determine adverse claims,
53 as provided herein, application may be made at any time after
54 such action has been commenced by any of the persons or parties
55 above mentioned to have the property affected by any such lien,
56 released from the lien by giving ten days' notice, or such other
57 and shorter notice as the court may order and direct, to the
58 lien claimant, or ~~his~~ the lien claimant's attorney, of intention
59 to apply to the district court for the release of such lien and
60 of the time and place of hearing. Upon a hearing upon an
61 application the court shall fix a sum of money to be deposited
62 by the applicant with the clerk of the district court, which sum
63 shall not be less than the aggregate amount of, (1) the amount
64 claimed in the lien statement, (2) \$18 for every \$100 or
65 fraction thereof, to cover interest, (3) the probable
66 disbursements in an action to enforce the claim for which the
67 lien statement was filed, (4) an amount not less than double the
68 amount of attorneys' fees allowed upon the foreclosure under
69 section 582.01, to cover any allowance the court may make upon
70 the trial for costs and attorneys' fees in the action or upon
71 appeal. Upon making a deposit in the amount so fixed in the
72 order of court, an order shall be made by the court releasing
73 the premises described in the statement thereof from the effect
74 of such lien. The lien claimant shall have the same right of *

1 lien against such money deposit ~~that he had~~ as against the *
 2 property released. The order releasing the lien may be filed in
 3 the office of the county recorder or registrar of titles, if
 4 registered land, of the county in which the lien statement is
 5 recorded or filed, and thereupon the premises affected shall be
 6 released therefrom. The court shall by the same order discharge
 7 any notice of lis pendens filed in any action in which such lien
 8 may be asserted if it appears that all mechanics' liens filed or
 9 recorded against the property covered by the lis pendens have
 10 been released.

11 After the release of the property affected, the judgment
 12 ordered in any action either to enforce such lien or determine
 13 adverse claims and remove such lien, in the event that the lien
 14 is established, shall provide that it be paid, and it shall be
 15 paid without further proceedings out of the deposit made as
 16 provided herein. The judgment of the district court
 17 establishing a lien, unless a written notice of intention to
 18 appeal therefrom is served on the clerk of the district court
 19 within 30 days from the entry of such judgment, shall be
 20 authority to such clerk to pay the amount specified in such
 21 judgment to the persons entitled thereto, or their attorney of
 22 record in the action. The balance of deposits, if any, shall be
 23 returned to the depositor. If the lien was not a valid and
 24 enforceable one, the judgment shall direct the return of the
 25 whole deposit to the depositor unless the claimant obtains
 26 judgment against such depositor personally and in such case the
 27 judgment shall be paid as hereinbefore specified.

514*#11S

28 514.11 COMMENCEMENT OF ACTION; PROCEEDINGS.

29 The action may be commenced by any lienholder who has filed
 30 ~~his a~~ a lien statement for record and served a copy thereof on the *
 31 owner pursuant to section 514.08, and all other such lienholders
 32 shall be made defendants therein. The summons shall state that
 33 the complaint has been filed with the clerk and shall be of no
 34 effect unless such complaint be in fact so filed. It shall
 35 contain a notice that the action is brought to foreclose a lien,
 36 giving the amount thereof, and a brief description of the
 37 premises affected, and of the improvement out of which the lien
 38 arose, and shall require each defendant to file ~~his an~~ an answer to *
 39 the complaint with the clerk within 20 days after service on ~~him~~ *
 40 the defendant. Such answer, in addition to all other matters *
 41 proper to be pleaded, shall set up any lien claimed by the
 42 defendant, and demand the enforcement thereof. No copies of
 43 such complaint or answer need be served on any party, upon
 44 demand or otherwise, and all averments of the answer shall be
 45 taken as denied without further pleading.

514*#12S

46 514.12 NOTICE OF LIS PENDENS.

47 No change for subd 1 to 2

48 Subd. 3. ONE-YEAR LIMITATION. No lien shall be
 49 enforced in any case unless the holder thereof shall assert the
 50 same, either by complaint or answer, within one year after the
 51 date of the last item of ~~his the~~ the claim as set forth in the *
 52 recorded lien statement; and, as to a bona fide purchaser,
 53 mortgagee, or encumbrancer without notice, the absence from the
 54 record of a notice of lis pendens of an action after the
 55 expiration of the year in which the lien could be so asserted
 56 shall be conclusive evidence that the lien may no longer be
 57 enforced and, in the case of registered land, the registrar of
 58 titles shall refrain from carrying forward to new certificates
 59 of title the memorials of lien statements when no such notice of
 60 lis pendens has been registered within the period; nor shall any
 61 person be bound by the judgment in such action unless ~~he-is~~ made *
 62 a party thereto within the year.

514*#13S

63 514.13 BILL OF PARTICULARS.

64 Each lienholder shall attach to and file with ~~his a~~ a *
 65 complaint or answer a bill of the items of ~~his the~~ the lienholder's *
 66 claim, verified by the oath of some person having knowledge
 67 thereof, and shall file such further and more particular
 68 account, as the court may at any time direct. Upon ~~his~~ failure *
 69 to file such original or further bill, ~~his the~~ the lienholder's *
 70 pleading shall be stricken out and ~~his that~~ that claim disallowed. *
 71 No failure to comply with any of the provisions of this chapter
 72 shall affect the right of any person to recover, in an ordinary
 73 civil action, from the party with whom ~~he-has-contracted a~~ *

1 contract was made. *

514*#14S

2 514.14 POSTPONEMENT, JUDGMENT, SUBROGATION.

3 If upon the trial of such action, or at any time before the
4 execution of final judgment therein, it shall transpire that any
5 proper party who may still be brought in has been omitted, or
6 that any party then entitled to answer has not yet appeared, or
7 that for any other reason the trial or judgment should be
8 delayed, or the judgment as ordered or entered be modified, the
9 court may postpone the trial, or make such other or further
10 order in the premises as shall be just. If it be found that any
11 indebtedness for which a lien is demanded be not then due, the
12 same shall be allowed for the amount of its present worth.
13 Judgment shall be given in favor of each lienholder for the
14 amount demanded and proved ~~by him~~, with costs and disbursements *
15 to be fixed by the court at the trial, and such amount shall not
16 be included in the lien of any other party; but if, after
17 judgment, a lienholder who is personally indebted for the amount
18 of any lien so adjudged in favor of another shall pay such
19 indebtedness, ~~he~~ the lienholder shall thereby become subrogated *
20 to the rights of the person so paid.

514*#18S

21 514.18 RETAINING.

22 Subdivision 1. MECHANICS' LIEN ON PERSONAL PROPERTY;
23 PROPERTY IN POSSESSION. Whoever, at the request of the owner
24 or legal possessor of any personal property, shall store or care
25 for or contribute in any of the modes mentioned in section
26 514.19 to its preservation, care, or to the enhancement of its
27 value, shall have a lien upon such property for the price or
28 value of such storage, care, or contribution, and for any legal
29 charges against the same paid by such person to any other
30 person, and the right to retain possession of the property in *
31 ~~his possession~~ until such lien is lawfully discharged. *

32 Subd. 2. NONPOSSESSORY LIEN; NOTICE. Notwithstanding
33 the voluntary surrender or other loss of possession of the
34 property on which the lien is claimed, the person entitled
35 thereto may preserve the lien if upon giving notice of the lien *
36 at any time within 60 days after the surrender or loss of
37 possession ~~he gives notice of his lien~~, by filing in the *
38 appropriate filing office under the uniform commercial code,
39 Minnesota Statutes, section 336.9-401 a verified statement and
40 notice of ~~his~~ intention to claim a lien. The statement shall *
41 contain a description of the property upon which the lien is
42 claimed, the work performed or materials furnished and the
43 amount due.

44 Subd. 3. PRIORITY; SECURITY; INTEREST; FORECLOSURE.

45 The lien shall be valid against everyone except a purchaser or
46 encumbrancer in good faith without notice and for value whose
47 rights were acquired prior to the filing of the lien statement
48 and who has filed a statement of ~~his~~ interest in the appropriate *
49 filing office. The lien shall be considered a security interest
50 under the uniform commercial code and foreclosure thereon shall
51 be in the manner prescribed for security interests under article
52 9 of the uniform commercial code.

53 No change for subd 4

514*#19S

54 514.19 RIGHT OF DETAINER.

55 A lien and right of detainer exists for:

56 (1) Transporting property from one place to another but not
57 as a carrier under article 7 of the Uniform Commercial Code;

58 (2) Keeping or storing property as a bailee but not as a
59 warehouseman warehouse operator under article 7 of the Uniform *
60 Commercial Code;

61 (3) Keeping, feeding, pasturing, or otherwise caring for
62 domestic animals or other beasts, including medical or surgical
63 treatment and shoeing;

64 (4) The use and storage of molds and patterns in the
65 possession of the fabricator belonging to the customer for the
66 balance due from the customer for fabrication work;

67 (5) Making, altering or repairing any article, or expending
68 any labor, skill or material on it.

69 The liens embrace all lawful charges against the property
70 paid to any other person by the person claiming the lien, and
71 the price or value of the care, storage or contribution and all
72 reasonable disbursements occasioned by the detention or sale of
73 the property.

514*#21S

1 514.21 SALE, WHEN AND WHERE MADE; NOTICE.
 2 The sale herein provided for shall be made at public
 3 auction between nine o'clock in the morning and five o'clock in
 4 the afternoon in the county where the property or some part
 5 thereof is situated. A notice stating the time and place of
 6 sale, the amount which will be due on the date of sale exclusive
 7 of the expenses of advertising and sale, and the grounds of the
 8 lien, giving a general description of the property to be sold,
 9 shall be served personally upon the owner of the property if he
 10 the owner can be found within the county in which the property
 11 is stored, and if ~~he cannot~~ not, then it shall be mailed to the
 12 owner thereof at least three weeks before the time fixed for
 13 such sale if the place of residence or post office address of
 14 such owner is known ~~to him~~ by, or with due diligence can be
 15 learned by, the person claiming such lien, and shall be
 16 published once in each week for three successive weeks in a
 17 newspaper printed and published in the county where the
 18 property, or some part thereof, is situated, the last
 19 publication of such notice to be at least one week prior to the
 20 date of sale; or, if there is no newspaper printed and published
 21 in the county, then the notice of sale shall be posted in three
 22 of the most public places in the county at least three weeks
 23 before the time of sale. In case neither the place of residence
 24 nor the post office address of such owner is known to the person
 25 claiming such lien and cannot with reasonable diligence be
 26 learned, the publication or posting of notice, as herein
 27 provided, shall be sufficient to authorize such sale.

514*#22S

28 514.22 CONDUCT OF SALE.
 29 The property sold, as herein provided, shall be in view at
 30 the time of the sale. Under the power of sale hereby given
 31 enough of the property may be sold to satisfy the amount due at
 32 the time of sale, including expenses, and the property, if under
 33 cover, may be offered for sale and sold in the original packages
 34 in the form and condition that the same was received by the
 35 lienholder; but, after sufficient property has been so sold to
 36 satisfy the amount so due, no more shall be sold. The
 37 lienholder, ~~his~~ the lienholder's representatives or assigns, may
 38 fairly and in good faith purchase any property sold under the
 39 provisions of sections 514.18 to 514.22, provided the sale is
 40 conducted by the sheriff, ~~his~~ the sheriff's deputy, or any
 41 constable of the county where such sale is made.

514*#23S

42 514.23 LIEN UPON ANIMAL.
 43 Every person who shall shoe or cause to be shod by ~~his~~ the
 44 person's employees any horse, mule, ox, or other animal shall
 45 have a lien upon the animal shod for ~~his~~ the reasonable charge
 46 for the shoeing of the same, and each lien conferred by sections
 47 514.23 to 514.34 shall take precedence of all other claims or
 48 liens thereon, not duly recorded prior to the recording of the
 49 claim of lien, as provided in sections 514.24 to 514.34, but
 50 such lien shall not attach where the property has changed
 51 ownership prior to the filing of such lien.

514*#24S

52 514.24 STATEMENT AND NOTICE, WHEN AND WHERE FILED.
 53 Any person desiring to secure the benefit of sections
 54 514.23 to 514.34, shall, within six months after the shoeing of
 55 such horse, mule, ox, or other animal, or in case ~~he~~ the person
 56 has shod such animal more than once within that time, then
 57 within six months of the last shoeing, file in the appropriate
 58 filing office under the uniform commercial code, Minnesota
 59 Statutes, Section 336.9-401, a statement made under oath by the
 60 claimant, or someone in ~~his~~ the claimant's behalf, and a notice
 61 of ~~his~~ intention to claim a lien upon such animal for ~~his~~ the
 62 charges for the shoeing of the same.

514*#26S

63 514.26 SUCCESSIVE LIENS.
 64 Any person may file successive liens upon the same animal
 65 for charges for shoeing the same, and ~~he~~ may include in any one
 66 claim of lien ~~his~~ the charges for any number of times of shoeing
 67 such animal; provided, that no lien shall be had for any shoeing
 68 of any animal done more than six months prior to the filing of
 69 the notice of lien.

514*#27S

70 514.27 DUTY OF FILING OFFICER.

1 which return shall specify such marks and the quantity
 2 attached. In all cases a copy of such writ and return shall be
 3 filed with the clerk of the court in which the action is
 4 brought. No other filing or service thereof shall be necessary
 5 to perfect such levy.

514*#46S

6 514.46 LOGS SCALED TO OFFICER; WHERE HELD; FEES.
 7 The officer serving such writ, if necessary to save the
 8 property from loss, shall have such logs or other timber scaled
 9 to ~~him~~ the officer in any boom to which they may have arrived, *
 10 but ~~he~~ the officer shall not delay the driving thereof to their *
 11 destination, if within the state. The boomage and scalage fees
 12 may be paid by the attaching officer, and the amount so paid
 13 returned as a part of ~~his~~ the officer's charges. Whether paid *
 14 before or after judgment, the amount of boomage and scalage
 15 shall be collected out of the property, as other costs and
 16 disbursements are collected.

514*#48S

17 514.48 DISCHARGE OF ATTACHMENT; BOND.
 18 The defendant, or any person entitled to defend, upon
 19 presenting an affidavit showing ~~that he has~~ a valid defense to *
 20 the whole or some part of the plaintiff's claim, and upon paying
 21 into court such part thereof as ~~he~~ the defendant admits, with *
 22 costs and disbursements then incurred, may have the attachment
 23 dissolved by giving a bond, to be approved by the judge,
 24 conditioned for the payment of any sum that may be recovered in
 25 the action. At least five days' notice shall be given of the
 26 application for such dissolution, and at the hearing thereof the
 27 ~~judge, in his discretion,~~ may require the sureties to justify *
 28 orally at such time and place as ~~he~~ the judge may direct. The *
 29 bond so approved, the affidavit and notice, and the order of
 30 dissolution shall be filed with the clerk, whereupon the
 31 property shall be released.

514*#49S

32 514.49 FINDINGS, JUDGMENT, COSTS.
 33 Upon the trial of such action the court or jury, in
 34 addition to finding the sum due to plaintiff, shall find how
 35 much thereof is due for labor or service upon the property
 36 described in the complaint, and how much of such property is
 37 subject to plaintiff's lien. The judgment entered thereon shall
 38 include costs and disbursements as follows:
 39 (1) The costs allowed in ordinary actions in the district
 40 court, and in addition an attorney's fee of \$20;
 41 (2) The disbursements made by or in behalf of the plaintiff
 42 in enforcing the lien including all scalage, boomage, and
 43 officers' fees;
 44 (3) If the plaintiff be the original lienholder ~~his~~ the *
 45 plaintiff's fees and mileage as a witness. *

514*#50S

46 514.50 EXECUTION SALE.
 47 The judgment shall be enforced by execution sale of the
 48 property found subject to the lien, if any there be; if not,
 49 execution shall issue in ordinary form for the amount
 50 recovered. If a part only of the recovery be secured by the
 51 lien, separate executions may issue as the case shall require.
 52 The levy upon property covered by the lien shall be made in the
 53 manner provided for the levy of the attachment, and notice of
 54 the sale shall be given as in the case of ordinary execution
 55 sales, except that such notice shall also be posted in the
 56 office of the commissioner of natural resources; and if the sale
 57 be made in the county wherein the office of the commissioner of
 58 natural resources is situated, it shall take place at ~~his~~ the *
 59 commissioner's office. The officer making the sale shall *
 60 give ~~his~~ the certificate thereof to the purchaser, which shall *
 61 vest in ~~him~~ the purchaser the title of all parties to the *
 62 action, and entitle ~~him~~ the purchaser to a scale bill for such *
 63 part of the property as is described by recorded marks.

514*#51S

64 514.51 OBSTRUCTING OR INTERMIXED LOGS.
 65 Any person desiring to float logs or other timber in any of
 66 the streams or waters of this state, and being hindered or
 67 obstructed in so doing by the logs or timber of another, or any
 68 person whose logs or timber shall become so intermingled therein
 69 with those of another as to make it difficult to separate ~~his~~ *
 70 own them without floating all to other waters, may drive all *
 71 such obstructing or mingled logs or timber, with ~~his~~ the *

1 person's own, to some point where the same can conveniently be
 2 assorted and ~~his~~ the person's own separated from the mass. He *
 3 The person shall have a lien upon the logs or timber so driven *
 4 for the reasonable value of ~~his~~ the person's services in driving *
 5 the same, which shall be asserted and enforced as in the case of
 6 other liens.

514*#52S

7 514.52 SUBMERGED, BURIED OR SUNKEN LOGS; BOND; LIEN;
 8 CONVERSION.

9 Any person desiring to raise or float any submerged, buried *
 10 or sunken logs or other timber owned by ~~him~~ that person in any *
 11 of the waters of this state and being hindered or obstructed in
 12 so doing by the logs or timber of another, and any person whose
 13 logs are sunken, buried, or submerged, and so intermingled with *
 14 those of another as to make it difficult to raise or float ~~his~~ *
 15 the person's own without raising and floating all, and who shall *
 16 have filed in the office of the commissioner of natural
 17 resources a bond in the amount and with sureties approved by
 18 such commissioner of natural resources conditioned that such
 19 person will, on demand and on payment of any lien ~~he~~ that person *
 20 may have thereon, deliver to the owner thereof at the nearest
 21 convenient place of separation, or the nearest advantageous
 22 market, all submerged, buried, or sunken logs raised or floated
 23 by ~~him~~ that person in pursuance hereof, or in case such delivery *
 24 be not so demanded, pay to the owner thereof, in pursuance of
 25 and according to the provisions of this section, and who shall
 26 from time to time renew such bond or give such additional bond,
 27 as the commissioner of natural resources shall require, may
 28 raise and float all such obstructing or mingled logs or timber
 29 with ~~his~~ the person's own and transport the same to some safe *
 30 point where the same may be conveniently sorted and separated or
 31 advantageously marketed. The person shall have a lien upon *
 32 the logs or timber so raised or floated for the reasonable value
 33 of ~~his~~ services in raising and floating the same, which shall be *
 34 asserted and enforced as in the case of other liens upon logs
 35 and timber. Any person who shall convert to ~~his~~ the person's *
 36 own use any logs or timber of another upon which ~~he~~ the person *
 37 has a lien under the provisions of this section, and the
 38 delivery of which has not been demanded by the owner thereof,
 39 shall be liable to the owner of the logs or timber so converted
 40 for the full value thereof at the time of such conversion, with
 41 interest, less the amount of such lien and payment of the amount
 42 of such liability shall be full compensation for all logs or
 43 timber so converted.

514*#53S

44 514.53 SCALING AND MARKING OF SUBMERGED LOGS; DUTY OF
 45 COMMISSIONER OF NATURAL RESOURCES; FEES.

46 Every person who shall engage in raising or floating logs *
 47 or timber under the provisions of section 514.52 shall cause all
 48 logs and other timber raised or floated by ~~him~~ that person to be *
 49 scaled at time of such raising or floating by the commissioner
 50 of natural resources, and shall place on each log and piece of
 51 timber so raised a suitable log mark, which mark shall only be
 52 used on logs or timber so raised or floated. The commissioner
 53 of natural resources shall attend in person or by deputy at the
 54 raising and floating of such logs or timber, and promptly scale
 55 the same, recording the size, kind, and all marks on each piece
 56 thereof. For such service said commissioner of natural
 57 resources shall receive in addition to all fees now allowed by
 58 law the further sum of \$5 for each day's attendance under the
 59 provisions of sections 514.40 to 514.58, and such fees shall be
 60 paid by the person so employing ~~him~~ the commissioner and shall *
 61 be taken and held to be a part of the cost of raising and
 62 floating such logs and timber. No such work shall be performed
 63 within the limits of any operating boom company organized under
 64 the laws of this state, except under the supervision and
 65 direction of some representative of the boom company within
 66 whose limits such work is being carried on.

514*#54S

67 514.54 TIMBER CUT IN OTHER STATES.

68 If such logs or other timber are cut in another state, and
 69 are thence rafted or otherwise transported into this state, any
 70 person who has performed labor or service thereon for which ~~he~~ *
 71 the person would have been entitled to a lien if the same had *
 72 been performed in Minnesota shall have the same lien therefor,
 73 and may enforce it at any place where the logs or timber may be

1 found, to the same extent and with like effect as though the
2 same had accrued in this state.

514*#57S

3 514.57 COMMISSIONER OF NATURAL RESOURCES; LIEN FOR
4 CHARGES.

5 To secure the payment of ~~his~~ fees, mileage, and other *
6 charges for official services relating to logs, timber, and
7 lumber, the commissioner of natural resources shall have a lien *
8 upon the same, which ~~he~~ the commissioner may retain by affixing *
9 to the scale bill of such logs, timber, or lumber a statement of
10 the amount due ~~him~~, with a declaration that ~~he~~ the commissioner *
11 claims and is entitled to such lien, and by taking actual
12 possession of a quantity of such logs, timber, or lumber
13 sufficient to pay such amount, with the expenses of seizure and
14 sale.

514*#58S

15 514.58 SALE AND DISTRIBUTION OF PROCEEDS.

16 If the amount of such lien be not paid within 60 days after
17 delivery of the scale bill and statement aforesaid, the property
18 so seized may be sold at auction by the sheriff or any constable
19 of the county upon ten days posted notice. One copy of the
20 notice shall be posted in the office of the commissioner of
21 natural resources who may become a purchaser at the sale. Out
22 of the proceeds of the sale the officer making the same shall
23 retain ~~his~~ fees and charges therefor, and pay to the *
24 commissioner of natural resources the amount of ~~his~~ the *
25 commissioner's lien and all expenses lawfully incurred ~~by him~~ in *
26 enforcing the same. The remainder, if any, shall be paid to the
27 owner or other person entitled thereto.

514*#59S

28 514.59 WAGES, LIEN AS AGAINST SEIZURE.

29 Every employee has a lien upon all the property of ~~his~~ that *
30 person's employer, as against any attachment or execution levied *
31 thereon, for the security of the employee's wages earned within
32 the six months last preceding, to an amount not exceeding \$1,000
33 or five weeks net wages, whichever is greater, subject to a
34 maximum of \$3,000. The lien shall not be affected by any
35 agreement with the employer to waive the lien, and shall be
36 preferred to mortgages, judgments, and other liens which attach
37 after the beginning of the labor or services by which the wages
38 were earned.

514*#60S

39 514.60 NOTICE TO SHERIFF; PROPERTY HELD.

40 Within five days after such levy the lienholder shall give
41 to the officer making the same a written notice of the amount
42 and grounds of ~~his~~ the lienholder's claim; whereupon the officer *
43 shall hold the property, or the proceeds thereof in case of
44 sale, subject to such claim until the same is determined by
45 agreement of the parties concerned or by the judgment of a
46 court. The lien shall cease unless such agreement be reached,
47 or an action to determine the claim be commenced, within 30 days
48 after such notice was served. Upon a sale of the property ~~by~~ *
49 the officer holding the sale ~~he~~ shall pay the liens, in the *
50 order of the giving of the notices, out of the moneys derived
51 therefrom.

514*#61S

52 514.61 DEATH OR DISSOLUTION OF EMPLOYER.

53 The lien shall also exist, as against all other creditors,
54 in case of the death, dissolution, or insolvency of the
55 employer. The notice provided for in section 514.60 shall, in
56 such case, be given to the personal representative of the
57 decedent, or to the receiver or other officer of court entitled
58 to possession of the assets of the employer, within five days
59 after ~~his~~ qualification as such, and the lien shall cease unless *
60 determined or sued upon as prescribed in section 514.60.

514*#63S

61 514.63 PRESERVATION AND ENFORCEMENT OF LIEN.

62 To preserve the lien created by section 514.62 the holder
63 thereof, within six months after such service, shall file in the
64 appropriate filing office under the uniform commercial code,
65 Minnesota Statutes, Section 336.9-401, a verified statement
66 containing a description of the female and stating the time and
67 place of the service and the amount due therefor. A certified
68 copy of such statement shall be sufficient to authorize the
69 lienholder to take possession of the offspring at any time
70 within one year after its birth and to foreclose ~~his~~ the lien *

1 thereon in the manner prescribed for security interests under
2 article 9 of the uniform commercial code.

514*#66S

3 514.66 PRESERVATION AND ENFORCEMENT OF LIEN.

4 Within 15 days after such threshing, clover hulling, corn
5 picking, corn shelling or shredding, or hay baling, or grain
6 drying is completed the claimant of such lien shall file in the
7 appropriate filing office under the uniform commercial code,
8 Minnesota Statutes, Section 336.9-401, a verified statement of
9 the amounts and kinds of grain threshed, clover hulled, corn
10 picked, corn shelled or shredded, or hay baled, or grain dried,
11 the time and place of doing the same, giving the first and last
12 days thereof, the rates per bushel, per day, per hour or other
13 terms of the contract and the total charge therefor, the amounts
14 paid thereon, if any, and the balance due, the name of the
15 reputed owner and of the person requesting the work to be done,
16 and a notice that a lien is claimed for the amount remaining
17 unpaid. Within six months after the filing of the lien
18 statement but not thereafter the lien claimant may foreclose ~~his~~ *
19 the lien in the manner prescribed for security interests under *
20 article 9 of the uniform commercial code. Any person secreting
21 or disposing of property covered by such lien, without the
22 consent of the lienholder, shall be guilty of a misdemeanor.
23 The minimum penalty thereof shall be a fine of \$25.

514*#70S

24 514.70 CLERK TO PROVIDE RECORD.

25 The clerk of court shall endorse thereon the date and hour
26 of filing and, at the expense of the county, shall provide a
27 hospital lien book with proper index in which ~~he~~ the clerk shall *
28 enter the date and hour of such filing, the names and addresses
29 of such hospital, the operators thereof and of such patient, the
30 amount claimed and the names and addresses of those claimed to
31 be liable for damages. ~~He~~ The clerk of court shall be paid \$1 *
32 as ~~his~~ the fee for such filing. *

514*#73S

33 514.73 LIENS ASSIGNABLE.

34 All liens given by this chapter are assignable and may be
35 asserted and enforced by the assignee, or by the personal
36 representative of any holder thereof in case of ~~his~~ the holder's *
37 death. *

514*#74S

38 514.74 INACCURACIES IN LIEN STATEMENT.

39 In no case shall the liens given by this chapter be
40 affected by any inaccuracy in the particulars of the lien
41 statement; but, as against all persons except the owner of the
42 property, the lien claimant shall be concluded by the dates
43 therein given, showing the first and last items of ~~his~~ the *
44 claimant's account. In no case shall a lien exist for a greater *
45 amount than the sum claimed in the lien statement, nor for any
46 amount, if it be made to appear that the claimant has knowingly
47 demanded in the statement more than is justly due.

514*#76S

48 514.76 SATISFACTION; PENALTY FOR REFUSAL.

49 Every lien claimed under any provision of this chapter
50 shall be satisfied of record, at the expense of the claimant,
51 upon payment or tender to ~~him~~ the claimant of the amount *
52 actually due thereon, or upon written demand made at any time
53 after expiration of the time within which it may be asserted in
54 an action or other proceeding to enforce the same, if it has not
55 been so asserted. Refusal to cause satisfaction to be entered
56 within ten days after such payment, tender, or demand shall
57 render the party so refusing liable in a civil action, to any
58 person interested, for \$25 as liquidated damages if the lien was
59 claimed upon real estate; otherwise, \$10; and in either case for
60 any further damages which the plaintiff may have suffered
61 therefrom.

514*#78S

62 514.78 NOTIFICATION OF OWNER; SALE.

63 When possession of any of the articles of wearing apparel,
64 bedding, linens, flatwork and household furnishings, embraced in
65 section 514.77, has continued for 90 days after the charges
66 accrue, and the charges so due have not been paid, it shall be
67 the duty of the persons so holding said articles to notify the
68 owner of these charges, by certified mail at ~~his~~ the owner's *
69 last known address. On the owner's failure to pay these charges
70 within ten days after such notice has been given, the persons so

1 holding said wearing apparel, bedding, linens, flatwork and
2 household furnishings shall then be authorized to sell said
3 wearing apparel, bedding, linens, flatwork and household
4 furnishings. Said sale may be public or private and the
5 proceeds of the same shall be applied toward the payment of the
6 charges and any balance shall be paid over to the person
7 entitled to the same. If the owner's residence is beyond the
8 state, or is unknown, the person holding said wearing apparel,
9 bedding, linens, flatwork and household furnishings shall not be
10 required to give such notice before proceeding to sell.

514*#79S

11 514.79 BALANCE OF PROCEEDS OF SALE; PAYMENT OF.

12 If the persons who are legally entitled to receive the
13 balance mentioned in sections 514.77 to 514.79 are not known or
14 have removed from the state or county in which such repairing,
15 altering, dyeing, cleaning, pressing and laundering was done,
16 the person, firm, or corporation which held said property shall
17 pay the balance resulting from any sale to the treasurer of the
18 county in which said articles were held and take ~~his~~ the
19 treasurer's receipt therefor. Whenever such balance shall
20 remain in the possession of the county treasurer for a period of
21 two years unclaimed by the party legally entitled to the same,
22 such balance shall become a part of the general funds of the
23 county in which the articles were sold.

514*#92S

24 514.92 LIEN; STATEMENT OF CLAIM; FORECLOSURE.

25 Subdivision 1. Every duly licensed and registered
26 veterinarian shall have a lien for all veterinary services over
27 \$25 rendered upon any animal or animals at the request of the
28 owner or lawful possessor of same, including but not limited to
29 surgical procedures, vaccines, antisera, virus, antibiotics, or
30 other veterinary treatment, from the date of filing the lien.
31 Within 180 days from the day on which the treatment was
32 completed, the claimant of the lien shall file in the
33 appropriate filing office under the Uniform Commercial Code,
34 Minnesota Statutes, section 336.9-401, a verified lien statement
35 setting forth the kind and number of animals treated, the
36 reasonable value for the treatment or services rendered, or the
37 price contracted between the parties, the name of the person for
38 whom the treatment was done, the reasonable identification of
39 the animal or group of animals treated, dates when the treatment
40 was commenced and was completed, the name of the owner, or
41 reputed owner, of the animals, the name and address of the
42 veterinarian claiming the lien. Within one year after the date
43 the last service was rendered, but not thereafter, the lien
44 claimant may foreclose ~~his~~ the lien in the manner prescribed for
45 security interests under article 9 of the Uniform Commercial
46 Code.

47 No change for subd 2

514*#93S

48 514.93 SUMMARY SALE OF UNCLAIMED ANIMALS; TIME OF SALE;
49 NOTICE; DISPOSITION OF PROCEEDS; RECORD OF SALE.

50 Any unclaimed animal held by a veterinarian for more than
51 ten days after the completion of veterinary care and treatment
52 requested by the owner or lawful possessor of said animal may be
53 summarily sold by the veterinarian for the reasonable value of
54 said animal upon compliance with the procedures set forth in
55 this section. Written notice of the completion of care and
56 treatment and written notice of the proposed sale of said animal
57 shall be given to the owner or lawful possessor of said animal
58 by certified mail. If the whereabouts of the owner or lawful
59 possessor of the animal cannot be ascertained with reasonable
60 diligence, a notice of the proposed sale shall be published in a
61 legal newspaper circulated in the county where the animal is
62 located at least ten days preceding the sale. The notice shall
63 state the amount due and the date, place and time of sale. The
64 proceeds of such sale shall first be used to reimburse the
65 veterinarian for an amount equal to the reasonable value of the
66 veterinary care and treatment plus any other care and board
67 given said animal; the excess amount, if any, from such sale
68 shall be paid to the owner or lawful possessor of said animal or
69 to other persons legally entitled thereto. Any veterinarian
70 making a sale hereunder shall make a record in writing verified
71 by ~~his~~ the veterinarian's oath, setting forth the kind and
72 number of animals sold, the amount realized from any such sale,
73 the amount claimed due by the veterinarian, the name of the

1 former owner or lawful possessor requesting the care and
2 treatment performed by the veterinarian on the animal or animals
3 sold, the dates when the treatment was commenced and was
4 completed, the date or dates when notice of the proposed sale
5 was given the owner or lawful possessor of the animal or animals
6 sold, the description of the animal or animals sold, and if
7 branded, the brand thereon, the name and address of the
8 veterinarian making the sale and the name and address of
9 purchaser or purchasers of the animal or animals sold. The
10 record so made shall be filed within five days of the sale in
11 the office of the county recorder of the county in which such
12 sale is made.

515*#05S

13 515.05 OWNERSHIP OF APARTMENTS.

14 Each apartment owner shall be entitled to the exclusive
15 ownership and possession of ~~his~~ the apartment. *

515*#07S

16 515.07 COMPLIANCE WITH COVENANTS, BYLAWS AND
17 ADMINISTRATIVE PROVISIONS.

18 Each apartment owner shall comply strictly with the bylaws
19 and with the administrative rules and regulations adopted
20 pursuant thereto, as either of the same may be lawfully amended
21 from time to time, and with the covenants, conditions, and
22 restrictions set forth in the declaration or in the owner's deed
23 to ~~his~~ the apartment. Failure to comply with any of the same
24 shall be ground for an action to recover sums due, for damages
25 or injunctive relief or both maintainable by the manager or
26 board of directors on behalf of the association of apartment
27 owners or, in a proper case, by an aggrieved apartment owner. *

515*#09S

28 515.09 LIENS AGAINST APARTMENTS; REMOVAL FROM LIEN;
29 EFFECT OF PART PAYMENT.

30 Subdivision 1. Subsequent to recording the first
31 conveyance of the first apartment which is conveyed, and while
32 the property remains subject to this act, no lien shall
33 thereafter arise or be effective against the property. During
34 such period liens or encumbrances shall arise or be created only
35 against each apartment and the percentage of undivided interest
36 in the common areas and facilities, appurtenant to such
37 apartment, in the same manner and under the same conditions in
38 every respect as liens or encumbrances may arise or be created
39 upon or against any other separate parcel of real property
40 subject to individual ownership; provided that no labor
41 performed or materials furnished with the consent or at the
42 request of an apartment owner or his an owner's agent or-his,
43 contractor or subcontractor shall be the basis for the filing of
44 a lien pursuant to the lien law against the apartment or any
45 other property of any other apartment owner not expressly
46 consenting to or requesting the same, except that such express
47 consent shall be deemed to be given by the owner of any
48 apartment in the case of emergency repairs thereto. Labor
49 performed or materials furnished for the common areas and
50 facilities, if duly authorized by the association of apartment
51 owners, the manager or board of directors in accordance with
52 sections 515.01 to 515.29, the declaration or bylaws, shall be
53 deemed to be performed or furnished with the express consent of
54 each apartment owner and shall be the basis for the filing of a
55 lien pursuant to the lien law against each of the apartments and
56 shall be subject to the provisions of subdivision 2 hereunder. *

57 Subd. 2. In the event a lien against two or more
58 apartments becomes effective, the apartment owners of the
59 separate apartments may remove their apartment and the
60 percentage of undivided interest in the common areas and
61 facilities appurtenant to such apartment from the lien by
62 payment of the fractional or proportional amounts attributable
63 to each of the apartments affected. Such individual payment
64 shall be computed by reference to the percentages appearing on
65 the declaration. Subsequent to any such payment, discharge or
66 other satisfaction the apartment and the percentage of undivided
67 interest in the common areas and facilities appurtenant thereto
68 shall thereafter be free and clear of the lien so paid,
69 satisfied or discharged. Such partial payment, satisfaction or
70 discharge shall not prevent the lienor from proceeding to
71 enforce ~~his~~ rights against any apartment and the percentage of
72 undivided interest in the common areas and facilities
73 appurtenant thereto not so paid, satisfied or discharged. *

515*#21S

1 515.21 WAIVER OF USE OF COMMON AREAS AND FACILITIES;
2 ABANDONMENT OF APARTMENT.

3 No apartment owner may is exempt himself from liability for *
4 his that owner's contribution towards the common expenses by *
5 waiver of the use or enjoyment of any of the common areas and *
6 facilities or by abandonment of his that owner's apartment. *

515*#215S

7 515.215 DISCLOSURE REQUIREMENTS.

8 No change for subd 1 to 2

9 Subd. 3. Any vendor referred to in subdivision 1 who, in
10 disclosing the information required pursuant to subdivisions 1
11 and 2, makes any untrue statement of a material fact, or omits
12 to state a material fact necessary in order to make the
13 statements made, in the light of circumstances under which they
14 were made, not misleading, shall be liable to any person
15 purchasing an apartment from him that vendor. However, no *
16 action may be maintained to enforce any liability created under
17 this section unless brought within three years after the date of
18 closing.

19 Subd. 4. The rights of purchasers under this section may
20 not be waived in the purchase agreement and any attempted waiver
21 is void. However, if any purchaser who proceeds to closing, his
22 terminates any right under this section to rescind is-terminated. *

23 No change for subd 5

24 Subd. 6. (a) A purchaser has an unconditional right to
25 rescind a purchase agreement at any time within five days after
26 the date the purchaser receives all the information contained in
27 subdivision 1.

28 (b) Each purchase agreement shall prominently contain upon
29 its face the following notice printed in bold type, stating:

30 "Notice to Purchaser

31 You are entitled to rescind this agreement at anytime
32 within five days from the day you actually receive the
33 information required by law. Such rescission must be in writing
34 and mailed to the vendor or his the vendor's agent or his lender *
35 at the address stated in this document. Upon rescission, you
36 will receive a refund of all moneys paid."

37 (c) Rescission occurs when the purchaser gives written
38 notice of rescission to the vendor, or his agent of the vendor *
39 or the lender at the address stated in the purchase agreement.
40 Notice of rescission, if given by mail, is effective when it is
41 deposited in a mailbox properly addressed and postage prepaid.

42 No change for subd 7

515*#24S

43 515.24 JOINT AND SEVERAL LIABILITY OF GRANTOR AND
44 GRANTEE FOR UNPAID COMMON EXPENSES.

45 In a voluntary conveyance the grantee of an apartment shall
46 be jointly and severally liable with the grantor for all unpaid
47 assessments against the latter for his the grantor's share of *
48 the common expenses up to the time of the grant or conveyance,
49 without prejudice to the grantee's right to recover from the
50 grantor the amounts paid by the grantee therefor. However, any
51 such grantee shall be entitled to a statement from the manager
52 or board of directors, as the case may be, setting forth the
53 amount of the unpaid assessments against the grantor and such
54 grantee shall not be liable for, nor shall the apartment
55 conveyed be subject to a lien for any unpaid assessments against
56 the grantor in excess of the amount therein set forth.

515*#25S

57 515.25 INSURANCE.

58 The manager or the board of directors shall have the
59 authority to and shall obtain insurance for the property against
60 loss or damage by fire and such other hazards as are covered
61 under standard extended coverage provisions for the full
62 insurable replacement costs of the common areas and facilities
63 and the apartments. Such insurance coverage shall be written on
64 the property in the name of, and the proceeds thereof shall be
65 payable to, such manager or the board of directors of the
66 association of apartment owners, as trustee for each of the
67 apartment owners in the percentages established in the
68 declaration. Premiums shall be common expenses. Provision for
69 such insurance shall be without prejudice to the right of each
70 apartment owner to insure his that owner's own apartment for his *
71 that owner's benefit. *

1 515A.1-103 DEFINITIONS.

2 In the declaration and bylaws, unless specifically provided
3 otherwise or the context otherwise requires, and in sections
4 515A.1-101 to 515A.4-117:

5 (1) "Additional real estate" means real estate that may be
6 added to a flexible condominium.

7 (2) "Affiliate of a declarant" means any person who
8 controls, is controlled by, or is under common control with a
9 declarant. A person "controls" a declarant if the person (i) is
10 a general partner, officer, director, or employer of the
11 declarant or (ii) directly or indirectly or acting in concert
12 with one or more other persons, or through one or more
13 subsidiaries, owns, controls, holds with power to vote, or holds
14 proxies representing, more than 20 percent of the voting
15 interest in the declarant, or (iii) controls in any manner the
16 election of a majority of the directors of the declarant, or
17 (iv) has contributed more than 20 percent of the capital of the
18 declarant. A person "is controlled by" a declarant if the
19 declarant (i) is a general partner, officer, director, or
20 employer of the person or (ii) directly or indirectly or acting
21 in concert with one or more other persons, or through one or
22 more subsidiaries, owns, controls, holds with power to vote, or
23 holds proxies representing, more than 20 percent of the voting
24 interest in the person, or (iii) controls in any manner the
25 election of a majority of the directors of the person, or (iv)
26 has contributed more than 20 percent of the capital of the
27 person. Control does not exist if the powers described in this
28 paragraph are held solely as security for an obligation and are
29 not exercised.

30 (3) "Association" or "unit owners association" means the
31 unit owners association organized under section 515A.3-101.

32 (4) "Common element" means all portions of a condominium
33 other than the units.

34 (5) "Common expenses" means expenditures made or
35 liabilities incurred by or on behalf of the association,
36 together with any allocations to reserves.

37 (6) "Common expense liability" means the liability for
38 common expenses allocated to each unit pursuant to section
39 515A.2-108.

40 (7) "Condominium" means real estate, portions of which are
41 designated for separate ownership and the remainder of which is
42 designated for common ownership solely by the owners of those
43 portions. Real estate is not a condominium unless the undivided
44 interests in the common elements are vested in the unit owners.

45 (8) "Conversion condominium" means a condominium in which a
46 building was at any time before the recording of the declaration
47 wholly or partially occupied by persons other than purchasers
48 and persons who occupied with the consent of the purchasers.

49 (9) "Declarant" means:

50 (a) if the condominium has been created, (1) any person who
51 has executed a declaration or an amendment to a declaration to
52 add additional real estate, other than persons holding interests
53 in the real estate solely as security for an obligation, persons
54 whose interests in the real estate will not be conveyed to unit
55 owners, or, in the case of a leasehold condominium, a lessor who
56 possesses no special declarant rights and who is not an
57 affiliate of a declarant who possesses special declarant rights,
58 or (2) any person who succeeds under section 515A.3-104 to any
59 special declarant rights; or

60 (b) any person who has offered prior to creation of a
61 condominium to dispose of ~~his~~ the person's interest in a unit to
62 be created and not previously disposed of. *

63 (10) "Dispose" or "disposition" means a voluntary transfer
64 of any legal or equitable interest in a unit, other than as
65 security for an obligation.

66 (11) "Flexible condominium" means a condominium to which
67 additional real estate may be added.

68 (12) "Leasehold condominium" means a condominium in which
69 all of the real estate is subject to a lease, the expiration or
70 termination of which will terminate the condominium.

71 (13) "Limited common element" means a portion of the common
72 elements allocated by the declaration or by operation of section
73 515A.2-102(2) or (4) for the exclusive use of one or more but
74 fewer than all of the units.

75 (14) "Person" means a natural person, corporation,
76 partnership, trust, or other entity, or any combination thereof.

1 (15) "Purchaser" means any person, other than a declarant,
 2 who prior to creation of the condominium enters into a purchase
 3 agreement with a declarant or who by means of a voluntary
 4 transfer after creation of the condominium holds a legal or
 5 equitable interest in a unit, other than (i) a leasehold
 6 interest (including renewal options) of less than three years,
 7 or (ii) as security for an obligation.

8 (16) "Real estate" means any leasehold for three years or
 9 more or other estate or interest in, over, or under land,
 10 including structures, fixtures, and other improvements and
 11 interests which by custom, usage, or law pass with a conveyance
 12 of land though not described in the contract of sale or
 13 instrument of conveyance. "Real estate" includes parcels with
 14 or without upper or lower boundaries.

15 (17) "Security for an obligation" means the vendor's
 16 interest in a contract for deed, mortgagee's interest in a
 17 mortgage, purchaser's interest under a sheriff's certificate of
 18 sale during the period of redemption, or the holder's interest
 19 in a lien.

20 (18) "Special declarant rights" means rights reserved for
 21 the benefit of a declarant to complete improvements indicated on
 22 floor plans (section 515A.2-110); to add additional real estate
 23 to a flexible condominium (section 515A.2-111); to subdivide or
 24 convert a unit (section 515A.2-115); to maintain sales offices,
 25 management offices, signs advertising the condominium, and
 26 models (section 515A.2-117); to use easements through the common
 27 elements for the purpose of making improvements within the
 28 condominium or any additional real estate (section 515A.2-118);
 29 or to appoint or remove any board member during any period of
 30 declarant control (section 515A.3-103(a)).

31 (19) "Unit" means a portion of the condominium, whether or
 32 not contained solely or partially within a building, designated
 33 for separate ownership, the boundaries of which are described
 34 pursuant to section 515A.2-110.

35 (20) "Unit owner" means a declarant who owns a unit, a
 36 person to whom ownership of a unit has been conveyed or
 37 transferred, or in a leasehold condominium a lessee of a unit
 38 whose lease expires simultaneously with any lease the expiration
 39 or termination of which will remove the unit from the
 40 condominium, but does not include a holder of an interest as
 41 security for an obligation.

515A1-112

42 515A.1-112 UNCONSCIONABLE AGREEMENT OR TERM OF CONTRACT.

43 (a) The court, upon finding as a matter of law that a
 44 contract or contract clause to which the declarant or the
 45 affiliate of a declarant is a party was unconscionable at the
 46 time the contract was made, may refuse to enforce the contract,
 47 enforce the remainder of the contract without the unconscionable
 48 clause, or limit the application of any unconscionable clause in
 49 order to avoid an unconscionable result.

50 (b) Whenever it is claimed, or appears to the court that
 51 such a contract or contract clause is or may be unconscionable,
 52 the parties, in order to aid the court in making the
 53 determination, shall be afforded a reasonable opportunity to
 54 present evidence as to:

55 (1) the commercial setting of the negotiations;

56 (2) whether a party has knowingly taken advantage of the
 57 inability of the other party reasonably to protect ~~his~~ the other
 58 party's interests by reason of physical or mental infirmity,
 59 illiteracy, or inability to understand the language of the
 60 agreement or similar factors;

61 (3) the effect and purpose of the contract or clause; and

62 (4) if a sale, any gross disparity, at the time of
 63 contracting, between the amount charged for the real estate and
 64 the value of the real estate measured by the price at which
 65 similar real estate was readily obtainable in similar
 66 transactions, but a disparity between the contract price and the
 67 value of the real estate measured by the price at which similar
 68 real estate was readily obtainable in similar transactions does
 69 not, of itself, render the contract unconscionable.

515A2-107

70 515A.2-107 LEASEHOLD CONDOMINIUMS.

71 (a) Any lease the expiration or termination of which may
 72 terminate the condominium shall be recorded and the declaration
 73 shall include, in addition to the matters specified in section
 74 515A.2-105:

*
 *

- 1 (1) the county of recording and recorder's document number
- 2 for the lease;
- 3 (2) the date on which the lease is scheduled to expire;
- 4 (3) any right of the unit owners to purchase the lessor's
- 5 interest in the real estate and the manner whereby those rights
- 6 may be exercised, or a statement that they do not have those
- 7 rights;
- 8 (4) any right of the unit owners to remove any improvements
- 9 within a reasonable time after the expiration or termination of
- 10 the lease, or a statement that they do not have those rights;
- 11 and
- 12 (5) any rights of the unit owners to renew the lease and
- 13 the conditions of any renewal, or a statement that they do not
- 14 have those rights.

15 (b) After the declaration for a leasehold condominium is
 16 recorded, neither the lessor nor ~~his~~ a successor in interest may *
 17 terminate the leasehold interest of a unit owner who makes *
 18 timely payment of ~~his~~ the unit owner's share of the rent which *
 19 shall be the same portion thereof as that of ~~his~~ that unit *
 20 owner's common area expense and who otherwise complies so far as *
 21 practicable with ~~his~~ a share of all other covenants which, if *
 22 violated, would entitle the lessor to terminate the lease. No *
 23 unit owner's leasehold interest is affected by failure of any
 24 other person to pay rent or fulfill any other covenant.
 25 (c) Acquisition of the leasehold interest of any unit owner
 26 by the lessor does not merge the leasehold and fee simple
 27 interests and the lessor shall hold the title to the unit
 28 subject to the declaration unless the leasehold interests of all
 29 unit owners subject to the lease are so acquired.

515A2-110

30 515A.2-110 FLOOR PLANS.

31 (a) Floor plans are a part of the declaration. The floor
 32 plans shall contain a certification by a registered professional
 33 engineer, surveyor or architect that the floor plans accurately
 34 depict all information required by this section.

35 (b) Each floor plan shall show:

- 36 (1) the number of the condominium, and the boundaries and
- 37 dimensions of the land included in the condominium;
- 38 (2) the dimensions and location of all existing structural
- 39 improvements and roadways;
- 40 (3) the intended location and dimensions of any
- 41 contemplated common element improvements to be constructed
- 42 within the condominium labeled either "MUST BE BUILT" or "NEED
- 43 NOT BE BUILT";
- 44 (4) the location and dimensions of any additional real
- 45 estate, labeled as such;
- 46 (5) the extent of any encroachments by or upon any portion
- 47 of the condominium;
- 48 (6) the location and dimensions of all recorded easements
- 49 within the condominium serving or burdening any portion of the
- 50 condominium;
- 51 (7) the distance between noncontiguous parcels of real
- 52 estate;
- 53 (8) the location and dimensions of limited common elements,
- 54 including porches, balconies and patios, other than limited
- 55 common elements described in section 515A.2-102(2) and (4);
- 56 (9) the location and dimensions of the vertical boundaries
- 57 of each unit, and that unit's identifying number;
- 58 (10) the location and dimensions of the horizontal unit
- 59 boundaries with reference to established or assumed datum, and
- 60 that unit's identifying number;
- 61 (11) any units which may be converted by the declarant to
- 62 create additional units or common elements (section 515A.2-115)
- 63 identified separately.

64 (c) When adding additional real estate (section
 65 515A.2-111), the declarant shall record supplemental floor plans
 66 for that real estate conforming to the requirements of
 67 subsection (b). If less than all additional real estate is
 68 being added, the supplemental floor plans shall also show the
 69 location and dimensions of the remaining portion.

70 (d) If a declarant subdivides or converts any unit into two
 71 or more units, common elements or limited common elements
 72 (section 515A.2-115), ~~he~~ the declarant shall record an amendment *
 73 to the floor plans showing the location and dimensions of any
 74 new units, common elements and limited common elements thus
 75 created.

515A2-111

1 515A.2-111 EXPANSION OF FLEXIBLE CONDOMINIUMS.

2 (a) To add additional real estate pursuant to an option
3 reserved under section 515A.2-106(1), all persons having an
4 interest in the additional real estate, excepting any holder of
5 an easement or any holder of an interest to secure an obligation
6 which interest was recorded or created subsequent to the
7 recording of the declaration, shall prepare and execute and,
8 after notice as provided in subsection (b), record an amendment
9 to the declaration. The amendment to the declaration shall
10 assign an identifying number to each unit formed in the
11 additional real estate, and reallocate common element interests,
12 votes in the association, and common expense liabilities
13 according to section 515A.2-108. The amendment shall describe
14 or delineate any limited common elements formed out of the
15 additional real estate, showing or designating the unit to which
16 each is allocated to the extent required by section 515A.2-109
17 (Limited Common Elements).

18 (b) The declarant shall serve notice of ~~his~~ an intention to *
19 add additional real estate as follows:

20 (1) To the association in the same manner as service of
21 summons in a civil action in district court at least 30 days
22 prior to recording the amendment. The amendment shall be
23 attached to the notice and shall not thereafter be changed so as
24 to materially affect the rights of unit owners.

25 (2) To the occupants of each unit by notice given in the
26 manner provided in section 515A.1-115 not less than 20 days
27 prior to recording the amendment addressed to "Occupant Entitled
28 to Legal Notice" at each unit. Attached to the notice shall be
29 a statement that the amendment has been served on the
30 association.

31 (3) Proof of service upon the association and the occupants
32 shall be attached to the recorded amendment.

515A2-113

33 515A.2-113 ALTERATIONS OF UNITS.

34 Subject to the provisions of the declaration and other
35 provisions of law, a unit owner:

36 (1) may make any improvements or alterations to ~~his~~ the *
37 unit that do not impair the structural integrity or mechanical
38 systems or lessen the support of any portion of the condominium;

39 (2) after acquiring an adjoining unit or an adjoining part
40 of an adjoining unit, may with consent of the association and
41 first mortgagees of the affected units, remove or alter any
42 intervening partition or create apertures therein, even if the
43 partition in whole or in part is a common element, if those acts
44 do not impair the structural integrity or mechanical systems or
45 lessen the support of any portion of the condominium. The
46 adjoining unit owners shall have the exclusive license to use
47 the space occupied by the common elements, but the use shall not
48 create an easement or vested right. Removal of partitions or
49 creation of apertures under this paragraph is not an alteration
50 of boundaries. The association may reasonably require that the
51 owner or owners of units affected replace or restore any such
52 partition.

515A2-117

53 515A.2-117 USE FOR SALES PURPOSES.

54 If the declaration so provides and specifies the rights of
55 a declarant with regard to their number, size, location and
56 relocation, a declarant may maintain sales offices, management
57 offices, and models in the condominium. Any sales office,
58 management office, or model not designated a unit by the
59 declaration is a common element, and ~~if~~ a declarant ~~ceases~~ *
60 ceasing to be a unit owner, ~~he~~ ceases to have any rights with *
61 regard thereto unless it is removed promptly from the
62 condominium in accordance with a right to remove reserved in the
63 declaration. Subject to any limitations in the declaration, a
64 declarant may maintain signs on the common elements advertising
65 the condominium.

515A2-120

66 515A.2-120 TERMINATION OF CONDOMINIUM.

67 (a) Except in the case of a taking of all the units by
68 eminent domain (section 515A.1-107), a condominium may be
69 terminated only by agreement of unit owners of units to which at
70 least 80 percent of the votes in the association are allocated,
71 and 80 percent of the first mortgagees of the units (each
72 mortgagee having one vote per unit financed), or any larger

1 percentage the declaration specifies. The declaration may
2 specify a smaller percentage only if all of the units in the
3 condominium are restricted exclusively to nonresidential uses.

4 (b) An agreement of unit owners and mortgagees to terminate
5 a condominium must be evidenced by their execution of a
6 termination agreement or ratification thereof. If, pursuant to
7 a termination agreement, the real estate constituting the
8 condominium is to be sold following termination, the termination
9 agreement shall set forth the terms of the sale. A termination
10 agreement and all ratifications thereof shall be effective upon
11 recording in every county in which a portion of the condominium
12 is situated.

13 (c) If the termination agreement provides that the real
14 estate constituting the condominium is to be sold following
15 termination, title to that real estate, upon termination, vests
16 in the association as trustee for the holders of all interests
17 in the units. The association as trustee thereafter has all
18 powers necessary and appropriate to effect the sale. Until the
19 sale has been concluded and the proceeds thereof distributed,
20 the association continues in existence with all powers and
21 responsibilities it had before termination whether under the
22 declaration or otherwise. Unless the termination agreement
23 otherwise provides, proceeds of the sale shall be paid to the
24 association as trustee and shall be distributed to the unit
25 owners and holders of an interest as security for an obligation
26 as their interests may appear and according to the priority
27 enjoyed prior to termination in proportion to the respective
28 interests of unit owners as provided in subsection (f). Any
29 interest as security for an obligation formerly affecting a unit
30 shall constitute a claim against the proceeds in the amount
31 existing at the time of termination plus interest and other
32 amounts accrued until distribution. Except as otherwise
33 specified in the termination agreement, as long as the
34 association as trustee holds title to the real estate, each unit
35 owner and his successors in interest have the right to use the *
36 real estate that formerly constituted the common elements and
37 have an exclusive right to occupancy of the portion of the real *
38 estate that formerly constituted his the unit and limited common *
39 elements. During the period of such occupancy, each unit owner
40 and his successors in interest remain liable for all assessments *
41 and other obligations imposed on unit owners by sections
42 515A.1-101 to 515A.4-117, the declaration, or the termination
43 agreement.

44 (d) If the real estate constituting the condominium is not
45 to be sold following termination, title to the real estate, upon
46 termination, vests in the unit owners as tenants in common in
47 proportion to their respective interests as provided in
48 subsection (f). Any interests held as security for an
49 obligation and the respective instruments formerly affecting a
50 unit shall be deemed to be an interest affecting the resulting
51 undivided interest in the same manner as they formerly affected
52 the unit. As long as the tenancy in common exists, each unit
53 owner and his successors in interest have an exclusive right to *
54 occupancy of the portion of the real estate that formerly
55 constituted his that unit owner's unit and limited common *
56 elements. Unless the termination agreement otherwise provides
57 during the period of tenancy in common, the cotenants and the
58 association shall have the rights and obligations under sections
59 515A.1-101 to 515A.4-117, the declaration and bylaws and the
60 termination agreement.

61 (e) Following termination of the condominium, and after
62 payment of or provision for the claims of the association's
63 creditors, the assets of the association shall be distributed to
64 unit owners and holders of an interest as security for an
65 obligation in proportion to their respective interests as
66 provided in subsection (f). The proceeds of sale described in
67 subsection (c) and held by the association as trustee are not
68 assets of the association.

69 (f) The respective interests of unit owners referred to in
70 subsections (c), (d), and (e) are as follows:

71 (1) except as provided in paragraph (2), the respective
72 interests of unit owners are the fair market values of their
73 units, limited common elements, and common element interests
74 immediately before the termination, as determined by one or more
75 independent appraisers selected by the association. The
76 decision of the independent appraisers shall be delivered in the

1 manner provided in section 515A.1-115 addressed to the "Occupant
 2 Entitled to Legal Notice" at each unit and the first mortgagee
 3 of each unit at its last known address and becomes final unless
 4 disapproved within 30 days after delivery by unit owners of
 5 units to which 25 percent of the votes in the association are
 6 allocated or by 25 percent of the first mortgagees, each
 7 mortgagee having one vote per unit financed. The proportion of
 8 any unit owner's interest to that of all unit owners is
 9 determined by dividing the fair market value of ~~his~~ that unit
 10 owner's interest by the total fair market values of the
 11 interests of all unit owners. *

12 (2) if any unit is destroyed to the extent that an
 13 appraisal of the fair market value thereof prior to destruction
 14 cannot be made and there is not satisfactory evidence to afford
 15 such an appraisal, the interests of all unit owners are their
 16 respective common element interests immediately before the
 17 termination.

515A2-121

18 515A.2-121 RIGHTS OF HOLDERS OF AN INTEREST AS SECURITY
 19 FOR AN OBLIGATION.

20 (a) Nothing in sections 515A.1-101 to 515A.4-117 unless
 21 expressly stated diminishes the rights of holders of an interest
 22 as security for an obligation or prevents the declaration from
 23 requiring that all or a specified number or percentage of
 24 holders of an interest as security for an obligation affecting
 25 the units approve specified actions of the unit owners or the
 26 association as a condition to the effectiveness of those
 27 actions, but no requirement for approval may operate to (1) deny
 28 or delegate control over the general administrative affairs of
 29 the association by the unit owners, or (2) prevent the
 30 association from commencing, intervening in or settling any
 31 litigation or proceeding, or receiving and distributing any
 32 insurance proceeds pursuant to section 515A.3-112.

33 (b) Foreclosure or enforcement of an interest as security
 34 for an obligation against the entire condominium does not of
 35 itself terminate the condominium. Foreclosure or enforcement of
 36 an interest as security for an obligation against a portion of
 37 the condominium without redemption withdraws that portion from
 38 the condominium unless (i) the interest is recorded subsequent
 39 to the recording of the declaration or is otherwise subordinate
 40 to the declaration, or (ii) the holder or ~~his~~ the holder's
 41 predecessor has issued a release or deed for a unit. *

515A3-103

42 515A.3-103 BOARD OF DIRECTORS, MEMBERS AND OFFICERS.

43 (a) The declaration may provide for a period of declarant
 44 control of the association, during which period a declarant, or
 45 persons designated by ~~him~~ the declarant, may elect the members
 46 of the board of directors. Any period of declarant control
 47 extends from the date of the first conveyance of a unit to a
 48 unit owner other than a declarant for a period not exceeding
 49 five years in the case of a flexible condominium or three years
 50 in the case of any other condominium. Regardless of the period
 51 provided in the declaration, a period of declarant control
 52 terminates upon surrender of control by the declarant or no
 53 later than 60 days after conveyance of 75 percent of the units
 54 to unit owners other than a declarant. *

55 (b) Not later than 60 days after conveyance of 50 percent
 56 of the units to unit owners other than a declarant not less than
 57 33-1/3 percent of all of the members of the board of directors
 58 shall be elected by unit owners other than the declarant.

59 (c) Not later than the termination of the period of
 60 declarant control and thereafter the unit owners shall elect a
 61 board of directors of at least three members, at least a
 62 majority of whom shall be unit owners or the individual nominees
 63 of unit owners other than individuals. The board of directors
 64 shall elect the officers. The persons elected shall take office
 65 upon election.

66 (d) In determining whether the period of declarant control
 67 has terminated under subsection (a), or whether unit owners
 68 other than a declarant are entitled to elect members of the
 69 board of directors under subsection (b), the percentage of the
 70 units which has been conveyed is presumed to be that percentage
 71 which would have been conveyed if all the units which the
 72 declarant has built or reserved the right to build in the
 73 declaration were included in the condominium.

515A3-104

1 515A.3-104 TRANSFER OF SPECIAL DECLARANT RIGHTS.

2 (a) No special declarant rights (section 515A.1-103(18))
3 created or reserved under sections 515A.1-101 to 515A.4-117 may
4 be transferred except by an instrument evidencing the transfer
5 recorded in every county where any portion of the condominium is
6 located. The instrument shall be recordable and is not
7 effective unless executed by the transferor and transferee. If
8 additional real estate is transferred by the declarant, the
9 transferee shall be deemed to receive all special declarant
10 rights with respect thereto and shall be subject to any
11 obligations imposed by the declaration respecting the additional
12 real estate so transferred.

13 (b) Upon transfer of any special declarant right, the
14 liability of a transferor declarant is as follows:

15 (1) a transferor is not relieved of any obligation or
16 liability which arose before the transfer, and remains liable
17 for warranty obligations imposed ~~on him~~ by sections 515A.1-101 *
18 to 515A.4-117. Lack of privity does not deprive any unit owner
19 of standing to bring an action to enforce any obligation of the
20 transferor;

21 (2) if a transferor retains any special declarant right, or
22 if a successor to any special declarant right is an affiliate of
23 a declarant (section 515A.1-103(2)), the transferor is subject
24 to liability for all obligations and liabilities imposed on a
25 declarant by sections 515A.1-101 to 515A.4-117 or by the
26 declaration arising after the transfer and is jointly and
27 severally liable with the successor for the liabilities and
28 obligations of the successor which relate to the condominium;
29 and

30 (3) a transferor who retains no special declarant right has
31 no liability for any act or omission or any breach of a
32 contractual or warranty obligation arising from the exercise of
33 a special declarant right by a successor declarant who is not an
34 affiliate of the transferor.

35 (c) In case of foreclosure of a mortgage or cancellation of
36 a contract for deed or sale under the bankruptcy act or
37 receivership proceeding or the foreclosure of any other lien
38 against any unit owned by a declarant in the condominium, a
39 person first acquiring title to all the units being cancelled,
40 foreclosed or sold, succeeds to all then existing special
41 declarant rights except the special declarant rights with
42 respect to additional real estate, unless the mortgage or other
43 instrument or proceeding also covers additional real estate.

44 (d) The liabilities and obligations of persons who succeed
45 to special declarant rights are as follows:

46 (1) A successor to any special declarant right who is an
47 affiliate of a declarant is subject to all the obligations and
48 liabilities imposed on any declarant by sections 515A.1-101 to
49 515A.4-117 or by the declaration.

50 (2) A successor to any special declarant right, other than
51 a successor described in paragraphs (3) or (4) of this
52 subsection, who is not an affiliate of a declarant, is subject
53 to all obligations and liabilities imposed on a declarant by
54 sections 515A.1-101 to 515A.4-117 or the declaration, except
55 that he the successor is not subject to liability for *
56 misrepresentations or warranty obligations on improvements made
57 by any previous declarant, or made before the condominium was
58 created, or for a breach of fiduciary obligation by any previous
59 declarant.

60 (3) A successor to only a right reserved in the declaration
61 to maintain models, sales offices, and signs (section
62 515A.2-117), if he the successor is not an affiliate of a *
63 declarant, may not exercise any other special declarant right,
64 and is not subject to any liability or obligation as a
65 declarant, except the obligation to provide a disclosure
66 statement and any liability arising as a result thereof.

67 (4) A successor to all special declarant rights, who is not
68 an affiliate of a declarant and who succeeded to those rights
69 pursuant to a deed in lieu of foreclosure or by reason of
70 subsection (c), may declare his an intention in a recorded *
71 instrument to hold those rights solely for transfer to another
72 person. Thereafter, until transferring all special declarant
73 rights to any person acquiring title to any unit owned by the
74 successor, or until recording an instrument permitting exercise
75 of all those rights, that successor may not exercise any of
76 those rights other than the right to control the board of

1 directors in accordance with the provisions of section
2 515A.3-103 for the duration of any period of declarant control,
3 and any attempted exercise of those rights is void. So long as
4 any successor declarant may not exercise special declarant
5 rights under this subsection, he the successor declarant is not *
6 subject to any liability or obligation as a declarant other than
7 liability for his acts and omissions under section 515A.3-103. *

8 (e) Nothing in this section subjects any successor to a
9 special declarant right to any claims against or other
10 obligations of a transferor declarant, other than claims and
11 obligations arising under sections 515A.1-101 to 515A.4-117 or
12 the declaration.

515A3-107

13 515A.3-107 UPKEEP OF THE CONDOMINIUM.

14 Except to the extent otherwise provided by the declaration
15 or section 515A.3-112(d), the association is responsible for
16 maintenance, repair, and replacement of the common elements and
17 each unit owner is responsible for maintenance, repair, and
18 replacement of his the owner's unit. Each unit owner shall *
19 afford to the association and the other unit owners, and to
20 their agents or employees, access through his the unit *
21 reasonably necessary for those purposes.

22 If damage is inflicted on the common elements or any unit
23 through which access is taken, the unit owner responsible for
24 the damage, or the association if it is responsible, is liable
25 for the prompt repair thereof.

515A3-111

26 515A.3-111 TORT AND CONTRACT LIABILITY.

27 (a) If a tort or breach of contract occurred during any
28 period of declarant control (section 515A.3-103), the declarant
29 shall indemnify the association for all liability incurred by
30 the association as a result of that tort or breach of contract,
31 including legal fees. Any statute of limitation affecting the
32 association's right of action under this section is tolled until
33 the period of declarant control terminates.

34 (b) No unit owner shall have tort liability arising out of
35 his ownership of the common elements provided that the *
36 association has liability insurance coverage on the occurrence
37 in an amount not less than \$1,000,000.

515A3-112

38 515A.3-112 INSURANCE.

39 (a) Commencing not later than the time of the first
40 conveyance of a unit to a unit owner other than a declarant, the
41 association shall maintain, to the extent reasonably available:

42 (1) Property insurance on the common elements and units,
43 exclusive of land, excavations, foundations, and other items
44 normally excluded from property policies, insuring against all
45 risks of direct physical loss. The total amount of insurance
46 after application of any deductibles shall be not less than 80
47 percent of the full insurable replacement cost of the insured
48 property. The association or its authorized agent may enter a
49 unit at reasonable times upon reasonable notice for the purpose
50 of making appraisals for insurance purposes.

51 (2) Comprehensive general liability insurance, in an amount
52 determined by the board of directors but not less than any
53 amount specified in the declaration, covering all occurrences
54 commonly insured against for death, bodily injury, and property
55 damage arising out of or in connection with the use, ownership,
56 or maintenance of the common elements.

57 (b) If the insurance described in subsection (a) is not
58 maintained, the association shall immediately cause notice of
59 that fact to be sent postage prepaid by United States mail to
60 all unit owners at their respective units and other addresses
61 provided to the association. The declaration may require the
62 association to carry any other insurance, and the association in
63 any event may carry any other insurance it deems appropriate to
64 protect the association or the unit owners.

65 (c) Insurance policies carried pursuant to subsection (a)
66 shall provide that:

67 (1) Each unit owner and holder of a vendor's interest in a
68 contract for deed is an insured person under the policy with
69 respect to liability arising out of his ownership of an *
70 undivided interest in the common elements;

71 (2) The insurer waives its right to subrogation under the
72 policy against any unit owner of the condominium or members of
73 his the unit owner's household and against the association and *

1 members of the board of directors;

2 (3) No act or omission by any unit owner or holder of an
3 interest as security for an obligation, unless acting within the
4 scope of his authority on behalf of the association, shall void *
5 the policy or be a condition to recovery under the policy; and

6 (4) If, at the time of a loss under the policy, there is
7 other insurance in the name of a unit owner covering the same
8 property covered by the policy, the policy is primary insurance
9 not contributing with the other insurance.

10 (d) Any loss covered by the property policy under
11 subsection (a)(1) shall be adjusted with the association, but
12 the insurance proceeds for that loss shall be payable to any
13 insurance trustee designated for that purpose, or otherwise to
14 the association. The insurance trustee or the association shall
15 hold any insurance proceeds in trust for unit owners and holders
16 of an interest as security for an obligation as their interests
17 may appear. The proceeds shall be disbursed first for the
18 repair or restoration of the damaged common elements and units,
19 and unit owners and holders of an interest as security for an
20 obligation are not entitled to receive payment of any portion of
21 the proceeds unless there is a surplus of proceeds after the
22 common elements and units have been completely repaired or
23 restored, or the condominium is terminated.

24 (e) An insurance policy issued to the association does not
25 prevent a unit owner from obtaining insurance for his-own *
26 personal benefit. *

27 (f) An insurer that has issued an insurance policy under
28 this section shall issue certificates or memoranda of insurance,
29 upon request, to any unit owner, or holder of an interest as
30 security for an obligation. The insurance may not be cancelled
31 until 30 days after notice of the proposed cancellation has been
32 mailed to the association and to each unit owner and holder of
33 an interest as security for an obligation to whom certificates
34 of insurance have been issued.

35 (g) Any portion of the condominium damaged or destroyed
36 shall be promptly repaired or replaced by the association unless
37 (1) the condominium is terminated and the association votes not
38 to repair or replace all or part thereof, (2) repair or
39 replacement would be illegal under any state or local health or
40 safety statute or ordinance, or (3) 80 percent of the unit
41 owners, including every owner and first mortgagee of a unit or
42 assigned limited common element which will not be rebuilt, vote
43 not to rebuild. The cost of repair or replacement of a unit or
44 the common area in excess of insurance proceeds and reserves
45 shall be a common expense. If less than the entire condominium
46 is repaired or replaced, (1) the insurance proceeds attributable
47 to the damaged common elements shall be used to restore the
48 damaged area to a condition compatible with the remainder of the
49 condominium, (2) the insurance proceeds attributable to units
50 and limited common elements which are not rebuilt shall be
51 distributed to the owners of those units and the holders of an
52 interest as security for an obligation of those units and the
53 owners and holders of an interest as security for an obligation
54 of the units to which those limited common elements were
55 assigned, as their interests may appear, and (3) the remainder
56 of the proceeds shall be distributed to all the unit owners and
57 holders of an interest as security for an obligation as their
58 interests may appear in proportion to their common element
59 interest. In the event the unit owners vote not to rebuild a
60 unit, that unit's entire common element interest, votes in the
61 association, and common expense liability are automatically
62 reallocated upon the vote as if the unit had been condemned
63 under section 515A.1-107(a), and the association shall promptly
64 prepare, execute and record an amendment to the declaration
65 reflecting the reallocations. Notwithstanding the provisions of
66 this subsection, if the condominium is terminated, insurance
67 proceeds not used for repair or replacement shall be distributed
68 in the same manner as sales proceeds pursuant to section
69 515A.2-120.

70 (h) The provisions of this section may be varied or waived
71 in the case of a condominium all of the units of which are
72 restricted to nonresidential use.

515A3-115

73 515A.3-115 LIEN FOR ASSESSMENTS.

74 (a) The association has a lien on a unit for any assessment
75 levied against that unit from the time the assessment becomes

1 payable. The association's lien may be foreclosed as provided
 2 by the laws of this state as if it were a lien under a mortgage
 3 containing a power of sale but the association shall give
 4 reasonable notice of its action to all lienholders of the unit
 5 whose interest would be affected. The rights of the parties
 6 shall be the same as those provided by law except that the
 7 period of redemption for unit owners shall be six months from
 8 the date of sale. Unless the declaration otherwise provides,
 9 fees, charges, late charges, and interest charges pursuant to
 10 section 515A.3-102(8), (9) and (12) are enforceable as
 11 assessments under this section.

12 (b) A lien under this section is prior to all other liens
 13 and encumbrances on a unit except (1) liens and encumbrances
 14 recorded before the recordation of the declaration, (2) any
 15 recorded mortgage on the unit securing a first mortgage holder,
 16 and (3) liens for real estate taxes and other governmental
 17 assessments or charges against the unit. This subsection does
 18 not affect the priority of mechanics' or ~~materialmen's~~ material
 19 suppliers' liens. *
 *

20 (c) Recording of the declaration constitutes record notice
 21 and perfection of the lien, and no further recordation of any
 22 claim of lien for assessment under this section is required.

23 (d) Proceedings to enforce an assessment must be instituted
 24 within three years after the last installment of the assessment
 25 becomes payable.

26 (e) Unit owners at the time an assessment is payable are
 27 personally liable to the association for payment of the
 28 assessments.

29 (f) A foreclosure sale, judgment or decree in any action,
 30 proceeding or suit brought under this section shall include
 31 costs and reasonable attorney's fees for the prevailing party.

32 (g) The association shall furnish to a unit owner or ~~his~~
 33 the owner's authorized agent upon written request of the unit
 34 owner or ~~his~~ the authorized agent a recordable statement setting
 35 forth the amount of unpaid assessments currently levied
 36 against ~~his~~ the owner's unit. The statement shall be furnished
 37 within ten business days after receipt of the request and is
 38 binding on the association and every unit owner. *
 *

515A3-116

39 515A.3-116 ASSOCIATION RECORDS.

40 The association shall keep financial records sufficiently
 41 detailed to enable the association to comply with section
 42 515A.4-107. All financial records shall be made reasonably
 43 available for examination by any unit owner and ~~his~~ the unit
 44 owner's authorized agents. *
 *

515A4-102

45 515A.4-102 DISCLOSURE STATEMENT; GENERAL PROVISIONS.

46 A disclosure statement shall fully disclose:

47 (a) The name and principal address of the declarant and the
 48 address and the name, if any, and number, if available, of the
 49 condominium;

50 (b) A general description of the condominium; including
 51 without limitation the types and number of all buildings, units
 52 and amenities, and declarant's schedule of commencement and
 53 completion of construction thereof;

54 (c) The total number of additional units that may be
 55 included in the condominium and whether the declarant intends to
 56 rent or market blocks of units to investors;

57 (d) A copy of the declaration other than the floor plans,
 58 floor plans for the particular unit, bylaws, articles of
 59 incorporation, rules and regulations, and any contracts and
 60 leases to which the unit owners or association will be subject
 61 and which may not be cancelled upon 30 days notice by the
 62 association;

63 (e) Any current balance sheet and a projected budget for
 64 the association for the first full or partial year during which
 65 a unit is conveyed to a unit owner other than a declarant and
 66 any projected budget for future years which the association has
 67 adopted, and a statement of who prepared the balance sheet,
 68 projected budget or budget. The budget or projected budget
 69 shall include, without limitation:

70 (1) a statement of the amount, or a statement that there is
 71 no amount, included in the budget as a reserve for repairs and
 72 replacement;

73 (2) a statement of any other reserves;

74 (3) the projected common expense assessment by category of

1 expenditures for the association;

2 (4) the projected monthly common expense assessment for
3 each type of unit;

4 (f) Any supplies and services not reflected in the budget
5 or projected budget which the declarant provides, or expenses
6 which he the declarant pays, and which he the declarant expects *
7 may become at any subsequent time a common expense of the
8 association and the projected common expense assessment
9 attributable to each of those services or expenses for the
10 association and for each type of unit;

11 (g) Any initial or special fee due from the purchaser to
12 the declarant or the association at closing, together with a
13 description of the purpose and method of calculating the fee;

14 (h) A description of any liens, defects, or encumbrances on
15 or affecting the title to the condominium after the contemplated
16 conveyance;

17 (i) A description of any financing offered by the declarant;

18 (j) The terms of any warranties provided by the declarant,
19 including the warranties set forth in sections 515A.4-111 and
20 515A.4-112, and limitations imposed by the declarant on the
21 enforcement thereof;

22 (k) A statement that:

23 (1) within 15 days after receipt of a disclosure statement,
24 a purchaser may, prior to conveyance, cancel any purchase
25 agreement of a unit from a declarant;

26 (2) if a declarant fails to provide a disclosure statement
27 to a purchaser before conveying a unit, that purchaser may
28 recover from the declarant an amount not to exceed five percent
29 of the sales price of the unit, and

30 (3) if a purchaser received the disclosure statement more
31 than 15 days before ~~he signs~~ signing a purchase agreement, he *
32 the purchaser cannot cancel the agreement; *

33 (l) A statement disclosing, to the extent of the actual
34 knowledge of the declarant or an affiliate of the declarant
35 after reasonable inquiry, any judgments against the association,
36 the status of any pending suits to which the association is a
37 party, and the status of any pending suits material to the
38 condominium;

39 (m) A statement that any earnest money paid in connection
40 with the purchase of a unit will be held in an escrow account
41 until closing and will be returned to the purchaser if the
42 purchaser cancels the purchase agreement pursuant to section
43 515A.4-106;

44 (n) A description of the insurance coverage to be provided
45 for the benefit of unit owners;

46 (o) Any current or expected fees or charges to be paid by
47 unit owners for the use of the common elements and other
48 facilities related to the condominium; and

49 (p) Whether financial arrangements have been provided for
50 completion of all improvements labeled "MUST BE BUILT" pursuant
51 to section 515A.4-117 (Declarant's Obligation to Complete and
52 Restore).

515A4-106

53 515A.4-106 PURCHASER'S RIGHT TO CANCEL.

54 (a) Unless delivery of a disclosure statement is not
55 required under section 515A.4-101(b), a declarant shall provide
56 at least one of the purchasers of a unit with a copy of a
57 disclosure statement not later than the date of any purchase
58 agreement. Unless a purchaser is given the disclosure statement
59 more than 15 days prior to execution of a purchase agreement for
60 the unit, the purchaser may, prior to the conveyance, cancel the
61 agreement within 15 days after receiving the disclosure
62 statement.

63 If the conveyance occurs within 15 days after the date of
64 the execution of the purchase agreement by the purchaser, any
65 purchaser may waive in writing all rights to receive a
66 disclosure statement under this section.

67 (b) ~~if~~ A purchaser who elects to cancel a purchase *
68 agreement pursuant to subsection (a), he may do so by hand *
69 delivering notice thereof to the declarant or by mailing notice
70 thereof by postage prepaid United States mail to the declarant
71 or to ~~his~~ the declarant's agent for service of process. *
72 Cancellation is without penalty, and all payments made by the
73 purchaser pursuant to the purchase agreement shall be refunded
74 promptly.

75 (c) If a declarant fails to provide a purchaser to whom a

1 unit is conveyed with a disclosure statement and all amendments
2 thereto as required by subsections (a) and (d), that purchaser,
3 in addition to any rights to damages or other relief, is
4 entitled to receive from the declarant an amount not to exceed
5 five percent of the sales price of the unit.

6 (d) The disclosure statement and any information furnished
7 in connection therewith may be amended prior to conveyance if
8 the amendment is delivered to the purchaser to whom the
9 disclosure statement was delivered. If the amendment materially
10 adversely affects a purchaser, then the purchaser shall have 15
11 days after delivery of the amendment to cancel the purchase
12 agreement in accordance with this section.

515A4-107

13 515A.4-107 REALES OF UNITS.

14 (a) In the event of a resale of a unit by a unit owner
15 other than a declarant, the unit owner shall furnish to a
16 purchaser before execution of any purchase agreement for a unit,
17 or otherwise before conveyance, a copy of the declaration, other
18 than the floor plans, the bylaws, the rules and regulations of
19 the association, and any amendments thereto, and a certificate
20 dated not more than 90 days prior to the date of the purchase
21 agreement or otherwise before conveyance, containing:

22 (1) a statement disclosing any right of first refusal or
23 other restraint on the free alienability of the unit contained
24 in the declaration, bylaws, rules and regulations, or any
25 amendment thereof;

26 (2) a statement setting forth the amount of periodic
27 installments of common expense assessments and special
28 assessments and any unpaid common expense or special assessment
29 currently payable;

30 (3) a statement of any other fees payable by unit owners;

31 (4) a statement of any capital expenditures approved by the
32 association for the current and next succeeding two fiscal years;

33 (5) a statement that a copy of the floor plans and any
34 amendments thereof are available in the office of the
35 association for inspection;

36 (6) a statement of the amount of any reserves for capital
37 expenditures and of any portions of those reserves designated by
38 the association for any specified projects;

39 (7) the most recent regularly prepared balance sheet and
40 income and expense statement, if any, of the association;

41 (8) the current budget of the association;

42 (9) a statement of any judgments against the association
43 and the status of any pending suits to which the association is
44 a party;

45 (10) a statement describing any insurance coverage provided
46 for the benefit of unit owners.

47 (b) The association shall, within seven days after a
48 request by a unit owner or ~~his~~ the unit owner's authorized
49 agent, furnish a certificate containing the information
50 necessary to enable the unit owner to comply with this section.
51 A unit owner without actual knowledge providing a certificate
52 pursuant to subsection (a) shall have no liability to the
53 purchaser for any erroneous information provided by the
54 association and included in the certificate.

55 (c) A purchaser is not liable for any unpaid assessment or
56 fee existing as of the date of the certificate greater than the
57 amount set forth in the certificate prepared by the
58 association. A unit owner is not responsible to a purchaser for
59 the failure or delay of the association to provide the
60 certificate in a timely manner.

515A4-1075

61 515A.4-1075 PURCHASER'S RIGHT TO CANCEL.

62 (a) The information required to be delivered by section
63 515A.4-107 shall be delivered to a purchaser not later than the
64 date of any purchase agreement. Unless a purchaser is given the
65 information more than 15 days prior to the execution of the
66 purchase agreement for the unit the purchaser may, prior to the
67 conveyance, cancel the agreement within 15 days after receiving
68 the information.

69 (b) ~~if~~ A purchaser who elects to cancel a purchase
70 agreement pursuant to subsection (a), ~~he~~ may do so by hand
71 delivering notice thereof to the seller or ~~his~~ the seller's
72 agent or by mailing notice thereof by postage prepaid United
73 States mail to the seller or ~~his~~ the agent. Cancellation is
74 without penalty and all payments made by the purchaser shall be

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1 refunded promptly.

515A4-109

2 515A.4-109 RELEASE OF INTERESTS AS SECURITY FOR AN
3 OBLIGATION.

4 (a) Before conveying a unit to a purchaser other than a
5 declarant, the seller shall furnish to the purchaser releases
6 for that unit and its common element interest of all interests
7 as security for an obligation affecting more real estate than
8 that unit and its common element interest, or if the purchaser
9 expressly agrees, a policy of title insurance insuring against
10 loss or damage by reason of such interests. Failure to furnish
11 the releases does not of itself invalidate the lien or the
12 conveyance. This subsection does not apply to conveyance of all
13 of the units in the condominium or to deeds in lieu of
14 foreclosure.

15 (b) Whether perfected before or after creation of the
16 condominium, if a lien other than a mortgage, including a lien
17 attributable to work performed or materials supplied before
18 creation of the condominium, becomes effective against two or
19 more units, the unit owner of such a unit may pay to the
20 lienholder the amount of the lien attributable to ~~his~~ that
21 owner's unit, and the lienholder, upon receipt of payment, shall *
22 promptly deliver a release of the lien covering that unit and *
23 its common element interest. The amount of the payment shall be
24 proportionate to the ratio which that unit owner's common
25 expense liability bears to the common expense liabilities of all
26 unit owners whose units are subject to the lien. After payment,
27 the association may not assess or have a lien against that unit
28 owner's unit for any portion of the common expenses incurred in
29 connection with that lien.

30 (c) Labor performed or materials furnished for the common
31 elements, if duly authorized by the association, shall be deemed
32 to be performed or furnished with the express consent of each
33 unit owner and shall be the basis for the filing of a lien
34 pursuant to the lien law against each of the units and shall be
35 subject to the provisions of subsection (b) of this section.

515A4-112

36 515A.4-112 IMPLIED WARRANTIES.

37 (a) A declarant warrants to a purchaser that a unit will be
38 in at least as good condition at the earlier of the time of the
39 conveyance or delivery of possession as it was at the time of
40 contracting, reasonable wear and tear excepted.

41 (b) A declarant warrants to a purchaser that a unit and the
42 common elements in the condominium are structurally suitable for
43 the ordinary uses of real estate of its type and that any
44 improvements or repairs made or contracted for by ~~him~~ the
45 declarant or made by any person in contemplation of the creation *
46 of the condominium, will be: *

- 47 (1) free from defective materials; and
- 48 (2) constructed in accordance with applicable law,
49 according to sound engineering and construction standards, and
50 in a workmanlike manner.

51 (c) A declarant warrants to a purchaser of a unit which may
52 be used for residential use that the residential use does not
53 violate applicable law at the earlier of the time of conveyance
54 or delivery of possession.

55 (d) Warranties imposed by this section may be excluded or
56 modified as specified in section 515A.4-113.

57 (e) For purposes of this section, improvements made or
58 contracted for by an affiliate of a declarant (section
59 515A.1-103(2)) are made or contracted for by the declarant.

60 (f) Any conveyance of a unit transfers to the purchaser all
61 of any declarant's implied warranties.

517*#03S

62 517.03 PROHIBITED MARRIAGES.

63 The following marriages are prohibited:

64 (a) A marriage entered into before the dissolution of an
65 earlier marriage of one of the parties becomes final, as
66 provided in section 518.145 or by the law of the jurisdiction
67 where the dissolution was granted;

68 (b) A marriage between an ancestor and a descendant, or
69 between a brother and a sister, whether the relationship is by
70 the half or the whole blood or by adoption;

71 (c) A marriage between an uncle and a niece, between an
72 aunt and a nephew, or between first cousins, whether the
73 relationship is by the half or the whole blood, except as to

1 marriages permitted by the established customs of aboriginal
 2 cultures;
 3 provided, however, that mentally retarded persons committed
 4 to the guardianship of the commissioner of human services and
 5 mentally retarded persons committed to the conservatorship of
 6 the commissioner of human services in which the terms of the
 7 conservatorship limit the right to marry, may marry on receipt
 8 of written consent of the commissioner. The commissioner shall
 9 grant consent unless it appears from ~~his~~ the commissioner's
 10 investigation that the marriage is not in the best interest of
 11 the ward or conservatee and the public. The clerk of the
 12 district court in the county where the application for a license
 13 is made by the ward or conservatee shall not issue the license
 14 unless ~~he~~ the clerk has received a signed copy of the consent of
 15 the commissioner of human services.

517*#04S

16 517.04 SOLEMNIZATION.

17 Marriages may be solemnized throughout the state by a judge
 18 of a court of record, a clerk of court, a former court
 19 commissioner so long as ~~he continues to be~~ employed by the court
 20 system, the residential school administrators of the Minnesota
 21 school for the deaf and the Minnesota braille and sight-saving
 22 school, a licensed or ordained minister of any religious
 23 denomination, or by any mode recognized in section 517.18.

517*#06S

24 517.06 PARTIES EXAMINED.

25 Every person authorized by law to perform the marriage
 26 ceremony, before solemnizing a marriage, may examine the parties
 27 on oath, which oath ~~he~~ the person is authorized to administer,
 28 as to the legality of the intended marriage, and no person shall
 29 solemnize a marriage unless ~~he is~~ satisfied that there is no
 30 legal impediment to it.

517*#08S

31 517.08 APPLICATION FOR LICENSE.

32 Subd. 1a. Application for a marriage license shall be made
 33 upon a form provided for the purpose and shall contain the
 34 following information:

35 the full names of the parties,
 36 their post office addresses and county and state of
 37 residence,
 38 their full ages,
 39 if either party has previously been married, ~~his~~ the
 40 party's married name, and the date, place and court in which the
 41 marriage was dissolved or annulled or the date and place of
 42 death of the former spouse,
 43 if either party is a minor, the name and address of the
 44 minor's parents or guardian,
 45 whether the parties are related to each other, and, if so,
 46 their relationship,
 47 the name and date of birth of any child of which both
 48 parties are parents, born before the making of the application,
 49 unless their parental rights and the parent and child
 50 relationship with respect to the child have been terminated,
 51 address of the bride and groom after the marriage to which
 52 the clerk shall send a certified copy of the marriage
 53 certificate,
 54 and the full names the parties will have after marriage.

55 Subd. 1b. TERM OF LICENSE; FEE. The clerk shall
 56 examine upon oath the party applying for a license relative to
 57 the legality of the contemplated marriage. If at the expiration
 58 of a five-day period, ~~he is~~ on being satisfied that there is no
 59 legal impediment to it, ~~he~~ the clerk shall issue the license,
 60 containing the full names of the parties before and after
 61 marriage, and county and state of residence, with the district
 62 court seal attached, and make a record of the date of issuance.
 63 The license shall be valid for a period of six months. In case
 64 of emergency or extraordinary circumstances, a judge of the
 65 county court or a judge of the district court of the county in
 66 which the application is made, may authorize the license to be
 67 issued at any time before the expiration of the five days. The
 68 clerk shall collect from the applicant a fee of \$45 for
 69 administering the oath, issuing, recording, and filing all
 70 papers required, and preparing and transmitting to the state
 71 registrar of vital statistics the reports of marriage required
 72 by this section. If the license should not be used within the
 73 period of six months due to illness or other extenuating

1 circumstances, it may be surrendered to the clerk for
 2 cancellation, and in that case a new license shall issue upon
 3 request of the parties of the original license without fee. A
 4 clerk who knowingly issues or signs a marriage license in any
 5 manner other than as provided in this section shall pay to the
 6 parties aggrieved an amount not to exceed \$1,000.

7 No change for subd 1c

517*#10S

8 517.10 CERTIFICATE; WITNESSES.

9 The person solemnizing a marriage shall prepare ~~under his~~ *
 10 ~~hand and sign~~ three certificates thereof. Each certificate *
 11 shall contain the full names before and after marriage and
 12 county and state of residences of the parties and the date and
 13 place of the marriage. Each certificate shall also contain the
 14 signatures of at least two of the witnesses present at the
 15 marriage who shall be at least 16 years of age. The person
 16 solemnizing the marriage shall give each of the parties one such
 17 certificate, and shall immediately make a record of such
 18 marriage, and file one such certificate with the clerk of the
 19 district court of the county in which the license was issued
 20 within five days after the ceremony. The clerk shall record
 21 such certificate in a book kept for that purpose.

517*#101S

22 517.101 CERTIFIED COPIES OF MARRIAGE CERTIFICATE.

23 Within ten days of receipt of the certificate and after
 24 recording the certificate the clerk shall prepare two certified
 25 copies of the certificate ~~of which he shall mail one:~~ *
 26 mailed to the married parties and the other to the person *
 27 solemnizing the marriage. The person solemnizing the marriage *
 28 may indicate at the time ~~he files~~ of filing the certificate with *
 29 the clerk that ~~he~~ the person does not wish to receive a *
 30 certified copy.

517*#15S

31 517.15 UNAUTHORIZED PERSON PERFORMING CEREMONY.

32 A person who knowingly undertakes to solemnize a marriage, *
 33 ~~knowing that he is not lawfully authorized~~ without lawful *
 34 authority to do so, is guilty of a misdemeanor. *

517*#18S

35 517.18 MARRIAGE SOLEMNIZATION.

36 No change for subd 1

37 Subd. 2. Marriages may be solemnized among members of the
 38 Baha'i faith by the ~~chairman~~ chair of an incorporated local *
 39 Spiritual Assembly of the Baha'is, according to the form and
 40 usage of such society.

41 No change for subd 3

42 Subd. 4. Marriages may be solemnized among American
 43 Indians according to the form and usage of their religion by an
 44 Indian Mide' or holy ~~man~~ person chosen by the parties to the *
 45 marriage.

46 No change for subd 5

518*#04S

47 518.04 INSUFFICIENT GROUNDS FOR ANNULMENT.

48 No marriage shall be adjudged a nullity on the ground that
 49 one of the parties was under the age of legal consent if it
 50 appears that the parties had voluntarily cohabited together as
 51 husband and wife after having attained such age; nor shall the
 52 marriage of any insane person be adjudged void after ~~his~~ *
 53 restoration to reason, if it appears that the parties freely
 54 cohabited together as husband and wife after such restoration.

518*#05S

55 518.05 ANNULMENT; WHEN TO BRING.

56 An annulment may be sought by any of the following persons
 57 and must be commenced within the times specified, but in no
 58 event may an annulment be sought after the death of either party
 59 to the marriage:

60 (a) For a reason set forth in section 518.02, clause (a),
 61 by either party or by the legal representative of the party who
 62 lacked capacity to consent, no later than 90 days after the
 63 petitioner obtained knowledge of the described condition;

64 (b) For the reason set forth in section 518.02, clause (b),
 65 by either party no later than one year after the petitioner
 66 obtained knowledge of the described condition;

67 (c) For the reason set forth in section 518.02, clause (c),
 68 by the underaged party, ~~his~~ the party's parent or guardian, *
 69 before the time the underaged party reaches the age at which ~~he~~ *
 70 the party could have married without satisfying the omitted *

1 requirement.

518*#055S

2 518.055 PUTATIVE SPOUSE.

3 Any person who has cohabited with another to whom he the *
4 person is not legally married in the good faith belief that he *
5 the person was married to ~~that person~~ the other is a putative *
6 spouse until knowledge of the fact that he the person is not *
7 legally married terminates ~~his~~ the status and prevents *
8 acquisition of further rights. A putative spouse acquires the
9 rights conferred upon a legal spouse, including the right to
10 maintenance following termination of ~~his~~ the status, whether or *
11 not the marriage is prohibited or declared a nullity. If there
12 is a legal spouse or other putative spouses, rights acquired by
13 a putative spouse do not supersede the rights of the legal
14 spouse or those acquired by other putative spouses, but the
15 court shall apportion property, maintenance, and support rights
16 among the claimants as appropriate in the circumstances and in
17 the interests of justice.

518*#131S

18 518.131 TEMPORARY ORDERS AND RESTRAINING ORDERS.

19 No change for subd 1 to 7

20 Subd. 8. Temporary orders shall be made solely on the
21 basis of affidavits and argument of counsel except upon demand
22 by either party in ~~his~~ a motion or responsive motion made within *
23 the time limit for making and filing a responsive motion that
24 the matter be heard on oral testimony before the court, or if
25 the court in its discretion orders the taking of oral testimony.

26 No change for subd 9 to 10

518*#14S

27 518.14 COSTS AND DISBURSEMENTS AND ATTORNEY'S FEES.

28 In a proceeding brought either for dissolution or legal
29 separation under this chapter, the court, from time to time,
30 after considering the financial resources of both parties, may
31 require one party to pay a reasonable amount necessary to enable
32 the other spouse to carry on or to contest the proceeding, and
33 to pay attorney's fees, including sums for legal services
34 rendered and costs incurred prior to the commencement or after
35 entry of judgment. The court may adjudge costs and
36 disbursements against either party. The court may authorize the
37 collection of money awarded by execution, or out of property
38 sequestered, or in any other manner within the power of the
39 court. An award of attorney's fees made by the court during the
40 pendency of the proceeding or in the final judgment survives the
41 proceeding and if not paid by the party directed to pay the same
42 may be enforced as above provided or by a separate civil action
43 brought ~~by the attorney~~ in ~~his~~ the attorney's own name. If the *
44 proceeding is dismissed or abandoned prior to determination and
45 award of attorney's fees, the court may nevertheless award
46 attorney's fees upon the attorney's motion. The award shall
47 also survive the proceeding and may be enforced in the same
48 manner as last above provided.

518*#156S

49 518.156 COMMENCEMENT OF CUSTODY PROCEEDING.

50 Subdivision 1. In a court of this state which has
51 jurisdiction to decide child custody matters, a child custody
52 proceeding is commenced:

53 (a) By a parent

54 (1) By filing a petition for dissolution or legal
55 separation; or

56 (2) Where a decree of dissolution or legal separation has
57 been entered or where none is sought, by filing a petition or
58 motion seeking custody of the child in the county where the
59 child is permanently resident or where he the child is found or *
60 where an earlier order for custody of the child has been
61 entered; or

62 (b) By a person other than a parent, by filing a petition
63 or motion seeking custody of the child in the county where the
64 child is permanently resident or where he the child is found or *
65 where an earlier order for custody of the child has been entered.

66 No change for subd 2

518*#166S

67 518.166 INTERVIEWS.

68 The court may interview the child in chambers to ascertain
69 the child's reasonable preference as to ~~his~~ custodian, if the *
70 court deems the child to be of sufficient age to express
71 preference. The court shall permit counsel to be present at the

1 interview and shall permit counsel to propound reasonable
 2 questions to the child either directly or through the court.
 3 The court shall cause a record of the interview to be made and
 4 to be made part of the record in the case unless waived by the
 5 parties.

6 In contested custody proceedings, and in other custody
 7 proceedings if a parent or the child's custodian requests, the
 8 court may seek the recommendations of professional personnel
 9 whether or not they are employed on a regular basis by the
 10 court. The recommendations given shall be in writing and shall
 11 be made available by the court to counsel upon request. Counsel
 12 may call for cross-examination of professional personnel
 13 consulted by the court.

518*#167S

14 518.167 INVESTIGATIONS AND REPORTS.

15 No change for subd 1

16 Subd. 2. PREPARATION. In preparing ~~his~~ a report *
 17 concerning a child, the investigator may consult any person who *
 18 may have information about the child and ~~his~~ the potential *
 19 custodial arrangements except for persons involved in mediation
 20 efforts between the parties. Mediation personnel may disclose
 21 to investigators and evaluators information collected during
 22 mediation only if agreed to in writing by all parties. Upon
 23 order of the court, the investigator may refer the child to
 24 professional personnel for diagnosis. The investigator may
 25 consult with and obtain information from medical, psychiatric,
 26 school personnel, or other expert persons who have served the
 27 child in the past after obtaining the consent of the parents or
 28 the child's custodian or guardian.

29 Subd. 3. AVAILABILITY TO COUNSEL. The court shall
 30 mail the investigator's report to counsel and to any party not
 31 represented by counsel at least ten days before the hearing.
 32 The investigator shall maintain and, upon request, make
 33 available to counsel and to a party not represented by counsel
 34 the investigator's file of underlying data and reports, complete
 35 texts of diagnostic reports made to the investigator pursuant to
 36 the provisions of subdivision 2, and the names and addresses of
 37 all persons whom the investigator has consulted. The
 38 investigator and any person the investigator has consulted is
 39 subject to other pretrial discovery in accordance with the
 40 requirements of the Minnesota Rules of Civil Procedure.
 41 Mediation proceedings are not subject to discovery without
 42 written consent of both parties. A party to the proceeding may
 43 call the investigator and any person whom ~~he~~ the investigator *
 44 has consulted for cross-examination at the hearing. A party may *
 45 not waive ~~his~~ the right of cross-examination before the hearing.

46 No change for subd 4

518*#17S

47 518.17 CUSTODY AND SUPPORT OF CHILDREN ON JUDGMENT.

48 Subdivision 1. THE BEST INTERESTS OF THE CHILD. "The
 49 best interests of the child" means all relevant factors to be
 50 considered and evaluated by the court including:

- 51 (a) The wishes of the child's parent or parents as to ~~his~~ *
 52 custody;
- 53 (b) The reasonable preference of the child, if the court
 54 deems the child to be of sufficient age to express preference;
- 55 (c) The interaction and interrelationship of the child with *
 56 ~~his~~ a parent or parents, ~~his~~ siblings, and any other person who *
 57 may significantly affect the child's best interests;
- 58 (d) The child's adjustment to ~~his~~ home, school, and *
 59 community;
- 60 (e) The length of time the child has lived in a stable,
 61 satisfactory environment and the desirability of maintaining
 62 continuity;
- 63 (f) The permanence, as a family unit, of the existing or
 64 proposed custodial home;
- 65 (g) The mental and physical health of all individuals
 66 involved;
- 67 (h) The capacity and disposition of the parties to give the
 68 child love, affection, and guidance, and to continue educating
 69 and raising the child in ~~his~~ the child's culture and religion or *
 70 creed, if any; and
- 71 (i) The child's cultural background.

72 The court shall not consider conduct of a proposed
 73 custodian that does not affect ~~his~~ the custodian's relationship *
 74 to the child.

1 No change for subd 2 to
2 Subd. 4. CHILD SUPPORT. The court may order either
3 or both parents owing a duty of support to a child of the
4 marriage to pay an amount reasonable or necessary for ~~his~~ *
5 support, without regard to marital misconduct, after considering
6 all relevant factors including:

7 (a) The financial resources and needs of the child;

8 (b) The financial resources and needs of the custodial
9 parent;

10 (c) The standard of living the child would have enjoyed had
11 the marriage not been dissolved;

12 (d) The physical and emotional condition of the child, and
13 ~~his~~ the child's educational needs; and *

14 (e) The financial resources and needs of the noncustodial
15 parent.

16 No change for subd 5

518*#175S

17 518.175 VISITATION OF CHILDREN AND NONCUSTODIAL PARENT.

18 Subdivision 1. In all proceedings for dissolution or legal
19 separation, subsequent to the commencement of the proceeding and
20 continuing thereafter during the minority of the child, the
21 court shall, upon the request of the noncustodial parent, grant
22 such rights of visitation as will enable the child and the
23 noncustodial parent to maintain a child to parent relationship
24 that will be in the best interests of the child. If the court
25 finds, after a hearing, that visitation is likely to endanger
26 the child's physical or emotional health or impair ~~his~~ the *
27 child's emotional development, the court may restrict visitation *
28 by the noncustodial parent as to time, place, duration, or
29 supervision and may deny visitation entirely, as the
30 circumstances warrant. The court shall consider the age of the
31 child and the child's relationship with the noncustodial parent
32 prior to the commencement of the proceeding. A parent's failure
33 to pay support because of the parent's inability to do so shall
34 not be sufficient cause for denial of visitation.

35 No change for subd 2 to 4

36 Subd. 5. The court may modify an order granting or denying
37 visitation rights whenever modification would serve the best
38 interests of the child, but the court shall not restrict a
39 parent's visitation rights unless it finds that the visitation
40 is likely to endanger the child's physical or emotional health
41 or impair ~~his~~ the child's emotional development. If the *
42 custodial parent makes specific allegations that visitation *
43 places the custodial parent in danger of harm, the court shall
44 hold a hearing at the earliest possible time to determine the
45 need to modify the order granting visitation rights. The court
46 may require a third party, including the county welfare board,
47 to supervise the visitation or may restrict a parent's
48 visitation rights if necessary to protect the custodial parent
49 from harm.

518*#176S

50 518.176 JUDICIAL SUPERVISION.

51 Subdivision 1. Except as otherwise agreed by the parties
52 in writing at the time of the custody order, the custodian may
53 determine the child's upbringing, including ~~his~~ education, *
54 health care, and religious training, unless the court after
55 hearing, finds, upon motion by the noncustodial parent, that in
56 the absence of a specific limitation of the custodian's
57 authority, the child's physical or emotional health is likely to
58 be endangered or ~~his~~ the child's emotional development impaired. *

59 Subd. 2. If both parents or all contestants agree to the
60 order, or if the court finds that in the absence of the order
61 the child's physical or emotional health is likely to be
62 endangered or ~~his~~ the child's emotional development impaired, *
63 the court may order the county welfare board or the department
64 of court services to exercise continuing supervision over the
65 case under guidelines established by the court to assure that
66 the custodial or visitation terms of the decree are carried out.

518*#18S

67 518.18 MODIFICATION OF ORDER.

68 (a) Unless agreed to in writing by the parties, no motion
69 to modify a custody order may be made earlier than one year
70 after the date of the entry of a decree of dissolution or legal
71 separation containing a provision dealing with custody, except
72 in accordance with clause (c).

73 (b) If a motion for modification has been heard, whether

1 or not it was granted, unless agreed to in writing by the
 2 parties no subsequent motion may be filed within two years after
 3 disposition of the prior motion on its merits, except in
 4 accordance with clause (c).

5 (c) The time limitations prescribed in clauses (a) and (b)
 6 shall not prohibit a motion to modify a custody order if the
 7 court finds that there is persistent and wilful denial or
 8 interference with visitation, or has reason to believe that the
 9 child's present environment may endanger ~~his~~ the child's
 10 physical or emotional health or impair ~~his~~ the child's emotional
 11 development. *

12 (d) If the court has jurisdiction to determine child
 13 custody matters, the court shall not modify a prior custody
 14 order unless it finds, upon the basis of facts that have arisen
 15 since the prior order or that were unknown to the court at the
 16 time of the prior order, that a change has occurred in the
 17 circumstances of the child or ~~his~~ the custodian and that the
 18 modification is necessary to serve the best interests of the
 19 child. In applying these standards the court shall retain the
 20 custodian established by the prior order unless: *

21 (i) The custodian agrees to the modification;

22 (ii) The child has been integrated into the family of the
 23 petitioner with the consent of the custodian; or

24 (iii) The child's present environment endangers ~~his~~ the
 25 child's physical or emotional health or impairs ~~his~~ the child's
 26 emotional development and the harm likely to be caused by a
 27 change of environment is outweighed by the advantage of a change
 28 to the child. *

518*#185S

29 518.185 AFFIDAVIT PRACTICE.

30 A party seeking a temporary custody order or modification
 31 of a custody order shall submit together with ~~his~~ moving papers
 32 an affidavit setting forth facts supporting the requested order
 33 or modification and shall give notice, together with a copy of
 34 ~~his~~ the affidavit, to other parties to the proceeding, who may
 35 file opposing affidavits. *

518*#24S

36 518.24 SECURITY; SEQUESTRATION; CONTEMPT.

37 In all cases when maintenance or support payments are
 38 ordered, the court may require sufficient security to be given
 39 for the payment of them according to the terms of the order.
 40 Upon neglect or refusal to give security, or upon failure to pay
 41 the maintenance or support, the court may sequester the
 42 obligor's personal estate and the rents and profits of real
 43 estate of the obligor, and appoint a receiver of them. The
 44 court may cause the personal estate and the rents and profits of
 45 the real estate to be applied according to the terms of the
 46 order. If the obligor has an income from a source sufficient to
 47 ~~enable-him~~ to pay the maintenance or support and ~~he~~ the obligor
 48 fails to pay the same, the court shall order ~~him~~ the obligor to
 49 pay it. ~~if~~ A person or party who disobeys the order, ~~he~~ may be
 50 punished by the court as for contempt. *

518*#54S

51 518.54 DEFINITIONS.

52 No change for subd 1

53 Subd. 2. CHILD. "Child" means an individual under 18
 54 years of age, an individual under age 20 who is still attending
 55 secondary school, or an individual who, by reason of ~~his~~
 56 physical or mental condition, is ~~unable-to-support-himself~~
 57 incapable of self-support. *

58 No change for subd 3 to 9

518*#551S

59 518.551 MAINTENANCE AND SUPPORT PAYMENTS MADE TO WELFARE
 60 AGENCIES.

61 No change for subd 1 to 7

62 Subd. 8. HEALTH INSURANCE OR PLAN. The court shall
 63 also include in the requirements for each child support order a
 64 provision naming the child as a beneficiary on whatever medical,
 65 hospitalization or dental insurance or plan is available to the
 66 obligor on a group basis through ~~his-or-her~~ the obligor's
 67 employer or union. *

68 No change for subd 9

518*#552S

69 518.552 MAINTENANCE.

70 No change for subd 1

71 Subd. 2. The maintenance order shall be in amounts and for

1 periods of time, either temporary or permanent, as the court
2 deems just, without regard to marital misconduct, and after
3 considering all relevant factors including:

4 (a) the financial resources of the party seeking
5 maintenance, including marital property apportioned to the
6 party, and the party's ability to meet ~~his-or-her~~ needs *
7 independently, including the extent to which a provision for
8 support of a child living with the party includes a sum for that
9 party as custodian;

10 (b) the time necessary to acquire sufficient education or
11 training to enable the party seeking maintenance to find
12 appropriate employment, and the probability, given the party's
13 age and skills, of completing education or training and becoming
14 fully or partially self-supporting;

15 (c) the standard of living established during the marriage;

16 (d) the duration of the marriage and, in the case of a
17 homemaker, the length of absence from employment and the extent
18 to which any education, skills, or experience have become
19 outmoded and earning capacity has become permanently diminished;

20 (e) the loss of earnings, seniority, retirement benefits,
21 and other employment opportunities forgone by the spouse seeking
22 spousal maintenance;

23 (f) the age, and the physical and emotional condition of
24 the spouse seeking maintenance;

25 (g) the ability of the spouse from whom maintenance is
26 sought to meet ~~his~~ needs while meeting those of the spouse *
27 seeking maintenance; and

28 (h) the contribution of each party in the acquisition,
29 preservation, depreciation, or appreciation in the amount or
30 value of the marital property, as well as the contribution of a
31 spouse as a homemaker or in furtherance of the other party's
32 employment or business.

33 No change for subd 3

518*#58S

34 518.58 DIVISION OF MARITAL PROPERTY.

35 Upon a dissolution of a marriage, an annulment, or in a
36 proceeding for disposition of property following a dissolution
37 of marriage by a court which lacked personal jurisdiction over
38 the absent spouse or lacked jurisdiction to dispose of the
39 property and which has since acquired jurisdiction, the court
40 shall make a just and equitable division of the marital property
41 of the parties without regard to marital misconduct, after
42 making findings regarding the division of the property. The
43 court shall base its findings on all relevant factors including
44 the length of the marriage, any prior marriage of a party, the
45 age, health, station, occupation, amount and sources of income,
46 vocational skills, employability, estate, liabilities, needs,
47 opportunity for future acquisition of capital assets, and income
48 of each party. The court shall also consider the contribution
49 of each in the acquisition, preservation, depreciation or
50 appreciation in the amount or value of the marital property, as
51 well as the contribution of a spouse as a homemaker. It shall
52 be conclusively presumed that each spouse made a substantial
53 contribution to the acquisition of income and property while
54 they were living together as husband and wife. The court may
55 also award to either spouse the household goods and furniture of
56 the parties, whether or not acquired during the marriage.

57 If the court finds that either spouse's resources or
58 property, including ~~his~~ the spouse's portion of the marital *
59 property as defined in section 518.54, subdivision 5 are so
60 inadequate as to work an unfair hardship, considering all
61 relevant circumstances, the court may, in addition to the
62 marital property, apportion up to one-half of the property
63 otherwise excluded under section 518.54, subdivision 5, clauses
64 (a) to (d) to prevent the unfair hardship. If the court
65 apportions property other than marital property, it shall make
66 findings in support of the apportionment. The findings shall be
67 based on all relevant factors including the length of the
68 marriage, any prior marriage of a party, the age, health,
69 station, occupation, amount and sources of income, vocational
70 skills, employability, estate, liabilities, needs, and
71 opportunity for future acquisition of capital assets and income
72 of each party.

73 If the court finds that it is necessary to preserve the
74 marital assets of the parties, the court may order the sale of
75 the homestead of the parties or the sale of other marital

1 assets, as the individual circumstances may require, during the
 2 pendency of a proceeding for a dissolution of marriage or an
 3 annulment. If the court orders a sale, it may further provide
 4 for the disposition of the funds received from the sale during
 5 the pendency of the proceeding.

518*#61S

6 518.61 TRUSTEE.

7 (a) Upon its own motion or upon motion of either party, the
 8 court may appoint a trustee, when it is deemed expedient, to
 9 receive any money ordered to be paid as maintenance or support
 10 money for remittance to the person entitled to receive the
 11 payments. The trustee may also receive property which is part
 12 of an award under section 518.58, upon trust to invest the same,
 13 and pay over the income in the manner the court directs, or to
 14 pay over the principal sum in the proportions and at the times
 15 the court orders. The court shall have regard in all cases to
 16 the situation and circumstances of the recipient, and the
 17 children, if there are any. The trustee shall give a bond, as
 18 the court requires, for the faithful performance of ~~his~~ the *
 19 trust. If it appears that the recipient of money ordered to be
 20 paid as support will receive public assistance, the court shall
 21 appoint as trustee the public authority responsible for support
 22 enforcement.

23 (b) The trustee shall maintain records listing the amount
 24 of payments, the date when payments are required to be made, and
 25 the names and addresses of the parties affected by the order.

26 (c) The parties affected by the order shall inform the
 27 trustee of a change of address or of other conditions that may
 28 affect the administration of the order.

29 (d) If a required payment of support or of maintenance and
 30 support combined is not made within ten days after the due date,
 31 the trustee shall send by first class mail notice of the
 32 arrearage to the obligor. If payment of the sum due is not
 33 received by the trustee within ten days after sending notice,
 34 the trustee shall certify the amount due to the public authority
 35 responsible for support enforcement, whenever that authority is
 36 not the trustee. If the public authority responsible for
 37 support enforcement refers the arrearage to the county attorney,
 38 the county attorney may initiate enforcement proceedings against
 39 the obligor for support or for maintenance and support combined.

40 (e) The public authority responsible for support
 41 enforcement may represent a person entitled to receive support
 42 or maintenance or both in court proceedings initiated under this
 43 section to enforce compliance with a support order or combined
 44 maintenance and support orders.

45 (f) If the person obligated to pay support or maintenance
 46 is beyond the jurisdiction of the court, the county attorney may
 47 institute any proceeding available under state or federal law
 48 for the enforcement of duties of support or maintenance.

518A#02S

49 518A.02 DEFINITIONS.

50 As used in sections 518A.01 to 518A.25:

51 (a) "Contestant" means a person, including a parent, who
 52 claims a right to custody or visitation rights with respect to a
 53 child.

54 (b) "Custody determination" means a court decision and
 55 court orders and instructions providing for the custody of a
 56 child, including visitation rights, but does not include a
 57 decision relating to child support or any other monetary
 58 obligation of any person.

59 (c) "Custody proceeding" includes proceedings in which a
 60 custody determination is one of several issues, such as an
 61 action for dissolution, divorce or separation, and includes
 62 child neglect and dependency proceedings.

63 (d) "Decree" or "custody decree" means a custody
 64 determination contained in a judicial decree or order made in a
 65 custody proceeding, and includes an initial decree and a
 66 modification decree.

67 (e) "Home state" means the state in which the child
 68 immediately preceding the time involved lived with ~~his~~ the *
 69 child's parents, a parent, or a person acting as parent, for at *
 70 least six consecutive months, and in the case of a child less
 71 than six months old the state in which the child lived from
 72 birth with any of the persons listed. Periods of temporary
 73 absence of any of the named persons are counted as part of the
 74 six month or other period.

1 (f) "Initial decree" means the first custody decree
2 concerning a particular child.

3 (g) "Modification decree" means a custody decree which
4 modifies or replaces a prior decree, whether made by the court
5 which rendered the prior decree or by another court.

6 (h) "Physical custody" means actual possession and control
7 of a child.

8 (i) "Person acting as parent" means a person, other than a
9 parent, who has physical custody of a child and who has either
10 been awarded custody by a court or claims a right to custody.

11 (j) "State" means any state, territory, or possession of
12 the United States, the Commonwealth of Puerto Rico, and the
13 District of Columbia.

518A#03S

14 518A.03 JURISDICTION.

15 Subdivision 1. A court of this state which is competent to
16 decide child custody matters has jurisdiction to make a child
17 custody determination by initial or modification decree if:

18 (a) this state (1) is the home state of the child at the
19 time of commencement of the proceeding, or (2) had been the
20 child's home state within six months before commencement of the
21 proceeding and the child is absent from this state because of
22 ~~his~~ removal or retention by a person claiming ~~his~~ custody or for *
23 other reasons, and a parent or person acting as parent continues
24 to live in this state; or

25 (b) it is in the best interest of the child that a court of
26 this state assume jurisdiction because (1) the child and ~~his~~ the *
27 parents, or the child and at least one contestant, have a
28 significant connection with this state, and (2) there is
29 available in this state substantial evidence concerning the
30 child's present or future care, protection, training, and
31 personal relationships; or

32 (c) the child is physically present in this state and (1)
33 the child has been abandoned or (2) it is necessary in an
34 emergency to protect the child because ~~he~~ the child has been *
35 subjected to or threatened with mistreatment or abuse or is
36 otherwise neglected or dependent; or

37 (d) (1) it appears that no court in another state would
38 have jurisdiction under prerequisites substantially in
39 accordance with clauses (a), (b), or (c), or a court of another
40 state has declined to exercise jurisdiction on the ground that a
41 court of this state is the more appropriate forum to determine
42 the custody of the child, and (2) it is in the best interest of
43 the child that a court of this state assume jurisdiction.

44 No change for subd 2

45 Subd. 3. Physical presence of the child, while desirable,
46 is not a prerequisite for jurisdiction to determine ~~his~~ custody. *

518A#07S

47 518A.07 INCONVENIENT FORUM.

48 No change for subd 1 to 2

49 Subd. 3. In determining if it is an inconvenient forum,
50 the court shall consider if it is in the interest of the child
51 that another state assume jurisdiction. For this purpose it
52 shall consider all relevant factors, including but not limited
53 to the following:

54 (a) if another state is or recently was the child's home
55 state;

56 (b) if another state has a closer connection with the child
57 and ~~his~~ the child's family or with the child and one or more of *
58 the contestants;

59 (c) if substantial evidence concerning the child's present
60 or future care, protection, training, and personal relationships
61 is more readily available in another state;

62 (d) if the parties have agreed on another forum which is no
63 less appropriate; and

64 (e) if the exercise of jurisdiction by a court of this
65 state would contravene any of the purposes stated in section
66 518A.01.

67 No change for subd 4

68 Subd. 5. If the court finds that it is an inconvenient
69 forum and that a court of another state is a more appropriate
70 forum, it may dismiss the proceedings, or it may stay the
71 proceedings upon condition that a custody proceeding be promptly
72 commenced in another named state or upon any other conditions
73 which may be just and proper, including the condition that a
74 moving party stipulate ~~his~~ consent and submission to the *

1 jurisdiction of the other forum.

2 No change for subd 6 to 9

518A#09S

3 518A.09 INFORMATION UNDER OATH TO BE SUBMITTED TO THE
4 COURT.

5 Subdivision 1. The court shall, upon motion or request of
6 a party or upon its own initiative require a party to a custody
7 proceeding to provide information under oath by affidavit or
8 otherwise as to the child's present address, the places where
9 the child has lived within the last five years, the names and
10 present addresses of the persons with whom the child has lived
11 during that period, and whether the party:

12 (a) ~~he~~ has participated as a party, witness, or in any
13 other capacity in any other litigation concerning the custody of
14 the same child in this or any other state;

15 (b) ~~he~~ has information of any custody proceeding concerning
16 the child pending in a court of this or any other state; and

17 (c) ~~he~~ knows of any person not a party to the proceedings
18 who has physical custody of the child or claims to have custody
19 or visitation rights with respect to the child.

20 No change for subd 2

21 Subd. 3. Each party has a continuing duty to inform the
22 court of any custody proceeding concerning the child in this or
23 any other state of which ~~he~~ the party obtained information
24 during this proceeding.

518A#10S

25 518A.10 ADDITIONAL PARTIES.

26 If the court learns from information furnished by the
27 parties pursuant to section 518A.09 or from other sources that a
28 person not a party to the custody proceeding has physical
29 custody of the child or claims to have custody or visitation
30 rights with respect to the child, it shall order that person to
31 be joined as a party and to be duly notified of the pendency of
32 the proceeding and of ~~his~~ the joinder as a party. If the person
33 joined as a party is outside this state ~~he~~ that person shall be
34 served with process or otherwise notified in accordance with
35 section 518A.05.

518A#11S

36 518A.11 APPEARANCE OF PARTIES AND THE CHILD.

37 Subdivision 1. The court may order any party to the
38 proceeding who is in this state to appear personally before the
39 court. If that party has physical custody of the child the
40 court may order that ~~he~~ the party appear personally with the
41 child.

42 No change for subd 2 to 3

518A#15S

43 518A.15 FILING AND ENFORCEMENT OF CUSTODY DECREE OF
44 ANOTHER STATE.

45 No change for subd 1

46 Subd. 2. A person violating a custody decree of another
47 state which makes it necessary to enforce the decree in this
48 state may be required to pay necessary travel and other
49 expenses, including attorney's fees, incurred by the party
50 entitled to the custody or ~~his~~ to the entitled party's witnesses.

518A#16S

51 518A.16 REGISTRY OF OUT OF STATE CUSTODY DECREES AND
52 PROCEEDINGS.

53 The clerk of each court having jurisdiction of child
54 custody matters shall maintain a registry ~~in-which-he-shall~~ to
55 enter the following:

56 (a) certified copies of custody decrees of other states
57 received for filing;

58 (b) communications as to the pendency of custody
59 proceedings in other states;

60 (c) communications concerning a finding of inconvenient
61 forum by a court of another state; and

62 (d) other communications or documents concerning custody
63 proceedings in another state which may affect the jurisdiction
64 of a court of this state or the disposition to be made by it in
65 a custody proceeding.

518A#20S

66 518A.20 ASSISTANCE TO COURTS OF OTHER STATES.

67 No change for subd 1

68 Subd. 2. A person within this state may voluntarily give
69 ~~his~~ testimony or statement in this state for use in a custody
70 proceeding outside this state.

1 No change for subd 3
518B#01S

2 518B.01 DOMESTIC ABUSE ACT.

3 No change for subd 1 to 3

4 Subd. 4. ORDER FOR PROTECTION. There shall exist an
5 action known as a petition for an order for protection in cases
6 of domestic abuse.

7 (a) A petition for relief under this section may be made by
8 any family or household member ~~on-behalf-of-himself-or-herself~~ *
9 personally or on behalf of minor family or household members. *

10 (b) A petition for relief shall allege the existence of
11 domestic abuse, and shall be accompanied by an affidavit made
12 under oath stating the specific facts and circumstances from
13 which relief is sought.

14 (c) A petition for relief may be made regardless of whether
15 or not there is a pending lawsuit, complaint, petition or other
16 action between the parties.

17 (d) The court shall provide simplified forms and clerical
18 assistance to help with the writing and filing of a petition
19 under this section.

20 (e) The court shall advise a petitioner under clause (d) of
21 the right to file a motion and affidavit and to sue in forma
22 pauperis pursuant to section 563.01 and shall assist with the
23 writing and filing of the motion and affidavit.

24 No change for subd 5 to 9

25 Subd. 10. RIGHT TO APPLY FOR RELIEF. (a) A

26 person's right to apply for relief shall not be affected by ~~his~~ *
27 ~~or-her~~ the person's leaving the residence or household to avoid *
28 abuse.

29 (b) The court shall not require security or bond of any
30 party unless it deems necessary in exceptional cases.

31 No change for subd 11 to 13

32 Subd. 14. VIOLATION OF AN ORDER FOR PROTECTION. (a)

33 Whenever an order for protection is granted pursuant to this
34 section, and the respondent or person to be restrained knows of
35 the order, violation of the order for protection is a
36 misdemeanor.

37 (b) A peace officer shall arrest without a warrant and take
38 into custody a person whom the peace officer has probable cause
39 to believe has violated an order granted pursuant to this
40 section restraining the person or excluding the person from the
41 residence, if the existence of the order can be verified by the
42 officer.

43 (c) A violation of an order for protection shall also
44 constitute contempt of court and be subject to the penalties
45 therefor.

46 (d) Upon the filing of an affidavit by the petitioner or
47 any peace officer, alleging that the respondent has violated any
48 order for protection granted pursuant to this section, the court
49 may issue an order to the respondent, requiring the respondent
50 to appear and show cause within 14 days why ~~he~~ the respondent *
51 should not be found in contempt of court and punished therefor. *
52 The hearing may be held by the court in any county in which the
53 petitioner or respondent temporarily or permanently resides at
54 the time of the alleged violation.

55 A peace officer is not liable under section 609.43, clause
56 (1), for a failure to perform a duty required by clause (b) of
57 this subdivision.

58 No change for subd 15 to 16

518C#06S

59 518C.06 CONTENTS AND FILING OF PETITION FOR SUPPORT;
60 VENUE.

61 Subdivision 1. CONTENTS. The petition shall be
62 verified and shall state the name and, so far as known to the
63 obligee, the address and circumstances of the obligor and the
64 persons for whom support is sought, and all other pertinent
65 information. The obligee may include in or attach to the
66 petition any information that may help in locating, or
67 identifying, the obligor, including a photograph of the obligor,
68 a description of any distinguishing marks on ~~his~~ the obligor's *
69 person, other names and aliases by which ~~he~~ the obligor has been *
70 or is known, the name of ~~his~~ the obligor's employer, ~~his~~ the *
71 obligor's fingerprints and ~~his~~ social security number. *

72 No change for subd 2

518C#09S

73 518C.09 DUTY OF INITIATING COURT.

1 If the initiating court finds that the petition sets forth
 2 facts from which it may be determined that the obligor owes a
 3 duty of support, and that a court of the responding state may
 4 obtain jurisdiction of the obligor or ~~his~~ the obligor's *
 5 property, it shall so certify and cause three copies of the
 6 petition and its certificate and one copy of sections 518C.01 to
 7 518C.36 to be sent to the responding court. Certification shall
 8 be in accordance with the requirements of the initiating state.
 9 If the name and address of the responding court are unknown and
 10 the responding state has an information agency comparable to
 11 that established in the initiating state, it shall cause the
 12 copies to be sent to the state information agency or other
 13 proper official of the responding state, with a request that the
 14 agency or official forward them to the proper court and that the
 15 court of the responding state acknowledge their receipt to the
 16 initiating court.

518C#11S

17 518C.11 JURISDICTION BY ARREST.

18 If the court of this state believes that the obligor may
 19 flee it may:

20 (1) As an initiating court, request in its certificate that
 21 the responding court obtain the person of the obligor by
 22 appropriate process; or

23 (2) As a responding court, obtain the person of the obligor
 24 by appropriate process.

25 Thereupon, it may release ~~him~~ the obligor either upon ~~his~~ *
 26 own personal recognizance or upon ~~his~~ the giving of a bond in *
 27 an amount set by the court to assure ~~his~~ the obligor's *
 28 appearance at the hearing.

518C#12S

29 518C.12 DUTY OF THE COURT AND THE PROSECUTING ATTORNEY
 30 OF THIS STATE AS RESPONDING STATE.

31 Subdivision 1. DOCKETING CASE. After the responding
 32 court receives copies of the petition, the certificate and the
 33 substantially similar reciprocal act from the initiating court,
 34 the clerk of the court shall docket the case and notify the
 35 prosecuting attorney of ~~his~~ the action. *

36 Subd. 2. PROSECUTION OF CASE. The prosecuting
 37 attorney shall prosecute the case diligently; ~~---He shall take,~~ *
 38 taking all action necessary in accordance with the laws of this *
 39 state to enable the court to obtain jurisdiction over the *
 40 obligor or ~~his~~ the obligor's property and shall request the *
 41 court to set a time and place for a hearing and give notice
 42 thereof to the obligor in accordance with law.

43 Subd. 3. INVESTIGATION BY PROSECUTING ATTORNEY. The
 44 prosecuting attorney, on ~~his-own personal~~ initiative, shall use *
 45 all means ~~at-his-disposal~~ available to locate the obligor or ~~his~~ *
 46 the obligor's property, and if, because of inaccuracies in the *
 47 petition or otherwise, the court cannot obtain jurisdiction, the *
 48 prosecuting attorney shall inform the court of ~~what-he-has-done~~ *
 49 action taken and request the court to continue the case pending *
 50 receipt of more accurate information or an amended petition from
 51 the initiating court.

52 Subd. 4. OBLIGOR LOCATED IN ANOTHER COUNTY OR STATE.

53 If the obligor or ~~his~~ the obligor's property is not found in the *
 54 county, and the prosecuting attorney discovers that the obligor *
 55 or ~~his~~ the obligor's property may be found in another county of *
 56 this state, or another state, ~~he~~ the attorney shall so inform *
 57 the court. Thereupon, the clerk of the court shall forward the
 58 documents received from the court in the initiating state to a
 59 court in the other county, or to a court in the other state, or
 60 to the information agency or other proper official of the other
 61 state, with a request that the documents be forwarded to the
 62 proper court. All powers and duties provided by sections
 63 518C.01 to 518C.36 apply to the recipient of the documents so
 64 forwarded. If the clerk of a court of this state forwards
 65 documents to another court, ~~he~~ the clerk shall forthwith notify *
 66 the initiating court.

67 Subd. 5. NO INFORMATION. If the prosecuting attorney
 68 has no information as to the location of the obligor or ~~his~~ the *
 69 obligor's property ~~he~~ the attorney shall so inform the *
 70 initiating court.

518C#14S

71 518C.14 IMMUNITY FROM CRIMINAL PROSECUTION.

72 If, at a hearing, the obligor is called for examination as
 73 an adverse party and ~~he~~ declines to answer upon the ground that *

1 ~~his~~ the testimony may tend to incriminate ~~him~~ the obligor, the *
 2 court may require ~~him to~~ an answer, in which event ~~he~~ the *
 3 obligor is immune from criminal prosecution with respect to *
 4 matters revealed by ~~his~~ the testimony, except for perjury *
 5 committed in ~~his~~ the testimony. *

518C#23S

6 518C.23 PROSECUTING ATTORNEY TO REPRESENT OBLIGEE.

7 If this state is acting either as a rendering or a
 8 registering state, the prosecuting attorney shall represent the
 9 obligee in proceedings under sections 518C.22 to 518C.25. If
 10 the prosecuting attorney neglects or refuses to represent the
 11 obligee, the attorney general may undertake the representation.
 12 In addition to the preceding representation, an attorney
 13 retained by the obligee may represent ~~him~~ the obligee in *
 14 interstate proceedings under sections 518C.22 to 518C.25. *

518C#24S

15 518C.24 REGISTRATION PROCEDURE; NOTICE.

16 No change for subd 1

17 Subd. 2. DUTIES AFTER REGISTRATION. Promptly upon
 18 registration, the clerk of the court shall send, by certified or
 19 registered mail, a notice of the registration with a copy of the
 20 registered support order and the post office address of the
 21 obligee to the obligor at the address given. ~~He~~ The clerk shall *
 22 also docket the case and notify the prosecuting attorney of ~~his~~ *
 23 the action. The prosecuting attorney shall proceed diligently *
 24 to enforce the order.

518C#25S

25 518C.25 EFFECT OF REGISTRATION; ENFORCEMENT PROCEDURE.

26 No change for subd 1

27 Subd. 2. TIME TO PETITION COURT TO VACATE ORDER. The
 28 obligor has 20 days after the mailing of notice of the
 29 registration in which to petition the court to vacate the
 30 registration or for other relief. If ~~he~~ the obligor does not so *
 31 petition, the registered support order is confirmed.

32 Subd. 3. HEARING; STAY OF ORDER. At the hearing to
 33 enforce the registered support order, the obligor may present
 34 only matters that would be available to ~~him~~ the obligor as *
 35 defenses in an action to enforce a foreign money judgment. *
 36 If ~~he~~ the obligor shows to the court that an appeal from the *
 37 order is pending or will be taken, or that a stay of execution
 38 has been granted, the court shall stay enforcement of the order
 39 until the appeal is concluded, the time for appeal has expired,
 40 or the order is vacated, upon satisfactory proof that the
 41 obligor has furnished security for payment of the support order,
 42 as required by the rendering state. If ~~he~~ the obligor shows to *
 43 the court any ground upon which enforcement of a support order
 44 of this state may be stayed, the court shall stay enforcement of
 45 the order for an appropriate period if the obligor furnishes the
 46 same security for payment of the support order that is required
 47 for a support order of this state.

518C#32S

48 518C.32 CONDITIONS OF INTERSTATE RENDITION.

49 Subdivision 1. DEMAND OF OTHER STATE. Before making
 50 the demand upon the governor of another state for the surrender
 51 of a person charged criminally in this state with failing to
 52 provide for the support of a person, the governor of this state
 53 may require a prosecuting attorney of this state to satisfy ~~him~~ *
 54 the governor that the obligee initiated proceedings for support *
 55 under sections 518C.01 to 518C.36 at least 60 days earlier or
 56 that such proceedings would be of no avail.

57 Subd. 2. DEMAND BY OTHER STATE. If, under a
 58 substantially similar reciprocal law, the governor of another
 59 state makes a demand upon the governor of this state for the
 60 surrender of a person charged criminally in that state with
 61 failure to provide for the support of a person, the governor may
 62 require a prosecuting attorney to investigate the demand and to
 63 report to ~~him~~ the governor whether proceedings for support have *
 64 been initiated or would be effective. If it appears to the *
 65 governor that a proceeding would be effective but has not been
 66 initiated, ~~he~~ the governor may delay honoring the demand for a *
 67 reasonable time to permit the initiation of a proceeding.

68 No change for subd 3

518C#33S

69 518C.33 INTRASTATE APPLICATION.

70 No change for subd 1

71 Subd. 2. PROCEDURE; DUTIES. If the court of the

1 county in which the petition is filed finds that the petition
 2 sets forth facts from which it may be determined that the
 3 obligor owes a duty of support and finds that a court of another
 4 county in this state may obtain jurisdiction over the obligor or
 5 ~~his~~ the obligor's property, the clerk of the court shall send *
 6 the petition and a certification of the findings to the court of *
 7 the county in which the obligor or ~~his~~ the obligor's property is
 8 found. The clerk of the court of the county receiving these
 9 documents shall notify the prosecuting attorney of their
 10 receipt. The prosecuting attorney and the court in the county
 11 to which the copies are forwarded shall then have duties
 12 corresponding to those imposed upon them when acting for this
 13 state as a responding state.

14 No change for subd 3

518C#34S

15 518C.34 APPEALS.

16 If the commissioner of human services is of the opinion
 17 that a support order is erroneous and presents a question of law
 18 warranting an appeal in the public interest, ~~he~~ the commissioner *
 19 may:

20 (a) Perfect an appeal to the proper appellate court, if the
 21 support order was issued by a court of this state; or

22 (b) If the support order was issued in another state cause
 23 the appeal to be taken in the other state. In either case
 24 expenses of the appeal may be paid on ~~his~~ the commissioner's *
 25 order from funds appropriated for ~~his~~ the commissioner's office. *

519*#07S

26 519.07 BARRING INTEREST OF SPOUSE; RIGHTS RECIPROCAL.

27 When a ~~married-man~~ person shall be deserted by ~~his-wife, or~~ *
 28 ~~a married-woman shall be deserted by her husband~~ spouse, for the *
 29 space of one year, or when ~~he or she~~ the person would, for any *
 30 cause, be entitled to a divorce from ~~such husband or wife~~ the *
 31 spouse under the laws of this state, or when ~~he or she~~ the *
 32 person has a ~~husband or wife~~ spouse that has been insane for ten *
 33 years immediately prior to the time of bringing the action
 34 hereinafter named, and upon the hearing thereof shall be found
 35 to be incurably insane, ~~he or she~~ the person may bring an action *
 36 in the district court of the proper county, asking for a decree
 37 which shall debar ~~him or her so deserting or furnishing grounds~~ *
 38 ~~for a divorce, or so found to be incurably insane, as aforesaid,~~ *
 39 the spouse from any right or estate by the curtesy or in dower, *
 40 or otherwise, as the case may be, in or to ~~his or her~~ the *
 41 person's lands, and which will give ~~such husband or wife~~ the *
 42 person full authority to alien, sell, and convey, and dispose of *
 43 ~~his or her~~ the lands, without the interference of or signature *
 44 of the ~~husband or wife so deserting, or being guilty of acts~~ *
 45 ~~which would entitle the person bringing such action to a~~ *
 46 ~~divorce, or so found to be incurably insane, as aforesaid~~ *
 47 spouse; and the court may grant such decree when it shall appear *
 48 just or expedient; and thereupon the ~~husband or wife~~ person *
 49 shall have full control of ~~his or her~~ the real estate, with *
 50 power to convey the same without the ~~husband or wife~~ spouse *
 51 joining in the conveyance, and as fully as if ~~he or she~~ the *
 52 person were unmarried; or the court may, by such decree, make *
 53 such limitations on the power to convey such real estate as may
 54 seem meet and proper in the premises. A certified copy of such
 55 decree may be recorded in the deed records in the office of the
 56 county recorder in any county wherever such lands, or any part
 57 thereof, may be situated.

520*#07S

58 520.07 DEPOSIT IN NAME OF FIDUCIARY AS SUCH.

59 If a deposit is made in a bank to the credit of a fiduciary
 60 as such, the bank is authorized to pay the amount of the deposit
 61 or any part thereof upon the check of the fiduciary, signed with
 62 the name in which such deposit is entered, without being liable
 63 to the principal, unless the bank pays the check with actual
 64 knowledge that the fiduciary is committing a breach of ~~his~~ an *
 65 obligation as fiduciary in drawing the check or with knowledge
 66 of such facts that its action in paying the check amounts to bad
 67 faith. If such a check is payable to the drawee bank and is
 68 delivered to it in payment of or as security for a personal debt
 69 of the fiduciary to it, the bank is liable to the principal if
 70 the fiduciary in fact commits a breach of ~~his~~ an obligation as *
 71 fiduciary in drawing or delivering the check.

520*#08S

72 520.08 DEPOSIT IN NAME OF PRINCIPAL.

1 If a check is drawn upon the account of ~~his~~ the principal *
 2 in a bank by a fiduciary who is empowered to draw checks *
 3 upon ~~his~~ the principal's account, the bank is authorized to pay *
 4 such check without being liable to the principal, unless the *
 5 bank pays the check with actual knowledge that the fiduciary is *
 6 committing a breach of ~~his~~ an obligation as fiduciary in drawing *
 7 such check, or with knowledge of such facts that its action in *
 8 paying the check amounts to bad faith. If such a check is *
 9 payable to the drawee bank and is delivered to it in payment of *
 10 or as security for a personal debt of the fiduciary to it, the *
 11 bank is liable to the principal if the fiduciary in fact commits *
 12 a breach of ~~his~~ an obligation as fiduciary in drawing or *
 13 delivering the check. *

520*#09S

14 520.09 DEPOSIT IN FIDUCIARY'S PERSONAL ACCOUNT.

15 If a person who is a fiduciary makes a deposit in a bank to *
 16 ~~his~~ the person's personal credit of checks drawn by ~~him~~ the *
 17 person upon an account in ~~his-own~~ the person's name as *
 18 fiduciary, or of checks payable to ~~him~~ the person as fiduciary, *
 19 or of checks drawn by ~~him~~ the person upon an account in the name *
 20 of ~~his~~ the principal if ~~he~~ the person is empowered to draw *
 21 checks thereon, or of checks payable to ~~his~~ the principal and *
 22 endorsed by ~~him~~ the person, if ~~he-is~~ empowered to endorse such *
 23 checks, or if ~~he~~ the person otherwise makes a deposit of funds *
 24 held ~~by-him~~ as fiduciary, the bank receiving such deposit is not *
 25 bound to inquire whether the fiduciary is committing thereby a *
 26 breach of ~~his~~ an obligation as fiduciary; and the bank is *
 27 authorized to pay the amount of the deposit or any part thereof *
 28 upon the personal check of the fiduciary without being liable to *
 29 the principal, unless the bank receives the deposit or pays the *
 30 check with actual knowledge that the fiduciary is committing a *
 31 breach of ~~his~~ an obligation as fiduciary in making such deposit *
 32 or in drawing such check, or with knowledge of such facts that *
 33 its action in receiving the deposit or paying the check amounts *
 34 to bad faith. *

520*#21S

35 520.21 DEFINITIONS.

36 In sections 520.21 to 520.31, unless the context otherwise
 37 requires:

38 (a) "Assignment" includes any written stock power, bond
 39 power, bill of sale, deed, declaration of trust, or other
 40 instrument of transfer.

41 (b) "Claim of beneficial interest" includes a claim of any
 42 interest by a decedent's legatee, distributee, heir, or
 43 creditor, a beneficiary under a trust, a ward, a beneficial
 44 owner of a security registered in the name of a nominee, or a
 45 minor owner of a security registered in the name of a custodian,
 46 or a claim of any similar interest, whether the claim is
 47 asserted by the claimant or by a fiduciary or by any other
 48 authorized person on ~~his~~ the claimant's behalf, and includes a *
 49 claim that the transfer would be in breach of fiduciary duties. *

50 (c) "Corporation" means a private or public corporation,
 51 association or trust issuing a security.

52 (d) "Fiduciary" means an executor, administrator, trustee,
 53 guardian, committee, conservator, curator, tutor, custodian, or
 54 nominee.

55 (e) "Person" includes an individual, a corporation,
 56 government or governmental subdivision or agency, business
 57 trust, estate, trust, partnership or association, two or more
 58 persons having a joint or common interest, or any other legal or
 59 commercial entity.

60 (f) "Security" includes any share of stock, bond,
 61 debenture, note, or other security issued by a corporation which
 62 is registered as to ownership on the books of the corporation.

63 (g) "Transfer" means a change on the books of a corporation
 64 in the registered ownership of a security.

65 (h) "Transfer agent" means a person employed or authorized
 66 by a corporation to transfer securities issued by the
 67 corporation.

520*#23S

68 520.23 ASSIGNMENT BY A FIDUCIARY.

69 Except as otherwise provided in sections 520.21 to 520.31,
 70 a corporation or transfer agent making a transfer of a security
 71 pursuant to an assignment by a fiduciary:

72 (a) May assume without inquiry that the assignment, even
 73 though to the fiduciary himself personally or to ~~his~~ a nominee, *

1 s within ~~his~~ the fiduciary's authority and capacity and is not *
2 in breach of ~~his~~ fiduciary duties; *

3 (b) May assume without inquiry that the fiduciary has
4 complied with any controlling instrument and with the law of the
5 jurisdiction governing the fiduciary relationship, including any
6 law requiring the fiduciary to obtain court approval of the
7 transfer; and

8 (c) Is not charged with notice of and is not bound to
9 obtain or examine any court record or any recorded or unrecorded
10 document relating to the fiduciary relationship or the
11 assignment, even though the record or document is in its
12 possession.

520*#25S

13 520.25 ADVERSE CLAIMS.

14 (a) A person asserting a claim of beneficial interest
15 adverse to the transfer of a security pursuant to an assignment
16 by a fiduciary may give the corporation or transfer agent
17 written notice of the claim. The corporation or transfer agent
18 is not put on notice unless the written notice identifies the
19 claimant, the registered owner, and the issue of which the
20 security is a part, provides an address for communications
21 directed to the claimant and is received before the transfer.
22 Nothing in sections 520.21 to 520.31 relieves the corporation or
23 transfer agent of any liability for making or refusing to make
24 the transfer after it is so put on notice, unless it proceeds in
25 the manner authorized in subsection (b).

26 (b) As soon as practicable after the presentation of a
27 security for transfer pursuant to an assignment by a fiduciary,
28 a corporation or transfer agent which has received notice of a
29 claim of beneficial interest adverse to the transfer may send
30 notice of the presentation by registered or certified mail to
31 the claimant at the address given by ~~him~~ the claimant. If the *
32 corporation or transfer agent so mails such a notice it shall *
33 withhold the transfer for 30 days after the mailing and shall
34 then make the transfer unless restrained by a court order.

520*#27S

35 520.27 NONLIABILITY OF THIRD PERSONS.

36 (a) No person who participates in the acquisition,
37 disposition, assignment or transfer of a security by or to a
38 fiduciary, including a person who guarantees the signature of
39 the fiduciary, is liable for participation in any breach of
40 fiduciary duty by reason of failure to inquire whether the
41 transaction involves a breach unless it is shown that ~~he~~ the *
42 person acted with actual knowledge that the proceeds of the *
43 transaction were being or were to be used wrongfully for the
44 individual benefit of the fiduciary or that the transaction was
45 otherwise in breach of duty.

46 (b) If a corporation or transfer agent makes a transfer
47 pursuant to an assignment by a fiduciary, a person who
48 guaranteed the signature of the fiduciary is not liable on the
49 guarantee to any person to whom the corporation or transfer
50 agent by reason of sections 520.21 to 520.31 incurs no liability.

51 (c) This section does not impose any liability upon the
52 corporation or its transfer agent.

523*#07S

53 523.07 DURABLE POWER OF ATTORNEY.

54 A power of attorney is durable if it contains language such
55 as "This power of attorney shall not be affected by disability
56 of the principal" or "This power of attorney shall become
57 effective upon the disability of the principal," or similar
58 words showing the intent of the principal that the authority
59 conferred is exercisable notwithstanding ~~his~~ the principal's *
60 later disability or incapacity.

523*#18S

61 523.18 SIGNATURE OF ATTORNEY-IN-FACT AS CONCLUSIVE PROOF
62 OF NONTERMINATION.

63 In the exercise of a power granted by a power of attorney,
64 other than in a transaction relating to real property described
65 in section 523.17, a signature by a person as "attorney-in-fact
66 for (Name of the principal)" or "(Name of the principal) by
67 (Name of the attorney-in-fact) ~~his/her~~ the principal's *
68 attorney-in-fact" or any similar written disclosure of the
69 principal and attorney-in-fact relationship constitutes an
70 attestation by the attorney-in-fact that the attorney-in-fact
71 did not have, at the time of signing, actual knowledge of the
72 termination of the power of attorney by the death of the

1 principal or, if the power is one which terminates upon
 2 incompetence of the principal, actual knowledge of the
 3 principal's incompetence, or actual notice of the revocation of
 4 the power of attorney, and is conclusive proof as to any party
 5 relying on the attestation that the power of attorney had not
 6 terminated or been revoked at the time of the signature by the
 7 attorney-in-fact on behalf of the principal except as to any
 8 party who has actual knowledge that the power of attorney had
 9 terminated prior to the signature or actual notice of the
 10 revocation of the power of attorney.

523*#20S

11 523.20 LIABILITY OF PARTIES REFUSING AUTHORITY OF
 12 ATTORNEY-IN-FACT TO ACT ON PRINCIPAL'S BEHALF.

13 Any party refusing to accept the authority of an
 14 attorney-in-fact to exercise a power granted by a power of
 15 attorney which (1) is executed in conformity with section 523.23;
 16 (2) contains a specimen signature of the attorney-in-fact
 17 authorized to act; (3) with regard to the execution or delivery
 18 of any recordable instrument relating to real property, is
 19 accompanied by affidavits that satisfy the provisions of section
 20 523.17; (4) with regard to any other transaction, is signed by
 21 the attorney-in-fact in a manner conforming to section 523.18;
 22 and (5) when applicable, is accompanied by an affidavit and any
 23 other document required by section 523.16, is liable to the
 24 principal and to the principal's heirs, assigns, and
 25 representative of the estate of the principal in the same manner
 26 as the party would be liable had the party refused to accept the
 27 authority of the principal to act on ~~his~~ the principal's own *
 28 behalf unless: (1) the party has actual notice of the
 29 revocation of the power of attorney prior to the exercise of the
 30 power; (2) the duration of the power of attorney specified in
 31 the power of attorney itself has expired; or (3) the party has
 32 actual knowledge of the death of the principal or, if the power
 33 of attorney is not a durable power of attorney, actual notice of
 34 a judicial determination that the principal is legally
 35 incompetent. This provision does not negate any liability which
 36 a party would have to the principal or to the attorney-in-fact
 37 under any other form of power of attorney under the common law
 38 or otherwise.

523*#23S

39 523.23 STATUTORY SHORT FORM OF GENERAL POWER OF
 40 ATTORNEY; FORMAL REQUIREMENTS; JOINT AGENTS.

41 Subdivision 1. FORM. The use of the following form
 42 in the creation of a power of attorney is lawful, and, when
 43 used, it shall be construed in accordance with the provisions of
 44 sections 523.23 and 523.24:

45 NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND
 46 SWEEPING. THEY ARE DEFINED IN SECTION 523.24. IF YOU HAVE ANY
 47 QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT ADVICE. THE USE
 48 OF ANY OTHER OR DIFFERENT FORM OF POWER OF ATTORNEY DESIRED BY
 49 THE PARTIES IS ALSO PERMITTED. THIS POWER OF ATTORNEY MAY BE
 50 REVOKED BY YOU IF YOU LATER WISH TO DO SO. THIS POWER OF
 51 ATTORNEY AUTHORIZES BUT DOES NOT REQUIRE THE ATTORNEY-IN-FACT TO *
 52 ACT FOR YOU ~~BUT DOES NOT REQUIRE THAT HE OR SHE DO SO.~~ *

53 Know All Men by These Presents, which are intended to *
 54 constitute a STATUTORY SHORT FORM POWER OF ATTORNEY pursuant to *
 55 Minnesota Statutes, section 523.23: *

56 That I (insert name and address of the
 57 principal) do hereby appoint (insert name
 58 and address of the attorney-in-fact, or each attorney-in-fact,
 59 if more than one is designated) my attorney(s)-in-fact to act
 60 (jointly):

61 (NOTE: If more than one attorney-in-fact is designated and
 62 the principal wishes each attorney-in-fact alone to be able to
 63 exercise the power conferred, delete the word "jointly."
 64 Failure to delete the word "jointly" will require the
 65 attorneys-in-fact to act unanimously.)

66 First: in my name, place and stead in any way which I
 67 myself could do, if I were personally present, with respect to
 68 the following matters as each of them is defined in section
 69 523.24:

70 (To grant to the attorney-in-fact any of the following
 71 powers, make a check or "x" in the line in front of each power
 72 being granted. To delete any of the following powers, do not
 73 make a check or "x" in the line in front of the power. You may,
 74 but need not, cross out each power being deleted with a line

1 drawn through it (or in similar fashion). Failure to make a
2 check or "x" in the line in front of the power will have the
3 effect of deleting the power unless the line in front of the
4 power of (o) is checked or x-ed.)

5 Check or "x"

- 6 (A) real property transactions;
- 7 (B) tangible personal property transactions;
- 8 (C) bond, share, and commodity transactions;
- 9 (D) banking transactions;
- 10 (E) business operating transactions;
- 11 (F) insurance transactions;
- 12 (G) beneficiary transactions;
- 13 (H) gift transactions;
- 14 (I) fiduciary transactions;
- 15 (J) claims and litigation;
- 16 (K) family maintenance;
- 17 (L) benefits from military service;
- 18 (M) records, reports, and statements;
- 19 (N) all other matters;
- 20 (O) all of the powers listed in
- 21 (A) through (N) above.

22 Second: (You must indicate below whether or not this power
23 of attorney will be effective if you become incompetent. Make a
24 check or "x" in the line in front of the statement that
25 expresses your intent.)

26 This power of attorney shall continue
27 to be effective if I become incompetent.
28 It shall not be affected by my later
29 disability or incompetency.

30 This power of attorney shall not be
31 effective if I become incompetent.

32 Third: (You must indicate below whether or not this power
33 of attorney authorizes the attorney-in-fact to transfer your
34 property directly to ~~himself-or-herself~~ the attorney-in-fact.
35 Make a check or "x" in the line in front of the statement that
36 expresses your intent.)

37 This power of attorney authorizes the
38 attorney-in-fact to receive the transfer property
39 ~~directly to-himself-or-herself~~.

40 This power of attorney does not author-
41 ize the attorney-in-fact to receive the transfer
42 ~~property directly to himself-or-herself~~.

43 In Witness Whereof I have hereunto signed my name this
44 day of, 19...

45
46 (Signature of Principal)
47 (Acknowledgment)
48 Specimen Signature of Attorney(s)-in-Fact
49
50

51 No change for subd 2 to 4
52 523*#24S

52 523.24 CONSTRUCTION.

53 No change for subd 1 to 3

54 Subd. 4. BANKING TRANSACTIONS. In a statutory short
55 form power of attorney, the language conferring general
56 authority with respect to banking transactions, means that the
57 principal authorizes the attorney-in-fact:

58 (1) to continue, modify, and terminate any deposit account
59 or other banking arrangement made by or on behalf of the
60 principal prior to the execution of the power of attorney;

61 (2) to open in the name of the principal alone, or in a way
62 that clearly evidences the principal and attorney-in-fact
63 relationship, a deposit account of any type with any bank, trust
64 company, savings and loan association, credit union, thrift
65 company, brokerage firm, or other institution which serves as a
66 depository for funds selected by the attorney-in-fact, to hire
67 safe deposit box or vault space and to make other contracts for
68 the procuring of other services made available by the banking
69 institution as the attorney-in-fact deems desirable;

70 (3) to make, sign, and deliver checks or drafts for any
71 purpose, to withdraw by check, order, or otherwise any funds or
72 property of the principal deposited with or left in the custody
73 of any banking institution, wherever located, either before or
74 after the execution of the power of attorney;

75 (4) to prepare any necessary financial statements of the

1 assets and liabilities or income and expenses of the principal
2 for submission to any banking institution;
3 (5) to receive statements, vouchers, notices, or other
4 documents from any banking institution and to act with respect
5 to them;
6 (6) to enter at any time any safe deposit box or vault
7 which the principal could enter if personally present;
8 (7) to borrow money at any interest rate the
9 attorney-in-fact selects, to pledge as security any assets of
10 the principal the attorney-in-fact deems desirable or necessary
11 for borrowing, to pay, renew, or extend the time of payment of
12 any debt of the principal;
13 (8) to make, assign, draw, endorse, discount, guarantee,
14 and negotiate, all promissory notes, bills of exchange, checks,
15 drafts, or other negotiable or nonnegotiable paper of the
16 principal, or payable to the principal or ~~his~~ the principal's *
17 order, to receive the cash or other proceeds of any of those
18 transactions, to accept any bill of exchange or draft drawn by
19 any person upon the principal, and to pay it when due;
20 (9) to receive for the principal and to deal in and to deal
21 with any sight draft, warehouse receipt, or other negotiable or
22 nonnegotiable instrument in which the principal has or claims to
23 have an interest;
24 (10) to apply for and to receive letters of credit from any
25 banking institution selected by the attorney-in-fact, giving
26 indemnity or other agreement in connection with the letters of
27 credit which the attorney-in-fact deems desirable or necessary;
28 (11) to consent to an extension in the time of payment with
29 respect to any commercial paper or any banking transaction in
30 which the principal has an interest or by which the principal
31 is, or might be, affected in any way;
32 (12) to demand, receive, obtain by action, proceeding, or
33 otherwise any money or other thing of value to which the
34 principal is, or may become, or may claim to be entitled as the
35 proceeds of any banking transaction, and to reimburse the
36 attorney-in-fact for any expenditures properly made in the
37 execution of the powers conferred upon the attorney-in-fact by
38 the statutory short form power of attorney;
39 (13) to execute, acknowledge, and deliver any instrument of
40 any kind, in the name of the principal or otherwise, which the
41 attorney-in-fact deems useful for the accomplishment of any of
42 the purposes enumerated in this subdivision;
43 (14) to prosecute, defend, submit to arbitration, settle,
44 and propose or accept a compromise with respect to any claim
45 existing in favor of or against the principal based on or
46 involving any banking transaction or to intervene in any related
47 action or proceeding;
48 (15) to hire, discharge, and compensate any attorney,
49 accountant, expert witness, or other assistant when the
50 attorney-in-fact deems that action to be desirable for the
51 proper execution of any of the powers described in this
52 subdivision, and for the keeping of needed records; and
53 (16) in general, and in addition to all the specific acts
54 listed in this subdivision, to do any other acts in connection
55 with any banking transaction which does or might in any way
56 affect the financial or other interests of the principal.
57 All powers described in this subdivision are exercisable
58 equally with respect to any banking transaction engaged in by
59 the principal at the giving of the power of attorney or engaged
60 in after that time, and whether conducted in the state of
61 Minnesota or elsewhere.

62 Subd. 5. BUSINESS OPERATING TRANSACTIONS. In a
63 statutory short form power of attorney, the language conferring
64 general authority with respect to business operating
65 transactions, means that the principal authorizes the
66 attorney-in-fact:

67 (1) to discharge and perform any duty or liability and also
68 to exercise any right, power, privilege, or option which the
69 principal has, or claims to have, under any partnership
70 agreement whether the principal is a general or limited partner,
71 to enforce the terms of a partnership agreement for the
72 protection of the principal, by action, proceeding, or
73 otherwise, as the attorney-in-fact deems desirable or necessary,
74 and to defend, submit to arbitration, settle, or compromise any
75 action or other legal proceeding to which the principal is a
76 party because of ~~his~~ membership in the partnership; *

1 (2) to exercise in person or by proxy or to enforce by
2 action, proceeding, or otherwise, any right, power, privilege,
3 or option which the principal has as the holder of any bond,
4 share, or other instrument of similar character and to defend,
5 submit to arbitration, settle or compromise any action or other
6 legal proceeding to which the principal is a party because of a
7 bond, share, or other instrument of similar character;

8 (3) with respect to any business enterprise which is owned
9 solely by the principal:

10 (a) to continue, modify, renegotiate, extend, and terminate
11 any contractual arrangements made with any person or entity,
12 firm, association, or corporation by or on behalf of the
13 principal with respect to the business enterprise prior to the
14 granting of the power of attorney;

15 (b) to determine the policy of the business enterprise as
16 to the location of the site or sites to be used for its
17 operation, the nature and extent of the business to be
18 undertaken by it, the methods of manufacturing, selling,
19 merchandising, financing, accounting, and advertising to be
20 employed in its operation, the amount and types of insurance to
21 be carried, the mode of securing, compensating, and dealing with
22 accountants, attorneys, servants, and other agents and employees
23 required for its operation, and to agree and to contract in any
24 manner, with any person, and on any terms which the
25 attorney-in-fact deems desirable or necessary for effectuating
26 any or all of the decisions of the attorney-in-fact as to
27 policy, and to perform, rescind, reform, release, or modify the
28 agreement or contract or any other similar agreement or contract
29 made by or on behalf of the principal;

30 (c) to change the name or form of organization under which
31 the business enterprise is operated and to enter into a
32 partnership agreement with other persons or to organize a
33 corporation to take over the operation of the business or any
34 part of the business, as the attorney-in-fact deems desirable or
35 necessary;

36 (d) to demand and receive all money which is or may become
37 due to the principal or which may be claimed by or for the *
38 principal ~~or on his behalf~~ in the operation of the business *
39 enterprise, and to control and disburse the funds in the
40 operation of the enterprise in any way which the
41 attorney-in-fact deems desirable or necessary, and to engage in
42 any banking transactions which the attorney-in-fact deems
43 desirable or necessary for effectuating the execution of any of
44 the powers of the attorney-in-fact described in clauses (a) to
45 (d);

46 (4) to prepare, sign, file, and deliver all reports,
47 compilations of information, returns, or other papers with
48 respect to any business operating transaction of the principal,
49 which are required by any governmental agency, department, or
50 instrumentality or which the attorney-in-fact deems desirable or
51 necessary for any purpose, and to make any related payments;

52 (5) to pay, compromise, or contest taxes or assessments and
53 to do any act or acts which the attorney-in-fact deems desirable
54 or necessary to protect the principal from illegal or
55 unnecessary taxation, fines, penalties, or assessments in *
56 connection with ~~his~~ the principal's business operations,
57 including power to attempt to recover, in any manner permitted
58 by law, sums paid before or after the execution of the power of
59 attorney as taxes, fines, penalties, or assessments;

60 (6) to demand, receive, obtain by action, proceeding, or
61 otherwise, any money or other thing of value to which the
62 principal is, may become, or may claim to be entitled as the
63 proceeds of any business operation of the principal, to
64 conserve, to invest, to disburse, or to use anything so received
65 for purposes enumerated in this subdivision, and to reimburse
66 the attorney-in-fact for any expenditures properly made by the
67 attorney-in-fact in the execution of the powers conferred upon
68 the attorney-in-fact by the statutory short form power of
69 attorney;

70 (7) to execute, acknowledge, seal, and deliver any deed,
71 assignment, mortgage, lease, notice, consent, agreement,
72 authorization, check, or other instrument which the
73 attorney-in-fact deems useful for the accomplishment of any of
74 the purposes enumerated in this subdivision;

75 (8) to prosecute, defend, submit to arbitration, settle,
76 and propose or accept a compromise with respect to, any claim

1 existing in favor of, or against, the principal based on or
2 involving any business operating transaction or to intervene in
3 any related action or proceeding;

4 (9) to hire, discharge, and compensate any attorney,
5 accountant, expert witness, or other assistant when the
6 attorney-in-fact deems that action to be desirable for the
7 proper execution by the attorney-in-fact of any of the powers
8 described in this subdivision, and for the keeping of needed
9 records; and

10 (10) in general, and in addition to all the specific acts
11 listed in this subdivision, to do any other act which the
12 attorney-in-fact deems desirable or necessary for the
13 furtherance or protection of the interests of the principal in
14 any business.

15 All powers described in this subdivision are exercisable
16 equally with respect to any business in which the principal is
17 interested at the time of giving of the power of attorney or in
18 which the principal becomes interested after that time, and
19 whether operated in the state of Minnesota or elsewhere.

20 No change for subd 6 to 10

21 Subd. 11. FAMILY MAINTENANCE. In a statutory short
22 form power of attorney, the language conferring general
23 authority with respect to family maintenance, means that the
24 principal authorizes the attorney-in-fact:

25 (1) to do all acts necessary for maintaining the customary
26 standard of living of the spouse and children, and other persons
27 customarily supported by the principal, including by way of
28 illustration and not by way of restriction, power to provide
29 living quarters by purchase, lease, or other contract, or by
30 payment of the operating costs, including interest, amortization
31 payments, repairs, and taxes of premises owned by the principal
32 and occupied by ~~his~~ the principal's family or dependents, to *
33 provide normal domestic help for the operation of the household,
34 to provide usual vacations and usual travel expenses, to provide
35 usual educational facilities, and to provide funds for all the
36 current living costs of the spouse, children, and other
37 dependents, including, among other things, shelter, clothing,
38 food, and incidentals;

39 (2) to pay for necessary medical, dental, and surgical
40 care, hospitalization, and custodial care for the spouse,
41 children, and other dependents of the principal;

42 (3) to continue whatever provision has been made by the
43 principal, either prior to or after the execution of the power
44 of attorney, for ~~his~~ the principal's spouse and other persons *
45 customarily supported by the principal, with respect to
46 automobiles, or other means of transportation, including by way
47 of illustration but not by way of restriction, power to license,
48 insure, and replace any automobiles owned by the principal and
49 customarily used by the spouse, children, or other persons
50 customarily supported by the principal;

51 (4) to continue whatever charge accounts have been operated
52 by the principal prior to the execution of the power of attorney
53 or thereafter for the convenience of ~~his~~ the principal's spouse, *
54 children, or other persons customarily supported by the
55 principal, to open new accounts the attorney-in-fact deems to be
56 desirable for the accomplishment of any of the purposes
57 enumerated in this subdivision, and to pay the items charged on
58 those accounts by any person authorized or permitted by the
59 principal to make charges prior to the execution of the power of
60 attorney;

61 (5) to continue payments incidental to the membership or
62 affiliation of the principal in any church, club, society,
63 order, or other organization or to continue contributions to
64 those organizations;

65 (6) to demand, receive, obtain by action, proceeding, or
66 otherwise any money or other thing of value to which the
67 principal is or may become or may claim to be entitled as
68 salary, wages, commission, or other remuneration for services
69 performed, or as a dividend or distribution upon any stock, or
70 as interest or principal upon any indebtedness, or any periodic
71 distribution of profits from any partnership or business in
72 which the principal has or claims an interest, and to endorse,
73 collect, or otherwise realize upon any instrument for the
74 payment received;

75 (7) to use any asset of the principal for the performance
76 of the powers enumerated in this subdivision, including by way

1 of illustration and not by way of restriction, power to draw
2 money by check or otherwise from any bank deposit of the
3 principal, to sell any interest in real property, bond, share,
4 commodity interest, tangible personal property, or other asset
5 of the principal, to borrow money and pledge as security for a
6 loan, any asset, including insurance, which belongs to the
7 principal;

8 (8) to execute, acknowledge, verify, seal, file, and
9 deliver any application, consent, petition, notice, release,
10 waiver, agreement, or other instrument which the
11 attorney-in-fact deems useful for the accomplishment of any of
12 the purposes enumerated in this subdivision;

13 (9) to hire, discharge, and compensate any attorney,
14 accountant, or other assistant when the attorney-in-fact deems
15 that action to be desirable for the proper execution by any of
16 the powers described in this subdivision, and for the keeping of
17 needed records; and

18 (10) in general, and in addition to all the specific acts
19 listed in this subdivision, to do any other acts for the welfare
20 of the spouse, children, or other persons customarily supported
21 by the principal or for the preservation and maintenance of the
22 other personal relationships of the principal to parents,
23 relatives, friends, and organizations as are appropriate.

24 All powers described in this subdivision are exercisable
25 equally whether the acts required for their execution relate to
26 real or personal property owned by the principal at the giving
27 of the power of attorney or acquired after that time and whether
28 those acts are performable in the state of Minnesota or
29 elsewhere.

30 Subd. 12. BENEFITS FROM MILITARY SERVICE. In a
31 statutory short form power of attorney, the language conferring
32 general authority with respect to benefits from military
33 service, means that the principal authorizes the
34 attorney-in-fact:

35 (1) to execute vouchers in the name of the principal for
36 any and all allowances and reimbursements payable by the United
37 States or by any state or subdivision of a state to the
38 principal, including, by way of illustration and not of
39 restriction, all allowances and reimbursements for
40 transportation of the principal and of ~~his~~ the principal's
41 dependents, and for shipment of household effects, to receive,
42 endorse, and collect the proceeds of any check payable to the
43 order of the principal drawn on the treasurer or other fiscal
44 officer or depository of the United States or of any state or
45 subdivision of a state;

46 (2) to take possession and order the removal and shipment
47 of any property of the principal from any post, warehouse,
48 depot, dock, or other place of storage or safekeeping, either
49 governmental or private, to execute and deliver any release,
50 voucher, receipt, bill of lading, shipping ticket, certificate,
51 or other instrument which the attorney-in-fact deems desirable
52 or necessary for that purpose;

53 (3) to prepare, file, and prosecute the claim of the
54 principal to any benefit or assistance, financial or otherwise,
55 to which the principal is, or claims to be, entitled, under the
56 provisions of any statute or regulation existing at the
57 execution of the power of attorney or enacted after that time by
58 the United States or by any state or by any subdivision of a
59 state, or by any foreign government, which benefit or assistance
60 arises from or is based upon military service performed prior to
61 or after the execution of the power of attorney by the principal
62 or by any person related by blood or marriage to the principal,
63 to execute any receipt or other instrument which the
64 attorney-in-fact deems desirable or necessary for the
65 enforcement or for the collection of that claim;

66 (4) to receive the financial proceeds of any claim of the
67 type described in this subdivision, to conserve, invest,
68 disburse, or use anything so received for purposes enumerated in
69 this subdivision, and to reimburse the attorney-in-fact for any
70 expenditures properly made ~~by him~~ in the execution of the powers
71 conferred on the attorney-in-fact by the statutory short form
72 power of attorney;

73 (5) to prosecute, defend, submit to arbitration, settle,
74 and propose or accept a compromise with respect to any claim
75 existing in favor of or against the principal based on or
76 involving any benefits from military service or to intervene in

1 any related action or proceeding;
 2 (6) to hire, discharge, and compensate any attorney,
 3 accountant, expert witness, or other assistant when the
 4 attorney-in-fact deems that action to be desirable for the
 5 proper execution by the attorney-in-fact of any of the powers
 6 described in this subdivision; and
 7 (7) in general, and in addition to all the specific acts
 8 listed in this subdivision, to do any other acts which the
 9 attorney-in-fact deems desirable or necessary, to assure to the
 10 principal, and to the dependents of the principal, the maximum
 11 possible benefit from the military service performed prior to or
 12 after the execution of the power of attorney by the principal or
 13 by any person related by blood or marriage to the principal.
 14 All powers described in this subdivision are exercisable
 15 equally with respect to any benefits from military service
 16 existing at the giving of the power of attorney or accruing
 17 after that time, and whether accruing in the state of Minnesota
 18 or elsewhere.

19 No change for subd 13 to 14

524#1-0102

20 524.1-102 PURPOSES; RULE OF CONSTRUCTION.

21 (a) Chapters 524 and 525 shall be liberally construed and
 22 applied to promote the underlying purposes and policies.

23 (b) The underlying purposes and policies of chapters 524
 24 and 525 are:

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

28 (2) to discover and make effective the intent of a decedent
 29 in distribution of ~~his~~ property; *

30 (3) to promote a speedy and efficient system for
 31 liquidating the estate of the decedent and making distribution
 32 to ~~his~~ successors; *

33 (5) to make uniform the law among the various jurisdictions.

524#1-0106

34 524.1-106 EFFECT OF FRAUD AND EVASION.

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

524#1-0201

49 524.1-201 GENERAL DEFINITIONS.

50 Subject to additional definitions contained in the
 51 subsequent articles which are applicable to specific articles or
 52 parts, and unless the context otherwise requires, in chapters
 53 524 and 525:

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

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

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

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

- 1 to section 573.02.
- 2 (5) "Court" means the court or branch having jurisdiction
3 in matters relating to the affairs of decedents. This court in
4 this state is known as the probate court or county court.
- 5 (6) "Conservator" means a person who is appointed by a
6 court to manage the estate of a protected person.
- 7 (7) "Devise," when used as a noun, means a testamentary
8 disposition of real or personal property and when used as a
9 verb, means to dispose of real or personal property by will.
- 10 (8) "Devisee" means any person designated in a will to
11 receive a devise. In the case of a devise to an existing trust
12 or trustee, or to a trustee on trust described by will, the
13 trust or trustee is the devisee and the beneficiaries are not
14 devisees.
- 15 (9) "Disability" means cause for a protective order as
16 described by section 525.54.
- 17 (10) "Distributee" means any person who has received
18 property of a decedent from ~~his~~ the decedent's personal *
19 representative other than as a creditor or purchaser. A
20 testamentary trustee is a distributee only to the extent of
21 distributed assets or increment thereto remaining in ~~his~~ the *
22 trustee's hands. A beneficiary of a testamentary trust to whom *
23 the trustee has distributed property received from a personal
24 representative is a distributee of the personal representative.
25 For purposes of this provision, "testamentary trustee" includes
26 a trustee to whom assets are transferred by will, to the extent
27 of the devised assets. -
- 28 (11) "Estate" includes all of the property of the decedent,
29 trust, or other person whose affairs are subject to this chapter
30 as originally constituted and as it exists from time to time
31 during administration.
- 32 (13) "Fiduciary" includes personal representative,
33 guardian, conservator and trustee.
- 34 (14) "Foreign personal representative" means a personal
35 representative of another jurisdiction.
- 36 (15) "Formal proceedings" means those conducted before a
37 judge with notice to interested persons.
- 38 (16) "Guardian" means a person who has qualified as a
39 guardian of a minor or incapacitated person pursuant to
40 testamentary or court appointment, but excludes one who is
41 merely a guardian ad litem.
- 42 (17) "Heirs" means those persons, including the surviving
43 spouse, who are entitled under the statutes of intestate
44 succession to the property of a decedent.
- 45 (18) "Incapacitated person" is as described in section
46 525.54, other than a minor.
- 47 (19) "Informal proceedings" means those conducted by the
48 judge, the registrar, or the person or persons designated by the
49 judge for probate of a will or appointment of a personal
50 representative in accordance with sections 524.3-301 to
51 524.3-311.
- 52 (20) "Interested person" includes heirs, devisees,
53 children, spouses, creditors, beneficiaries and any others
54 having a property right in or claim against the estate of a
55 decedent, ward or protected person which may be affected by the
56 proceeding. It also includes persons having priority for
57 appointment as personal representative, and other fiduciaries
58 representing interested persons. The meaning as it relates to
59 particular persons may vary from time to time and must be
60 determined according to the particular purposes of, and matter
61 involved in, any proceeding.
- 62 (22) "Lease" includes an oil, gas, or other mineral lease.
- 63 (23) "Letters" includes letters testamentary, letters of
64 guardianship, letters of administration, and letters of
65 conservatorship.
- 66 (25) "Mortgage" means any conveyance, agreement or
67 arrangement in which property is used as security.
- 68 (26) "Nonresident decedent" means a decedent who was
69 domiciled in another jurisdiction at the time of ~~his~~ death. *
- 70 (27) "Organization" includes a corporation, government or
71 governmental subdivision or agency, business trust, estate,
72 trust, partnership or association, two or more persons having a
73 joint or common interest, or any other legal entity.
- 74 (29) "Person" means an individual, a corporation, an
75 organization, or other legal entity.
- 76 (30) "Personal representative" includes executor,

1 administrator, successor personal representative, special
2 administrator, and persons who perform substantially the same
3 function under the law governing their status. "General personal
4 representative" excludes special administrator.

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

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

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

11 (34) "Protected person" is as described in section 525.54,
12 subdivision 2.

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

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

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

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

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

35 (41) "Successor personal representative" means a personal
36 representative, other than a special administrator, who is
37 appointed to succeed a previously appointed personal
38 representative.

39 (42) "Successors" means those persons, other than
40 creditors, who are entitled to property of a decedent under his
41 the decedent's will, chapters 524 or 525. *
*
42

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

45 (44) "Testacy proceeding" means a proceeding to establish a
46 will or determine intestacy.

47 (45) "Trust" includes any express trust, private or
48 charitable, with additions thereto, wherever and however
49 created. It also includes a trust created or determined by
50 judgment or decree under which the trust is to be administered
51 in the manner of an express trust. "Trust" excludes other
52 constructive trusts, and it excludes resulting trusts,
53 conservatorships, personal representatives, trust accounts as
54 defined in chapter 528, custodial arrangements pursuant to
55 sections 149.11 to 149.14, 318.01 to 318.06, 527.01 to 527.11,
56 business trusts providing for certificates to be issued to
57 beneficiaries, common trust funds, voting trusts, security
58 arrangements, liquidation trusts, and trusts for the primary
59 purpose of paying debts, dividends, interest, salaries, wages,
60 profits, pensions, or employee benefits of any kind, and any
61 arrangement under which a person is nominee or escrowee for
62 another.

63 (46) "Trustee" includes an original, additional, or
64 successor trustee, whether or not appointed or confirmed by
65 court.

66 (47) "Ward" is as described in section 525.54, subdivision
67 1.

68 (48) "Will" includes codicil and any testamentary
69 instrument which merely appoints an executor or revokes or
70 revises another will.

524#1-0310

71 524.1-310 VERIFICATION OF FILED DOCUMENTS.

72 Every document filed with the court under this chapter or
73 chapter 525 shall be verified except where the requirement of
74 verification is waived by rule and except in the case of a
75 pleading signed by an attorney in accordance with the rules of
civil procedure. Whenever a document is required to be verified:

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

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

8 A party who makes a false material statement ~~which he does~~ *
9 ~~not believe not believing it~~ to be true in a document he the *
10 party verifies in accordance with the preceding sentence and *
11 files with the court under this chapter or chapter 525 shall be
12 subject to the penalties for perjury.

524#1-0401

13 524.1-401 NOTICE; METHOD AND TIME OF GIVING.

14 (a) If notice of a hearing on any petition is required and
15 except for specific notice requirements as otherwise provided,
16 the petitioner shall cause notice of the time and place of
17 hearing of any petition to be given to any interested person or
18 ~~his~~ the person's attorney if ~~he~~ the person has appeared by *
19 attorney or requested that notice be sent to ~~his~~ the attorney. *
20 Notice shall be given:

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

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

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

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

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

39 (d) No defect in any notice nor in publication or in
40 service thereof shall limit or affect the validity of the
41 appointment, powers, or other duties of the personal *
42 representative, ~~his powers or other duties~~. Any of the notices *
43 required by sections 524.1-401, 524.3-306, 524.3-310, 524.3-403
44 and 524.3-801 may be combined into one notice.

524#1-0402

45 524.1-402 NOTICE; WAIVER.

46 A person, including a guardian ad litem, conservator, or
47 other fiduciary, may waive notice by a writing signed by ~~him~~ the *
48 person or ~~his~~ the person's attorney and filed in the proceeding. *

524#1-0403

49 524.1-403 PLEADINGS; WHEN PARTIES BOUND BY OTHERS;
50 NOTICE.

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

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

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

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

64 (ii) To the extent there is no conflict of interest between *
65 them or among persons represented, orders binding a conservator *
66 bind the person whose estate he the conservator controls; orders
67 binding a guardian bind the ward if no conservator of ~~his~~ the *
68 estate has been appointed; orders binding a trustee bind
69 beneficiaries of the trust in proceedings to probate a will
70 establishing or adding to a trust, to review the acts or
71 accounts of a prior fiduciary and in proceedings involving
72 creditors or other third parties; and orders binding a personal
73 representative bind persons interested in the undistributed

1 assets of a decedent's estate in actions or proceedings by or
2 against the estate. If there is no conflict of interest and no
3 conservator or guardian has been appointed, a parent may
4 represent ~~his~~ the parent's minor child. *

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

10 (3) Notice is required as follows:

11 (i) Notice as prescribed by section 524.1-401 shall be
12 given to every interested person or to one who can bind an
13 interested person as described in (2) (i) or (2) (ii) above.
14 Notice may be given both to a person and to another who may bind
15 ~~him~~ the person. *

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

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

524#2-0106

31 524.2-106 REPRESENTATION.

32 If representation is called for by sections 524.2-102 to
33 524.2-114:

34 (1) In the case of issue of the decedent, the estate is
35 divided into as many shares as there are surviving children of
36 the decedent and deceased children who left issue who survive
37 the decedent, each surviving child receiving one share and the
38 share of each deceased child being divided among ~~his-or-her~~ its
39 issue in the same manner. *

40 (2) In the case of issue of the parents of the decedent
41 (other than issue of the decedent) the estate is divided into as
42 many shares as there are surviving heirs in the nearest degree
43 of kinship and deceased persons in the same degree who left
44 issue who survived the decedent, each surviving heir in the
45 nearest degree receiving one share and the share of each
46 deceased person in the same degree being divided among ~~his~~ the *
47 deceased person's children, and the descendants of deceased *
48 children of ~~him~~ that deceased person, in the same manner as *
49 specified in clause (1).

524#2-0108

50 524.2-108 AFTERBORN HEIRS.

51 Relatives of the decedent conceived before ~~his~~ death but *
52 born thereafter inherit as if they had been born in the lifetime
53 of the decedent.

524#2-0110

54 524.2-110 ADVANCEMENTS.

55 If a person dies intestate as to all ~~his~~ the person's *
56 estate, property ~~which-he-gave-in-his-lifetime~~ given while *
57 living to an heir is treated as an advancement against the *
58 latter's share of the estate only if declared in a
59 contemporaneous writing by the decedent or acknowledged in
60 writing by the heir to be an advancement. For this purpose the
61 property advanced is valued as of the time the heir came into
62 possession or enjoyment of the property or as of the time of
63 death of the decedent, whichever first occurs. If the recipient
64 of the property fails to survive the decedent, the property is
65 not taken into account in computing the intestate share to be
66 received by the recipient's issue, unless the declaration or
67 acknowledgment provides otherwise.

524#2-0112

68 524.2-112 ALIENAGE.

69 No person is disqualified to take as an heir because ~~he~~ the *
70 person or ~~a-person~~ another through whom ~~he~~ the person claims *
71 is or has been an alien.

524#2-0202

1 524.2-202 AUGMENTED ESTATE.

2 The augmented estate means the estate reduced by funeral
3 and administration expenses, the homestead, family allowances
4 and exemptions, liens, mortgages, and enforceable claims, to
5 which is added the sum of the following amounts:

6 (1) The value of property transferred by the decedent at
7 any time during the marriage, to or for the benefit of any
8 person other than the surviving spouse, to the extent that the
9 decedent did not receive adequate and full consideration in
10 money or money's worth for the transfer, if the transfer is of
11 any of the following types:

12 (i) any transfer under which the decedent retained at the
13 time of death the possession or enjoyment of, or right to income
14 from, the property;

15 (ii) any transfer to the extent that the decedent retained
16 at the time of death a power, either alone or in conjunction
17 with any other person, to revoke or to consume, invade or
18 dispose of the principal for ~~his-or-her-own~~ personal benefit; *

19 (iii) any transfer whereby property is held at the time of
20 decedent's death by decedent and another with right of
21 survivorship;

22 (iv) any transfer made within one year of death of the
23 decedent to the extent that the aggregate transfers to any one
24 donee in the year exceeds \$30,000.

25 Any transfer is excluded if made with the written consent
26 or joinder of the surviving spouse. Property is valued as of
27 the decedent's death except that property given irrevocably to a
28 donee during lifetime of the decedent is valued as of the date
29 the donee came into possession or enjoyment if that occurs first.
30 Nothing in this section shall cause any life insurance, accident
31 insurance, joint annuity, or pension or profit-sharing plan
32 payable to a person other than the surviving spouse to be
33 included in the augmented estate.

34 (2) The value of property owned by the surviving spouse at
35 the decedent's death, plus the value of property transferred by
36 the spouse at any time during marriage to any person other than
37 the decedent which would have been includable in the spouse's
38 augmented estate if the surviving spouse had predeceased the
39 decedent, to the extent the owned or transferred property is
40 derived from the decedent by any means other than testate or
41 intestate succession or as an obligation of support without a
42 full consideration in money or money's worth. For purposes of
43 this clause:

44 (i) Property derived from the decedent includes, but is not
45 limited to, any beneficial interest of the surviving spouse in a
46 trust created by the decedent during the decedent's lifetime,
47 any property appointed to the spouse by the decedent's exercise
48 of a general or special power of appointment also exercisable in
49 favor of others than the spouse, any property held at the time
50 of decedent's death by decedent and the surviving spouse with
51 right of survivorship, any property held by decedent and
52 transferred by contract to the surviving spouse by reason of the
53 decedent's death, and the value of the share of the surviving
54 spouse resulting from rights in community property in this or
55 any other state formerly owned with the decedent. The augmented
56 estate does not include the proceeds of life insurance payable
57 upon the death of the decedent, in lump sum or in the form of an
58 annuity, accident insurance, joint annuity or pension or
59 profit-sharing plan, nor does it include premiums paid therefor
60 by the decedent or any other person.

61 (ii) Property owned by the spouse at the decedent's death
62 is valued as of the date of death. Property transferred by the
63 spouse is valued at the time the transfer became irrevocable, or
64 at the decedent's death, whichever occurred first. Income
65 earned by included property prior to the decedent's death is not
66 treated as property derived from the decedent.

67 (iii) Property owned by the surviving spouse as of the
68 decedent's death of the kind described in clause (2)(i) is
69 presumed to have been derived from the decedent except to the
70 extent that the surviving spouse establishes that it was derived
71 from another source. All other property owned by the surviving
72 spouse as of the decedent's death, or previously transferred by
73 the surviving spouse, is presumed not to have been derived from
74 the decedent except to the extent that an interested party
75 establishes that it was derived from the decedent.

1 524.2-203 RIGHT OF ELECTION PERSONAL TO SURVIVING SPOUSE.
 2 The right of election of the surviving spouse may be
 3 exercised only during ~~his~~ the surviving spouse's lifetime ~~by him.~~ *
 4 In the case of a protected person, the right of election may be
 5 exercised only by order of the court in which protective
 6 proceedings as to ~~his~~ the protected person's property are *
 7 pending, after finding (1) that exercise is necessary to provide
 8 adequate support for the protected person during ~~his~~ the *
 9 protected person's probable life expectancy and (2) that the *
 10 election will be consistent with the best interests of the
 11 natural bounty of the protected person's affection.

524#2-0205

12 524.2-205 PROCEEDING FOR ELECTIVE SHARE; TIME LIMIT.
 13 (a) The surviving spouse may elect to take an elective
 14 share in the augmented net estate by filing in the court and
 15 mailing or delivering to the personal representative, if any, a
 16 petition for the elective share within nine months after the
 17 date of death, or within six months after the probate of the
 18 decedent's will, whichever limitation last expires. However,
 19 nonprobate transfers, described in section 524.2-202, clauses
 20 (1) and (3), shall not be included within the augmented estate
 21 for the purpose of computing the elective share, if the petition
 22 is filed later than nine months after death. The court may
 23 extend the time for election as it sees fit for cause shown by
 24 the surviving spouse before the time for election has expired.
 25 (b) The surviving spouse shall give notice of the time and
 26 place set for hearing to persons interested in the estate and to
 27 the distributees and recipients of portions of the augmented net
 28 estate whose interests will be affected by the taking of the
 29 elective share.
 30 (c) The surviving spouse may withdraw ~~his~~ a demand for an *
 31 elective share at any time before entry of an order by the court
 32 determining the elective share.

33 (d) After notice and hearing, the court shall determine the
 34 amount of the elective share and shall order its payment from
 35 the assets of the augmented net estate or by contribution as
 36 appears appropriate under section 524.2-207. If it appears that
 37 a fund or property included in the augmented net estate has not
 38 come into the possession of the personal representative, or has
 39 been distributed by the personal representative, the court
 40 nevertheless shall fix the liability of any person who has any
 41 interest in the fund or property or who has possession thereof,
 42 whether as trustee or otherwise. The proceeding may be
 43 maintained against fewer than all persons against whom relief
 44 could be sought, but no person is subject to contribution in any
 45 greater amount than ~~he~~ that person would have been if relief had *
 46 been secured against all persons subject to contribution.

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

524#2-0206

50 524.2-206 EFFECT OF ELECTION ON BENEFITS BY WILL OR
 51 STATUTE.

52 A surviving spouse is entitled to the allowances provided
 53 in section 525.15 whether or not ~~he-or-she-elects~~ electing to *
 54 take an elective share.

524#2-0207

55 524.2-207 CHARGING SPOUSE WITH GIFTS RECEIVED; LIABILITY
 56 OF OTHERS FOR BALANCE OF ELECTIVE SHARE.

57 (a) In the proceeding for an elective share, values
 58 included in the augmented estate which pass or have passed to
 59 the surviving spouse, or which would have passed to the
 60 surviving spouse but were renounced, are applied first to
 61 satisfy the elective share and to reduce any contributions due
 62 from other recipients of transfers included in the augmented
 63 estate. For purposes of this paragraph, the electing spouse's
 64 beneficial interest in any life estate or in any trust shall be
 65 computed as if worth one-half of the total value of the property
 66 subject to the life estate, or of the trust estate, unless
 67 higher or lower values for these interests are established by
 68 proof.

69 (b) Remaining property of the augmented estate is so
 70 applied that liability for the balance of the elective share of
 71 the surviving spouse is equitably apportioned among the
 72 recipients of the augmented estate in proportion to the value of
 73 their interests therein.

1 (c) Only original transferees from, or appointees of, the
 2 decedent and their donees, to the extent the donees have the
 3 property or its proceeds, are subject to the contribution to
 4 make up the elective share of the surviving spouse. A person
 5 liable to contribution may choose to give up the property
 6 transferred ~~to him~~ or to pay its value as of the time it is
 7 considered in computing the augmented estate.

524#2-0301

8 524.2-301 OMITTED SPOUSE.

9 (a) If a testator fails to provide by will for ~~his a~~
 10 surviving spouse who married the testator after the execution of
 11 the will, the omitted spouse shall receive the same share of the
 12 estate ~~he would have received~~ as if the decedent left no will
 13 unless it appears from the will that the omission was
 14 intentional or the testator provided for the spouse by transfer
 15 outside the will and the intent that the transfer be in lieu of
 16 a testamentary provision is shown by statements of the testator
 17 or from the amount of the transfer or other evidence.

18 (b) In satisfying a share provided by this section, the
 19 devises made by the will abate as provided in section 524.3-902.

524#2-0302

20 524.2-302 PRETERMITTED CHILDREN.

21 (a) If a testator fails to provide ~~in his will~~ for any of
 22 ~~his children~~ child born or adopted after the execution of ~~his~~
 23 ~~the testator's~~ will, the omitted child receives a share in the
 24 estate equal in value to that which ~~he~~ that child would have
 25 received if the testator had died intestate unless:

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

28 (2) when the will was executed the testator had one or more
 29 children and devised substantially all ~~his~~ the estate to the
 30 other parent of the omitted child; or

31 (3) the testator provided for the child by transfer outside
 32 the will and the intent that the transfer be in lieu of a
 33 testamentary provision is shown by statements of the testator or
 34 from the amount of the transfer or other evidence.

35 (b) If at the time of execution of the will the testator
 36 fails to provide ~~in his will~~ for a living child solely because
 37 ~~he believes~~ of a belief that the child ~~to be~~ is dead, the child
 38 receives a share in the estate equal in value to that which ~~he~~
 39 that child would have received if the testator had died
 40 intestate.

41 (c) In satisfying a share provided by this section, the
 42 devises made by the will abate as provided in section 524.3-902.

524#2-0502

43 524.2-502 EXECUTION.

44 Except as provided for writings within section 524.2-513
 45 and wills within section 524.2-506, every will shall be in
 46 writing signed by the testator or in the testator's name by some
 47 other person in the testator's presence and by ~~his~~ the
 48 testator's direction, and shall be signed by at least two
 49 persons each of whom witnessed either the signing or the
 50 testator's acknowledgment of the signature or of the will.

524#2-0504

51 524.2-504 SELF-PROVED WILL.

52 An attested will may at the time of its execution or at any
 53 subsequent date be made self-proved, by the acknowledgment
 54 thereof by the testator and the affidavits of the witnesses,
 55 each made before an officer authorized to administer oaths under
 56 the laws of this state, or under the laws of the state where
 57 execution occurs, and evidenced by the officer's certificate,
 58 under official seal, attached or annexed to the will in form and
 59 content substantially as follows:

60 THE STATE OF
 61 COUNTY OF

62 We,, and, the
 63 testator and the witnesses, respectively, whose names are signed
 64 to the attached or foregoing instrument, being first duly sworn,
 65 do hereby declare to the undersigned authority that the testator
 66 signed and executed the instrument as ~~his~~ the testator's last
 67 will, that ~~he~~ the testator signed it willingly or directed
 68 another to sign it for ~~him~~ the testator, that ~~he~~ it was executed
 69 ~~it~~ as ~~his~~ a free and voluntary act for the purposes therein
 70 expressed, and that each of the witnesses, in the presence and
 71 hearing of the testator, signed the will as witnesses, and that
 72 to the best of their knowledge the testator was at the time 18

1 or more years of age, of sound mind and under no constraint or
2 undue influence.

3
4 Testator
5
6 Witness
7
8 Witness

9 Subscribed, sworn to and acknowledged before me by
10, the testator, and subscribed and sworn to before
11 me by and, witnesses, this
12 day of,
13 (SEAL) (Signed).....
14
15 (Official capacity of officer)

524#2-0507

16 524.2-507 REVOCATION BY WRITING OR BY ACT.
17 A will or any part thereof is revoked
18 (1) by a subsequent will which revokes the prior will or
19 part expressly or by inconsistency; or
20 (2) by being burned, torn, canceled, obliterated, or
21 destroyed, with the intent and for the purpose of revoking it by
22 the testator or by another person in ~~his~~ the testator's presence *
23 and by ~~his~~ the testator's direction. *

524#2-0509

24 524.2-509 REVIVAL OF REVOKED WILL.
25 (a) If a second will which, had it remained effective at
26 death, would have revoked the first will in whole or in part, is
27 thereafter revoked by acts under section 524.2-507, the first
28 will is revoked in whole or in part unless it is evident from
29 the circumstances of the revocation of the second will or from
30 testator's contemporary or subsequent declarations that ~~he~~ the *
31 testator intended the first will to take effect as executed. *
32 (b) If a second will which, had it remained effective at
33 death, would have revoked the first will in whole or in part, is
34 thereafter revoked by a third will, the first will is revoked in
35 whole or in part, except to the extent it appears from the terms
36 of the third will that the testator intended the first will to
37 take effect.

524#2-0513

38 524.2-513 SEPARATE WRITING IDENTIFYING BEQUEST OF
39 TANGIBLE PROPERTY.
40 A will may refer to a written statement or list to dispose
41 of items of tangible personal property not otherwise
42 specifically disposed of by the will, other than money,
43 evidences of indebtedness, documents of title, and securities,
44 and property used in trade or business. To be admissible under
45 this section as evidence of the intended disposition, the
46 writing must either be in the handwriting of the testator or be
47 signed by ~~him~~ the testator and must describe the items and the *
48 devisees with reasonable certainty. The writing may be referred
49 to as one to be in existence at the time of the testator's
50 death; it may be prepared before or after the execution of the
51 will; it may be altered by the testator after its preparation;
52 and it may be a writing which has no significance apart from its
53 effect upon the dispositions made by the will.

524#2-0602

54 524.2-602 CHOICE OF LAW AS TO MEANING AND EFFECT OF
55 WILLS.
56 The meaning and legal effect of a disposition in a will
57 shall be determined by the local law of a particular state
58 selected by the testator in ~~his~~ the testator's instrument unless *
59 the application of that law is contrary to the public policy of
60 this state otherwise applicable to the disposition.

524#2-0603

61 524.2-603 RULES OF CONSTRUCTION AND INTENTION.
62 The intention of a testator as expressed in ~~his~~ the *
63 testator's will controls the legal effect of ~~his~~ the testator's *
64 dispositions. The rules of construction expressed in the
65 succeeding sections of this part apply unless a contrary
66 intention is indicated by the will.

524#2-0604

67 524.2-604 CONSTRUCTION THAT WILL PASSES ALL PROPERTY;
68 AFTER ACQUIRED PROPERTY.
69 A will is construed to pass all property which the testator
70 owns at ~~his~~ death including property acquired after the *

1 execution of the will.

524#2-0605

2 524.2-605 ANTI-LAPSE; DECEASED DEVISEE; CLASS GIFTS.

3 If a devisee who is a grandparent or a lineal descendant of
4 a grandparent of the testator is dead at the time of execution
5 of the will, or fails to survive the testator, the issue of the
6 deceased devisee who survive the testator take in place of the
7 deceased devisee and if they are all of the same degree of
8 kinship to the devisee they take equally, but if of unequal
9 degree then those of more remote degree take by representation.
10 One who is a grandparent or a lineal descendant of a grandparent
11 of the testator and who would have been a devisee under a class
12 gift ~~if he had survived~~ on surviving the testator is treated as
13 a devisee for purposes of this section whether ~~his~~ death
14 occurred before or after the execution of the will. *

524#2-0606

15 524.2-606 FAILURE OF TESTAMENTARY PROVISION.

16 (a) Except as provided in section 524.2-605 if a devise
17 other than a residuary devise fails for any reason, it becomes a
18 part of the residue.

19 (b) Except as provided in section 524.2-605 if the residue
20 is devised to two or more persons and the share of one of the
21 residuary devisees fails for any reason, ~~his~~ that share passes
22 to the other residuary devisee, or to other residuary devisees
23 in proportion to their interests in the residue. *

524#2-0608

24 524.2-608 NONADEMPTION OF SPECIFIC DEVISES IN CERTAIN
25 CASES; SALE BY CONSERVATOR OR GUARDIAN; UNPAID PROCEEDS OF SALE,
26 CONDEMNATION OR INSURANCE.

27 (a) If specifically devised property is sold by a
28 conservator or guardian, or if a condemnation award or insurance
29 proceeds are paid to a conservator or guardian as a result of
30 condemnation, fire, or casualty, the specific devisee has the
31 right to a general pecuniary devise equal to the net sale price,
32 the condemnation award, or the insurance proceeds. This
33 subsection does not apply if subsequent to the sale,
34 condemnation, or casualty, it is adjudicated that the disability
35 of the testator has ceased and the testator survives the
36 adjudication by one year. The right of the specific devisee
37 under this subsection is reduced by any right ~~he has~~ possessed
38 under subsection (b). *

39 (b) Any specific devisee has the right to the remaining
40 specifically devised property and:

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

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

46 (3) any proceeds unpaid at death on fire or casualty
47 insurance on the property; and

48 (4) property owned by testator at ~~his~~ death as a result of
49 foreclosure, or obtained in lieu of foreclosure, of the security
50 for a specifically devised obligation. *

524#2-0612

51 524.2-612 ADEMPION BY SATISFACTION.

52 Property which a testator gave ~~in his lifetime~~ while living
53 to a person is treated as a satisfaction of a devise to that
54 person in whole or in part, only if the will provides for
55 deduction of the lifetime gift, or the testator declares in a
56 contemporaneous writing that the gift is to be deducted from the
57 devise or is in satisfaction of the devise, or the devisee
58 acknowledges in writing that the gift is in satisfaction. For
59 purpose of partial satisfaction, property given during lifetime
60 is valued as of the time the devisee came into possession or
61 enjoyment of the property or as of the time of death of the
62 testator, whichever occurs first. *

524#2-0802

63 524.2-802 EFFECT OF DISSOLUTION OF MARRIAGE, ANNULMENT,
64 AND DECREE OF SEPARATION.

65 A person whose marriage to the decedent has been dissolved
66 or annulled is not a surviving spouse unless, by virtue of a
67 subsequent marriage, ~~he~~ the person is married to the decedent at
68 the time of death. A decree of separation which does not
69 terminate the status of husband and wife is not a dissolution of
70 marriage for purposes of this section. *

524#2-0803

1 524.2-803 EFFECT OF HOMICIDE ON INTESTATE SUCCESSION,
2 WILLS, JOINT ASSETS, LIFE INSURANCE AND BENEFICIARY DESIGNATIONS.

3 (a) A surviving spouse, heir or devisee who feloniously and
4 intentionally kills the decedent is not entitled to any benefits
5 under the will or under this article, and the estate of decedent
6 passes as if the killer had predeceased the decedent. Property
7 appointed by the will of the decedent to or for the benefit of
8 the killer passes as if the killer had predeceased the decedent.

9 (b) Any joint tenant who feloniously and intentionally
10 kills another joint tenant thereby effects a severance of the
11 interest of the decedent so that the share of the decedent
12 passes as ~~his~~ the decedent's property and the killer has no
13 rights by survivorship. This provision applies to joint
14 tenancies in real and personal property, joint accounts in
15 banks, savings and loan associations, credit unions and other
16 institutions, and any other form of coownership with
17 survivorship incidents.

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

23 (d) A named beneficiary of a life insurance policy who
24 feloniously and intentionally kills the person upon whose life
25 the policy is issued is not entitled to any benefit under the
26 policy and the proceeds of the policy shall be paid and
27 distributed by order of the court as hereinafter provided. If a
28 person who feloniously and intentionally kills a person upon
29 whose life a life insurance policy is issued is a beneficial
30 owner as shareholder, partner or beneficiary of a corporation,
31 partnership, trust or association which is the named beneficiary
32 of the life insurance policy, to the extent of the killer's
33 beneficial ownership of the corporation, partnership, trust or
34 association, the proceeds of the policy shall be paid and
35 distributed by order of the court as hereinafter provided.

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

50 The named beneficiary, the insurance company or any other
51 party claiming an interest in the policy proceeds may commence
52 an action in the district court to compel payment of the policy
53 proceeds. The court may order the insurance company to pay the
54 policy proceeds to any person equitably entitled thereto,
55 including the deceased insured's spouse, children, issue,
56 parents, creditors or ~~his~~ estate, and may order the insurance
57 company to pay the proceeds of the policy to the court pending
58 the final determination of distribution of the proceeds by the
59 court. The insurance company, upon receipt of a court order,
60 judgment or decree ordering payment of the policy proceeds,
61 shall pay the policy proceeds according to the terms of the
62 order, and upon payment of such proceeds according to the terms
63 of the court order, shall be fully and completely discharged and
64 released from any and all responsibility for payment under the
65 policy.

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

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

75 (g) This section does not affect the rights of any person
76 who, before rights under this section have been adjudicated,

1 purchases from the killer for value and without notice property
 2 which the killer would have acquired except for this section,
 3 but the killer is liable for the amount of the proceeds or the
 4 value of the property. Any insurance company, bank, or other
 5 obligor making payment according to the terms of its policy or
 6 obligation is not liable by reason of this section unless prior
 7 to payment it has received at its home office or principal
 8 address written notice of a claim under this section.

524#2-1003

9 524.2-1003 INTERNATIONAL WILL; REQUIREMENTS.

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

13 Subd. 2. The testator shall declare in the presence of two
 14 witnesses and of a person authorized to act in connection with
 15 international wills that the document is ~~his~~ the testator's will *
 16 and that ~~he~~ the testator knows the contents thereof. The *
 17 testator need not inform the witnesses or the authorized person
 18 of the contents of the will.

19 Subd. 3. In the presence of the witnesses and of the
 20 authorized person, the testator shall sign the will or, ~~if he~~
 21 ~~has~~ having previously signed it, shall acknowledge ~~his~~ the *
 22 signature.

23 Subd. 4. If the testator is unable to sign, the absence of
 24 ~~his~~ the signature does not affect the validity of the *
 25 international will if the testator indicates the reason for ~~his~~ *
 26 the inability to sign and the authorized person makes note *
 27 thereof on the will. In that case, it is permissible for any
 28 other person present, including the authorized person or one of
 29 the witnesses, at the direction of the testator, to sign the
 30 testator's name for ~~him~~ the testator if the authorized person *
 31 makes note of this on the will, but it is not required that any
 32 person sign the testator's name for ~~him~~ the testator. *

33 No change for subd 5

524#2-1004

34 524.2-1004 INTERNATIONAL WILLS; OTHER POINTS OF FORM.

35 Subdivision 1. The signatures must be placed at the end of
 36 the will. If the will consists of several sheets, each sheet *
 37 must be signed by the testator or, if ~~he~~ the testator is unable *
 38 to sign, by the person signing on ~~his~~ the testator's behalf or,
 39 if there is no such person, by the authorized person. In
 40 addition, each sheet must be numbered.

41 No change for subd 2

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

48 No change for subd 4

524#2-1005

49 524.2-1005 INTERNATIONAL WILL; CERTIFICATE.

50 The authorized person shall sign and attach to the will a *
 51 certificate ~~to be signed by him~~ establishing that the *
 52 requirements of sections 524.2-1002 to 524.2-1005 for valid
 53 execution of an international will have been fulfilled. The
 54 authorized person shall keep a copy of the certificate and
 55 deliver another to the testator. The certificate must be
 56 substantially in the following form:

57 CERTIFICATE

58 (Convention of October 26, 1973)

59 1. I, (name, address, and capacity),
 60 a person authorized to act in connection with
 61 international wills,

62 2. certify that on (date)

63 at.....(place)

64 3. (testator)(name,
 65 address, date and place of birth) in my
 66 presence and that of the witnesses

67 4. (a)(name, address, date and
 68 place of birth)

69 (b)(name, address, date and
 70 place of birth)

71 has declared that the attached document is his/her will *
 72 and that ~~he~~ knows the contents thereof. *

73 5. I furthermore certify that:

1 6. (a) in my presence and in that of the witnesses
2 (1) the testator has signed the will or has
3 acknowledged his/her signature previously affixed. *
4 *(2) following a declaration of the testator stating
5 that ~~he~~ the testator was unable to sign ~~his~~ the will *
6 for the following
7 reason.....,
8 I have mentioned this declaration on the will,
9 *and the signature has been affixed
10 by.....
11 (name and address)
12 7. (b) the witnesses and I have signed the will;
13 8. *(c) each page of the will has been signed
14 by and numbered;
15 9. (d) I have satisfied myself as to the identity
16 of the testator and of the witnesses as
17 designated above;
18 10. (e) the witnesses met the conditions requisite
19 to act as such according to the law under which
20 I am acting;
21 11. *(f) the testator has requested me to include
22 the following
23 statement concerning the safekeeping of ~~his~~ the will: *
24
25 12.PLACE OF EXECUTION
26 13.DATE
27 14.SIGNATURE
28 and, if necessary, SEAL.....
29 *to be completed if appropriate

524#2-1010

30 524.2-1010 INTERNATIONAL WILL INFORMATION REGISTRATION.
31 No change for subd 1
32 Subd. 2. The secretary of state, at the request of the
33 authorized person, may cause the information ~~he receives~~ *
34 received about execution of any international will to be *
35 transmitted to the registry system of another jurisdiction as
36 identified by the testator, if that other system adheres to
37 rules protecting the confidentiality of the information similar
38 to those established in this state.
39 No change for subd 3

524#3-0101

40 524.3-101 DEVOLUTION OF ESTATE AT DEATH; RESTRICTIONS.
41 The power of a person to leave property by will, and the
42 rights of creditors, devisees, and heirs to ~~his~~ the person's *
43 property are subject to the restrictions and limitations *
44 contained in chapters 524 and 525 to facilitate the prompt *
45 settlement of estates. Upon ~~the death of a person,~~ his a *
46 person's real and personal property devolves to the persons to *
47 whom it is devised by ~~his~~ last will or to those indicated as *
48 substitutes for them in cases involving lapse, disclaimer,
49 renunciation, or other circumstances affecting the devolution of
50 testate estates, or in the absence of testamentary disposition,
51 to ~~his~~ the decedent's heirs, or to those indicated as *
52 substitutes for them in cases involving disclaimer, renunciation
53 or other circumstances affecting devolution of intestate
54 estates, subject to the provisions of sections 525.14 and
55 525.145, the allowances provided for by section 525.15, to the
56 rights of creditors, elective share of the surviving spouse, and
57 to administration.

524#3-0102

58 524.3-102 NECESSITY OF ORDER OF PROBATE FOR WILL.
59 Except as provided in section 524.3-1201, to be effective
60 to prove the transfer of any property, to nominate an executor
61 or to exercise a power of appointment, a will must be declared
62 to be valid by an order of informal probate by the registrar, or
63 an adjudication of probate by the court in a formal proceeding
64 or proceedings to determine descent, except that a duly executed
65 and unrevoked will which has not been probated may be admitted
66 as evidence of a devise if (1) no court proceeding concerning
67 the succession or administration of the estate has occurred, and
68 (2) either the devisee or ~~his~~ the devisee's successors and *
69 assigns possessed the property devised in accordance with the
70 provisions of the will, or the property devised was not
71 possessed or claimed by anyone by virtue of the decedent's title
72 during the time period for testacy proceedings.

524#3-0104

1 524.3-104 CLAIMS AGAINST DECEDENT; NECESSITY OF
2 ADMINISTRATION.

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

524#3-0109

16 524.3-109 STATUTES OF LIMITATION ON DECEDENT'S CAUSE OF
17 ACTION.

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

524#3-0201

25 524.3-201 VENUE FOR FIRST AND SUBSEQUENT ESTATE
26 PROCEEDINGS; LOCATION OF PROPERTY.

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

29 (1) in the county ~~where the decedent had his~~ of the *
30 decedent's domicile at the time of ~~his~~ death; or *

31 (2) if the decedent was not domiciled in this state, in any
32 county where property of the decedent was located at the time of
33 ~~his~~ death. *

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

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

44 (d) For the purpose of aiding determinations concerning
45 location of assets which may be relevant in cases involving
46 non-domiciliaries, a debt, other than one evidenced by
47 investment or commercial paper or other instrument in favor of a
48 non-domiciliary, is located where the debtor resides or, if the
49 debtor is a person other than an individual, at the place where
50 it has its principal office. Commercial paper, investment paper
51 and other instruments are located where the instrument is. An
52 interest in property held in trust is located where the trustee
53 may be sued.

524#3-0203

54 524.3-203 PRIORITY AMONG PERSONS SEEKING APPOINTMENT AS
55 PERSONAL REPRESENTATIVE.

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

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

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

63 (3) other devisees of the decedent;

64 (4) the surviving spouse of the decedent;

65 (5) other heirs of the decedent;

66 (6) 45 days after the death of the decedent, any creditor.

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

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

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

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

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

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

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

33 (1) under the age of 18;

34 (2) a person whom the court finds unsuitable in formal
 35 proceedings;

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

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

524#3-0204

46 524.3-204 DEMAND FOR NOTICE OF ORDER OR FILING
 47 CONCERNING DECEDENT'S ESTATE.

48 Any person desiring notice of any order or filing
 49 pertaining to a decedent's estate in which ~~he~~ the person has a *
 50 financial or property interest, may file a demand for notice
 51 with the court at any time after the death of the decedent
 52 stating the name of the decedent, the nature of ~~his~~ the interest *
 53 in the estate, and the demandant's address or that of ~~his~~ the *
 54 demandant's attorney. The clerk shall mail a copy of the demand *
 55 to the personal representative if one has been appointed. After
 56 filing of a demand, no personal representative or other person
 57 shall apply to the court for an order or filing to which the
 58 demand relates unless demandant or ~~his~~ the demandant's attorney *
 59 is given notice thereof at least 14 days before the date of such
 60 order or filing, except that this requirement shall not apply to
 61 any order entered or petition filed in any formal proceeding.
 62 Such notice shall be given by delivery of a copy thereof to the
 63 person being notified or by mailing a copy thereof ~~to him~~ *
 64 certified, registered or ordinary first class mail addressed
 65 to ~~him~~ the person at the post office address given in the demand *
 66 or at ~~his~~ the person's office or place of residence, if known. *
 67 The court for good cause shown may provide for a different
 68 method or time of giving such notice and proof thereof shall be
 69 made on or before the making or acceptance of such order or
 70 filing and filed in the proceeding. The validity of an order
 71 which is issued or filing which is accepted without compliance
 72 with this requirement shall not be affected by the error, but
 73 the petitioner receiving the order or the person making the
 74 filing may be liable for any damage caused by the absence of
 75 notice. The requirement of notice arising from a demand under

1 this provision may be waived in writing by the demandant and
 2 shall cease upon the termination of ~~his~~ the demandant's interest
 3 in the estate. *

524#3-0301

4 524.3-301 INFORMAL PROBATE OR APPOINTMENT PROCEEDINGS;
 5 APPLICATION; CONTENTS.

6 An informal probate proceeding is an informal proceeding
 7 for the probate of decedent's will with or without an
 8 application for informal appointment. An informal appointment
 9 proceeding is an informal proceeding for appointment of a
 10 personal representative in testate or intestate estates. These
 11 proceedings may be combined in a single proceeding.
 12 Applications for informal probate or informal appointment shall
 13 be directed to the registrar, and verified by the applicant, in
 14 accordance with section 524.1-310, to be accurate and complete
 15 to the best of ~~his~~ applicant's knowledge and belief as to the
 16 following information: *

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

20 (i) a statement of the interest of the applicant;
 21 (ii) the name, birthdate and date of death of the decedent,
 22 and the county and state of ~~his~~ the decedent's domicile at the
 23 time of death, and the names and addresses of the spouse,
 24 children, heirs and devisees and the ages of any who are minors
 25 so far as known or ascertainable with reasonable diligence by
 26 the applicant; *

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

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

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

36 (2) An application for informal probate of a will shall
 37 state the following in addition to the statements required by
 38 (1):

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

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

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

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

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

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

66 (i) that after the exercise of reasonable diligence, the
 67 applicant is unaware of any unrevoked testamentary instrument
 68 relating to property having a situs in this state under section
 69 524.1-301, or, a statement why any such instrument of which ~~he~~
 70 the applicant may be aware is not being probated; *

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

74 (5) An application for appointment of a personal
 75 representative to succeed a personal representative appointed

1 under a different testacy status shall refer to the order in the
2 most recent testacy proceeding, state the name and address of
3 the person whose appointment is sought and of the person whose
4 appointment will be terminated if the application is granted,
5 and describe the priority of the applicant.

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

524#3-0303

15 524.3-303 INFORMAL PROBATE; PROOF AND FINDINGS REQUIRED.

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

18 (1) the application is complete;

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

22 (3) the applicant appears from the application to be an
23 interested person as defined in section 524.1-201(20);

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

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

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

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

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

37 (c) A will which appears to have the required signatures
38 and which contains an attestation clause showing that
39 requirements of execution under section 524.2-502 or 524.2-506
40 have been met shall be probated without further proof. In other
41 cases, the registrar may assume execution if the will appears to
42 have been properly executed, or ~~he~~ the registrar may accept a
43 sworn statement or affidavit of any person having knowledge of
44 the circumstances of execution, whether or not the person was a
45 witness to the will. *

46 (d) Informal probate of a will which has been previously
47 probated elsewhere may be granted at any time upon written
48 application by any interested person, together with deposit of
49 an authenticated copy of the will and of the statement probating
50 it from the office or court where it was first probated.

51 (e) A will from a place which does not provide for probate
52 of a will after death and which is not eligible for probate
53 under subsection (a) above, may be probated in this state upon
54 receipt by the registrar of a duly authenticated copy of the
55 will and a duly authenticated certificate of its legal custodian
56 that the copy filed is a true copy and that the will has become
57 operative under the law of the other place.

524#3-0305

58 524.3-305 INFORMAL PROBATE; REGISTRAR NOT SATISFIED.

59 If the registrar is not satisfied that a will is entitled
60 to be probated in informal proceedings because of failure to
61 meet the requirements of section 524.3-303 or any other reason,
62 ~~he~~ the registrar may decline the application. A declination of
63 informal probate is not an adjudication and does not preclude
64 formal probate proceedings. *

524#3-0306

65 524.3-306 INFORMAL PROBATE; NOTICE REQUIREMENTS.

66 The moving party must give notice as described by section
67 524.1-401 of ~~his~~ application for informal probate (1) to any
68 person demanding it pursuant to section 524.3-204; and (2) to
69 any personal representative of the decedent whose appointment
70 has not been terminated. Upon issuance of the written statement
71 by the registrar pursuant to section 524.3-302, notice of the
72 informal probate proceedings, in the form prescribed by court
73 rule, shall be given under the direction of the clerk of court *

1 by publication once a week for two consecutive weeks in a legal
 2 newspaper in the county where the application is filed and by
 3 mailing a copy of the notice by ordinary first class mail to all
 4 interested persons, other than creditors. Further if the
 5 decedent was born in a foreign country or left heirs or devisees
 6 in any foreign country, notice shall be given to the consul or
 7 other representative of such country, if he the representative
 8 resides in this state and has filed a copy of his appointment
 9 with the secretary of state. The secretary of state shall
 10 forward any notice received to the appropriate consul residing
 11 in Minnesota and on file with that office.

524#3-0307

12 524.3-307 INFORMAL APPOINTMENT PROCEEDINGS; DELAY IN
 13 ORDER; DUTY OF REGISTRAR; EFFECT OF APPOINTMENT.

14 (a) Upon receipt of an application for informal appointment
 15 of a personal representative other than a special administrator
 16 as provided in section 524.3-614, if at least 120 hours have
 17 elapsed since the decedent's death, the registrar, after making
 18 the findings required by section 524.3-308, shall appoint the
 19 applicant subject to qualification and acceptance; provided,
 20 that if the decedent was a non-resident, the registrar shall
 21 delay the order of appointment until 30 days have elapsed since
 22 death unless the personal representative appointed at the
 23 decedent's domicile is the applicant, or unless the decedent's
 24 will directs that his the estate be subject to the laws of this
 25 state.

26 (b) The status of personal representative and the powers
 27 and duties pertaining to the office are fully established by
 28 informal appointment. An appointment, and the office of
 29 personal representative created thereby, is subject to
 30 termination as provided in sections 524.3-608 to 524.3-612, but
 31 is not subject to retroactive vacation.

524#3-0308

32 524.3-308 INFORMAL APPOINTMENT PROCEEDINGS; PROOF AND
 33 FINDINGS REQUIRED.

34 (a) In informal appointment proceedings, the registrar must
 35 determine whether:

36 (1) the application for informal appointment of a personal
 37 representative is complete;

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

41 (3) the applicant appears from the application to be an
 42 interested person as defined in section 524.1-201(20);

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

45 (5) any will to which the requested appointment relates has
 46 been formally or informally probated; but this requirement does
 47 not apply to the appointment of a special administrator;

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

49 (7) from the statements in the application, the person
 50 whose appointment is sought has a priority entitling-him
 51 entitlement to the appointment.

52 (b) Unless section 524.3-612 controls, the application must
 53 be denied if it indicates that a personal representative who has
 54 not filed a written statement of resignation as provided in
 55 section 524.3-610(c) has been appointed in this or another
 56 county of this state, that, unless the applicant is the
 57 domiciliary personal representative or his the representative's
 58 nominee, the decedent was not domiciled in this state and that a
 59 personal representative whose appointment has not been
 60 terminated has been appointed by a court in the state of
 61 domicile, or that other requirements of this section have not
 62 been met.

524#3-0309

63 524.3-309 INFORMAL APPOINTMENT PROCEEDINGS; REGISTRAR
 64 NOT SATISFIED.

65 If the registrar is not satisfied that a requested informal
 66 appointment of a personal representative should be made because
 67 of failure to meet the requirements of sections 524.3-307 and
 68 524.3-308, or for any other reason, he the registrar may decline
 69 the application. A declination of informal appointment is not
 70 an adjudication and does not preclude appointment in formal
 71 proceedings.

524#3-0310

72 524.3-310 INFORMAL APPOINTMENT PROCEEDINGS; NOTICE

1 REQUIREMENTS.

2 The moving party must give notice as described by section
 3 524.1-401 of ~~his~~ an intention to seek an appointment informally; *
 4 (1) to any person demanding it pursuant to section 524.3-204;
 5 and (2) to any person having a prior or equal right to
 6 appointment not waived in writing and filed with the court.
 7 Notice of the appointment of the personal representative shall
 8 be given under the direction of the clerk of court by
 9 publication once a week for two consecutive weeks in a legal
 10 newspaper in the county where the application is filed and by
 11 mailing a copy of the notice by ordinary first class mail to all
 12 interested persons, other than creditors. The notice, in the
 13 form prescribed by court rule, shall state that any heir,
 14 devisee or other interested person may be entitled to
 15 appointment as personal representative or may object to the
 16 appointment of the personal representative and that the personal
 17 representative is empowered to fully administer the estate
 18 including, after 30 days from the date of issuance of ~~his~~ *
 19 letters, the power to sell, encumber, lease or distribute real
 20 estate, unless objections thereto are filed with the court
 21 (pursuant to section 524.3-607) and the court otherwise orders.
 22 Further, if the decedent was born in a foreign country or left
 23 heirs or devisees in any foreign country, notice shall be given
 24 to the consul or other representative of such country, if ~~he~~ the *
 25 representative resides in this state and has filed a copy of ~~his~~ *
 26 appointment with the secretary of state. The secretary of state
 27 shall forward any notice received to the appropriate consul
 28 residing in Minnesota and on file with that office. No defect
 29 in any notice nor in publication or service thereof shall limit
 30 or affect the validity of the appointment, powers, or other *
 31 duties of the personal representative, ~~his powers or other~~ *
 32 duties. *

524#3-0401

33 524.3-401 FORMAL TESTACY PROCEEDINGS; NATURE; WHEN
34 COMMENCED.

35 A formal testacy proceeding is one conducted with notice to
 36 interested persons before a court to establish a will or
 37 determine intestacy. A formal testacy proceeding may be
 38 commenced by an interested person or a personal representative
 39 named in the will filing a petition as described in section
 40 524.3-402(a) in which ~~he requests~~ it is requested that the *
 41 court, after notice and hearing, enter an order probating a
 42 will, or a petition to set aside an informal probate of a will
 43 or to prevent informal probate of a will which is the subject of
 44 a pending application, or a petition in accordance with section
 45 524.3-402(b) for an order that the decedent died intestate.

46 A petition may seek formal probate of a will without regard
 47 to whether the same or a conflicting will has been informally
 48 probated. A formal testacy proceeding may, but need not,
 49 involve a request for appointment of a personal representative.

50 During the pendency of a formal testacy proceeding, the
 51 registrar shall not act upon any application for informal
 52 probate of any will of the decedent or any application for
 53 informal appointment of a personal representative of the
 54 decedent.

55 Unless a petition in a formal testacy proceeding also
 56 requests confirmation of the previous informal appointment, a
 57 previously appointed personal representative, after receipt of
 58 notice of the commencement of a formal probate proceeding, shall
 59 refrain from exercising ~~his~~ power to make any further *
 60 distribution of the estate during the pendency of the formal
 61 proceeding. A petitioner who seeks the appointment of a
 62 different personal representative in a formal proceeding also
 63 may request an order restraining the acting personal
 64 representative from exercising any of the powers of ~~his~~ office *
 65 and requesting the appointment of a special administrator. In
 66 the absence of a request, or if the request is denied, the
 67 commencement of a formal proceeding has no effect on the powers
 68 and duties of a previously appointed personal representative
 69 other than those relating to distribution.

524#3-0403

70 524.3-403 FORMAL TESTACY PROCEEDING; NOTICE OF HEARING
71 ON PETITION.

72 (a) Upon commencement of a formal testacy proceeding, the
 73 court shall fix a time and place of hearing. Notice, in the
 74 form prescribed by court rule, shall be given in the manner

1 prescribed by section 524.1-401 by the petitioner to the persons
 2 herein enumerated and to any additional person who has filed a
 3 demand for notice under section 524.3-204 of this chapter. ~~if~~ *
 4 The petitioner ~~has~~, having reason to believe that the will has *
 5 been lost or destroyed, ~~he~~ shall include a statement to that *
 6 effect in the notice.

7 Notice shall be given to the following persons: the
 8 surviving spouse, children, and other heirs of the decedent, the
 9 devisees and personal representatives named in any will that is
 10 being or has been probated, or offered for informal or formal
 11 probate in the county, or that is known by the petitioner to
 12 have been probated, or offered for informal or formal probate
 13 elsewhere, and any personal representative of the decedent whose
 14 appointment has not been terminated. Notice of the hearing, in
 15 the form prescribed by court rule, shall also be given under the
 16 direction of the clerk of court by publication once a week for
 17 two consecutive weeks in a legal newspaper in the county where
 18 the hearing is to be held, the last publication of which is to
 19 be at least ten days before the time set for hearing.

20 If the decedent was born in a foreign country or has heirs
 21 or devisees in a foreign country, notice of a formal testacy
 22 proceeding shall be given to the consul of that country, if ~~he~~ *
 23 the consul resides in this state and has filed a copy of ~~his~~ the *
 24 appointment with the secretary of state. Any notice received by
 25 the secretary of state shall be forwarded to the appropriate
 26 consul.

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

524#3-0404

31 524.3-404 FORMAL TESTACY PROCEEDINGS; WRITTEN OBJECTIONS
 32 TO PROBATE.

33 Any party to a formal proceeding who opposes the probate of
 34 a will for any reason shall state in ~~his~~ pleadings ~~his~~ the *
 35 objections to probate of the will.

524#3-0408

36 524.3-408 FORMAL TESTACY PROCEEDINGS; WILL CONSTRUCTION;
 37 EFFECT OF FINAL ORDER IN ANOTHER JURISDICTION.

38 A final order of a court of another state determining
 39 testacy, the validity or construction of a will, made in a
 40 proceeding involving notice to and an opportunity for contest by
 41 all interested persons must be accepted as determinative by the
 42 courts of this state if it includes, or is based upon, a finding
 43 that the decedent was domiciled at ~~his~~ death in the state where *
 44 the order was made.

524#3-0409

45 524.3-409 FORMAL TESTACY PROCEEDINGS; ORDER; FOREIGN
 46 WILL.

47 After the time required for any notice has expired, upon
 48 proof of notice, and after any hearing that may be necessary, if
 49 the court finds that the testator is dead, venue is proper and
 50 that the proceeding was commenced within the limitation
 51 prescribed by section 524.3-108, it shall determine the
 52 decedent's domicile at death, ~~his~~ and decedent's heirs and ~~his~~ *
 53 state of testacy. Any will found to be valid and unrevoked
 54 shall be formally probated. Termination of any previous
 55 informal appointment of a personal representative, which may be
 56 appropriate in view of the relief requested and findings, is
 57 governed by section 524.3-612. A will from a place which does
 58 not provide for probate of a will after death, may be proved for
 59 probate in this state by a duly authenticated certificate of its
 60 legal custodian that the copy introduced is a true copy and that
 61 the will has become effective under the law of the other place.

524#3-0412

62 524.3-412 FORMAL TESTACY PROCEEDINGS; EFFECT OF ORDER;
 63 VACATION.

64 Subject to appeal and subject to vacation as provided
 65 herein and in section 524.3-413, a formal testacy order under
 66 sections 524.3-409 to 524.3-411, including an order that the
 67 decedent left no valid will and determining heirs, is final as
 68 to all persons with respect to all issues concerning the
 69 decedent's estate that the court considered or might have
 70 considered incident to its rendition relevant to the question of
 71 whether the decedent left a valid will, and to the determination
 72 of heirs, except that:

1 (1) The court shall entertain a petition for modification
 2 or vacation of its order and probate of another will of the
 3 decedent if it is shown that the proponents of the later-offered
 4 will were unaware of its existence at the time of the earlier
 5 proceeding or were unaware of the earlier proceeding and were
 6 given no notice thereof, except by publication.

7 (2) If intestacy of all or part of the estate has been
 8 ordered, the determination of heirs of the decedent may be
 9 reconsidered if it is shown that one or more persons were
 10 omitted from the determination and it is also shown that the
 11 persons were unaware of their relationship to the decedent, were
 12 unaware of ~~his~~ the death or were given no notice of any
 13 proceeding concerning ~~his~~ the estate, except by publication. *
 *

14 (3) A petition for vacation under either (1) or (2) above
 15 must be filed prior to the earlier of the following time limits:

16 (i) If a personal representative has been appointed for the
 17 estate, the time of entry of any order approving final
 18 distribution of the estate, or, if the estate is closed by
 19 statement, six months after the filing of the closing statement.

20 (ii) Whether or not a personal representative has been
 21 appointed for the estate of the decedent, the time prescribed by
 22 section 524.3-108 when it is no longer possible to initiate an
 23 original proceeding to probate a will of the decedent.

24 (iii) 12 months after the entry of the order sought to be
 25 vacated.

26 (4) The order originally rendered in the testacy proceeding
 27 may be modified or vacated, if appropriate under the
 28 circumstances, by the order of probate of the later-offered will
 29 or the order redetermining heirs.

524#3-0503

30 524.3-503 SUPERVISED ADMINISTRATION; EFFECT ON OTHER
 31 PROCEEDINGS.

32 (a) The pendency of a proceeding for supervised
 33 administration of a decedent's estate stays action on any
 34 informal application then pending or thereafter filed.

35 (b) If a will has been previously probated in informal
 36 proceedings, the effect of the filing of a petition for
 37 supervised administration is as provided for formal testacy
 38 proceedings by section 524.3-401.

39 (c) After ~~he has received~~ having received notice of the *
 40 filing of a petition for supervised administration, a personal
 41 representative who has been appointed previously shall not
 42 exercise ~~his~~ the power to distribute any estate. The filing of *
 43 the petition does not affect ~~his~~ the representative's other *
 44 powers and duties unless the court restricts the exercise of any
 45 of them pending full hearing on the petition.

524#3-0504

46 524.3-504 SUPERVISED ADMINISTRATION; POWERS OF PERSONAL
 47 REPRESENTATIVE.

48 Unless restricted by the court, a supervised personal
 49 representative has, without interim orders approving exercise of
 50 a power, all powers of personal representatives under this
 51 chapter, but ~~he~~ shall not exercise ~~his~~ the power to make any *
 52 distribution of the estate without prior order of the court. *
 53 Any other restriction on the power of a personal representative
 54 which may be ordered by the court must be endorsed on ~~his~~ the *
 55 letters of appointment and, unless so endorsed, is ineffective
 56 as to persons dealing in good faith with the personal
 57 representative.

524#3-0601

58 524.3-601 QUALIFICATION.

59 Prior to receiving letters, a personal representative shall
 60 qualify by filing with the appointing court any required bond
 61 and ~~his~~ an oath of office or, in the case of a corporate *
 62 representative, a statement of acceptance of the duties of the
 63 office. *

524#3-0602

64 524.3-602 ACCEPTANCE OF APPOINTMENT; CONSENT TO
 65 JURISDICTION.

66 By accepting appointment, a personal representative submits
 67 personally to the jurisdiction of the court in any proceeding
 68 relating to the estate that may be instituted by any interested
 69 person. Notice of any proceeding shall be delivered to the
 70 personal representative, or mailed ~~to him~~ by ordinary first *
 71 class mail ~~at his~~ the address ~~as~~ listed in the application or *
 72 petition for appointment or ~~as~~ thereafter reported to the court *

1 and to ~~his~~ the address as then known to the petitioner. Service
2 of process on a nonresident personal representative appointed in
3 Minnesota shall be made pursuant to section 524.4-303.

*

524#3-0603

4 524.3-603 BOND NOT REQUIRED WITHOUT COURT ORDER;
5 EXCEPTIONS.

6 No bond is required of a personal representative appointed
7 in informal proceedings, except (1) upon the appointment of a
8 special administrator; (2) when an executor or other personal
9 representative is appointed to administer an estate under a will
10 containing an express requirement of bond or (3) when bond is
11 required under section 524.3-605. No bond shall be required of a
12 personal representative appointed in formal proceedings (1) if
13 the will relieves the personal representative of bond, or (2) if
14 all interested persons with an apparent interest in the estate
15 in excess of \$1,000, other than creditors, make a written
16 request that no bond be required, unless in either case the
17 court determines that bond is required for the protection of
18 interested persons. The court may by its order dispense with
19 the requirement of bond at the time of appointment of a personal
20 representative appointed in formal proceedings. No bond shall
21 be required of any personal representative who, pursuant to
22 statute, has deposited cash or collateral with an agency of this
23 state to secure performance of ~~his~~ duties. If two or more
24 persons are appointed corepresentatives and one of them has
25 complied with the preceding sentence, no bond shall be required
26 of any such corepresentatives.

*

524#3-0605

27 524.3-605 DEMAND FOR BOND BY INTERESTED PERSON.

28 Any person apparently having an interest in the estate
29 worth in excess of \$1,000, or any creditor having a claim in
30 excess of \$1,000, may make a written demand that a personal
31 representative give bond. The demand must be filed with the
32 court and a copy mailed to the personal representative, if
33 appointment and qualification have occurred. Thereupon, the
34 court may require or excuse the requirement of a bond. After he
35 ~~has~~ having received notice and until the filing of the bond or
36 until the requirement of bond is excused, the personal
37 representative shall refrain from exercising any powers of ~~his~~
38 office except as necessary to preserve the estate. Failure of
39 the personal representative to meet a requirement of bond by
40 giving suitable bond within 30 days after receipt of notice is
41 cause for ~~his~~ removal and appointment of a successor personal
42 representative. An interested person who initially waived bond
43 may demand bond under this section.

*

*

*

*

524#3-0606

44 524.3-606 TERMS AND CONDITIONS OF BONDS.

45 (a) The following requirements and provisions apply to any
46 bond required by this part:

47 (1) Bonds shall name the state as obligee for the benefit
48 of the persons interested in the estate and shall be conditioned
49 upon the faithful discharge by the fiduciary of all duties
50 according to law.

51 (2) Unless otherwise provided by the terms of the approved
52 bond, sureties are jointly and severally liable with the
53 personal representative and with each other. The address of
54 sureties shall be stated in the bond.

55 (3) By executing an approved bond of a personal
56 representative, the surety consents to the jurisdiction of the
57 probate court which issued letters to the primary obligor in any
58 proceedings pertaining to the fiduciary duties of the personal
59 representative and naming the surety as a party. Notice of such
60 proceeding shall be delivered to the surety or mailed ~~to-him~~ by
61 registered or certified mail at ~~his~~ the address ~~as~~ listed with
62 the court where the bond is filed and to ~~his~~ the address ~~as~~ then
63 known to the petitioner.

*

*

*

64 (4) On petition of a successor personal representative, any
65 other personal representative of the same decedent, or any
66 interested person, a proceeding in the court may be initiated
67 against a surety for breach of the obligation of the bond of the
68 personal representative.

69 (5) The bond of the personal representative is not void
70 after the first recovery but may be proceeded against from time
71 to time until the whole penalty is exhausted.

72 (b) No action or proceeding may be commenced against the
73 surety on any matter as to which an action or proceeding against

1 the primary obligor is barred by adjudication or limitation.

2 (c) If a sole or last surviving representative is removed,
3 is disabled or dies, the court may, upon notice and hearing,
4 order ~~his~~ the representative's surety to file a verified final *
5 account and petition for complete settlement and, if proper, for
6 distribution and closing of the estate.

7 If in a proceeding under this clause the court determines
8 that the representative has mismanaged the estate,
9 misappropriated funds or committed other misconduct for which
10 the surety is liable, the court shall settle the account and
11 enter judgment against the representative and the surety as may
12 be appropriate. The judgment may be filed, docketed and
13 enforced in the same manner as any other judgment. This remedy
14 is in addition to any other remedy for breach of the obligations
15 of the bond.

524#3-0607

16 524.3-607 ORDER RESTRAINING PERSONAL REPRESENTATIVE.

17 (a) On petition of any person who appears to have an
18 interest in the estate, the court by temporary order may
19 restrain a personal representative from performing specified
20 acts of administration, disbursement, or distribution, or
21 exercise of any powers or discharge of any duties of ~~his~~ office, *
22 or make any other order to secure proper performance of ~~his~~ a *
23 duty, if it appears to the court that the personal
24 representative otherwise may take some action which would
25 jeopardize unreasonably the interest of the applicant or of some
26 other interested person. Persons with whom the personal
27 representative may transact business may be made parties.

28 (b) The matter shall be set for hearing within ten days
29 unless the parties otherwise agree. Notice as the court directs
30 shall be given to the personal representative and ~~his~~ the *
31 representative's attorney of record, if any, and to any other *
32 parties named defendant in the petition.

524#3-0608

33 524.3-608 TERMINATION OF APPOINTMENT; GENERAL.

34 Termination of appointment of a personal representative
35 occurs as indicated in sections 524.3-609 to 524.3-612,
36 inclusive. Termination ends the right and power pertaining to
37 the office of personal representative as conferred by this
38 chapter or any will, except that a personal representative, at
39 any time prior to distribution or until restrained or enjoined
40 by court order, may perform acts necessary to protect the estate
41 and may deliver the assets to a successor representative.
42 Termination does not discharge a personal representative from
43 liability for transactions or omissions occurring before *
44 termination, or relieve ~~him~~ the representative of the duty to *
45 preserve assets subject to ~~his~~ the representative's control, to *
46 account therefor and to deliver the assets. Termination does
47 not affect the jurisdiction of the court over the personal
48 representative, but terminates ~~his~~ the authority to represent *
49 the estate in any pending or future proceeding.

524#3-0609

50 524.3-609 TERMINATION OF APPOINTMENT; DEATH OR
51 DISABILITY.

52 The death of a personal representative or the appointment
53 of a conservator or guardian for the estate of a personal
54 representative, terminates ~~his~~ the personal representative's *
55 appointment. Until appointment and qualification of a successor
56 or special representative to replace the deceased or protected
57 representative, the representative of the estate of the deceased
58 or protected personal representative, if any, has the duty to
59 protect the estate possessed and being administered by ~~his~~ *
60 ~~decedent-or-ward~~ the deceased or protected representative at the *
61 time ~~his~~ the appointment terminates, has the power to perform *
62 acts necessary for protection and shall account for and deliver
63 the estate assets to a successor or special personal
64 representative upon ~~his~~ appointment and qualification. *

524#3-0610

65 524.3-610 TERMINATION OF APPOINTMENT; VOLUNTARY.

66 (a) An appointment of a personal representative terminates
67 as provided in section 524.3-1003, one year after the filing of
68 a closing statement.

69 (b) An order closing an estate as provided in section
70 524.3-1001 or 524.3-1002 terminates an appointment of a personal
71 representative.

72 (c) A personal representative may resign ~~his~~ the position *

1 by filing a written statement of resignation with the registrar
 2 after ~~he has~~ having given at least 15 days written notice to the
 3 persons known to be interested in the estate. If no one applies
 4 or petitions for appointment of a successor representative
 5 within the time indicated in the notice, the filed statement of
 6 resignation is ineffective as a termination of appointment and
 7 in any event is effective only upon the appointment and
 8 qualification of a successor representative and delivery of the
 9 assets to ~~him~~ the successor.

524#3-0611

10 524.3-611 TERMINATION OF APPOINTMENT BY REMOVAL; CAUSE;
 11 PROCEDURE.

12 (a) A person interested in the estate may petition for
 13 removal of a personal representative for cause at any time.
 14 Upon filing of the petition, the court shall fix a time and
 15 place for hearing. Notice shall be given by the petitioner to
 16 the personal representative, and to other persons as the court
 17 may order. Except as otherwise ordered as provided in section
 18 524.3-607, after receipt of notice of removal proceedings, the
 19 personal representative shall not act except to account, to
 20 correct maladministration or preserve the estate. If removal is
 21 ordered, the court also shall direct by order the disposition of
 22 the assets remaining in the name of, or under the control of,
 23 the personal representative being removed.

24 (b) Cause for removal exists when removal is in the best
 25 interests of the estate, or if it is shown that a personal
 26 representative or the person seeking ~~his~~ the personal
 27 representative's appointment intentionally misrepresented
 28 material facts in the proceedings leading to ~~his~~ the
 29 appointment, or that the personal representative has disregarded
 30 an order of the court, has become incapable of discharging the
 31 duties of ~~his~~ office, or has mismanaged the estate or failed to
 32 perform any duty pertaining to the office. In determining the
 33 best interests of the estate, the personal representative's
 34 compensation and fees, and administrative expenses, shall also
 35 be considered. Unless the decedent's will directs otherwise, a
 36 personal representative appointed at the decedent's domicile,
 37 incident to securing personal appointment ~~of-himself~~ or ~~his~~ the
 38 appointment of a nominee as ancillary personal representative,
 39 may obtain removal of another who was appointed personal
 40 representative in this state to administer local assets.

524#3-0612

41 524.3-612 TERMINATION OF APPOINTMENT; CHANGE OF TESTACY
 42 STATUS.

43 Except as otherwise ordered in formal proceedings, the
 44 probate of a will subsequent to the appointment of a personal
 45 representative in intestacy or under a will which is superseded
 46 by formal probate of another will, or the vacation of an
 47 informal probate of a will subsequent to the appointment of the
 48 personal representative thereunder, does not terminate the
 49 appointment of the personal representative although ~~his~~ the
 50 personal representative's powers may be reduced as provided in
 51 section 524.3-401. Termination occurs upon appointment in
 52 informal or formal appointment proceedings of a person entitled
 53 to appointment under the later assumption concerning testacy.
 54 If no request for new appointment is made within 30 days after
 55 expiration of time for appeal from the order in formal testacy
 56 proceedings, or from the informal probate, changing the
 57 assumption concerning testacy, the previously appointed personal
 58 representative upon request may be appointed personal
 59 representative under the subsequently probated will, or as in
 60 intestacy as the case may be.

524#3-0613

61 524.3-613 SUCCESSOR PERSONAL REPRESENTATIVE.

62 Upon notice, if any, as the court or registrar shall
 63 require, the court upon petition and the registrar upon
 64 application may appoint a personal representative to succeed one
 65 whose appointment has been terminated. After appointment and
 66 qualification, a successor personal representative may be
 67 substituted in all actions and proceedings to which the former
 68 personal representative was a party, and no notice, process or
 69 claim which was given or served upon the former personal
 70 representative need be given to or served upon the successor in
 71 order to preserve any position or right the person giving the
 72 notice or filing the claim may thereby have obtained or
 73 preserved with reference to the former personal representative.

1 Except as otherwise ordered by the court, the successor personal
2 representative has the powers and duties in respect to the
3 continued administration which the former personal
4 representative would have had if ~~his~~ the appointment had not
5 been terminated. *

524#3-0616

6 524.3-616 SPECIAL ADMINISTRATOR; APPOINTED INFORMALLY;
7 POWERS AND DUTIES.

8 A special administrator appointed by the registrar in
9 informal proceedings pursuant to section 524.3-614(1) has the
10 duty to collect and manage the assets of the estate, to preserve
11 them, to account therefor and to deliver them to the general
12 personal representative upon ~~his~~ qualification. The special
13 administrator has the power of a personal representative under
14 the chapter necessary to perform ~~his~~ these duties. *

524#3-0701

15 524.3-701 TIME OF ACCRUAL OF DUTIES AND POWERS.

16 The duties and powers of a personal representative commence
17 upon ~~his~~ appointment. The powers of a personal representative
18 relate back in time to give acts by the person appointed which
19 are beneficial to the estate occurring prior to appointment the
20 same effect as those occurring thereafter. Prior to
21 appointment, a person named executor in a will may carry out
22 written instructions of the decedent relating to ~~his~~ the body,
23 funeral and burial arrangements. A personal representative may
24 ratify and accept acts on behalf of the estate done by others
25 where the acts would have been proper for a personal
26 representative. *

524#3-0702

27 524.3-702 PRIORITY AMONG DIFFERENT LETTERS.

28 A person to whom general letters are issued first has
29 exclusive authority under the letters until ~~his~~ the appointment
30 is terminated or modified. If, through error, general letters
31 are afterwards issued to another, the first appointed
32 representative may recover any property of the estate in the
33 hands of the representative subsequently appointed, but the acts
34 of the latter done in good faith before notice of the first
35 letters are not void for want of validity of appointment. *

524#3-0703

36 524.3-703 GENERAL DUTIES; RELATION AND LIABILITY TO
37 PERSONS INTERESTED IN ESTATE; STANDING TO SUE.

38 (a) A personal representative is a fiduciary who shall
39 observe the standards of care in dealing with the estate assets
40 that would be observed by a prudent ~~man~~ person dealing with the
41 property of another, and if the personal representative has
42 special skills or is named personal representative on a basis of
43 representation of special skills or expertise, ~~he~~ the personal
44 representative is under a duty to use those skills. A personal
45 representative is under a duty to settle and distribute the
46 estate of the decedent in accordance with the terms of any
47 probated and effective will and applicable law, and as
48 expeditiously and efficiently as is consistent with the best
49 interests of the estate. ~~He~~ The personal representative shall
50 use the authority conferred ~~upon-him~~ by applicable law, the
51 terms of the will, if any, and any order in proceedings to
52 which ~~he~~ the personal representative is party for the best
53 interests of successors to the estate. *

54 (b) A personal representative shall not be surcharged for
55 acts of administration or distribution if the conduct in
56 question was authorized at the time. Subject to other
57 obligations of administration, an informally probated will is
58 authority to administer and distribute the estate according to
59 its terms. An order of appointment of a personal
60 representative, whether issued in informal or formal
61 proceedings, is authority to distribute apparently intestate
62 assets to the heirs of the decedent if, at the time of
63 distribution, the personal representative is not aware of a
64 pending testacy proceeding, a proceeding to vacate an order
65 entered in an earlier testacy proceeding, a formal proceeding
66 questioning ~~his~~ the appointment or fitness to continue, or a
67 supervised administration proceeding. Nothing in this section
68 affects the duty of the personal representative to administer
69 and distribute the estate in accordance with the rights of
70 claimants, the surviving spouse, any minor and dependent
71 children and any pretermitted child of the decedent as described
72 elsewhere. *

1 (c) Except as to proceedings which do not survive the death
 2 of the decedent, a personal representative of a decedent
 3 domiciled in this state at his death has the same standing to *
 4 sue and be sued in the courts of this state and the courts of *
 5 any other jurisdiction as ~~his~~ the decedent had immediately prior
 6 to death.

524#3-0704

7 524.3-704 PERSONAL REPRESENTATIVE TO PROCEED WITHOUT
 8 COURT ORDER; EXCEPTION.

9 A personal representative shall proceed expeditiously with
 10 the settlement and distribution of a decedent's estate and,
 11 except as otherwise specified or ordered in regard to a
 12 supervised personal representative, do so without adjudication,
 13 order, or direction of the court, but ~~he~~ the personal *
 14 representative may invoke the jurisdiction of the court, in *
 15 proceedings authorized by this chapter, to resolve questions
 16 concerning the estate or its administration.

524#3-0706

17 524.3-706 DUTY OF PERSONAL REPRESENTATIVE; INVENTORY AND
 18 APPRAISEMENT.

19 Within six months after appointment, or nine months after
 20 the death of the decedent, whichever is later, a personal
 21 representative, who is not a special administrator or a
 22 successor to another representative who has previously
 23 discharged this duty, shall prepare and file or mail an
 24 inventory of property owned by the decedent at the time of his *
 25 death, listing it with reasonable detail, and indicating as to *
 26 each listed item, its fair market value as of the date of the
 27 decedent's death, and the type and amount of any encumbrance
 28 that may exist with reference to any item.

29 The personal representative shall mail or deliver a copy of
 30 the inventory to the surviving spouse, if there be one, to all
 31 residuary distributees, and to interested persons or creditors
 32 who request a copy thereof. The personal representative need
 33 ~~not mail or provide a copy thereof to himself~~ personally receive *
 34 a copy as a surviving spouse or as a residuary distributee. *

524#3-0707

35 524.3-707 EMPLOYMENT OF APPRAISERS.

36 The personal representative may employ a qualified and
 37 disinterested appraiser to assist him in ascertaining the fair *
 38 market value as of the date of the decedent's death of any asset
 39 the value of which may be subject to reasonable doubt.
 40 Different persons may be employed to appraise different kinds of
 41 assets included in the estate. The names and addresses of any
 42 appraiser shall be indicated on the inventory with the item or
 43 items he appraised. *

524#3-0708

44 524.3-708 DUTY OF PERSONAL REPRESENTATIVE; SUPPLEMENTARY
 45 INVENTORY.

46 If any property not included in the original inventory
 47 comes to the knowledge of a personal representative or if the
 48 personal representative learns that the value or description
 49 indicated in the original inventory for any item is erroneous or
 50 misleading, ~~he~~ the personal representative shall make a *
 51 supplementary inventory or appraisal showing the market value
 52 as of the date of the decedent's death of the new item or the
 53 revised market value or descriptions, and the appraisers or
 54 other data relied upon, if any, and file it with the court if
 55 the original inventory was filed, or furnish copies thereof or
 56 information thereof to persons interested in the new information.

524#3-0709

57 524.3-709 DUTY OF PERSONAL REPRESENTATIVE; POSSESSION OF
 58 ESTATE.

59 Except as otherwise provided by a decedent's will, every
 60 personal representative has a right to, and shall take
 61 possession or control of, the decedent's property, except that
 62 any real property or tangible personal property may be left with
 63 or surrendered to the person presumptively entitled thereto
 64 unless or until, in the judgment of the personal representative,
 65 possession of the property by ~~him~~ the personal representative *
 66 will be necessary for purposes of administration. The request
 67 by a personal representative for delivery of any property
 68 possessed by an heir or devisee is conclusive evidence, in any
 69 action against the heir or devisee for possession thereof, that
 70 the possession of the property by the personal representative is
 71 necessary for purposes of administration. The personal

1 representative shall pay taxes on, and take all steps reasonably
 2 necessary for the management, protection and preservation of,
 3 the estate in ~~his~~ possession--He and may maintain an action to
 4 recover possession of property or to determine the title thereto.

*

524#3-0710

5 524.3-710 POWER TO AVOID TRANSFERS.

6 The property liable for the payment of unsecured debts of a
 7 decedent includes all property transferred by ~~him~~ the decedent
 8 by any means which is in law void or voidable as against ~~his~~
 9 creditors, and subject to prior liens, the right to recover this
 10 property, so far as necessary for the payment of unsecured debts
 11 of the decedent, is exclusively in the personal representative.

*

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524#3-0711

12 524.3-711 POWERS OF PERSONAL REPRESENTATIVES; IN GENERAL.

13 Until termination of ~~his~~ the appointment a personal
 14 representative has the same power over the title to property of
 15 the estate that an absolute owner would have, in trust however,
 16 for the benefit of the creditors and others interested in the
 17 estate. This power may be exercised without notice, hearing, or
 18 order of court and when so exercised shall transfer good title
 19 to the transferee to the same extent that decedent had title
 20 thereto; provided, however, that a personal representative
 21 appointed in an informal proceeding shall not be empowered to
 22 sell, encumber, lease or distribute any interest in real estate
 23 owned by the decedent until 30 days have passed from the date of
 24 the issuance of ~~his~~ the letters.

*

*

524#3-0712

25 524.3-712 IMPROPER EXERCISE OF POWER; BREACH OF
26 FIDUCIARY DUTY.

27 If the exercise of power concerning the estate is improper,
 28 the personal representative is liable to interested persons for
 29 damage or loss resulting from breach of ~~his~~ fiduciary duty to
 30 the same extent as a trustee of an express trust. The rights of
 31 purchasers and others dealing with a personal representative
 32 shall be determined as provided in sections 524.3-713 and
 33 524.3-714.

*

524#3-0713

34 524.3-713 SALE, ENCUMBRANCE OR TRANSACTION INVOLVING
35 CONFLICT OF INTEREST; VOIDABLE; EXCEPTIONS.

36 Any sale or encumbrance to the personal representative, ~~his~~
 37 the personal representative's spouse, agent or attorney, or any
 38 corporation or trust in which ~~he~~ the personal representative has
 39 a substantial beneficial interest, or any transaction which is
 40 affected by a substantial conflict of interest on the part of
 41 the personal representative, is voidable by any person
 42 interested in the estate except one who has consented after fair
 43 disclosure, unless

*

*

*

44 (1) the will or a contract entered into by the decedent
45 expressly authorized the transaction; or

46 (2) the transaction is approved by the court after notice
47 to interested persons.

524#3-0714

48 524.3-714 PERSONS DEALING WITH PERSONAL REPRESENTATIVE;
49 PROTECTION.

50 (a) A person who in good faith either assists a personal
 51 representative or deals with ~~him~~ the personal representative for
 52 value is protected as if the personal representative properly
 53 exercised ~~his~~ power. The fact that a person knowingly deals
 54 with a personal representative does not alone require the person
 55 to inquire into the existence of a power or the propriety of its
 56 exercise. Except for restrictions on powers of supervised
 57 personal representatives which are endorsed on letters as
 58 provided in section 524.3-504, no provision in any will or order
 59 of court purporting to limit the power of a personal
 60 representative is effective except as to persons with actual
 61 knowledge thereof. A person is not bound to see to the proper
 62 application of estate assets paid or delivered to a personal
 63 representative. The protection here expressed extends to
 64 instances in which some procedural irregularity or
 65 jurisdictional defect occurred in proceedings leading to the
 66 issuance of letters, including a case in which the alleged
 67 decedent is found to be alive. The protection here expressed is
 68 not by substitution for that provided by comparable provisions
 69 of the laws relating to commercial transactions and laws
 70 simplifying transfers of securities by fiduciaries.
 71 (b) If property is wrongfully transferred by a person

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*

1 acting as a personal representative to a person who is not in
2 good faith, a subsequent good faith purchaser is protected as if
3 the original transferee dealt in good faith. Any purchaser in
4 good faith is protected as if all prior transfers were made in
5 good faith.

524#3-0715

6 524.3-715 TRANSACTIONS AUTHORIZED FOR PERSONAL
7 REPRESENTATIVES; EXCEPTIONS.

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

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

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

18 (3) perform, compromise or refuse performance of the
19 decedent's contracts that continue as obligations of the estate,
20 as he the personal representative may determine under the *
21 circumstances. In performing enforceable contracts by the
22 decedent to convey or lease land, the personal representative,
23 among other possible courses of action, may:

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

28 (ii) deliver a deed in escrow with directions that the
29 proceeds, when paid in accordance with the escrow agreement, be
30 paid to the successors of the decedent, as designated in the
31 escrow agreement;

32 (4) satisfy written charitable pledges of the decedent
33 irrespective of whether the pledges constituted binding
34 obligations of the decedent or were properly presented as
35 claims, if in the judgment of the personal representative the
36 decedent would have wanted the pledges completed under the
37 circumstances;

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

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

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

52 (8) subdivide, develop or dedicate land to public use; make
53 or obtain the vacation of plats and adjust boundaries; or adjust
54 differences in valuation on exchange or partition by giving or
55 receiving considerations; or dedicate easements to public use
56 without consideration;

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

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

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

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

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

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

75 (15) insure the assets of the estate against damage, loss

1 and liability and ~~himself~~ the personal representative against *
2 liability as to third persons;

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

6 (17) effect a fair and reasonable compromise with any
7 debtor or obligor, or extend, renew or in any manner modify the
8 terms of any obligation owing to the estate. ~~If~~ The personal *
9 representative ~~holds on holding~~ a mortgage, pledge or other lien *
10 upon property of another person, ~~he~~ may, in lieu of foreclosure, *
11 accept a conveyance or transfer of encumbered assets from the
12 owner thereof in satisfaction of the indebtedness secured by
13 lien;

14 (18) pay in compliance with section 524.3-805, but without
15 the presentation of a claim, the reasonable and necessary last
16 illness expenses of the decedent (except as provided in section
17 524.3-806 (a)), reasonable funeral expenses, debts and taxes
18 with preference under federal or state law, and other taxes,
19 assessments, compensation of the personal representative and ~~his~~ *
20 the personal representative's attorney, and all other costs and *
21 expenses of administration although the same may be otherwise
22 barred under section 524.3-803;

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

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

29 (21) employ persons, including attorneys, auditors,
30 investment advisors, or agents, even if they are associated with
31 the personal representative, to advise or assist the personal
32 representative in the performance of ~~his~~ administrative duties; *
33 act without independent investigation upon their
34 recommendations; and instead of acting personally, employ one or
35 more agents to perform any act of administration, whether or not
36 discretionary;

37 (22) prosecute or defend claims, or proceedings in any
38 jurisdiction for the protection of the estate and of the
39 personal representative in the performance of ~~his~~ duties; *

40 (23) sell, mortgage, or lease any real or personal property
41 of the estate or any interest therein for cash, credit, or for
42 part cash and part credit, and with or without security for
43 unpaid balances, provided, however, that the homestead of a
44 decedent when the spouse takes any interest therein shall not be
45 sold, mortgaged or leased unless the written consent of the
46 spouse has been obtained;

47 (24) continue any unincorporated business or venture in
48 which the decedent was engaged at the time of ~~his~~ death (i) in *
49 the same business form for a period of not more than four months
50 from the date of appointment of a general personal
51 representative if continuation is a reasonable means of
52 preserving the value of the business including good will, (ii)
53 in the same business form for any additional period of time that
54 may be approved by order of the court in a formal proceeding to
55 which the persons interested in the estate are parties; or (iii)
56 throughout the period of administration if the business is
57 incorporated by the personal representative and if none of the
58 probable distributees of the business who are competent adults
59 object to its incorporation and retention in the estate;

60 (25) incorporate any business or venture in which the
61 decedent was engaged at the time of ~~his~~ death; *

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

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

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

70 (29) exercise all powers granted to guardians and
71 conservators by sections 525.67 and 525.68.

524#3-0716

72 524.3-716 POWERS AND DUTIES OF SUCCESSOR PERSONAL
73 REPRESENTATIVE.

74 A successor personal representative has the same power and
75 duty as the original personal representative to complete the

1 administration and distribution of the estate, as expeditiously
 2 as possible, but ~~he~~ shall not exercise any power expressly made
 3 personal to the executor named in the will. *

524#3-0717

4 524.3-717 CO-REPRESENTATIVES; WHEN JOINT ACTION REQUIRED.

5 If two or more persons are appointed co-representatives and
 6 unless the will or the court provides otherwise, the concurrence
 7 of all is required on all acts connected with the administration
 8 and distribution of the estate. This restriction does not apply
 9 when any co-representative receives and receipts for property
 10 due the estate, when the concurrence of all cannot readily be
 11 obtained in the time reasonably available for emergency action
 12 necessary to preserve the estate, or when a co-representative
 13 has been delegated to act for the others. Persons dealing with
 14 a co-representative if actually unaware that another has been
 15 appointed to serve ~~with him~~ or if advised by the personal
 16 representative with whom they deal that ~~he~~ the personal
 17 representative has authority to act alone for any of the reasons
 18 mentioned herein, are as fully protected as if the person with
 19 whom they dealt had been the sole personal representative. *

524#3-0719

20 524.3-719 COMPENSATION OF PERSONAL REPRESENTATIVE.

21 (a) A personal representative is entitled to reasonable
 22 compensation for ~~his~~ services. If a will provides for
 23 compensation of the personal representative and there is no
 24 contract with the decedent regarding compensation, ~~he~~ the
 25 personal representative may renounce the provision before
 26 qualifying and be entitled to reasonable compensation. A
 27 personal representative also may renounce ~~his~~ the right to all
 28 or any part of the compensation. A written renunciation of fee
 29 may be filed with the court. *

30 (b) In determining what is reasonable compensation, the
 31 court shall give consideration to the following factors:

- 32 (1) The time and labor required;
 33 (2) The complexity and novelty of problems involved; and
 34 (3) The extent of the responsibilities assumed and the
 35 results obtained. *

524#3-0720

36 524.3-720 EXPENSES IN ESTATE LITIGATION.

37 ~~if~~ Any personal representative or person nominated as
 38 personal representative who defends or prosecutes any proceeding
 39 in good faith, whether successful or not, or ~~if~~ any interested
 40 person who successfully opposes the allowance of a will, ~~he~~ is
 41 entitled to receive from the estate ~~his~~ necessary expenses and
 42 disbursements including reasonable attorneys' fees incurred. *
 43 When after demand the personal representative refuses to
 44 prosecute or pursue a claim or asset of the estate or a claim is
 45 made against ~~him~~ the personal representative on behalf of the
 46 estate and any interested person shall then by ~~his-own~~ a
 47 separate attorney prosecute or pursue and recover such fund or
 48 asset for the benefit of the estate, or when, and to the extent
 49 that, the services of an attorney for any interested person
 50 contribute to the benefit of the estate, as such, as
 51 distinguished from the personal benefit of such person, such
 52 attorney shall be paid such compensation from the estate as the
 53 court shall deem just and reasonable and commensurate with the
 54 benefit to the estate from the recovery so made or from such
 55 services. *

524#3-0721

56 524.3-721 PROCEEDINGS FOR REVIEW OF EMPLOYMENT OF AGENTS
 57 AND COMPENSATION OF PERSONAL REPRESENTATIVES AND EMPLOYEES OF
 58 ESTATE.

59 After notice to all interested persons or on petition of an
 60 interested person or on appropriate motion if administration is
 61 supervised, the propriety of employment of any person by a
 62 personal representative including any attorney, auditor,
 63 investment advisor or other specialized agent or assistant, the
 64 reasonableness of the compensation of any person so employed, or
 65 the reasonableness of the compensation determined by the
 66 personal representative for ~~his-own~~ personal representative
 67 services, may be reviewed by the court. Any person who has
 68 received excessive compensation from an estate for services
 69 rendered may be ordered to make appropriate refunds. *

524#3-0803

70 524.3-803 LIMITATIONS ON PRESENTATION OF CLAIMS.

71 (a) All claims as defined in section 524.1-201 (4) against

1 a decedent's estate which arose before the death of the
 2 decedent, including claims of the state and any subdivision
 3 thereof, whether due or to become due, absolute or contingent,
 4 liquidated or unliquidated, if not barred earlier by other
 5 statute of limitations, are barred against the estate, the
 6 personal representative, and the heirs and devisees of the
 7 decedent, unless presented as follows:

8 (1) within four months after the date of the clerk of
 9 court's notice to creditors which is subsequently published
 10 pursuant to section 524.3-801;

11 (2) within three years after the decedent's death, if
 12 notice to creditors has not been published.

13 (b) All claims against a decedent's estate which arise at
 14 or after the death of the decedent, including claims of the
 15 state and any subdivision thereof, whether due or to become due,
 16 absolute or contingent, liquidated or unliquidated, are barred
 17 against the estate, the personal representative, and the heirs
 18 and devisees of the decedent, unless presented as follows:

19 (1) a claim based on a contract with the personal
 20 representative, within four months after performance by the
 21 personal representative is due;

22 (2) any other claim, within four months after it arises.

23 (c) Nothing in this section affects or prevents:

24 (1) any proceeding to enforce any mortgage, pledge, or
 25 other lien upon property of the estate; or

26 (2) any proceeding to establish liability of the decedent
 27 or the personal representative for which ~~he is protected there~~
 28 is protection by liability insurance, to the limits of the
 29 insurance protection only. *

30 (3) the presentment and payment at any time before a
 31 petition is filed in compliance with sections 524.3-1001 or
 32 524.3-1002 or a closing statement is filed under section
 33 524.3-1003, of:

34 (i) any claim referred to in section 524.3-715 (18)
 35 although the same may be otherwise barred hereunder;

36 (ii) any other claim which would otherwise be barred
 37 hereunder upon allowance by the court upon petition of the
 38 personal representative or the claimant for cause shown on
 39 notice and hearing as the court may direct.

524#3-0804

40 524.3-804 MANNER OF PRESENTATION OF CLAIMS.

41 Claims against a decedent's estate may be presented as
 42 follows:

43 (1) The claimant may deliver or mail to the personal
 44 representative a written statement of the claim indicating its
 45 basis, the name and address of the claimant, and the amount
 46 claimed, or may file a written statement of the claim, in the
 47 form prescribed by rule, with the clerk of the court. The claim
 48 is deemed presented on the first to occur of receipt of the
 49 written statement of claim by the personal representative, or
 50 the filing of the claim with the court. If a claim is not yet
 51 due, the date when it will become due shall be stated. If the
 52 claim is contingent or unliquidated, the nature of the
 53 uncertainty shall be stated. If the claim is secured, the
 54 security shall be described. Failure to describe correctly the
 55 security, the nature of any uncertainty, and the due date of a
 56 claim not yet due does not invalidate the presentation made.

57 (2) The claimant may commence a proceeding against the
 58 personal representative in any court where the personal
 59 representative may be subjected to jurisdiction, to obtain
 60 payment of ~~his~~ the claim against the estate, but the
 61 commencement of the proceeding must occur within the time
 62 limited for presenting the claim. No presentation of claim is
 63 required in regard to matters claimed in proceedings against the
 64 decedent which were pending at the time of ~~his~~ death. *

65 (3) If a claim is presented under subsection (1), no
 66 proceeding thereon may be commenced more than two months after
 67 the personal representative has mailed a notice of disallowance;
 68 but, in the case of a claim which is not presently due or which
 69 is contingent or unliquidated, the personal representative may
 70 consent to an extension of the two month period, or to avoid
 71 injustice the court, on petition, may order an extension of the
 72 two month period, but in no event shall the extension run beyond
 73 the applicable statute of limitations.

524#3-0805

74 524.3-805 CLASSIFICATION OF CLAIMS.

1 (a) If the applicable assets of the estate are insufficient
2 to pay all claims in full, the personal representative shall
3 make payment in the following order:

- 4 (1) costs and expenses of administration;
- 5 (2) reasonable funeral expenses;
- 6 (3) debts and taxes with preference under federal law;
- 7 (4) reasonable and necessary medical and hospital expenses
8 of the last illness of the decedent, including compensation of
9 persons attending ~~him~~ the decedent and including a claim filed
10 pursuant to section 256B.15;
- 11 (5) debts with preference under other laws of this state,
12 and state taxes;
- 13 (6) all other claims.

14 (b) No preference shall be given in the payment of any
15 claim over any other claim of the same class, and a claim due
16 and payable shall not be entitled to a preference over claims
17 not due, except that if claims for expenses of the last illness
18 involve only claims filed under section 246.53 for costs of
19 state hospital care and claims filed under section 256B.15,
20 claims filed under section 246.53 have preference over claims
21 filed under section 256B.15.

524#3-0806

22 524.3-806 ALLOWANCE OF CLAIMS.

23 (a) As to claims presented in the manner described in
24 section 524.3-804 within the time limit prescribed or permitted
25 in section 524.3-803, the personal representative may mail a
26 notice to any claimant stating that the claim has been
27 disallowed. If, after allowing or disallowing a claim, the
28 personal representative changes ~~his~~ the decision concerning the
29 claim, ~~he~~ the personal representative shall notify the claimant.
30 Without order of the court for cause shown, the personal
31 representative may not change a disallowance of a claim after
32 the time for the claimant to file a petition for allowance or to
33 commence a proceeding on the claim has run and the claim has
34 been barred. Every claim which is disallowed in whole or in
35 part by the personal representative is barred so far as not
36 allowed unless the claimant files a petition for allowance in
37 the court or commences a proceeding against the personal
38 representative not later than two months after the mailing of
39 the notice of disallowance or partial allowance if the notice
40 warns the claimant of the impending bar. Failure of the
41 personal representative to mail notice to a claimant of action
42 on ~~his~~ the claim for two months after the time for original
43 presentation of the claim has expired has the effect of a notice
44 of allowance, except that upon petition of the personal
45 representative and upon notice to the claimant, the court at any
46 time before payment of such claim may for cause shown permit the
47 personal representative to disallow such claim. Any claim in
48 excess of \$3,000 for personal services rendered by an individual
49 to the decedent including compensation of persons attending ~~him~~
50 the decedent during ~~his~~ a last illness, and any claim of the
51 personal representative which arose before the death of the
52 decedent or in which the personal representative has an interest
53 in excess of \$3,000 may be allowed only in compliance with
54 subsection (b) of this section.

55 (b) Upon the petition of the personal representative or of
56 a claimant in a proceeding for the purpose, the court may allow
57 in whole or in part any claim or claims presented to the
58 personal representative or filed with the clerk of the court in
59 due time and not barred by subsection (a) of this section.
60 Notice in this proceeding shall be given to the claimant, the
61 personal representative and those other persons interested in
62 the estate as the court may direct by order entered at the time
63 the proceeding is commenced.

64 (c) A judgment in a proceeding in another court against a
65 personal representative to enforce a claim against a decedent's
66 estate is an allowance of the claim.

67 (d) Unless otherwise provided in any judgment in another
68 court entered against the personal representative, allowed
69 claims bear interest at the legal rate for the period commencing
70 60 days after the time for original presentation of the claim
71 has expired unless based on a contract making a provision for
72 interest, in which case they bear interest in accordance with
73 that provision. Notwithstanding the preceding sentence, claims
74 that have been disallowed pursuant to clause (a) and are
75 subsequently allowed by the personal representative or reduced

1 to judgment shall bear interest at the legal rate from the
 2 latter of the following dates:
 3 (1) 60 days after the time for original presentation of the
 4 claim; or
 5 (2) the date the claim is allowed or the date judgment is
 6 entered.

524#3-0807

7 524.3-807 PAYMENT OF CLAIMS.

8 (a) Upon the expiration of four months from the date of the
 9 first publication of the notice to creditors, the personal
 10 representative shall proceed to pay the claims allowed against
 11 the estate in the order of priority prescribed, after making
 12 provision for family maintenance and statutory allowances, for
 13 claims already presented which have not yet been allowed or
 14 whose allowance has been appealed, and for unbarred claims which
 15 may yet be presented, including costs and expenses of
 16 administration. By petition to the court in a proceeding for
 17 the purpose, or by appropriate motion if the administration is
 18 supervised, a claimant whose claim has been allowed but not paid
 19 as provided herein may secure an order directing the personal
 20 representative to pay the claim to the extent that funds of the
 21 estate are available for the payment.

22 (b) The personal representative at any time may pay any
 23 just claim which has not been barred, with or without formal
 24 presentation, but ~~he~~ the personal representative is personally
 25 liable to any other claimant whose claim is allowed and who is
 26 injured by such payment if

27 (1) the payment was made before the expiration of the time
 28 limit stated in subsection (a) and the personal representative
 29 failed to require the payee to give adequate security for the
 30 refund of any of the payment necessary to pay other claimants;
 31 or

32 (2) the payment was made, due to the negligence or wilful
 33 fault of the personal representative, in such manner as to
 34 deprive the injured claimant of ~~his~~ the claimant's priority.

524#3-0808

35 524.3-808 INDIVIDUAL LIABILITY OF PERSONAL
36 REPRESENTATIVE.

37 (a) Unless otherwise provided in the contract, a personal
 38 representative is not individually liable on a contract properly
 39 entered into in ~~his~~ a fiduciary capacity in the course of
 40 administration of the estate unless ~~he~~ the personal
 41 representative fails to reveal ~~his~~ the representative capacity
 42 and identify the estate in the contract.

43 (b) A personal representative is individually liable for
 44 obligations arising from ownership or control of the estate or
 45 for torts committed in the course of administration of the
 46 estate only if ~~he~~ the personal representative is personally at
 47 fault.

48 (c) Claims based on contracts entered into by a personal
 49 representative in ~~his~~ a fiduciary capacity, on obligations
 50 arising from ownership or control of the estate or on torts
 51 committed in the course of estate administration may be asserted
 52 against the estate by proceeding against the personal
 53 representative in ~~his~~ the fiduciary capacity, whether or not the
 54 personal representative is individually liable therefor.

55 (d) Issues of liability as between the estate and the
 56 personal representative individually may be determined in a
 57 proceeding for accounting, surcharge or indemnification or other
 58 appropriate proceeding.

524#3-0809

59 524.3-809 SECURED CLAIMS.

60 Payment of a secured claim is upon the basis of the amount
 61 allowed if the creditor surrenders ~~his~~ the security; otherwise
 62 payment is upon the basis of one of the following:

63 (1) if the creditor exhausts ~~his~~ the security before
 64 receiving payment, unless precluded by other law, upon the
 65 amount of the claim allowed less the fair value of the security;
 66 or

67 (2) if the creditor does not have the right to exhaust ~~his~~
 68 the security or has not done so, upon the amount of the claim
 69 allowed less the value of the security determined by converting
 70 it into money according to the terms of the agreement pursuant
 71 to which the security was delivered to the creditor, or by the
 72 creditor and personal representative by agreement, arbitration,
 73 compromise or litigation.

524#3-0810

1 524.3-810 CLAIMS NOT DUE AND CONTINGENT OR UNLIQUIDATED
2 CLAIMS.

3 (a) If a claim which will become due at a future time or a
4 contingent or unliquidated claim becomes due or certain before
5 the distribution of the estate, and if the claim has been
6 allowed or established by a proceeding, it is paid in the same
7 manner as presently due and absolute claims of the same class.

8 (b) In other cases the personal representative or, on
9 petition of the personal representative or the claimant in a
10 special proceeding for the purpose, the court may provide for
11 payment as follows:

12 (1) if the claimant consents, ~~he~~ the claimant may be paid *
13 the present or agreed value of the claim, taking any uncertainty
14 into account;

15 (2) arrangement for future payment, or possible payment, on
16 the happening of the contingency or on liquidation may be made
17 by creating a trust, giving a mortgage, obtaining a bond or
18 security from a distributee, or otherwise.

524#3-0814

19 524.3-814 ENCUMBERED ASSETS.

20 If any assets of the estate are encumbered by mortgage,
21 pledge, lien, or other security interest, the personal
22 representative may pay the encumbrance or any part thereof,
23 renew or extend any obligation secured by the encumbrance or
24 convey or transfer the assets to the creditor in satisfaction of
25 ~~his~~ the lien, in whole or in part, whether or not the holder of *
26 the encumbrance has filed a claim, if it appears to be for the
27 best interest of the estate. Payment of an encumbrance does not
28 increase the share of the distributee entitled to the encumbered
29 assets unless the distributee is entitled to exoneration.

524#3-0815

30 524.3-815 ADMINISTRATION IN MORE THAN ONE STATE; DUTY OF
31 PERSONAL REPRESENTATIVE.

32 (a) All assets of estates being administered in this state
33 are subject to all claims, allowances and charges existing or
34 established against the personal representative wherever
35 appointed.

36 (b) If the estate either in this state or as a whole is
37 insufficient to cover all family exemptions and allowances
38 determined by the law of the decedent's domicile, prior charges
39 and claims, after satisfaction of the exemptions, allowances and
40 charges, each claimant whose claim has been allowed either in
41 this state or elsewhere in administrations of which the personal
42 representative is aware, is entitled to receive payment of an
43 equal proportion of ~~his~~ the claim. If a preference or security *
44 in regard to a claim is allowed in another jurisdiction but not
45 in this state, the creditor so benefited is to receive dividends
46 from local assets only upon the balance of ~~his~~ the claim after *
47 deducting the amount of the benefit.

48 (c) In case the family exemptions and allowances, prior
49 charges and claims of the entire estate exceed the total value
50 of the portions of the estate being administered separately and
51 this state is not the state of the decedent's last domicile, the
52 claims allowed in this state shall be paid their proportion if
53 local assets are adequate for the purpose, and the balance of
54 local assets shall be transferred to the domiciliary personal
55 representative. If local assets are not sufficient to pay all
56 claims allowed in this state the amount to which they are
57 entitled, local assets shall be marshalled so that each claim
58 allowed in this state is paid its proportion as far as possible,
59 after taking into account all dividends on claims allowed in
60 this state from assets in other jurisdictions.

524#3-0817

61 524.3-817 JOINT CONTRACT CLAIMS.

62 When two or more persons are indebted on any joint contract
63 or upon a judgment on a joint contract, and one of them dies,
64 ~~his~~ the estate shall be liable therefor, and the amount thereof *
65 may be allowed the same as though the contract had been joint
66 and several or the judgment had been against ~~him~~ the decedent *
67 alone, but without prejudice to right to contribution.

524#3-0901

68 524.3-901 SUCCESSORS' RIGHTS IF NO ADMINISTRATION.

69 In the absence of administration, the heirs and devisees
70 are entitled to the estate in accordance with the terms of a
71 probated will or the laws of intestate succession. Devisees may

1 establish title by the probated will to devised property.
 2 Persons entitled to property pursuant to sections 525.14,
 3 525.145, 525.15 or intestacy may establish title thereto by
 4 proof of the decedent's ownership, ~~his~~ and death, and their *
 5 relationship to the decedent. Successors take subject to all
 6 charges incident to administration, including the claims of
 7 creditors and allowances of surviving spouse and dependent
 8 children, and subject to the rights of others resulting from
 9 abatement, retainer, advancement, and ademption.

524#3-0903

10 524.3-903 RIGHT OF RETAINER.

11 The amount of a non-contingent indebtedness of a successor
 12 to the estate if due, or its present value if not due, shall be
 13 offset against the successor's interest; but the successor has
 14 the benefit of any defense which would be available to ~~him~~ the *
 15 successor in a direct proceeding for recovery of the debt. *

524#3-0906

16 524.3-906 DISTRIBUTION IN KIND; VALUATION; METHOD.

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

21 (1) A specific devisee is entitled to distribution of the
 22 thing devised ~~to him~~, and a spouse or child who has selected *
 23 particular assets of an estate shall receive the items selected.

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

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

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

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

32 (3) For the purpose of valuation under paragraph (2)
 33 securities regularly traded on recognized exchanges, if
 34 distributed in kind, are valued at the price for the last sale
 35 of like securities, traded on the business day prior to
 36 distribution, or if there was no sale on that day, at the median
 37 between amounts bid and offered at the close of that day.
 38 Assets consisting of sums owed the decedent or the estate by
 39 solvent debtors as to which there is no known dispute or defense
 40 are valued at the sum due with accrued interest or discounted to
 41 the date of distribution. For assets which do not have readily
 42 ascertainable values, a valuation as of a date not more than 30
 43 days prior to the date of distribution, if otherwise reasonable,
 44 controls. For purposes of facilitating distribution, the
 45 personal representative may ascertain the value of the assets as
 46 of the time of the proposed distribution in any reasonable way,
 47 including the employment of qualified appraisers, even if the
 48 assets may have been previously appraised.

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

53 (b) After the probable charges against the estate are
 54 known, the personal representative may mail or deliver a
 55 proposal for distribution to all persons who have a right to
 56 object to the proposed distribution. The right of any
 57 distributee to object to the proposed distribution on the basis
 58 of the kind or value of asset ~~he~~ the distributee is to receive, *
 59 if not waived earlier in writing, terminates if ~~he~~ the *
 60 distributee fails to object in writing received by the personal *
 61 representative within 30 days after mailing or delivery of the
 62 proposal.

524#3-0909

63 524.3-909 IMPROPER DISTRIBUTION; LIABILITY OF
64 DISTRIBUTEE.

65 Unless the distribution or payment no longer can be
 66 questioned because of adjudication, estoppel, or limitation, a
 67 distributee of property improperly distributed or paid, or a
 68 claimant who was improperly paid, is liable to return the
 69 property improperly received and its income since distribution
 70 if ~~he~~ the distributee or claimant has the property. ~~if he~~ A *
 71 distributee or claimant who does not have the property, ~~then he~~ *
 72 is liable to return the value as of the date of disposition of
 73 the property improperly received and ~~its~~ any income and gain *

1 received by ~~him~~. *

524#3-0912

2 524.3-912 PRIVATE AGREEMENTS AMONG SUCCESSORS TO
3 DECEDENT BINDING ON PERSONAL REPRESENTATIVE.

4 Subject to the rights of creditors and taxing authorities,
5 competent successors may agree among themselves to alter the
6 interests, shares, or amounts to which they are entitled under
7 the will of the decedent, or under the laws of intestacy, in any
8 way that they provide in a written contract executed by all who
9 are affected by its provisions. The personal representative
10 shall abide by the terms of the agreement subject to ~~his~~ the *
11 obligation to administer the estate for the benefit of
12 creditors, to pay all taxes and costs of administration, and to
13 carry out the responsibilities of ~~his~~ office for the benefit of *
14 any successors of the decedent who are not parties. Personal
15 representatives of decedent's estates are not required to see to
16 the performance of trusts if the trustee thereof is another
17 person who is willing to accept the trust. Accordingly,
18 trustees of a testamentary trust are successors for the purposes
19 of this section. Nothing herein relieves trustees of any duties
20 owed to beneficiaries of trusts.

524#3-0914

21 524.3-914 UNCLAIMED ASSETS.

22 If any asset of the estate has not been distributed because
23 the person entitled thereto cannot be found or refuses to accept
24 the same, or for any other good and sufficient reason the same
25 has not been paid over, the court may direct the personal
26 representative to deposit the same with the county treasurer,
27 taking duplicate receipts therefor, one of which ~~he~~ the personal *
28 representative shall file with the county auditor and the other *
29 in the court. If the money on hand exceeds the sum of \$2,000,
30 the court may direct the personal representative to purchase
31 with the money bearer bonds of the United States government or
32 of the state of Minnesota, or any of its political subdivisions,
33 which bonds shall be deposited with the county treasurer, taking
34 duplicate receipts therefor, one of which ~~he~~ the personal *
35 representative shall file with the county auditor and the other *
36 in the court, and the county treasurer shall collect the
37 interest on these bonds as it becomes due, and the money so
38 collected or deposited shall be credited to the county revenue
39 fund. Upon application to the court within 21 years after such
40 deposit, and upon notice to the county attorney and county
41 treasurer, the court may direct the county auditor to issue to
42 the person entitled thereto ~~his~~ a warrant for the amount of the *
43 money so on deposit including the interest collected on bonds
44 and, in the case of bonds, the county auditor shall issue to the
45 person entitled thereto ~~his~~ an order upon the county treasurer *
46 to deliver the bonds. No interest shall be allowed or paid
47 thereon, except as herein provided, and if not claimed within
48 such time no recovery thereof shall be had. The county
49 treasurer, with the approval of the court, may make necessary
50 sales, exchanges, substitutions, and transfers of bonds
51 deposited, as aforesaid, and may present the same for redemption
52 and invest the proceeds in other bonds of like character.

524#3-0915

53 524.3-915 DISTRIBUTION TO PERSON UNDER DISABILITY.

54 (a) A personal representative may discharge ~~his~~ the *
55 obligation to distribute to any person under legal disability by
56 distributing to ~~his~~ the person's guardian or conservator, or any *
57 other person authorized by this chapter or otherwise to give a
58 valid receipt and discharge for the distribution.

59 (b) When a minor child receives or is entitled to
60 distribution of personal property the court may order and direct
61 the personal representative of the estate to make payment of not
62 to exceed \$2,000 thereof to the parent or parents, custodian, or
63 the person, corporation, or institution with whom the minor
64 child is, for the benefit, support, maintenance, and education
65 of the minor child or may direct the investment of the whole or
66 any part thereof in a savings account, savings certificate, or
67 certificate of deposit in a bank, savings bank, building and
68 loan association, or savings and loan association having deposit
69 insurance, in the name of the minor child. When so invested the
70 savings account passbook, savings certificate, certificate of
71 deposit, or other acknowledgment of receipt of the deposit by
72 the depository as the case may be, is to be kept as provided by
73 the court, and the depository shall be instructed not to allow

1 such investment to be withdrawn, except by order of the court.
2 The court may authorize the use of any part or all thereof to
3 purchase United States government savings bonds in the minor's
4 name the bonds to be kept as provided by the court and to be
5 retained until the minor reaches majority unless otherwise
6 authorized by an order of the court.

524#3-0916

7 524.3-916 APPORTIONMENT OF ESTATE TAXES.

8 (a) For purposes of this section:

9 (1) "estate" means the gross estate of a decedent as
10 determined for the purpose of federal estate tax and the estate
11 tax payable to this state;

12 (2) "person" means any individual, partnership,
13 association, joint stock company, corporation, government,
14 political subdivision, governmental agency, or local
15 governmental agency;

16 (3) "person interested in the estate" means any person
17 entitled to receive, or who has received, from a decedent or by
18 reason of the death of a decedent any property or interest
19 therein included in the decedent's estate. It includes a
20 personal representative, conservator, and trustee;

21 (4) "state" means any state, territory, or possession of
22 the United States, the District of Columbia, and the
23 Commonwealth of Puerto Rico;

24 (5) "tax" means the federal estate tax and the state estate
25 tax determined by the commissioner of revenue pursuant to
26 chapter 291 and interest and penalties imposed in addition to
27 the tax;

28 (6) "fiduciary" means personal representative or trustee.

29 (b) Unless the will or other written instrument otherwise
30 provides, the tax shall be apportioned among all persons
31 interested in the estate. The apportionment is to be made in
32 the proportion that the value of the interest of each person
33 interested in the estate bears to the total value of the
34 interests of all persons interested in the estate. The values
35 used in determining the tax are to be used for that purpose. If
36 the decedent's will or other written instrument directs a method
37 of apportionment of tax different from the method described in
38 this code, the method described in the will or other written
39 instrument controls.

40 (c)(1) The court in which venue lies for the
41 administration of the estate of a decedent, on petition for the
42 purpose may determine the apportionment of the tax.

43 (2) If the court finds that it is inequitable to apportion
44 interest and penalties in the manner provided in subsection (b),
45 because of special circumstances, it may direct apportionment
46 thereof in the manner it finds equitable.

47 (3) If the court finds that the assessment of penalties
48 and interest assessed in relation to the tax is due to delay
49 caused by the negligence of the fiduciary, the court may charge
50 ~~him~~ the fiduciary with the amount of the assessed penalties and
51 interest. *

52 (4) In any action to recover from any person interested in
53 the estate the amount of the tax apportioned to the person in
54 accordance with this code the determination of the court in
55 respect thereto shall be prima facie correct.

56 (d)(1) The personal representative or other person in
57 possession of the property of the decedent required to pay the
58 tax may withhold from any property distributable to any person
59 interested in the estate, upon its distribution ~~to him~~, the
60 amount of tax attributable to ~~his~~ the person's interest. If the
61 property in possession of the personal representative or other
62 person required to pay the tax and distributable to any person
63 interested in the estate is insufficient to satisfy the
64 proportionate amount of the tax determined to be due from the
65 person, the personal representative or other person required to
66 pay the tax may recover the deficiency from the person
67 interested in the estate. If the property is not in the
68 possession of the personal representative or the other person
69 required to pay the tax, the personal representative or the
70 other person required to pay the tax may recover from any person
71 interested in the estate the amount of the tax apportioned to
72 the person in accordance with Laws 1975, Chapter 347.

73 (2) If property held by the personal representative is
74 distributed prior to final apportionment of the tax, the
75 distributee shall provide a bond or other security for the

1 apportionment liability in the form and amount prescribed by the
2 personal representative.

3 (e)(1) In making an apportionment, allowances shall be
4 made for any exemptions granted, any classification made of
5 persons interested in the estate and for any deductions and
6 credits allowed by the law imposing the tax.

7 (2) Any exemption or deduction allowed by reason of the
8 relationship of any person to the decedent or by reason of the
9 purposes of the gift inures to the benefit of the person bearing
10 such relationship or receiving the gift; but if an interest is
11 subject to a prior present interest which is not allowable as a
12 deduction, the tax apportionable against the present interest
13 shall be paid from principal.

14 (3) Any deduction for property previously taxed and any
15 credit for gift taxes or death taxes of a foreign country paid
16 by the decedent or ~~his~~ the decedent's estate inures to the
17 proportionate benefit of all persons liable to apportionment. *

18 (4) Any credit for inheritance, succession or estate taxes
19 or taxes in the nature thereof applicable to property or
20 interests includable in the estate, inures to the benefit of the
21 persons or interests chargeable with the payment thereof to the
22 extent proportionately that the credit reduces the tax.

23 (5) To the extent that property passing to or in trust for
24 a surviving spouse or any charitable, public or similar gift or
25 devisee is not an allowable deduction for purposes of the tax
26 solely by reason of an estate tax imposed upon and deductible
27 from the property, the property is not included in the
28 computation provided for in subsection (b) hereof, and to that
29 extent no apportionment is made against the property. The
30 sentence immediately preceding does not apply to any case if the
31 result would be to deprive the estate of a deduction otherwise
32 allowable under section 2053(d) of the Internal Revenue Code of
33 1954, as amended, of the United States, relating to deduction
34 for state death taxes on transfers for public, charitable, or
35 religious uses.

36 (f) No interest in income and no estate for years or for
37 life or other temporary interest in any property or fund is
38 subject to apportionment as between the temporary interest and
39 the remainder. The tax on the temporary interest and the tax,
40 if any, on the remainder is chargeable against the corpus of the
41 property or funds subject to the temporary interest and
42 remainder.

43 (g) Neither the personal representative nor other person
44 required to pay the tax is under any duty to institute any
45 action to recover from any person interested in the estate the
46 amount of the tax apportioned to the person until the expiration
47 of the three months next following final determination of the
48 tax. A personal representative or other person required to pay
49 the tax who institutes the action within a reasonable time after
50 the three month period is not subject to any liability or
51 surcharge because any portion of the tax apportioned to any
52 person interested in the estate was collectible at a time
53 following the death of the decedent but thereafter became
54 uncollectible. If the personal representative or other person
55 required to pay the tax cannot collect from any person
56 interested in the estate the amount of the tax apportioned to
57 the person, the amount not recoverable shall be equitably
58 apportioned among the other persons interested in the estate who
59 are subject to apportionment.

60 (h) A personal representative acting in another state or a
61 person required to pay the tax domiciled in another state may
62 institute an action in the courts of this state and may recover
63 a proportionate amount of the federal estate tax, of an estate
64 tax payable to another state or of a death duty due by a
65 decedent's estate to another state, from a person interested in
66 the estate who is either domiciled in this state or who owns
67 property in this state subject to attachment or execution. For
68 the purposes of the action the determination of apportionment by
69 the court having jurisdiction of the administration of the
70 decedent's estate in the other state is prima facie correct.

524#3-1001

71 524.3-1001 FORMAL PROCEEDINGS TERMINATING
72 ADMINISTRATION; TESTATE OR INTESTATE; ORDER OF DISTRIBUTION,
73 DECREE, AND GENERAL PROTECTION.

74 (a) (1) A personal representative or any interested person
75 may petition for an order of complete settlement of the estate.

1 The personal representative may petition at any time, and any
 2 other interested person may petition after one year from the
 3 appointment of the original personal representative except that
 4 no petition under this section may be entertained until the time
 5 for presenting claims which arose prior to the death of the
 6 decedent has expired. The petition may request the court to
 7 determine testacy, if not previously determined, to consider the
 8 final account or compel or approve an accounting and
 9 distribution, to construe any will or determine heirs and
 10 adjudicate the final settlement and distribution of the estate.
 11 After notice to all interested persons and hearing the court may
 12 enter an order or orders, on appropriate conditions, determining
 13 the persons entitled to distribution of the estate, and, as
 14 circumstances require, approving settlement and directing or
 15 approving distribution of the estate and discharging the
 16 personal representative from further claim or demand of any
 17 interested person.

18 (2) In such petition for complete settlement of the estate,
 19 the petitioner may apply for a decree. Upon the hearing, if in
 20 the best interests of interested persons, the court may issue
 21 its decree which shall determine the persons entitled to the
 22 estate and assign the same to them in lieu of ordering the
 23 assignment by the personal representative. The decree shall
 24 name the heirs and distributees, state their relationship to the
 25 decedent, describe the property, and state the proportions or
 26 part thereof to which each is entitled. In the estate of a
 27 testate decedent, no heirs shall be named in the decree unless
 28 all heirs be ascertained.

29 (3) In solvent estates, the hearing may be waived by
 30 written consent to the proposed account and decree of
 31 distribution or order of distribution by all heirs or
 32 distributees, and the court may then enter its order allowing
 33 the account and issue its decree or order of distribution.

34 (4) Where a decree or order for distribution is issued,
 35 the personal representative shall not be discharged until all
 36 property is paid or transferred to the persons entitled thereto,
 37 and the personal representative has otherwise fully discharged
 38 his the trust. If objections are filed with the court by the
 39 commissioner of revenue, no discharge shall be issued until the
 40 objections are determined. If no objection is filed, the court
 41 shall have the power to settle and distribute the estate and
 42 discharge the personal representative without regard to tax
 43 obligations.

44 (b) If one or more heirs or devisees were omitted as
 45 parties in, or were not given notice of, a previous formal
 46 testacy proceeding, the court, on proper petition for an order
 47 of complete settlement of the estate under this section, and
 48 after notice to the omitted or unnotified persons and other
 49 interested parties determined to be interested on the assumption
 50 that the previous order concerning testacy is conclusive as to
 51 those given notice of the earlier proceeding, may determine
 52 testacy as it affects the omitted persons and confirm or alter
 53 the previous order of testacy as it affects all interested
 54 persons as appropriate in the light of the new proofs. In the
 55 absence of objection by an omitted or unnotified person,
 56 evidence received in the original testacy proceeding shall
 57 constitute prima facie proof of due execution of any will
 58 previously admitted to probate, or of the fact that the decedent
 59 left no valid will if the prior proceedings determined this fact.

524#3-1002

60 524.3-1002 FORMAL PROCEEDINGS TERMINATING TESTATE
 61 ADMINISTRATION; ORDER CONSTRUING WILL WITHOUT ADJUDICATING
 62 TESTACY.

63 A personal representative administering an estate under an
 64 informally probated will or any devisee under an informally
 65 probated will may petition for an order of settlement of the
 66 estate which will not adjudicate the testacy status of the
 67 decedent. The personal representative may petition at any time,
 68 and a devisee may petition after one year, from the appointment
 69 of the original personal representative, except that no petition
 70 under this section may be entertained until the time for
 71 presenting claims which arose prior to the death of the decedent
 72 has expired. The petition may request the court to consider the
 73 final account or compel or approve an accounting and
 74 distribution, to construe the will and adjudicate final
 75 settlement and distribution of the estate. After notice to all

*
 *

1 devisees and the personal representative and hearing, the court
 2 may enter an order or orders, on appropriate conditions,
 3 determining the persons entitled to distribution of the estate
 4 under the will, and, as circumstances require, approving
 5 settlement and directing or approving distribution of the estate
 6 and discharging the personal representative from further claim
 7 or demand of any devisee who is a party to the proceeding and
 8 those ~~he~~ the devisee represents. If it appears that a part of *
 9 the estate is intestate, the proceedings shall be dismissed or
 10 amendments made to meet the provisions of section 524.3-1001.

524#3-1003

11 524.3-1003 CLOSING ESTATES; BY SWORN STATEMENT OF
 12 PERSONAL REPRESENTATIVE.

13 (a) Unless prohibited by order of the court and except for
 14 estates being administered in supervised administration
 15 proceedings, a personal representative may close an estate by
 16 filing with the court no earlier than four months after the date
 17 of original appointment of a general personal representative for
 18 the estate, a statement stating that ~~he~~ the filer, or a prior *
 19 personal representative whom ~~he~~ the filer has succeeded, has or *
 20 have:

21 (1) published notice to creditors and that the first
 22 publication occurred more than four months prior to the date of
 23 filing of the statement;

24 (2) fully administered the estate of the decedent by making
 25 payment, settlement or other disposition of all claims which
 26 were presented, expenses of administration and estate and other
 27 taxes, except as specified in the statement, and that the assets
 28 of the estate have been inventoried and distributed to the
 29 persons entitled. If any claims, expenses or taxes remain
 30 undischarged, the statement shall state in detail other
 31 arrangements which have been made to accommodate outstanding
 32 liabilities; and

33 (3) prior to filing the statement, sent a copy thereof to
 34 all distributees of the estate and to all creditors or other
 35 ~~known~~ claimants ~~of-whom-he-is-aware~~ whose claims are neither *
 36 paid nor barred and has furnished a full account in writing
 37 of ~~his~~ the personal representative's administration to the *
 38 distributees whose interests are affected thereby.

39 (b) If no proceedings involving the personal representative
 40 are pending in the court one year after the closing statement is
 41 filed, the appointment of the personal representative
 42 terminates. Letters of appointment remain in full force until
 43 one year after the filing of the closing statement at which time
 44 the authority of the personal representative shall terminate.

524#3-1004

45 524.3-1004 LIABILITY OF DISTRIBUTEES TO CLAIMANTS.

46 After assets of an estate have been distributed and subject
 47 to section 524.3-1006, an undischarged claim not barred may be
 48 prosecuted in a proceeding against one or more distributees. No
 49 distributee shall be liable to claimants for amounts in excess
 50 of the value of ~~his~~ the distributee's distribution as of the *
 51 time of distribution. As between distributees, each shall bear
 52 the cost of satisfaction of unbarred claims as if the claim had
 53 been satisfied in the course of administration. Any distributee
 54 who shall have failed to notify other distributees of the demand *
 55 made ~~upon-him~~ by the claimant in sufficient time to permit them
 56 to join in any proceeding in which the claim was asserted *
 57 against ~~him~~ the first distributee loses ~~his~~ the right of *
 58 contribution against other distributees.

524#3-1007

59 524.3-1007 CERTIFICATE DISCHARGING LIENS SECURING
 60 FIDUCIARY PERFORMANCE.

61 After ~~his~~ the appointment has terminated, the personal *
 62 representative, ~~his~~ the personal representative's sureties, or *
 63 any successor of either, upon the filing of an application
 64 showing, so far as is known by the applicant, that no action
 65 concerning the estate is pending in any court, is entitled to
 66 receive a certificate from the registrar that the personal
 67 representative appears to have fully administered the estate in
 68 question. The certificate evidences discharge of any lien on
 69 any property given to secure the obligation of the personal
 70 representative in lieu of bond or any surety, but does not
 71 preclude action against the personal representative or the
 72 surety.

524#3-1202

1 524.3-1202 EFFECT OF AFFIDAVIT.

2 The person paying, delivering, transferring, or issuing
 3 personal property or the evidence thereof pursuant to affidavit
 4 is discharged and released to the same extent as if ~~he~~ the *
 5 person dealt with a personal representative of the decedent. He *
 6 The person is not required to see to the application of the *
 7 personal property or evidence thereof or to inquire into the
 8 truth of any statement in the affidavit. If any person to whom
 9 an affidavit is delivered refuses to pay, deliver, transfer, or
 10 issue any personal property or evidence thereof, it may be
 11 recovered or its payment, delivery, transfer, or issuance
 12 compelled upon proof of their right in a proceeding brought for
 13 the purpose by or on behalf of the persons entitled thereto.
 14 Any person to whom payment, delivery, transfer or issuance is
 15 made is answerable and accountable therefor to any personal
 16 representative of the estate or to any other person having a
 17 superior right.

524#3-1204

18 524.3-1204 SMALL ESTATES; CLOSING BY SWORN STATEMENT OF
19 PERSONAL REPRESENTATIVE.

20 (a) Unless prohibited by order of the court and except for
 21 estates being administered by supervised personal
 22 representatives, a personal representative may close an estate
 23 administered under the summary procedures of section 524.3-1203
 24 by filing with the court, at any time after disbursement and
 25 distribution of the estate, a statement stating that:

26 (1) to the best knowledge of the personal representative,
 27 the entire estate, less liens and encumbrances, did not exceed
 28 an exempt homestead as provided for in section 525.145, the
 29 allowances provided for in section 525.15, costs and expenses of
 30 administration, reasonable funeral expenses, and reasonable,
 31 necessary medical and hospital expenses of the last illness of
 32 the decedent;

33 (2) the personal representative has fully administered the
 34 estate by disbursing and distributing it to the persons entitled
 35 thereto; and

36 (3) the personal representative has sent a copy of the
 37 closing statement to all distributees of the estate and to all
 38 creditors or other known claimants ~~of-whom-he-is-aware~~ whose *
 39 claims are neither paid nor barred and has furnished a full *
 40 account in writing of ~~his~~ the personal representative's
 41 administration to the distributees whose interests are affected.

42 (b) If no actions or proceedings involving the personal
 43 representative are pending in the court one year after the
 44 closing statement is filed, the appointment of the personal
 45 representative terminates.

46 (c) A closing statement filed under this section has the
 47 same effect as one filed under section 524.3-1003.

524#4-0201

48 524.4-201 PAYMENT OF DEBT AND DELIVERY OF PROPERTY TO
49 DOMICILIARY FOREIGN PERSONAL REPRESENTATIVE WITHOUT LOCAL
50 ADMINISTRATION.

51 At any time after the expiration of 60 days from the death
 52 of a nonresident decedent, any person indebted to the estate of
 53 the nonresident decedent or having possession or control of an
 54 instrument evidencing a debt, obligation, stock or chose in
 55 action belonging to the estate of the nonresident decedent may
 56 pay the debt, deliver the instrument evidencing the debt,
 57 obligation, stock or chose in action, to the domiciliary foreign
 58 personal representative of the nonresident decedent upon being
 59 presented with proof of ~~his~~ appointment and an affidavit made by *
 60 or on behalf of the representative stating:

61 (1) the date of the death of the nonresident decedent,

62 (2) that no local administration, or application or
 63 petition therefor, is pending in this state,

64 (3) that the domiciliary foreign personal representative is
 65 entitled to payment or delivery.

524#4-0204

66 524.4-204 PROOF OF AUTHORITY-BOND.

67 If no local administration or application or petition
 68 therefor is pending in this state, a domiciliary foreign
 69 personal representative may file the following with a court in
 70 this state in a county in which property belonging to the
 71 decedent is located:

72 (1) A certified or authenticated copy of ~~his~~ the *
 73 appointment and of any official bond ~~he-has~~ given, and *

1 (2) Notice of ~~his~~ an intention to exercise as to assets in *
 2 this state all powers of a local personal representative and to
 3 maintain actions and proceedings in this state in accordance
 4 with section 524.4-205.

5 When a domiciliary foreign personal representative files a
 6 certified or authenticated copy of ~~his~~ the appointment and of *
 7 any official bond and a notice in accordance with the preceding
 8 sentence, the clerk of court shall forthwith publish, at the
 9 expense of the estate, a notice once a week for two consecutive
 10 weeks in a legal newspaper in the county, giving the name and
 11 address of the domiciliary foreign personal representative and
 12 stating ~~his~~ an intention to exercise as to assets in this state *
 13 all powers of a local personal representative and to maintain
 14 actions and proceedings in this state in accordance with section
 15 524.4-205.

524#4-0206

16 524.4-206 POWER OF REPRESENTATIVES IN TRANSITION.

17 The power of a domiciliary foreign personal representative
 18 under section 524.4-201 or 524.4-205 shall be exercised only if
 19 there is no administration or application therefor pending in
 20 this state. Any application or petition for local
 21 administration of the estate terminates the power of the foreign
 22 personal representative to act under sections 524.4-201 and
 23 524.4-205, but the local court may allow the foreign personal
 24 representative to exercise limited powers to preserve the
 25 estate. No assets which have been removed from this state by
 26 the foreign personal representative through exercise of powers
 27 under sections 524.4-201 or 524.4-205 shall be subject to
 28 subsequent local administration. No person who, before
 29 receiving actual notice of a pending local administration, has
 30 changed ~~his~~ position in reliance upon the powers of a foreign *
 31 personal representative or who is a distributee from the foreign
 32 personal representative shall be prejudiced by reason of the
 33 application or petition for, or grant of, local administration.
 34 The local personal representative is subject to all rights in
 35 others and all duties and obligations which have accrued by
 36 virtue of the exercise of the powers by the foreign personal
 37 representative and may be substituted for ~~him~~ the foreign *
 38 personal representative in any action or proceedings in this *
 39 state.

524#4-0301

40 524.4-301 JURISDICTION BY ACT OF FOREIGN PERSONAL
 41 REPRESENTATIVE.

42 A foreign personal representative submits personally to the
 43 jurisdiction of the courts of this state in any proceeding
 44 relating to the estate by (1) filing certified or authenticated
 45 copies of ~~his~~ the appointment as provided in section 524.4-204, *
 46 (2) receiving payment of money or taking delivery of property
 47 under section 524.4-201, or (3) doing any act as a personal
 48 representative in this state which would have given the state *
 49 jurisdiction over ~~him~~ the personal representative as an
 50 individual. Jurisdiction under (2) is limited to the money or
 51 value of personal property collected.

524#4-0302

52 524.4-302 JURISDICTION BY ACT OF DECEDENT.

53 In addition to jurisdiction conferred by section 524.4-301,
 54 a foreign personal representative is subject to the jurisdiction
 55 of the courts of this state to the same extent that ~~his~~ the *
 56 decedent was subject to jurisdiction immediately prior to death.

524#4-0303

57 524.4-303 SERVICE ON FOREIGN AND NONRESIDENT PERSONAL
 58 REPRESENTATIVES.

59 (a) Service of process may be made upon a foreign personal
 60 representative and a nonresident personal representative
 61 appointed in this state by registered or certified mail,
 62 addressed to ~~his~~ the last reasonably ascertainable address, *
 63 requesting a return receipt signed by addressee only. Notice by
 64 ordinary first class mail is sufficient if registered or
 65 certified mail service to the addressee is unavailable. Service
 66 may be made upon a foreign personal representative or a
 67 nonresident personal representative appointed in this state in
 68 the manner in which service could have been made under other
 69 laws of this state on either the foreign personal
 70 representative, the nonresident personal representative
 71 appointed in this state, or ~~his~~ the decedent immediately prior *
 72 to death.

1 (b) If service is made upon a foreign personal
 2 representative or a nonresident personal representative
 3 appointed in this state as provided in subsection (a), he the *
 4 person served shall be allowed at least 30 days within which to *
 5 appear or respond.

524#4-0401

6 524.4-401 EFFECT OF ADJUDICATION FOR OR AGAINST PERSONAL
 7 REPRESENTATIVE.

8 An adjudication rendered in any jurisdiction in favor of or
 9 against any personal representative of the estate is as binding
 10 on the local personal representative as if he the local personal *
 11 representative were a party to the adjudication. *

524#5-0505

12 524.5-505 DELEGATION OF POWERS BY PARENT OR GUARDIAN.

13 A parent or a guardian of a minor or incapacitated person,
 14 by a properly executed power of attorney, may delegate to *
 15 another person, for a period not exceeding six months, any of *
 16 ~~his~~ powers regarding care, custody, or property of the minor or *
 17 ward, except ~~his~~ the power to consent to marriage or adoption of *
 18 a minor ward.

525*#012S

19 525.012 FEES, FINES, AND COSTS.

20 No change for subd 1

21 Subd. 2. On or before the tenth day of each month, the
 22 clerk shall file with the treasurer a verified report showing:
 23 (1) The names of all persons convicted during the preceding
 24 month, and the nature of the offense; (2) The fine or other
 25 punishment imposed; (3) The amount paid by cash, and the amount
 26 of cash deposited in lieu of bail, since ~~his~~ the last report; *
 27 (4) The total amount of money received from all sources during
 28 the same period; (5) The names of all persons discharged from
 29 jail by order of the court.

30 No change for subd 3

31 Subd. 4. Upon filing the reports required by this section,
 32 the clerk shall pay to the treasurer of the county in which the
 33 court is situated all sums in ~~his~~ the clerk's hands to which the *
 34 treasurer is entitled; ~~he~~ shall pay all other moneys to the *
 35 other public officers entitled thereto; and ~~he~~ shall inform the *
 36 treasurer of all moneys remaining in ~~his~~ the clerk's hands *
 37 pursuant to law or court order.

38 Subd. 5. The clerk shall pay such fees and mileage to
 39 witnesses as may be ordered by the probate judge in any action
 40 or proceeding involving a charged violation of criminal law or
 41 municipal ordinance. The clerk shall obtain receipts therefor
 42 as vouchers for the sums paid and shall deduct these payments
 43 from the amounts otherwise due the officers to whom the clerk is
 44 required to pay fees, costs, and fines. If the clerk is without
 45 funds to make the payments required by this subdivision, the
 46 witnesses shall be paid, upon certification by the clerk, by the
 47 city whose municipal ordinance, charter provision, rule, or
 48 regulation is involved in the proceeding, and in other cases by
 49 the county in which the court is situated. No witness fees
 50 under this subdivision shall be paid in advance. No public
 51 officer or employee shall be paid any witness fees when ~~he-is~~ *
 52 called upon to testify in a matter resulting from ~~his~~ public *
 53 employment.

525*#013S

54 525.013 JURY TRIALS.

55 No change for subd 1 to 6

56 Subd. 7. Jurors shall be paid by the county in which the
 57 court is situated the same compensation and mileage as
 58 prescribed by law for jurors in the district court. The clerk
 59 of probate court shall deliver to each juror a certificate
 60 showing the number of days of service and the mileage for which
 61 he the juror is entitled to receive compensation. This *
 62 certificate shall be filed with the county auditor in which the
 63 court is situated and the amount due shall be paid from the
 64 treasury of such county. The certificate is a proper and
 65 sufficient voucher for the issuance of a warrant. Any juror
 66 regularly summoned who actually attends at the time named in
 67 such summons is entitled to per diem and mileage whether or not
 68 sworn as a juror.

69 No change for subd 8

525*#015S

70 525.015 JUDGMENTS.

71 No judgment of a probate court under sections 525.011 to

1 525.015 shall be a lien upon the real estate until a transcript
 2 thereof is filed and docketed with the clerk of the district
 3 court. If no execution thereon be outstanding, the judgment
 4 creditor may cause such transcript to be docketed in the same
 5 county, and thereafter execution may issue from either court.
 6 The clerk with whom the transcript is so filed may issue
 7 transcripts to be filed and docketed in other counties, as in
 8 the case of a judgment originally rendered in ~~his~~ the clerk's *
 9 court. When docketed as herein provided, the judgment shall
 10 have the same force and effect in all respects as the judgment
 11 of the district court.

525*#041S

12 525.041 WRITTEN DECISION SHALL BE FILED WITHIN 90 DAYS;
 13 MANDATORY.

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

17 Upon the filing of any appealable order, judgement, or
 18 decree, except in uncontested matters or where the final
 19 decision was announced at the hearing, the court shall give
 20 notice by mail of such filing to each party, or ~~his~~ the *
 21 attorney, who appeared of record at the hearing.

525*#05S

22 525.05 JUDGE OR REFEREE; GROUNDS FOR DISQUALIFICATION.

23 The following shall be grounds for disqualification of any
 24 judge or referee from acting in any matter: (1) That the judge
 25 or the judge's spouse or any of either of their kin nearer than
 26 first cousin is interested as representative, heir, devisee,
 27 legatee, ward, or creditor in the estate involved therein; (2)
 28 that it involves the validity or interpretation of a will drawn
 29 or witnessed by the judge; (3) that the judge may be a necessary
 30 witness in the matter; (4) that it involves a property right in
 31 respect to which the judge has been engaged or is engaged as an
 32 attorney; or (5) that the judge was engaged in a joint
 33 enterprise for profit with the decedent at the time of death or
 34 that the judge is then engaged in a joint enterprise for profit
 35 with any person interested in the matter as representative,
 36 heir, devisee, legatee, ward, or creditor. When grounds for
 37 disqualification exist, the judge may, and upon proper petition
 38 of any person interested in the estate must, request the probate
 39 judge of another county or a probate judge who has retired as
 40 provided in section 490.12, subdivision 2, to act in ~~his~~ the *
 41 judge's stead in the matter. *

525*#051S

42 525.051 TEMPORARY ASSIGNMENT OF JUDGES.

43 Whenever by reason of disqualification, absence, illness,
 44 incapacity or other cause, the probate judge of any county is
 45 unable to act, or whenever the interest of the public or of any
 46 person interested in any matter requires that such probate judge
 47 should not act, any other probate judge, or probate judge who
 48 has retired as a probate judge, and who consents so to act, may
 49 be assigned to serve and discharge the duties of such probate
 50 judge in ~~his~~ the judge's stead at such times or for such *
 51 purposes as may be directed by order of such probate judge or in *
 52 the event of ~~his~~ death or ~~his~~ refusal, failure, or inability so
 53 to order as determined by the chief judge of the district court
 54 of the judicial district in which the county is situated, by
 55 order of such chief judge. Any probate judge or retired probate
 56 judge temporarily assigned to serve and discharge the duties of
 57 the probate judge in such other county shall be reimbursed for
 58 all reasonable and necessary mileage and expenses and may, when
 59 so ordered by such chief judge, be paid such additional
 60 compensation as such chief judge shall fix, but in no event
 61 shall any compensation so paid exceed the rate of compensation
 62 prescribed by law as the salary of the probate judge in the
 63 county in which said probate judge or retired probate judge is
 64 temporarily assigned. It shall be the duty of the county to
 65 which a probate judge or retired probate judge is temporarily
 66 assigned to make payment to such probate judge or retired
 67 probate judge of all amounts due ~~him~~ under the provisions hereof *
 68 for mileage, expenses or compensation.

69 Any substitute judge while acting in such capacity shall
 70 have all the power, authority, and jurisdiction of the resident
 71 judge, including juvenile, municipal or other jurisdiction
 72 conferred by law, irrespective of the nature of the jurisdiction
 73 of the substitute judge in the county from which called to serve.

525*#053S

1 525.053 DELIVERY TO SUCCESSOR.
 2 When the term of office of any judge expires, he the judge *
 3 shall deliver to his the successor all books, records, and *
 4 papers in his the judge's possession relating to his that *
 5 office. Upon his failure to do so within five days after demand *
 6 by his the successor, he the judge shall be guilty of a gross *
 7 misdemeanor.

525*#07S

8 525.07 ACTING AS COUNSEL PROHIBITED.
 9 No judge, referee, registrar, clerk, deputy clerk, or
 10 employee of any court, or the law partner of any of them, shall
 11 be counsel or attorney in any action or proceedings for or
 12 against any devisee, legatee, heir, creditor, representative, or
 13 ward over whom, or whose estate, claim, or accounts such court
 14 has jurisdiction. Except in matters relating to commitments,
 15 none of them shall give counsel or advice, or draw or prepare
 16 any paper relating to any matter which is or may be brought
 17 before such court, except orders, judgments, decrees,
 18 executions, warrants, certificates, or subpoenas issuing out of
 19 such court. No judge, referee, registrar, or clerk shall keep
 20 or hold his official office with any practicing attorney. *

525*#081S

21 525.081 PRACTICE OF LAW; APPRAISALS.
 22 Subd. 7. No judge of the probate court shall practice as
 23 an attorney or counselor at law, nor ~~shall he~~ be a partner of *
 24 any practicing attorney in the business of his the judge's *
 25 profession, nor ~~shall he~~ serve as an appraiser in any estate *
 26 proceeding.
 27 Subd. 8. Repealed, 1977 c 432 s 49
 28 Subd. 9. Repealed, 1977 c 432 s 49

525*#09S

29 525.09 CLERKS; APPOINTMENT; POWERS.
 30 The judge may appoint a clerk, deputy clerks, and employees
 31 as provided by law, to hold office during his the judge's *
 32 pleasure, who shall perform the duties imposed by law and such
 33 judge. Such appointments shall be in writing and filed in such
 34 court. Before entering upon the duties of his office, each *
 35 clerk and such deputy clerks and employees designated by the
 36 court shall execute a bond to the state in the amount of \$1,000
 37 approved by the county board and conditioned upon the faithful
 38 discharge of his duties. Such bond with the oath of the *
 39 appointee shall be recorded in the office of the county
 40 recorder. The premiums on such bonds and the expenses of such
 41 recording and filing shall be paid by the county. An action may
 42 be maintained on such bond by any person aggrieved by the
 43 violation of the conditions thereof. A clerk or deputy clerk
 44 may take acknowledgments, administer oaths, authenticate,
 45 exemplify, or certify copies of instruments, documents, or
 46 records of the court, and when so ordered may hear and report to
 47 the court the testimony of any witnesses and the interrogatories
 48 and objections of counsel.

525*#091S

49 525.091 DESTRUCTION AND REPRODUCTION OF PROBATE RECORDS.
 50 Subdivision 1. The clerk of court of any county upon order
 51 of the probate judge may destroy all the original documents in *
 52 any proceeding of record in his the office five years after the
 53 file in such proceeding has been closed provided the original or
 54 a Minnesota state archives commission approved photographic,
 55 photostatic, microphotographic, microfilmed, or similarly
 56 reproduced copy of the original of the following enumerated
 57 documents in the proceeding are on file in his the office. *
 58 Enumerated original documents:
 59 (a) In estates, the jurisdictional petition and proof of
 60 publication of the notice of hearing thereof; will and
 61 certificate of probate; letters; inventory and appraisal; orders
 62 directing and confirming sale, mortgage, lease, or for
 63 conveyance of real estate; order setting apart statutory
 64 selection; receipts for federal estate taxes and state estate
 65 taxes; orders of distribution and general protection; decrees of
 66 distribution; federal estate tax closing letter, consent to
 67 discharge by commissioner of revenue and order discharging
 68 representative; and any amendment of the listed documents.
 69 When an estate is deemed closed as provided in clause (d)
 70 of this subdivision, the enumerated documents shall include all
 71 claims of creditors.

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

7 (c) In mental, inebriety, and indigent matters, the
 8 jurisdictional petition; report of examination; warrant of
 9 commitment; notice of discharge from institution, or notice of
 10 death and order for restoration to capacity; and any amendment
 11 of the listed documents.

12 (d) Except for the enumerated documents described in this
 13 subdivision, the clerk of probate court may destroy all other
 14 original documents in any proceeding without retaining any
 15 reproduction of the document. For the purpose of this
 16 subdivision, a proceeding in the probate court is deemed closed
 17 if no document has been filed in the proceeding for a period of
 18 15 years, except in the cases of wills filed for safe-keeping
 19 and those containing wills of decedents not adjudicated upon.

20 Subd. 2. The clerk of probate court of any county upon
 21 order of the probate judge may destroy the original record books
 22 as enumerated in this subdivision provided a Minnesota state
 23 archives commission approved photographic, photostatic,
 24 microphotographic, microfilmed, or similarly reproduced copy of
 25 the original record book is on file in ~~his~~ the office. *

26 Enumerated original record books:

27 All record books kept for recording in compliance with
 28 section 525.03, clauses (3), (4), (5) and (6).

29 No change for subd 3 to 4

525*#092S

30 525.092 CLERK MAY DESTROY CERTAIN PAPERS.

31 Subdivision 1. CERTAIN VOUCHERS AND RECEIPTS. The
 32 clerk of the probate court is hereby authorized to destroy all
 33 vouchers or receipts filed in estates and guardianship
 34 proceedings of record in ~~his~~ the office after such estates or
 35 guardianships have been closed for a period of 25 years, or
 36 more, except receipts for any federal or state taxes. *

37 Subd. 2. CERTAIN GUARDIANSHIPS EXCEPTED. The
 38 provisions of this section shall not apply to guardianships of
 39 incompetent or insane persons, nor to guardianships of minors
 40 until one year after the minor has ~~attained-his-eighteenth~~
 41 birthday become 18 years old. *

525*#095S

42 525.095 CLERK MAY ISSUE ORDERS UNDER DIRECTION OF THE
 43 COURT.

44 The judge may authorize the clerk or any deputy clerk to
 45 issue orders for hearing petitions for general administration,
 46 for the probate of any will, for determination of descent, for
 47 sale, lease, mortgage, or conveyance of real estate, for the
 48 settlement and allowance of any account, for partial or final
 49 distribution, for commitment, orders limiting the time to file
 50 claims and fixing the time and place for the hearing thereon,
 51 and to issue notice of the entry of any order. The issuance of
 52 any such order or notice by the clerk or deputy clerk shall be
 53 prima facie evidence of ~~his~~ authority to issue it. *

525*#101S

54 525.101 COMPENSATION OF REFEREE.

55 Such referee shall receive from the county as compensation
 56 \$3,600 per annum in counties having more than 500,000
 57 inhabitants, payable from the general funds of the county not
 58 otherwise appropriated, at the same time and in the same manner
 59 and subject to the provisions of law applicable to the
 60 compensation of the judge. The county shall furnish ~~him-with~~ a
 61 suitable office in the courthouse or in some other suitable
 62 place or places designated by the judge. The judge may assign
 63 to the referee from the court's clerks and employees such
 64 clerical help as may be necessary to ~~enable-him~~ properly to
 65 discharge ~~his~~ the duties. *

525*#102S

66 525.102 REFERENCE.

67 After such appointment the judge by order may refer to the
 68 referee any matter, cause, or proceeding pending in such court.
 69 In all matters so referred the referee shall find the facts and
 70 report the findings to the judge. In all matters referred and
 71 reported the referee may append ~~his~~ the referee's signature to
 72 the order or decree of the court; and whenever ~~his~~ this *

1 signature shall be so appended, it shall constitute conclusive
2 evidence that the matter was referred, heard, and reported in
3 the manner required by law and the order of the court therein,
4 provided that the failure of the referee to append ~~his~~ the
5 referee's signature to any such order or decree shall not affect
6 its validity. *

525*#103S

7 525.103 DELIVERY OF BOOKS AND RECORDS.

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

525*#11S

14 525.11 REPORTER; APPOINTMENT AND DUTIES.

15 The judge may appoint a competent stenographer as reporter
16 and secretary in all matters pertaining to ~~his~~ official duties
17 to hold office during ~~his~~ the judge's pleasure. Such reporter
18 shall make a complete record of all testimony given and all
19 proceedings had before the court upon the trial of issue of fact
20 except that in commitment proceedings a tape recording of the
21 proceedings may be kept in lieu of a stenographic record. The
22 reporter shall inscribe all questions in the exact language
23 thereof, all answers thereto precisely as given by the witness
24 or sworn interpreter, all objections made and the grounds
25 thereof as stated by counsel, all rulings thereon, all
26 exceptions taken, all admissions made, all oral stipulations,
27 and all oral motions and orders. When directed by the judge, ~~he~~
28 the reporter shall make a record of any matter or proceeding and
29 without charge shall read to or transcribe for such judge any
30 record made ~~by-him~~ or any tape recording made in a commitment
31 proceeding. Upon completion of every trial or proceeding, such
32 reporter shall file ~~his~~ the stenographic record or tape
33 recording in the manner directed by the judge. Upon request of
34 any person and payment of ~~his~~ fees by such person, ~~he~~ the
35 reporter shall furnish a transcript. The reporter may take
36 acknowledgments, administer oaths, and certify copies of ~~his~~ the
37 stenographic record or transcript of either such record or tape
38 recording made in a commitment proceeding. *

525*#111S

39 525.111 COMPENSATION; TRANSCRIPT FEES.

40 Where the salary of the reporter is not provided for by
41 law, ~~his~~ compensation shall be paid by the representative as an
42 expense of administration or guardianship, or by the party or
43 parties presenting or contesting the proceedings reported, as
44 the court may determine. In addition to the salary fixed by law
45 or compensation fixed by the court, the reporter shall receive
46 for transcripts furnished such fees as may be fixed by the court
47 not exceeding those allowed by law to the district court
48 reporters of the same county. *

525*#121S

49 525.121 POWERS.

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

525*#13S

55 525.13 ESTATE.

56 As used in sections 525.13 to 525.161, the word "estate"
57 includes every right and interest of a decedent in property,
58 real or personal, except such as are terminated or otherwise
59 extinguished by ~~his~~ the death. *

525*#15S

60 525.15 ALLOWANCES TO SPOUSE.

61 When any person dies, testate or intestate,

62 (1) The surviving spouse shall be allowed from the personal
63 property of which the decedent was possessed or to which ~~he~~ the
64 decedent was entitled at the time of ~~his~~ death, the wearing
65 apparel, and, as selected ~~by-him~~, furniture and household goods
66 not exceeding \$6,000 in value, and other personal property not
67 exceeding \$3,000 in value; *

68 (2) When, except for one automobile, all of the personal
69 estate of the decedent is allowed to the surviving spouse by
70 clause (1), the surviving spouse shall also be allowed such

1 automobile;

2 (3) If there be no surviving spouse, the minor children
3 shall receive the property specified in clause (1) as selected
4 in their behalf;

5 (4) During administration, but not exceeding 18 months,
6 unless an extension shall have been granted by the court, or, if
7 the estate be insolvent, not exceeding 12 months, the spouse or
8 children, or both, constituting the family of the decedent shall
9 be allowed reasonable maintenance;

10 (5) In the administration of an estate of a nonresident
11 decedent, the allowances received in the domiciliary
12 administration shall be deducted from the allowances under this
13 section.

525*#151S

14 525.151 ALLOWANCE SELECTION AND MAINTENANCE PAYMENT.

15 The surviving spouse, and conservators or guardians of the
16 minor children, may select the property of the estate allowed to
17 them under section 525.15, clauses (1), (2) and (3). The
18 personal representative may make these selections if the
19 surviving spouse or the conservators or guardians of the minor
20 children are unable or fail to do so within a reasonable time or
21 if there are no conservators or guardians of the minor
22 children. The personal representative may execute an instrument
23 or deed of distribution to establish the ownership of such
24 property. ~~He~~ The personal representative may determine
25 maintenance in periodic installments not exceeding \$500 per
26 month for one year, if the estate is insolvent or 18 months if
27 the estate is solvent, and may disburse funds of the estate in
28 payment of such maintenance. The personal representative or any
29 interested person aggrieved by any selection, determination,
30 payment, proposed payment, or failure to act under this section
31 may petition the court for appropriate relief which relief may
32 provide a family allowance larger or smaller than that which the
33 personal representative determined or could have determined.

525*#16S

34 525.16 DESCENT OF PROPERTY.

35 Except as provided in sections 525.14 and 525.145, and
36 subject to the allowances provided in section 525.15, and the
37 payment of the expenses of administration, funeral expenses,
38 expenses of last illness, taxes, and debts, the estate, real and
39 personal, shall descend and be distributed as follows:

40 (1) Personal property: To the surviving spouse one-third
41 thereof free from any testamentary disposition thereof to which
42 such survivor shall not have consented in writing or by election
43 to take under the will as provided by law;

44 (2) Real property: To the surviving spouse an undivided
45 one-third of all real property of which the decedent at any time
46 while married to such spouse was seized or possessed, to the
47 disposition whereof by will or otherwise such survivor shall not
48 have consented in writing or by election to take under the will
49 as provided by law, except such as has been transferred or sold
50 by judicial partition proceedings or appropriated to the payment
51 of the decedent's debts by execution or judicial sale, by
52 general assignment for the benefit of creditors, or by
53 insolvency or bankruptcy proceedings, and subject to all
54 judgment liens;

55 (3) If only a spouse, or a spouse and only one child or the
56 issue of a deceased child survive, the share of the spouse under
57 the provisions of clauses (1) and (2) shall be one-half instead
58 of one-third;

59 (4) Subject to the preceding provisions of this section,
60 the whole estate, real and personal, except as otherwise
61 disposed of by will shall descend and be distributed as follows:

62 (a) In equal shares to the surviving children and to the
63 issue of deceased children by right of representation;

64 (b) If there be no surviving child nor issue of any
65 deceased child, and if the intestate leave a surviving spouse,
66 then to such spouse;

67 (c) If there be no surviving issue nor spouse, then to the
68 father and mother in equal shares, or if but one survive, then
69 to such survivor;

70 (d) If there be no surviving issue, spouse, father nor
71 mother, then in equal shares to the surviving brothers and
72 sisters and to the issue of deceased brothers and sisters by
73 right of representation; and if there be no surviving brothers
74 or sisters, then in equal shares to the issue of deceased

1 brothers and sisters if all are of equal degree and, if not,
2 then in equal shares to those in the nearest degree and by right
3 of representation to those in a more remote degree;

4 (e) If there be no surviving issue, spouse, father, mother,
5 brother, sister, nor issue of any deceased brother or sister,
6 then in equal shares to the next of kin in equal degree, except
7 that when there are two or more collateral kindred in equal
8 degree claiming through different ancestors, those who claim
9 through the nearest ancestor shall take to the exclusion of
10 those claiming through an ancestor more remote.

11 (5) If a minor dies leaving no spouse nor issue surviving,
12 all of ~~his~~ the minor's estate ~~that came to him by inheritance~~ *
13 inherited or received by will from his the minor's parent shall *
14 descend and be distributed to the other children of the same
15 parent, if any, and to the issue of any deceased child of such
16 parent in equal shares if all are of equal degree and, if not,
17 then in equal shares to those in the nearest degree and by right
18 of representation to those in a more remote degree; failing all
19 such, it shall descend and be distributed by intestate
20 succession as in other cases;

21 (6) If the intestate leave no spouse nor kindred, the
22 estate shall escheat to the state.

525*#17S

23 525.17 DEGREE OF KINDRED.

24 The degree of kindred shall be computed according to the
25 rules of the civil law. Kindred of the half blood shall inherit
26 equally with those of the whole blood in the same degree unless
27 the inheritance comes to the intestate by descent, devise, or
28 bequest from one of ~~his~~ the intestate's ancestors, in which case *
29 all those who are not of the blood of such ancestor shall be
30 excluded from such inheritance.

525*#172S

31 525.172 CERTAIN CHILDREN AS HEIRS.

32 A child born to a mother who was not married to the child's
33 father when the child was conceived nor when the child was born
34 shall inherit from ~~his~~ the mother the same as if the child was *
35 conceived or born to her while she was married, and also from
36 the person who in writing and before a competent witness shall *
37 have declared himself to be ~~his~~ the child's father, provided *
38 such writing or an authenticated copy thereof shall be produced
39 in the proceeding in which it is asserted or from the person who
40 has been determined to be the father of such child in a
41 paternity proceeding before a court of competent jurisdiction;
42 but such child shall not inherit from the kindred of the father
43 by right of representation.

525*#173S

44 525.173 HEIRS TO CERTAIN CHILDREN.

45 If any child born to a mother who was not married to the
46 child's father when the child was conceived nor when the child
47 was born dies intestate and without spouse or issue who inherit
48 under the law, ~~his~~ the intestate's estate shall descend to ~~his~~ *
49 the mother, or in case of her prior decease to her heirs other *
50 than such child.

525*#20S

51 525.20 AFTER-BORN CHILD.

52 If any child of the testator, including a posthumous child,
53 born after the making of a will has no provision made for ~~him~~ *
54 the child by the testator by will or otherwise, ~~he~~ the child *
55 shall take the same share ~~that he would have taken~~ as if the *
56 testator had died intestate unless it appears that such omission
57 was intentional and not occasioned by accident or mistake.

525*#201S

58 525.201 OMITTED CHILD.

59 If a testator omits to provide in ~~his~~ a will for any of ~~his~~ *
60 the testator's children or the issue of a deceased child, they *
61 shall take the same share of ~~his~~ the estate which they would *
62 have taken if ~~he~~ the testator had died intestate unless it *
63 appears that such omission was intentional and not occasioned by
64 accident or mistake.

525*#212S

65 525.212 RENUNCIATION AND ELECTION.

66 If a will make provision for a surviving spouse in lieu of
67 the rights in the estate secured by statute, such spouse shall
68 be deemed to have elected to take under the will, unless ~~he~~ the *
69 spouse shall have filed with the court and mailed or delivered *
70 to the personal representative, if any, within nine months after

1 the date of death, or within six months after the probate of the
2 decedent's will, whichever limitation last expires, an
3 instrument in writing renouncing and refusing to accept the
4 provisions in such will. For good cause shown, the court may
5 permit an election within such further time as the court may
6 determine. No devise to a surviving spouse shall be considered
7 as adding to the rights in the estate secured by sections
8 525.145 and 525.16 to such spouse, unless it clearly appears
9 from the contents of the will that such was the testator's
10 intent.

525*#213S

11 525.213 CONVEYANCES TO DEFEAT MARITAL RIGHTS; RIGHT OF
12 SURVIVING SPOUSE.

13 Title and transferability of assets shall remain unfettered
14 and freely alienable to third parties unless the surviving
15 spouse gives proper notice as required hereunder. A conveyance
16 of assets by a person who retains a power of appointment by
17 will, or a power of revocation or consumption over the principal
18 thereof, shall at the election of ~~his~~ the surviving spouse be *
19 treated as a testamentary disposition so far as the surviving
20 spouse is concerned to the extent to which the power has been
21 reserved, but the right of the surviving spouse shall be subject
22 to the rights of any income beneficiary whose interest in income
23 becomes vested in enjoyment prior to the death of the conveyor.
24 The provisions of this section shall not apply to any contract
25 of life insurance purchased by a decedent whether payable in
26 trust or otherwise.

27 The rights of a surviving spouse created by this section
28 shall not give rise to any right, claim, or cause of action
29 against any person who pays over, delivers or transfers title to
30 any asset in reliance upon the terms of any conveyance, deposit
31 contract or other agreement upon the death of the conveyor
32 without prior notice in writing given to such person of the
33 election of such surviving spouse to treat such conveyance,
34 deposit contract, or other agreement as a testamentary
35 disposition.

36 A spouse's rights as against the person to whom assets were
37 initially conveyed by decedent under the aforementioned
38 conditions shall be preserved in all events even though the
39 assets cannot be recovered for the reason that they have been
40 transferred to a third party. The value of said assets shall be
41 accounted for by such person to the court to the extent that the
42 spouse had a potential interest therein and the court shall
43 determine the spouse's rights and grant equitable relief only as
44 against the person to whom the assets were initially conveyed by
45 decedent and succeeded to upon ~~his~~ the decedent's death, unless *
46 the required notice is given.

47 In the case of real estate, a notice of lis pendens shall
48 be filed in the office of the county recorder as to abstract
49 property, and with the registrar of titles as to registered
50 property, in the county wherein the property is located, giving
51 the name and address of the surviving spouse, containing a brief
52 statement of the nature and extent of the interest claimed,
53 legal description of the real estate involved, and the title and
54 venue of the case wherein such rights are being determined.

525*#22S

55 525.22 DEPOSIT OF WILLS.

56 A will in writing enclosed in a sealed wrapper upon which
57 is endorsed the name and address of the testator, the day when,
58 and the person by whom it is delivered, may be deposited in the
59 probate court of the county where the testator resides. The
60 court shall give a certificate of its deposit and shall retain
61 such will. During the testator's lifetime, such will shall be
62 delivered only to ~~him~~ the testator or upon ~~his~~ the testator's *
63 written order witnessed by at least two subscribing witnesses
64 and duly acknowledged. After the testator's death, the court
65 shall open the will publicly and retain the same. Notice shall
66 be given to the executor named therein and to such other persons
67 as the court may designate. If the proper venue is in another
68 court, the will shall be transmitted to such court; but before
69 such transmission a true copy thereof shall be made by and
70 retained in the court in which the will was deposited.

525*#221S

71 525.221 DUTY OF CUSTODIAN.

72 After the death of a testator, the person having custody of
73 ~~his~~ the will shall deliver it to the court which has *

1 jurisdiction thereof. Every person who neglects to deliver a
2 will after being duly ordered to do so shall be guilty of
3 contempt of court.

525*#311S

4 525.311 CONTENTS OF PETITION.

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

6 (1) The name of the decedent, ~~his~~ the place of residence, *
7 the date and place of ~~his~~ the death, ~~his~~ the age and address at such *
8 date, and whether ~~he~~ the decedent died testate or intestate; *

9 (2) The names, ages, and addresses of ~~his~~ heirs, personal *
10 representatives, and devisees;

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

15 (4) A description of the real or personal property, or
16 interest therein and if a homestead, designated as such, the
17 interest therein of the decedent, the value thereof at the date
18 of ~~his~~ death, and the interest therein of the petitioner; *

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

24 (6) That the devisee or ~~his~~ successors and assigns possess *
25 the property devised in accordance with the will, any heir or
26 ~~his~~ a successor and assigns possess such property which passes *
27 to such heir under the laws of intestate succession in force at
28 the decedent's death, or such property was not possessed or
29 claimed by anyone by virtue of the decedent's title during the
30 time period for testacy proceedings.

31 (7) In any such proceeding wherein it appears that the
32 property affected descends through several decedents under
33 circumstances qualifying for a descent proceeding under this
34 section in each case, the court in its discretion may
35 consolidate the proceedings into one and may accept the filing
36 of one petition for the several decedents where no interests are
37 prejudiced thereby. The notice and other requirements of
38 sections 525.31, 525.311, and 525.312 shall be complied with,
39 and the matter shall be then adjudicated under one title
40 combining the names of the several decedents and making
41 appropriate findings for each decedent and determining heirship.

525*#37S

42 525.37 FORECLOSURE OF MORTGAGES.

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

525*#391S

48 525.391 PROPERTY FRAUDULENTLY CONVEYED.

49 When the property available for the payment of debts is
50 insufficient to pay the same in full, the representative may
51 recover any property which the decedent may have disposed of
52 with intent to defraud ~~his~~ creditors, or by conveyance or *
53 transfer which for any reason is void as to them. Upon the
54 application of any creditor and upon making the payment of or
55 providing security for the expenses thereof as directed by the
56 court, the representative shall prosecute all actions necessary
57 to recover the property.

525*#392S

58 525.392 PROPERTY CONVERTED.

59 If any person embezzles, alienates, or converts to ~~his-own~~ *
60 personal use any of the personal estate of a decedent or ward *
61 before the appointment of a representative, such person shall be
62 liable for double the value of the property so embezzled,
63 alienated, or converted.

525*#393S

64 525.393 DISPOSAL BY CORONER.

65 When personal property of a decedent has come into the
66 custody of any coroner and has not been surrendered as
67 hereinafter provided and no will has been admitted to probate or
68 no administration has been had within three months after the
69 decedent's death, the coroner, after the expiration of said
70 time, shall file in the court an inventory of all such property
71 and a fingerprint of each finger of each hand of the decedent.

1 Wearing apparel and such other property as the coroner
 2 determines to be of nominal value, may be surrendered by the
 3 coroner to the spouse or to any blood relative of the decedent.
 4 If no will is admitted to probate nor administration had within
 5 six months after death, the coroner shall sell the same at
 6 public auction upon such notice and in such manner as the court
 7 may direct. ~~He~~ The coroner shall be allowed reasonable expenses
 8 for the care and sale of the property, and shall deposit the net
 9 proceeds of such sale with the county treasurer in the name of
 10 the decedent, if known. The treasurer shall give the coroner
 11 duplicate receipts therefor, one of which ~~he~~ the coroner shall
 12 file with the county auditor and the other in the court. If a
 13 representative shall qualify within six years from the time of
 14 such deposit, the treasurer shall pay the same to such
 15 representative.

525*#475S

16 525.475 DORMANT ESTATE; REMOVAL OF REPRESENTATIVE OR
 17 ATTORNEY.

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

20 (a) If an order of complete settlement of the estate or a
 21 decree, as provided in section 524.3-1001, is not entered within
 22 18 months after appointment of the personal representative, the
 23 court shall order the personal representative and ~~his~~ the
 24 attorney to show good cause why an order of complete settlement
 25 of the estate or a decree has not been entered.

26 (b) If good cause is not shown the court shall order the
 27 removal of the personal representative, instruct the personal
 28 representative to dismiss ~~his~~ the attorney and employ another
 29 attorney, if necessary, to complete the administration of the
 30 estate, or shall order such other or further relief as may be
 31 appropriate. In addition, the court may refer a record of the
 32 proceeding to the state board of professional responsibility.
 33 If removal of the personal representative is ordered, the court
 34 shall also direct by order the disposition of the assets
 35 remaining in the name of, or under the control of, the personal
 36 representative being removed.

37 (c) If good cause is shown, the court shall order that the
 38 time for administration of the estate be extended for an
 39 additional period not to exceed one year. If an order of
 40 complete settlement of the estate or a decree, as provided in
 41 section 524.3-1001, is not entered within such extended period,
 42 the court shall again order the personal representative and ~~his~~ the
 43 attorney to show cause why an order of complete settlement
 44 or a decree has not been entered. If good cause is not shown,
 45 the provisions of paragraph (b) of this section shall be
 46 applicable. If good cause is shown, the court shall order that
 47 the time for administration of the estate be again extended for
 48 an additional period not to exceed one year and the provisions
 49 of this paragraph (c) of this section shall be applicable to
 50 such additional extension.

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

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

58 (b) If good cause is not shown, the court shall order the
 59 removal of the personal representative, instruct the personal
 60 representative to dismiss ~~his~~ the attorney and employ another
 61 attorney, if necessary, to complete the administration of the
 62 estate or shall order such other or further relief as may be
 63 appropriate. In addition, the court may refer a record of the
 64 proceeding to the state board of professional responsibility.
 65 If removal of the personal representative is ordered, the court
 66 shall also direct by order the disposition of the assets
 67 remaining in the name of, or under the control of, the personal
 68 representative being removed.

69 (c) If good cause is shown, the court shall enter an order
 70 so finding. An interested party may thereafter again petition
 71 the court for an order directing the personal representative and
 72 ~~his~~ the attorney to show cause why the estate has not been
 73 closed pursuant to the provisions of sections 524.3-1001 to
 74 524.3-1003.

75 (3) An attorney dismissed pursuant to this section and who

1 is seeking attorney fees for services rendered to the estate has
 2 the burden of affirmatively proving that the estate has
 3 benefited from ~~his~~ the services and that the benefits warrant *
 4 the payment of the requested fee.

525*#483S

5 525.483 RECORDING DECREE.
 6 A certified copy of any decree of distribution may be filed
 7 for record in the office of the county recorder of any county.
 8 It shall not be necessary to pay real estate taxes in order to
 9 record such certified copy, but the same shall be first
 10 presented to the county auditor for entry upon ~~his~~ the transfer *
 11 record and shall have noted thereon "Transfer entered" over ~~his~~ *
 12 that person's official signature. Upon request, the court shall *
 13 furnish a certified copy of any decree of distribution, omitting
 14 the description of any property except that specified in the
 15 request, but indicating omissions by the words "other property
 16 omitted." Such copy and its record shall have the same force and
 17 effect as to property therein described as though the entire
 18 decree had been so certified and recorded.

525*#484S

19 525.484 PROPERTY OF DECEASED PERSONS TO BE TRANSFERRED
 20 TO REPRESENTATIVES OF FOREIGN COUNTRIES IN CERTAIN CASES.
 21 Whenever any person who is entitled to any property in an
 22 estate is a citizen of and a resident in any foreign country
 23 with the government of which the United States maintains
 24 diplomatic relations, the personal representative of the estate
 25 may deliver or pay such property to an accredited diplomatic or
 26 consular representative of the government of such foreign
 27 country for delivery or payment to such person, or, if such
 28 property has been deposited with the county treasurer pursuant
 29 to section 524.3-914, the court upon application as therein
 30 provided shall grant its order authorizing and directing the
 31 county auditor to issue ~~his~~ a warrant to the county treasurer to *
 32 pay such money or deliver such property to such accredited
 33 diplomatic or consular representative, and the personal
 34 representative of such estate or the county treasurer shall be
 35 discharged from ~~his~~ that person's trust and all further *
 36 liability thereunder upon filing the receipt of such diplomatic
 37 or consular representative for such property with such court,
 38 provided that such diplomatic or consular representative has
 39 been licensed by proper federal authority to receive such
 40 property of the nationals of such country, where such license is
 41 required.
 42 This section shall not apply where such citizen of and
 43 resident in any such foreign country has appeared in person or
 44 by duly authorized representative other than such diplomatic or
 45 consular representative.

525*#491S

46 525.491 ATTORNEY'S LIEN.
 47 When any attorney at law has been retained to appear for
 48 any heir or devisee, such attorney may perfect ~~his~~ a lien upon *
 49 the client's interest in the estate for compensation for such *
 50 services as ~~he~~ may have been rendered respecting such interest, *
 51 by serving upon the personal representative before distribution *
 52 is made, a notice of ~~his~~ intent to claim a lien for ~~his~~ agreed *
 53 compensation, or the reasonable value of ~~his~~ services. The *
 54 perfecting of such a lien, as herein provided, shall have the
 55 same effect as the perfecting of a lien as provided in section
 56 481.13, and such lien may be enforced and the amount thereupon
 57 determined in the manner therein provided.

525*#51S

58 525.51 SUMMARY PROCEEDINGS.
 59 No change for subd 1 to 3
 60 Subd. 4. Summary proceedings may be had with or without
 61 the appointment of a personal representative. In all summary
 62 proceedings wherein no personal representative is appointed, the
 63 court may require the petitioner to file a corporate surety bond
 64 in an amount fixed and approved by the court. The condition of
 65 the bond shall be that the petitioner has made a full, true, and
 66 correct disclosure of all the facts related in the petition and
 67 will perform the terms of the decree or order of distribution
 68 issued pursuant thereto. Any interested person suffering
 69 damages as a result of misrepresentation or negligence of the
 70 petitioner in stating facts in the petition pursuant to which an
 71 improper decree or order of distribution is issued, or the terms
 72 of the decree or order of distribution are not performed by the

1 petitioner as required, shall have a cause of action against the
2 petitioner and ~~his~~ the surety to recover such damages in the
3 court wherein such proceeding was had which is hereby granted
4 jurisdiction thereof.

5 Subd. 5. In any summary, special, or other administration
6 wherein it appears that the estate will not be exhausted in
7 payment of the priority items enumerated in the foregoing
8 subdivisions, the estate may nevertheless be summarily closed
9 without further notice, and the property assigned to the proper
10 persons, if the gross probate estate, exclusive of any exempt
11 homestead as defined in section 525.145, does not exceed the
12 value of \$30,000. Where such closing and distribution of assets
13 is made pursuant to the terms of a will, no decree shall issue
14 until a hearing has been held for formal probate of the will as
15 provided in sections 524.3-401 to 524.3-413.

16 No summary closing of an estate shall be made to any
17 distributee under this subdivision, unless a showing is made by
18 the personal representative or the petitioner, that all funeral
19 expenses, expenses of last illness, taxes, debts, and claims
20 have been paid, and provided, further, that a bond shall be
21 filed by the personal representative or the petitioner,
22 conditioned upon the fact that all such obligations have been
23 paid and that all the facts shown on the petition are true, with
24 sufficient surety approved by the court in an amount as may be
25 fixed by the court to cover potential improper distributions.
26 If a personal representative is appointed, ~~his~~ the
27 representative's bond shall be sufficient for such purpose
28 unless an additional bond is ordered, and the sureties on ~~his~~
29 the bond shall have the same obligations and liabilities as
30 provided for sureties on a distribution bond.

31 In the event that an improper distribution or disbursement
32 is made in a summary closing, in that not all of said
33 obligations have been paid or that other facts as shown by the
34 personal representative or the petitioner, are not true,
35 resulting in damage to any party, the court may vacate its
36 summary decree or closing order, and the petitioner or the
37 personal representative, together with ~~his~~ the surety, shall be
38 liable for damages to any party determined to be injured thereby
39 as herein provided. The personal representative, petitioner, or
40 ~~his~~ the surety, may seek reimbursement for damages so paid or
41 incurred from any distributee or recipient of assets under
42 summary decree or order, who shall be required to make a
43 contribution to cover such damages upon a pro rata basis or as
44 may be equitable to the extent of assets so received. The court
45 is hereby granted complete and plenary jurisdiction of any and
46 all such proceedings and may enter such orders and judgments as
47 may be required to effectuate the purposes of this subdivision.

48 Any judgment rendered for damages or the recovery of assets
49 in such proceedings shall be upon petition and only after
50 hearing held thereon on 14 days' notice of hearing and a copy of
51 petition served personally upon the personal representative and
52 the surety and upon any distributee or recipient of assets where
53 applicable. Any action for the recovery of moneys or damages
54 under this subdivision shall be subject to the time and other
55 limitations imposed by section 525.02.

525*#532S

56 525.532 DISCLAIMER OF INTERESTS PASSING BY WILL,
57 INTTESTATE SUCCESSION OR UNDER CERTAIN POWERS OF APPOINTMENT.

58 Subdivision 1. As used in this section, unless otherwise
59 clearly required by the context:

60 (a) "Beneficiary" means and includes any person entitled,
61 but for ~~his~~ that person's disclaimer, to take an interest: by
62 intestate succession; by devise; by legacy or bequest; by
63 succession to a disclaimed interest by will, intestate
64 succession or through the exercise or nonexercise of a
65 testamentary power of appointment; by virtue of a renunciation
66 and election to take against a will; as beneficiary of a
67 testamentary trust; pursuant to the exercise or nonexercise of a
68 testamentary power of appointment; as donee of a power of
69 appointment created by testamentary instrument; or otherwise
70 under a testamentary instrument;

71 (b) "Interest" means and includes the whole of any
72 property, real or personal, legal or equitable, or any
73 fractional part, share or particular portion or specific assets
74 thereof or any estate in any such property or power to appoint,
75 consume, apply or expend property or any other right, power,

1 privilege or immunity relating thereto;
 2 (c) "Disclaimer" means a written instrument which declines,
 3 refuses, releases, renounces or disclaims an interest which
 4 would otherwise be succeeded to by a beneficiary, which
 5 instrument defines the nature and extent of the interest
 6 disclaimed thereby and which must be signed, witnessed and
 7 acknowledged by the disclaimant in the manner provided for deeds
 8 of real estate.

9 Subd. 2. A beneficiary may disclaim any interest in whole
 10 or in part, or with reference to specific parts, shares or
 11 assets thereof, by filing a disclaimer in court in the manner
 12 hereinafter provided. A guardian, executor, administrator or
 13 other personal representative of the estate of a minor,
 14 incompetent or deceased beneficiary, if ~~he~~ that person deems it *
 15 in the best interests of those interested in the estate of such
 16 beneficiary and of those who take the beneficiary's interest by
 17 virtue of the disclaimer and not detrimental to the best
 18 interests of the beneficiary, with or without an order of the
 19 probate court, may execute and file a disclaimer on behalf of
 20 the beneficiary within the time and in the manner in which the
 21 beneficiary ~~himself~~ could disclaim if ~~he were~~ living, of legal *
 22 age and competent. A beneficiary likewise may execute and file
 23 a disclaimer by agent or attorney so empowered.

24 Subd. 3. Such disclaimer shall be filed at any time after
 25 the creation of the interest, but in all events within nine
 26 months after the death of the person by whom the interest was
 27 created or from whom it would have been received, or, if the
 28 disclaimant is not finally ascertained as a beneficiary or ~~his~~ *
 29 the interest has not become indefeasibly fixed both in quality *
 30 and quantity as of the death of such person, then such
 31 disclaimer shall be filed not later than nine months after the
 32 event which would cause ~~him~~ the disclaimant so to become finally *
 33 ascertained and ~~his~~ the interest to become indefeasibly fixed *
 34 both in quality and quantity.

35 No change for subd 4

36 Subd. 5. Unless the person by whom the interest was
 37 created or from whom it would have been received has otherwise
 38 provided by will or other appropriate instrument with reference
 39 to the possibility of a disclaimer by the beneficiary, the
 40 property in which the interest disclaimed existed shall descend,
 41 be distributed or otherwise be disposed of in the same manner as
 42 if the disclaimant had died immediately preceding the death or
 43 other event which causes ~~him~~ the disclaimant to become finally *
 44 ascertained as a beneficiary and ~~his~~ the interest to become *
 45 indefeasibly fixed both in quality and quantity, and, in any
 46 case, the disclaimer shall relate for all purposes to such date,
 47 whether filed before or after such death or other event.
 48 However, one disclaiming an interest in a non-residuary gift,
 49 devise or bequest shall not be excluded, unless ~~his~~ the *
 50 disclaimer so provides, from sharing in a gift, devise or
 51 bequest of the residue even though, through lapse, such residue
 52 includes the assets disclaimed. An interest of any nature in or
 53 to the estate of an intestate may be declined, refused or
 54 disclaimed as herein provided without ever vesting in the
 55 disclaimant.

56 Subd. 6. The right to disclaim otherwise conferred by this
 57 section shall be barred if the beneficiary is insolvent at the
 58 time of the event giving rise to the right to disclaim. Any
 59 voluntary assignment or transfer of, or contract to assign or
 60 transfer, an interest in real or personal property, or written
 61 waiver of the right to disclaim the succession to an interest in
 62 real or personal property, by any beneficiary, or any sale or
 63 other disposition of an interest in real or personal property
 64 pursuant to judicial process, made before ~~he~~ the beneficiary has *
 65 filed a disclaimer, as herein provided, bars the right otherwise
 66 hereby conferred on such beneficiary to disclaim as to such
 67 interest.

68 Subd. 7. The right to disclaim granted by this section
 69 shall exist irrespective of any limitation imposed on the
 70 interest of the disclaimant in the nature of an express or
 71 implied spendthrift provision or similar restriction. A
 72 disclaimer, when filed as provided in this section, or a written
 73 waiver of the right to disclaim, shall be binding upon the
 74 disclaimant or beneficiary so waiving and all parties thereafter
 75 claiming by, through or under ~~him~~ that person, except that a *
 76 beneficiary so waiving may thereafter transfer, assign or

1 release ~~his~~ the interest if such is not prohibited by an express *
 2 or implied spendthrift provision. If an interest in real estate
 3 is disclaimed and the disclaimer is duly filed in accordance
 4 with the provisions of subdivision 4, the spouse of the
 5 disclaimant, if such spouse has consented to the disclaimer in
 6 writing, shall thereupon be automatically debarred from any
 7 spouse's statutory or common law right or estate by curtesy or
 8 in dower or otherwise in such real estate to which such spouse,
 9 except for such disclaimer, would have been entitled.

10 No change for subd 8 to 9

525*#539S

11 525.539 DEFINITIONS.

12 No change for subd 1

13 Subd. 2. "Guardian" means a person who is appointed by the
 14 court to exercise all of the powers and duties designated in
 15 section 525.56 for the care of an incapacitated person or ~~his~~
 16 that person's estate, or both. *

17 Subd. 3. "Conservator" means a person appointed by the
 18 court to exercise some, but not all, of the powers designated in
 19 section 525.56 for the care of an incapacitated person or ~~his~~
 20 that person's estate, or both. *

21 No change for subd 4 to 6

525*#54S

22 525.54 ADULTS SUBJECT TO GUARDIANSHIP AND
 23 CONSERVATORSHIP.

24 No change for subd 1

25 Subd. 2. GUARDIANSHIP OR CONSERVATORSHIP OF THE PERSON.

26 "Incapacitated person" means, in the case of guardianship or
 27 conservatorship of the person, any adult person who is impaired
 28 to the extent ~~that he lacks~~ of lacking sufficient understanding
 29 or capacity to make or communicate responsible personal
 30 ~~decisions concerning his person~~, and who has demonstrated
 31 deficits in behavior which evidence ~~his an~~ an inability to meet ~~his~~
 32 personal needs for medical care, nutrition, clothing, shelter,
 33 or safety. *

34 Subd. 3. GUARDIANSHIP OR CONSERVATORSHIP OF THE ESTATE.

35 Appointment of a guardian or conservator may be made in
 36 relation to the estate and financial affairs of an adult
 37 person: (a) voluntarily, upon the person's petition or consent
 38 in writing if the court is satisfied of the need thereof, or (b)
 39 involuntarily, upon the court's determination that (1) the
 40 person is unable to manage ~~his the person's~~ the person's property and affairs
 41 effectively because ~~he the person~~ the person is an incapacitated person,
 42 and (2) ~~he the person~~ the person has property which will be dissipated
 43 unless proper management is provided, or that funds are needed
 44 for the support, care and welfare of the person or those
 45 entitled to be supported by ~~him the person~~ the person and (3) a guardian or
 46 conservator is necessary to adequately protect ~~his the person's~~
 47 the person's estate or financial affairs. "Incapacitated person" means, in
 48 the case of guardianship or conservatorship of the estate of an
 49 adult, any adult person who is impaired to the extent that ~~he~~
 50 the person lacks sufficient understanding or capacity to make or
 51 communicate responsible decisions concerning ~~his the person's~~
 52 the person's estate or financial affairs, and who has demonstrated deficits
 53 in behavior which evidence ~~his an~~ an inability to manage ~~his the~~
 54 the estate, or who is unable to manage ~~his the~~ the estate or financial
 55 affairs effectively by reason of detention by a foreign power or
 56 disappearance. *

57 No change for subd 4 to 6

58 Subd. 7. CERTAIN PROTECTIVE ARRANGEMENTS. If it is
 59 established in a proper proceeding under section 525.551 that a
 60 basis exists for the appointment of a guardian or conservator,
 61 the court, instead of appointing a guardian or conservator, may
 62 (a) authorize, direct or ratify any transaction necessary or
 63 desirable to achieve any security, service, or care arrangement
 64 meeting the foreseeable needs of the protected person.
 65 Protective arrangements include, but are not limited to:
 66 payment, delivery, deposit or retention of funds or property;
 67 sale, mortgage, lease or other transfer of property; entry into
 68 an annuity contract, a contract for life care, a deposit
 69 contract or a contract for training and education; or addition
 70 to or establishment of a suitable trust; or (b) authorize,
 71 direct or ratify any contract, trust or other transaction
 72 relating to the protected person's financial affairs or
 73 involving ~~his the protected person's~~ the protected person's estate if the court
 74 determines that the transaction is in the best interests of the *

1 protected person.

2 Before approving a protective arrangement or other
3 transaction under this subdivision, the court shall consider the
4 interests of creditors and dependents of the protected person
5 and, in view of ~~his~~ the disability, whether the protected person *
6 needs the continuing protection of a guardian or conservator.
7 The court may appoint a special conservator with or without bond
8 to assist in the accomplishment of any protective arrangement or
9 other transaction authorized under this subdivision, who shall
10 have the authority conferred by the order and serve until
11 discharged by order after making a report to the court of all
12 matters done pursuant to the order of appointment.

525*#541S

13 525.541 PETITIONERS.

14 Any person may petition for the appointment of a guardian
15 or conservator or for a protective order for any person believed
16 to be subject to guardianship or conservatorship. The petition
17 of an adult person for the appointment of a guardian or
18 conservator of ~~his-own~~ that person or that person's estate shall *
19 have priority over the petition of any other person.

525*#542S

20 525.542 CONTENTS OF PETITION.

21 Subdivision 1. INFORMATION. The petition shall show
22 (1) the name and address of the person for whom a guardian or
23 conservator, is sought, (2) the date of ~~his~~ birth, (3) the names *
24 and addresses of ~~his~~ living parents, children, brothers and *
25 sisters, or in the event that none of these persons are living,
26 the names and addresses of ~~his~~ nearest kindred, (4) if ~~he-is~~ *
27 married, the name and address of ~~his~~ the spouse, (5) the grounds *
28 for the guardianship or conservatorship, with a statement that
29 the proposed ward or conservatee may demand a written bill of
30 particulars, (6) if conservatorship is requested, the powers the
31 petitioner believes are necessary in order for a conservator to
32 protect and supervise the proposed conservatee's person or
33 property, (7) the probable value and general character of ~~his~~ *
34 real and personal property and the probable amount of ~~his~~ debts, *
35 (8) the names, ages, addresses, and occupations of the proposed
36 guardians or conservators.

37 Subd. 2. BILL OF PARTICULARS. A bill of particulars
38 may be requested from the petitioner by the proposed ward or
39 conservatee, and when so requested shall be delivered to the
40 proposed ward or conservatee within ten days or prior to the
41 hearing, whichever is sooner. The bill of particulars shall be
42 in writing and shall include specific factual information which
43 the petitioner believes supports the need for appointment of a
44 guardian or conservator, such as mental and physical condition,
45 financial transactions, personal actions, or actual occurrences
46 which are claimed to demonstrate the proposed ward's or
47 conservatee's inability to manage ~~his~~ the estate, or to provide *
48 for personal needs for food, clothing, shelter or health care.

525*#543S

49 525.543 LIS PENDENS.

50 After the filing of the petition, a certificate of the
51 probate court certified to that fact may be filed for record in
52 the office of the county recorder of any county in which any
53 real estate owned by the proposed ward or conservatee is
54 situated and if a resident of this state, in the county of ~~his~~ *
55 residence. The certificate shall state that a petition is
56 pending and the name and address of the person for whom a
57 guardian or conservator is sought. If a guardian or conservator
58 is appointed on the petition, and, in the case of a
59 conservatorship, if the conservatorship order removes or
60 restricts the right of the conservatee to transfer property or
61 to contract, then all contracts except for necessities, and all
62 transfers of real or personal property made by the ward or
63 conservatee after the filing and before the termination of the
64 guardianship or conservatorship shall be void.

525*#544S

65 525.544 PLANNING PROVISIONS.

66 In the petition or in a written instrument executed before
67 or after the petition is filed, the person may, if acting at the *
68 time of signing the same, ~~he-has~~ with sufficient capacity *
69 form an intelligent preference, may nominate a conservator or *
70 guardian or give instructions to the conservator or guardian *
71 or ~~he~~ may do both. The written instrument shall be executed and *
72 attested in the same manner as a will. The court shall appoint

1 the person so nominated as conservator or guardian and shall
 2 charge ~~him~~ the person with the instructions, unless the court
 3 finds that the appointment of the nominee or the instructions or
 4 both are not in the best interests of the person to be placed
 5 under conservatorship or guardianship. When any person lacks
 6 capacity or fails to nominate a conservator or guardian, the
 7 court may appoint any qualified person. The court shall
 8 consider the interest of a prospective guardian or conservator
 9 in the welfare of the proposed ward or conservatee. Kinship,
 10 while a factor, shall not be conclusive in making the
 11 appointment. If the proposed ward or conservatee lacks capacity
 12 or fails to give instructions, the court may give such powers as
 13 required in accordance with section 525.56.

525*#55S

14 525.55 NOTICE OF HEARING.

15 Subdivision 1. TIME OF NOTICE; TO WHOM GIVEN. In all
 16 cases, upon the filing of the petition the court shall fix the
 17 time and place for the hearing and shall order that notice be
 18 given of the hearing. At least 14 days prior to the hearing,
 19 personal service of the notice shall be made upon the proposed
 20 ward or conservatee. Notice shall also be served on ~~his~~ the
 21 spouse, parents, adult children, brothers and sisters, and, if
 22 none of those are alive or can be located, on ~~his~~ the nearest
 23 kindred as determined by the court, and on any other persons the
 24 court may direct, by mail postmarked at least 14 days prior to
 25 the hearing. If ~~he~~ the person is a patient or resident of any
 26 hospital or other institution, notice by mail shall also be
 27 given to the administrative head of the institution. If ~~he~~ the
 28 person is a non-resident or if after diligent search ~~he~~ cannot
 29 be found in this state, notice shall be given in the manner and
 30 to those persons as the court may determine.

31 Subd. 2. FORM; SERVICE. The notice shall be written
 32 in language which can be easily understood. Included with the
 33 notice shall be a copy of the petition. The notice shall
 34 contain information regarding the nature, purpose and legal
 35 effects of the guardianship or conservatorship proceedings on
 36 the proposed ward or conservatee. The notice shall state that
 37 ~~he~~ the person may be adjudged incapable of earing self care for
 38 ~~his~~ person or property, and by reason thereof, a guardian or
 39 conservator may be appointed ~~for-him~~, and that the adjudication
 40 may transfer to the appointed guardian or conservator certain
 41 rights, including ~~his~~ the right to manage and control property,
 42 to enter into contracts and to determine ~~his~~ residence. The
 43 notice shall further contain information regarding the rights of
 44 the proposed ward or conservatee in the proceeding,
 45 including ~~his~~ the right to attend the hearing, to be represented
 46 by an attorney, to oppose the proceeding, and to present
 47 evidence. The notice shall state that if the proposed ward or
 48 conservatee wishes to exercise the right to be represented by an
 49 attorney, ~~he~~ that person must either obtain counsel of ~~his-own~~
 50 choice, or ask the court to appoint an attorney to represent ~~him~~
 51 that person, and that the county shall pay a reasonable
 52 attorney's fee if ~~he~~ that person is indigent. The procedure for
 53 requesting a court appointed attorney shall be described in the
 54 notice.

55 The process server shall inquire whether the proposed ward
 56 or conservatee desires the notice and petition to be read to ~~him~~
 57 that person, and shall read the notice and petition if requested
 58 to do so. In place of a process server, the court may appoint a
 59 visitor to deliver the notice and petition and explain them to
 60 the proposed ward or conservatee.

61 No change for subd 3

525*#551S

62 525.551 HEARING; APPOINTMENT; BOND; PROSECUTION; NOTICE.

63 Subdivision 1. ATTENDANCE AT HEARING. If the
 64 proposed ward or conservatee is within the state, ~~he~~ that person
 65 shall be present at the hearing unless in a meeting with a
 66 visitor ~~he~~ that person specifically waives ~~his~~ the right to
 67 appear in person or ~~he~~ is not able to attend by reason of
 68 medical condition as evidenced by a written statement from a
 69 licensed physician. The written statement shall be evidence
 70 only of the proposed ward's or conservatee's medical inability
 71 to attend the hearing, and shall not be considered in
 72 determining the issue of ~~his~~ incapacity. In any instance in
 73 which a proposed ward or conservatee is absent from the hearing,
 74 the court shall specify in its findings of fact the reason for

1 nonattendance.

2 If a visitor delivered the notice and petition pursuant to
3 section 525.55 and the proposed ward or conservatee has waived
4 the right to attend the hearing, the visitor may testify as to
5 the notice and any waiver of the right to appear in person, and
6 as to other matters which may assist the court in determining
7 the need for a guardian or conservator and the extent of the
8 power to be granted.

9 No change for subd 2 to 5

10 Subd. 6. BOND. Upon the filing of a bond by the
11 guardian or conservator of an estate in an amount the court may
12 direct and an oath according to law, or upon the filing of an
13 acceptance of the trust pursuant to section 48.79, letters of
14 guardianship or conservatorship shall issue. If there is no
15 personal property, the court may waive the filing of a bond, but
16 if the guardian or conservator receives or becomes entitled to
17 any property of the ward or conservatee ~~he~~ the guardian or
18 conservator shall immediately file a report thereof and a bond
19 in an amount the court may direct. In case of breach of a
20 condition of the bond an action thereon may be prosecuted by
21 leave of the court by any interested person or by the court on
22 its own motion.

23 No change for subd 7

525*#5515S

24 525.5515 LETTERS OF GUARDIANSHIP OR CONSERVATORSHIP.

25 Subdivision 1. COPY OF ORDER TO WARD OR CONSERVATEE.

26 A copy of the order appointing the guardian or conservator shall
27 be served by mail upon the ward or conservatee and ~~his~~ that
28 person's counsel, if ~~he~~ that person was represented at the
29 hearing. The order shall be accompanied by a notice which
30 advises the ward or conservatee of ~~his~~ the right to appeal the
31 guardianship or conservatorship appointment within 30 days.

32 No change for subd 2

525*#56S

33 525.56 GUARDIAN'S OR CONSERVATOR'S POWERS AND DUTIES.

34 No change for subd 1 to 2

35 Subd. 3. The court may appoint a guardian of the person if
36 it determines that all the powers and duties listed in this
37 subdivision are needed to provide for the needs of the
38 incapacitated person. The court may appoint a conservator of
39 the person if it determines that a conservator is needed to
40 provide for the needs of the incapacitated person through the
41 exercise of some, but not all, of the powers and duties listed
42 in this subdivision. The duties and powers of a guardian or
43 those which the court may grant to a conservator of the person
44 include, but are not limited to:

45 (1) The power to have custody of the ward or conservatee
46 and the power to establish ~~his~~ a place of abode within or
47 without the state, except as otherwise provided in this clause.
48 The ward or conservatee or any person interested in ~~his~~ the
49 ward's or conservatee's welfare may petition the court to
50 prevent or to initiate a change in abode. A ward or conservatee
51 may not be admitted to any state institution by ~~his~~ the guardian
52 or conservator except after a hearing pursuant to section
53 253A.07.

54 (2) The duty to provide for the ward's or conservatee's
55 care, comfort and maintenance needs, including food, clothing,
56 shelter, health care, social and recreational requirements, and,
57 whenever appropriate, training, education and rehabilitation.
58 The guardian or conservator has no duty to pay for these
59 requirements out of ~~his-own~~ personal funds. Whenever possible
60 and appropriate, the guardian or conservator should meet these
61 requirements through governmental benefits or services to which
62 the ward or conservatee is entitled, rather than from the ward's
63 or conservatee's estate. Failure to satisfy the needs and
64 requirements of this clause shall be grounds for removal, but
65 the guardian or conservator shall have no personal or monetary
66 liability.

67 (3) The duty to take reasonable care of the ward's or
68 conservatee's clothing, furniture, vehicles and other personal
69 effects, and, if other property requires protection, the power
70 to seek appointment of a guardian or conservator of the estate.
71 The guardian or conservator must give notice in the manner
72 required and to those persons specified in section 525.55 prior
73 to the disposition of the ward's or conservatee's clothing,
74 furniture, vehicles or other personal effects. The notice must

1 inform the person ~~that he has~~ of the right to object to the
 2 disposition of the property within ten days and to petition the
 3 court for a review of the guardian's or conservator's proposed
 4 actions. Notice of the objection must be served by mail or
 5 personal service on the guardian or conservator and the ward or
 6 conservatee unless he the ward or conservatee be the objector.
 7 ~~If~~ The guardian or conservator ~~is~~ served with notice of an
 8 objection to the disposition of the property ~~he~~ may not dispose
 9 of the property unless the court approves the disposition after
 10 a hearing.

11 (4) (a) The power to give any necessary consent to enable
 12 the ward or conservatee to receive necessary medical or other
 13 professional care, counsel, treatment or service, except that no
 14 guardian or conservator may give consent for psychosurgery,
 15 electroshock, sterilization or experimental treatment of any
 16 kind unless the procedure is first approved by order of the
 17 court as provided in this clause. The guardian or conservator
 18 shall not consent to any medical care for the ward or
 19 conservatee which violates the known conscientious, religious,
 20 or moral belief of the ward or conservatee.

21 (b) A guardian or conservator who believes a procedure
 22 described in clause (4)(a) requiring prior court approval to be
 23 necessary for the proper care of the ward or conservatee shall
 24 petition the court for an order. The court shall fix the time
 25 and place for the hearing and shall give notice to the ward or
 26 conservatee and to the other persons specified in section
 27 525.55, subdivision 1. The notice shall comply with the
 28 requirements of, and be served in the manner provided in section
 29 525.55, subdivision 2. The court shall appoint an attorney to
 30 represent the ward or conservatee, ~~unless he has~~ who is not
 31 represented by counsel of his own choice. In every case the
 32 court shall determine if the procedure is in the best interests
 33 of the ward or conservatee. In making its determination the
 34 court shall consider a written medical report which specifically
 35 considers the medical risks of the procedure and whether
 36 alternative, less restrictive methods of treatment could be used
 37 to protect the best interests of the ward or conservatee.

38 (c) In the case of a petition for sterilization of a
 39 mentally retarded ward or conservatee, the court shall appoint a
 40 licensed physician, a psychologist who is qualified in the
 41 diagnosis and treatment of mental retardation, and a social
 42 worker who is familiar with the ward's or conservatee's social
 43 history and adjustment to examine or evaluate the ward or
 44 conservatee and to provide written reports to the court. The
 45 reports shall indicate whether sterilization is necessary and
 46 whether it is in the best interests of the ward or conservatee.
 47 The medical report shall specifically consider the medical risks
 48 of sterilization and whether alternative methods of
 49 contraception could be used to protect the best interests of the
 50 ward or conservatee.

51 (5) The power to approve or withhold approval of any
 52 contract, except for necessities, which the ward or conservatee
 53 may make or wish to make.

54 (6) The duty and power to exercise supervisory authority
 55 over the ward or conservatee in a manner which limits ~~his~~ civil
 56 rights and restricts ~~his~~ personal freedom only to the extent
 57 necessary to provide needed care and services.

58 Subd. 4. DUTIES OF GUARDIAN OR CONSERVATOR OF THE
 59 ESTATE. The court may appoint a guardian of the estate if it
 60 determines that all the powers and duties listed in this
 61 subdivision are needed to provide for the needs of the
 62 incapacitated person. The court may appoint a conservator of
 63 the estate if it determines that a conservator is necessary to
 64 provide for the needs of the incapacitated person through the
 65 exercise of some, but not all, of the powers and duties listed
 66 in this subdivision. The duties and powers of a guardian or
 67 those which the court may grant to a conservator include, but
 68 are not limited to:

69 (1) The duty to pay the reasonable charges for the support,
 70 maintenance, and education of the ward or conservatee in a
 71 manner suitable to ~~his~~ the ward's or conservatee's station in
 72 life and the value of ~~his~~ estate. Nothing herein contained
 73 shall release parents from obligations imposed by law for the
 74 support, maintenance, and education of their children. The
 75 guardian or conservator has no duty to pay for these
 76 requirements out of ~~his own~~ personal funds. Wherever possible

1 and appropriate, the guardian or conservator should meet these
 2 requirements through governmental benefits or services to which
 3 the ward or conservatee is entitled, rather than from the ward's
 4 or conservatee's estate. Failure to satisfy the needs and
 5 requirements of this clause shall be grounds for removal, but
 6 the guardian or conservator shall have no personal or monetary
 7 liability;

8 (2) The duty to pay out of the ward's or conservatee's
 9 estate all just and lawful debts of the ward or conservatee and
 10 the reasonable charges incurred for the support, maintenance,
 11 and education of the ward's or conservatee's spouse and
 12 dependent children and, upon order of the court, pay such sum as
 13 the court may fix as reasonable for the support of any person
 14 unable to earn a livelihood who is legally entitled to support
 15 from the ward or conservatee;

16 (3) The duty to possess and manage the estate, collect all
 17 debts and claims in favor of the ward or conservatee, or, with
 18 the approval of the court, compromise them, institute suit on
 19 behalf of the ward or conservatee and represent the ward or
 20 conservatee in any court proceedings, and invest all funds not
 21 currently needed for the debts and charges named in clauses (1)
 22 and (2) and the management of the estate, in accordance with the
 23 provisions of sections 48.84 and 501.125, subdivision 1, or as
 24 otherwise ordered by the court. The standard of a fiduciary
 25 shall be applicable to all investments by a guardian or
 26 conservator. A guardian or conservator shall also have the
 27 power to purchase certain contracts of insurance as provided in
 28 section 50.14, subdivision 14, clause (b);

29 (4) Where a ward or conservatee has inherited an undivided
 30 interest in real estate, the court, on a showing that it is for
 31 the best interest of the ward or conservatee, may authorize an
 32 exchange or sale of the ward's or conservatee's interest or a
 33 purchase by the ward or conservatee of any interest other heirs
 34 may have in the real estate.

525*#561S

35 525.561 CONTENTS OF INVENTORY.

36 Within one month after ~~his~~ appointment, unless a longer *
 37 time has been granted by the court, every guardian or
 38 conservator shall make and exhibit to the court a verified
 39 inventory of all the estate of the ward or conservatee which *
 40 shall have come to ~~his~~ the guardian's or conservator's
 41 possession or knowledge. Such property shall be classified
 42 therein as follows: (1) real estate, with plat or survey
 43 description, and if a homestead, designated as such, (2)
 44 furniture and household goods, (3) wearing apparel, (4)
 45 corporation stocks described by certificate numbers, (5)
 46 mortgages, bonds, notes, and other written evidence of debt,
 47 described by name of debtor, recording data, or other
 48 identification, (6) all other personal property accurately
 49 identified. All encumbrances, liens, and other charges on any
 50 item shall be stated. The guardian or conservator shall set
 51 forth in the inventory the fair market value of all assets
 52 listed therein. If appraisers are appointed by the court, the
 53 value of assets other than those assets specified in section
 54 525.562, subdivision 1, clause (b) shall be determined by the
 55 court appointed appraisers. Such value shall be the value at
 56 the date of appointment of the guardian or conservator. Such
 57 inventory shall show the net value of each item after deducting
 58 all encumbrances, liens and charges and the total net value of
 59 each class of items and of all classes.

525*#57S

60 525.57 TRANSFER OF VENUE.

61 When it is for the best interest of the ward or conservatee
 62 or ~~his~~ the estate the venue may be transferred to another county. *
 63 Upon the filing of a petition by any person interested in the *
 64 ward or conservatee or in ~~his~~ the estate the court shall fix the *
 65 time and place for the hearing thereof, and shall give notice to
 66 the persons and in the manner required by section 525.55. Upon
 67 proof that a transfer of venue is for the best interest of the
 68 ward or conservatee or ~~his~~ the estate, and upon the settlement *
 69 and allowance of the guardian's or conservator's accounts to the
 70 time of the hearing, the court shall transmit the entire file to
 71 the court of the other county where all subsequent proceedings
 72 shall be held.

525*#58S

73 525.58 FILING OF ACCOUNTS; FILING OF AFFIDAVIT.

1 Subdivision 1. ANNUAL ACCOUNT. Except where
 2 expressly waived or modified by the court, every guardian or
 3 conservator of the estate annually shall file with the court
 4 within 30 days of the anniversary date of the guardian's or
 5 conservator's appointment a verified account covering the period
 6 from the date of appointment or ~~his~~ the last account. The *
 7 guardian or conservator of the estate shall give a copy of the
 8 annual account to the ward or conservatee except where expressly
 9 waived by the court after a finding that the ward or conservatee
 10 is so incapacitated as to be unable to understand the account or
 11 there is a serious likelihood of harm to the ward or
 12 conservatee. The court or its designee shall annually review
 13 the court file to insure that the account has been filed and
 14 that the account contains the information required by this
 15 section. If an account has not been filed or if the account
 16 does not contain the information required by this section the
 17 court shall order the guardian or conservator to file an
 18 appropriate account. The examination and acceptance shall not
 19 constitute an adjudication or determination of the merits of the
 20 account filed nor shall it constitute the court's approval of
 21 the account. At the termination of the guardianship or
 22 conservatorship, or upon the guardian's or conservator's removal
 23 or resignation, ~~he~~ the guardian or conservator or ~~his~~ the *
 24 surety, or in the event of ~~his~~ his death or disability, ~~his~~ the *
 25 guardian's or conservator's representative or surety shall file *
 26 a verified final account with a petition for the settlement and
 27 allowance thereof. Every account shall show in detail all
 28 property received and disbursed, the property on hand, the
 29 present address of the ward or conservatee and of the guardian
 30 or conservator, and unless the guardian or conservator be a
 31 corporation, the amount of the bond, the names and addresses of
 32 all sureties thereon, that each unincorporated surety is a
 33 resident of this state, is not under disability, and is worth
 34 the amount in which ~~he~~ the surety justified. *

35 Subd. 2. NOTICE OF RIGHT TO PETITION FOR RESTORATION OF
 36 CAPACITY. Except where expressly waived by the court after a
 37 finding that the ward or conservatee is so incapacitated as to
 38 be unable to understand any notice, or there is a serious
 39 likelihood of harm to the ward or conservatee, every guardian or
 40 conservator shall annually give notice to the ward or
 41 conservatee of ~~his~~ the right to petition for restoration to *
 42 capacity, discharge of guardian or conservator, or modification
 43 of the orders of guardianship or conservatorship. A waiver
 44 shall not be effective for more than two years without a
 45 redetermination by the court. The notice shall describe the
 46 procedure for preparing and filing such a petition. Notice
 47 shall also inform the ward or conservatee that after a petition
 48 is filed the court will hold a hearing on the matter and that ~~he~~ *
 49 the ward or conservatee has the right to be present and to be *
 50 represented by counsel at the hearing. The form of the notice
 51 shall be approved or supplied by the court.

52 Subd. 3. AFFIDAVIT. Except where expressly waived by
 53 the court as provided in subdivision 2, every guardian or
 54 conservator shall file annually with the court an affidavit
 55 ~~stating that he has~~ of having given the notice required by *
 56 subdivision 2 to the ward or conservatee and every guardian or
 57 conservator of an estate shall file an affidavit stating that a
 58 copy of the annual account has been given to the ward or
 59 conservatee.

60 No change for subd 4

525*#581S

61 525.581 NOTICE OF HEARING ON ACCOUNT.

62 The court on its own motion may, or upon the petition of
 63 the guardian, conservator, ward, conservatee, or any person
 64 interested in the ward or conservatee or ~~his~~ the ward's or *
 65 conservatee's estate shall, fix the time and place for the *
 66 hearing on any account, notice of which shall be given to the
 67 ward or conservatee and to other persons as the court may
 68 direct. Wherever any funds have been received from the
 69 veterans' administration, notice by mail shall be given to the
 70 regional office having charge thereof.

525*#582S

71 525.582 ADJUDICATION ON ACCOUNT.

72 (a) Unless otherwise ordered, the guardian or conservator
 73 shall, and other persons may, be examined on the hearing. If
 74 the account be correct, it shall be settled and allowed; if

1 incorrect, it shall be corrected and then settled and allowed.
 2 The order of settlement and allowance shall show the amount of
 3 the personal property remaining. Upon settlement of the final
 4 account, and upon delivery of the property on hand to the person
 5 entitled thereto, the court shall discharge the guardian or
 6 conservator and ~~his~~ the sureties. Any person for whom a *
 7 guardian or conservator has been appointed and who has become of
 8 age or has been restored to capacity may show to the court
 9 that ~~he~~ the person has settled with ~~his~~ the guardian or *
 10 conservator and may petition for the guardian's or conservator's
 11 discharge without further hearing. Upon such petition, the
 12 court may discharge the guardian or conservator and ~~his~~ the *
 13 sureties.

14 (b) If, after hearing on notice as the court may require to
 15 the guardian, conservator and any surety, there is determined to
 16 be mismanagement, a shortage of funds, or other misconduct for
 17 which the guardian, conservator or a surety is liable, the court
 18 shall settle the account and enter judgment against the
 19 guardian, conservator or any surety as may be appropriate. The
 20 judgment may be filed, docketed and enforced in the same manner
 21 as any other judgment. This remedy is in addition to any other
 22 remedy available for breach of any condition of the bond.

23 (c) The resignation of a guardian or conservator shall not
 24 take effect until the court examines and allows ~~his~~ the final *
 25 account and makes an order accepting ~~his~~ the resignation. *

26 (d) If a guardian or conservator becomes unsuitable,
 27 incapacitated or disabled, or violates ~~his~~ the trust or fails to *
 28 perform any duty imposed ~~on-him~~ by law or the lawful order of *
 29 the court, the court upon petition or the ~~courts'~~ court's own *
 30 motion may remove ~~him~~ the guardian or conservator after notice. *

525*#583S

31 525.583 ALLOWANCE AND WAGES OF CONSERVATEE; LIMITED
 32 ACCOUNTABILITY OF CONSERVATOR.

33 The court, upon its own motion or upon petition of the
 34 conservator or conservatee, may authorize or direct the
 35 conservator to pay to the conservatee out of the conservatorship
 36 estate a reasonable allowance for the personal use of the
 37 conservatee in the amount the court may determine to be for the
 38 best interests of the conservatee. Unless otherwise ordered by
 39 the court, if the conservatee shall at any time during the
 40 continuance of the conservatorship be employed, ~~his~~ the wages or *
 41 salary for employment shall not be a part of the conservatorship *
 42 estate and the wages and salaries shall be paid to, and be *
 43 subject to the control of, the conservatee ~~and-shall-be-subject~~ *
 44 ~~to-his-control~~ to the same extent as if the conservatorship did *
 45 not exist. The conservator shall not be accountable for the
 46 allowances or wages and salary.

525*#59S

47 525.59 SUCCEEDING GUARDIAN OR CONSERVATOR.

48 If a guardian or conservator dies, resigns, or is removed,
 49 the court may appoint a successor with at least 14 days prior
 50 notice to the ward or conservatee, ~~his~~ a spouse, parents, adult *
 51 children and siblings, and to other persons as the court may *
 52 direct. ~~If-the~~ A ward or conservatee ~~has~~ having capacity to do *
 53 ~~so~~-~~he~~ may nominate a person to serve as successor or may give *
 54 instructions to the succeeding guardian or conservator or ~~he~~ may *
 55 do both. The court shall appoint the person so nominated and *
 56 shall charge ~~him~~ the appointee with the instructions, unless the *
 57 court finds that the appointment of the nominee or the *
 58 instructions or both are not in the best interests of the ward
 59 or conservatee.

525*#591S

60 525.591 SPECIAL GUARDIAN OR CONSERVATOR.

61 No change for subd 1

62 Subd. 2. SPECIAL GUARDIAN OR CONSERVATOR. Upon a
 63 clear showing of necessity, the court with notice may appoint a
 64 special guardian or conservator of the person or estate or both
 65 of any adult person designated in section 525.54, whether a
 66 petition for general guardianship or conservatorship has been
 67 filed or not. Notice shall be given in language which can be
 68 easily understood at least 24 hours prior to the hearing, and
 69 shall contain the information required by section 525.55,
 70 subdivision 2, regarding the purpose of the hearing and the
 71 rights of the proposed ward or conservatee. A copy of the
 72 petition shall be served with the notice. The court may waive
 73 the 24 hour notice requirement upon a showing that immediate and

1 reasonably foreseeable harm to the person or ~~his~~ the person's *
 2 estate will result from the 24 hour delay. Notice of the
 3 court's order shall be given to the proposed ward or conservatee.

4 No change for subd 3 to 4

5 Subd. 5. Within 14 days after appointment, a special
 6 guardian or conservator of the estate shall file an inventory
 7 and appraisal of the personal property according to the
 8 requirements of sections 525.561 and 525.562. The court shall
 9 specify in its order the duration of the special guardianship or
 10 conservatorship. At the expiration of the time specified in the
 11 court's order, or upon the granting of letters of general
 12 guardianship or conservatorship, the power of a special guardian
 13 or conservator shall cease, and ~~he~~ the special guardian or *
 14 conservator shall proceed forthwith to a final accounting. When *
 15 a special guardian or conservator has been appointed to protect
 16 the ward's or conservatee's interest in any matter wherein the
 17 interest of the general guardian or conservator appears to
 18 conflict with that of the ward or conservatee, or to protect the
 19 ward's or conservatee's interest upon suspension of an order of
 20 removal of a general guardian or conservator by appeal, the
 21 power of the special guardian or conservator shall not cease
 22 until terminated by the court.

525*#60S

23 525.60 TERMINATION.

24 Subdivision 1. The guardianship or conservatorship of an *
 25 adult ward or conservatee shall terminate upon ~~his~~ death or upon
 26 the ward's or conservatee's restoration to capacity. When there
 27 is no further need for any guardianship or conservatorship, the
 28 court may terminate the same upon notice as it may direct.
 29 Termination does not affect a guardian's or conservator's
 30 liability for prior acts, nor ~~his~~ the obligation to account for *
 31 funds and assets of ~~his~~ the ward or conservatee. *

32 Subd. 2. Repealed, 1980 c 493 s 40

525*#61S

33 525.61 RESTORATION TO CAPACITY; MODIFICATION OF
 34 GUARDIANSHIP OR CONSERVATORSHIP.

35 Any adult person who is under guardianship or *
 36 conservatorship or ~~his~~ the guardian or conservator, or any other *
 37 person may petition the court in which ~~he~~ the person was so
 38 adjudicated to be restored to capacity or to have a guardianship
 39 transferred to a conservatorship or to modify the guardianship
 40 or conservatorship. Upon the filing of the petition, the court
 41 shall fix the time and place for the hearing thereof, notice of
 42 which shall be given to the ward or conservatee, guardian or
 43 conservator, and to those other persons and in a manner provided
 44 in section 525.55.

45 To obtain an order of restoration to capacity the
 46 petitioner must prove by a preponderance of the evidence that
 47 the ward or conservatee is no longer incapacitated as defined in
 48 section 525.54, and is able to make provisions for ~~his~~ personal *
 49 care or ~~manage-his~~ self-management of property. If a ward or *
 50 conservatee has the functional ability to care for ~~himself~~ self *
 51 or for ~~his~~ property, or to make provisions for ~~his~~ personal *
 52 care or the care of ~~his~~ property, the fact ~~that-he-may-be-impaired of~~ *
 53 impairment to some extent by a mental condition shall not *
 54 preclude ~~his~~ restoration to capacity. In any proceedings for *
 55 restoration, the court may appoint one person duly licensed by a
 56 health related licensing board and one accredited social worker
 57 with expertise in evaluating persons who have the disabilities
 58 similar to those found to be the reason for the ward's or
 59 conservatee's incapacity, to assist in the determination of ~~his~~ *
 60 mental condition and functional ability to care for ~~himself~~ self *
 61 or ~~his~~ property. The court shall allow and order paid to each *
 62 health professional and social worker a reasonable sum for ~~his~~ *
 63 services. Upon the order, the county auditor shall issue a
 64 warrant on the county treasurer for the payment thereof.

525*#6155S

65 525.6155 TESTAMENTARY APPOINTMENT OF GUARDIAN OF MINOR.

66 The parent of a minor may appoint by will a guardian of an
 67 unmarried minor. Subject to the right of the minor under
 68 section 525.616, a testamentary appointment becomes effective
 69 upon filing the guardian's acceptance in the court in which the
 70 will is probated, if before acceptance, both parents are dead or
 71 the surviving parent is adjudged incapacitated. If both parents
 72 are dead, an effective appointment by the parent who died later
 73 has priority. This state recognizes a testamentary appointment

1 effected by filing the guardian's acceptance under a will
 2 probated in another state which is the testator's domicile.
 3 Upon acceptance of appointment, written notice of acceptance
 4 must be given within five days by the guardian to the minor, to
 5 the person having ~~his~~ the minor's care, to ~~his~~ the minor's adult
 6 siblings, ~~his~~ grandparents, aunts and uncles. Notice shall
 7 state that any person interested in the welfare of the minor, or
 8 the minor, if 14 or more years of age, may file with the court a
 9 written objection to the appointment in accordance with section
 10 525.616.

525*#616S

11 525.616 OBJECTION BY MINOR OF 14 OR OLDER OR INTERESTED
 12 ADULT TO TESTAMENTARY APPOINTMENT.

13 A minor of 14 or more years or any adult interested in ~~his~~
 14 the minor's welfare may prevent an appointment of ~~his~~ the
 15 minor's testamentary guardian from becoming effective, or may
 16 cause a previously accepted appointment to terminate, by filing
 17 with the court in which the will is probated a written objection
 18 to the appointment before it is accepted or within 30 days after
 19 its acceptance. An objection may be withdrawn. An objection
 20 does not preclude appointment by the court in a proper
 21 proceeding of the testamentary nominee, or any other suitable
 22 person.

525*#618S

23 525.618 COURT APPOINTMENT OF GUARDIAN OF MINOR;
 24 PROCEDURE.

25 Subdivision 1. TIME OF NOTICE; TO WHOM. Notice of
 26 the time and place of hearing of a petition for the appointment
 27 of a guardian of a minor shall be given by the petitioner in the
 28 following manner and to the following persons:

29 (a) The minor, if ~~he-is~~ 14 or more years of age, by
 30 personal service at least 14 days prior to the date of hearing;

31 (b) The person who has had the principal care and custody
 32 of the minor during the 60 days preceding the date of the
 33 petition by personal service, at least 14 days prior to the date
 34 of hearing;

35 (c) Any living parent of the minor residing in Minnesota by
 36 personal service, at least 14 days prior to the date of hearing;

37 (d) Any living parent of the minor residing outside of
 38 Minnesota, and any adult brothers and sisters of the minor,
 39 service by mail, at least 14 days prior to the date of hearing;
 40 and

41 (e) To any other persons that the court may direct.

42 No change for subd 2 to 4

43 Subd. 5. COPY OF ORDER TO WARD OR CONSERVATEE. A
 44 copy of an order appointing a guardian or conservator of a minor
 45 shall be served by mail upon the ward or conservatee and ~~his~~
 46 counsel, if ~~he-was~~ represented at the hearing. The order shall
 47 be accompanied by a notice which advises the ward or conservatee
 48 of ~~his~~ the right to appeal the guardianship or conservatorship
 49 appointment within 30 days.

50 No change for subd 6

525*#619S

51 525.619 POWERS AND DUTIES OF GUARDIAN OF MINOR.

52 A guardian of a minor has the powers and responsibilities
 53 of a parent who has not been deprived of custody of ~~his~~ the
 54 minor and unemancipated child, except that a guardian is not
 55 legally obligated to provide from ~~his~~ the guardian's own funds
 56 for the ward. In particular, and without qualifying the
 57 foregoing, a guardian ~~has-the-following-powers-and-duties:~~

58 (a) He must take reasonable care of ~~his~~ the ward's personal
 59 effects and commence protective proceedings if necessary to
 60 protect other property of the ward.

61 (b) He may receive money payable for the support of the
 62 ward to the ward's parent, guardian or custodian under the terms
 63 of any statutory benefit or insurance system, or any private
 64 contract, devise, trust, conservatorship or custodianship.
 65 He and also may receive money or property of the ward paid or
 66 delivered by virtue of section 525.6196. Any sums so received
 67 shall be applied to the ward's current needs for support, care
 68 and education. He The guardian must exercise due care to
 69 conserve any excess for the ward's future needs unless a
 70 conservator has been appointed for the estate of the ward, in
 71 which case the excess shall be paid over at least annually to
 72 the conservator. Sums so received by the guardian are not to be
 73 used for compensation for ~~his~~ the guardian's services except as

1 approved by order of court or as determined by a duly appointed
2 conservator other than the guardian. A guardian may institute
3 proceedings to compel the performance by any person of a duty to
4 support the ward or to pay sums for the welfare of the ward.

5 (c) The guardian is empowered to facilitate the ward's
6 education, social, or other activities and to authorize medical
7 or other professional care, treatment or advice. A ward who is
8 less than 16 years of age may be admitted to a treatment
9 facility as an informal patient according to section 253B.04 but
10 may not be committed to any state institution except pursuant to
11 chapter 253B. No guardian may give consent for psychosurgery,
12 electroshock, sterilization or experimental treatment of any
13 kind unless the procedure is first approved by the order of the
14 court, after a hearing as prescribed by section 525.56,
15 subdivision 3.

16 A guardian is not liable by reason of ~~his~~ consent for *
17 injury to the ward resulting from the negligence or acts of
18 third persons unless it would have been illegal for a parent to *
19 have consented, or unless ~~he~~ the guardian fails to comply with *
20 the requirements of this section which provide that a court
21 order is necessary for commitment and for certain types of
22 medical procedures. A guardian may consent to the marriage or
23 adoption of ~~his~~ the ward. *

24 (d) A guardian must report the condition of ~~his~~ the ward *
25 and of the ward's estate which has been subject to ~~his~~ the *
26 guardian's possession or control, as ordered by the court on its *
27 own motion or on petition of any person interested in the *
28 minor's welfare and as required by court rule.

525*#6192S

29 525.6192 TERMINATION OF APPOINTMENT OF GUARDIAN; GENERAL.

30 A guardian's authority and responsibility terminates upon
31 the death, resignation or removal of the guardian or upon the
32 minor's death, adoption, marriage or attainment of majority, but
33 termination does not affect ~~his~~ the guardian's liability for *
34 prior acts, nor ~~his~~ the obligation to account for funds and *
35 assets of ~~his~~ the ward. A guardian may be discharged without *
36 notice or hearing on petition and acceptance of the guardian's
37 accounts by the ward after the ward marries or attains majority,
38 or, in the case of the ward's death, by the personal
39 representative of the ward's estate. In other cases the court
40 may discharge the guardian upon approval of ~~his~~ the guardian's *
41 accounts after notice and a hearing. Resignation of a guardian
42 does not terminate the guardianship until it has been approved
43 by the court. A testamentary appointment under an informally
44 probated will terminates if the will is later denied probate in
45 a formal proceeding.

525*#6196S

46 525.6196 FACILITY OF PAYMENT OR DELIVERY.

47 Any person other than a personal representative subject to
48 section 524.3-915, clause (b), who is under a duty to pay or
49 deliver money or personal property to a minor may perform this
50 duty, in amounts not exceeding \$5,000 per annum, by paying or
51 delivering the money or property to, (1) the minor, if ~~he has~~ *
52 ~~attained-the-age-of~~ 16 years of age or ~~is~~ married; (2) any *
53 person having the care and custody of the minor with whom the
54 minor resides; (3) a guardian of the minor; or (4) a financial
55 institution incident to a deposit in a federally insured savings
56 account in the sole name of the minor and giving notice of the
57 deposit to the minor. This section does not apply if the person
58 making payment or delivery has actual knowledge that a
59 conservator has been appointed or proceedings for appointment of
60 a conservator of the estate of the minor are pending. The
61 persons, other than the minor or any financial institution under
62 clause (4) above, receiving money or property for a minor, are
63 obligated to apply the money to the support and education of the
64 minor, but may not pay themselves except by way of reimbursement
65 for out-of-pocket expenses for goods and services necessary for
66 the minor's support. Any excess sums shall be preserved for
67 future support of the minor. Any balance not so used and any
68 property received for the minor must be turned over to the minor
69 ~~when-he-attains~~ on attaining majority. Persons who pay or *
70 deliver in accordance with provisions of this section are not
71 responsible for the proper application of it.

525*#6198S

72 525.6198 PROTECTIVE PROCEEDINGS; APPOINTMENT OF
73 CONSERVATOR OF ESTATE OF MINOR.

1 Upon petition and after notice and hearing in accordance
2 with the provisions of section 525.618 the court may appoint a
3 conservator or make other protective order for cause as follows:

4 (1) Appointment of a conservator or other protective order
5 may be made in relation to the estate and affairs of a minor if
6 the court determines that a minor owns money or property that
7 requires management or protection which cannot otherwise be
8 provided, has or may have business affairs which may be
9 jeopardized or prevented by ~~his~~ minority, or that funds are *
10 needed for ~~his~~ support and education and that protection is *
11 necessary or desirable to obtain or provide funds.

12 (2) The court may grant to the conservator of the estate of
13 a minor any or all of the powers and duties enumerated in
14 section 525.56, subdivision 4, and the conservator shall be
15 subject to the requirements of sections 525.58, subdivision 1,
16 525.581 and 525.582 regarding an inventory and accounting,
17 except that the court may waive the requirement that the annual
18 account be served on the ward. The conservator shall file a
19 bond with the court in such amount as the court may direct.

525*#63S

20 525.63 REASONS FOR SALE, MORTGAGE, LEASE.

21 The court may direct a sale, mortgage, or lease of any real
22 estate of a ward or conservatee when the personal property is
23 insufficient to pay ~~his~~ debts and other charges against ~~his~~ the *
24 estate, or to provide for the support, maintenance, and *
25 education of the ward or conservatee, ~~his~~ a spouse, and
26 dependent children, or when it shall determine the sale,
27 mortgage, or lease to be for the best interest of the ward or
28 conservatee.

29 The homestead of a ward or conservatee shall not be sold,
30 mortgaged, or leased unless the written consent of the spouse
31 has been filed.

525*#642S

32 525.642 TERMS OF SALE.

33 The court may order a sale of real estate for cash, part
34 cash and a purchase-money mortgage of not more than 50 percent
35 of the purchase price, or on contract for deed. The initial
36 payment under a sale on contract shall not be less than ten
37 percent of the total purchase price, and the unpaid purchase
38 price shall bear interest at a rate of not less than four
39 percent per annum and shall be payable in reasonable monthly,
40 quarterly, semiannual, or annual payments, and the final
41 instalment shall become due and payable not later than ten years
42 from the date of the contract. Such contract shall provide for
43 conveyance by quitclaim deed, which deed shall be executed and
44 delivered upon full performance of the contract without further
45 order of the court. In the event of termination of the interest
46 of the purchaser and ~~his~~ assigns in such contract, the real *
47 estate may be resold under the original order and a reappraisal
48 within three months preceding the sale. A sale of the vendor's
49 interest in real estate sold by the guardian or conservator on
50 contract may be made under order of the court, with or without
51 notice, upon an appraisal of such interest within three months
52 preceding the sale; no such sale shall be made for less than its
53 value as fixed by such appraisal.

525*#652S

54 525.652 ADDITIONAL BOND.

55 If the existing bond of the guardian or conservator be *
56 insufficient, before confirmation of a sale or lease, or before *
57 execution of a mortgage, he the guardian or conservator shall
58 file an additional bond in such amount as the court may require.

525*#662S

59 525.662 CONFIRMATION.

60 Upon making a sale or lease, the guardian or conservator
61 shall file ~~his~~ a report thereof. Upon proof of compliance with *
62 the terms of the order, the court may confirm the sale or lease
63 and order the guardian or conservator to execute and deliver the
64 proper instrument.

525*#692S

65 525.692 LIABILITY ON MORTGAGE NOTE.

66 No guardian or conservator shall be liable personally on
67 any mortgage note or by reason of the covenants in any
68 instrument or conveyance executed ~~by him~~ in ~~his~~ the capacity as *
69 of guardian or conservator. *

525*#703S

70 525.703 COSTS.

1 No change for subd 1
 2 Subd. 2. LAWYER OR HEALTH PROFESSIONAL. In
 3 proceedings under sections 525.54 to 525.702 a lawyer or health
 4 professional rendering necessary services with regard to the
 5 appointment of a guardian or conservator, the administration of
 6 the ward's or conservatee's estate or personal affairs or the
 7 restoration of ~~his~~ that person's capacity, shall be entitled to *
 8 reasonable compensation from the estate of the ward or
 9 conservatee or from the county having jurisdiction over the
 10 proceedings if the ward or conservatee is indigent. When the
 11 court determines that other necessary services have been
 12 provided for the benefit of the ward or conservatee by a lawyer
 13 or health professional, the court may order reasonable fees to
 14 be paid from the estate of the ward or conservatee or from the
 15 county having jurisdiction over the proceedings if the ward or
 16 conservatee is indigent. If, however, the court determines that
 17 a petitioner, guardian or conservator has not acted in good
 18 faith, the court shall order some or all of the fees or costs
 19 incurred in the proceedings to be borne by the petitioner,
 20 guardian, or conservator not acting in good faith.

21 Subd. 3. GUARDIAN OR CONSERVATOR. (a) When the court
 22 determines that a guardian or conservator of the person or the
 23 estate has rendered necessary services or has incurred necessary
 24 expenses for the benefit of the ward or conservatee, the court
 25 may order reimbursement or reasonable compensation to be paid
 26 from the estate of the ward or conservatee or from the county
 27 having jurisdiction over the guardianship or conservatorship if
 28 the ward or conservatee is indigent. The court may not deny an
 29 award of fees solely because the ward or conservatee is a
 30 recipient of medical assistance.

31 (b) The court shall order reimbursement or reasonable
 32 compensation if the guardian or conservator requests payment and
 33 the guardian or conservator was nominated by the court or by the
 34 county adult protection unit because no suitable relative or
 35 other person was available to provide guardianship or
 36 conservatorship services necessary to prevent abuse or neglect
 37 of a vulnerable adult, as defined in section 626.557.

38 (c) When a county employee serves as a guardian or *
 39 conservator as part of ~~his-er-her~~ employment duties, the court
 40 shall order reasonable compensation if the guardian or
 41 conservator performs necessary services that are not compensated
 42 by the county. The court may order reimbursement to the county
 43 from the ward's or conservatee's estate for reasonable
 44 compensation paid by the county for services rendered by a
 45 guardian or conservator who is a county employee but only if the
 46 county shows that after a diligent effort it was unable to
 47 arrange for an independent guardian or conservator.

525*#714S

48 525.714 SUSPENSION BY APPEAL.
 49 The appeal shall suspend the operation of the order,
 50 judgment, or decree appealed from until the appeal is determined
 51 or the court of appeals orders otherwise. The court of appeals
 52 may require the appellant to give additional bond for the
 53 payment of damages which may be awarded against ~~him~~ the *
 54 appellant in consequence of the suspension, ~~in-case-he-fails on~~ *
 55 the appellant's failure to obtain a reversal of the order, *
 56 judgment, or decree appealed from. Nothing herein contained
 57 shall prevent the probate court from appointing special
 58 representatives nor prevent special representatives from
 59 continuing to act as such.

525*#73S

60 525.73 AFFIRMANCE; REVERSAL.
 61 When the appellant fails to prosecute ~~his~~ the appeal, or *
 62 the order, judgment, or decree appealed from or reviewed is
 63 sustained, judgment shall be entered in the court of appeals
 64 affirming the decision of the probate court. Upon the filing in
 65 the probate court of a certified transcript of the judgment, the
 66 probate court shall proceed as if no appeal had been taken. If
 67 the order, judgment, or decree reviewed is reversed or modified,
 68 the court of appeals shall remand the case to the probate court
 69 with directions to proceed in conformity with its decision.
 70 Upon the filing in the probate court of a certified transcript
 71 of the judgment, it shall proceed as directed by the court of
 72 appeals.

525*#731S

73 525.731 JUDGMENT; EXECUTION.

1 The party prevailing on the appeal shall be entitled to
 2 costs and disbursements to be taxed as in a civil action. If
 3 judgment be rendered against the estate, they shall be an
 4 adjudicated claim against it. If judgment be rendered against
 5 an appellant other than the state, the veterans' administration,
 6 or representative appealing on behalf of the estate, judgment
 7 shall be entered against the appellant and the sureties on ~~his~~
 8 the appeal bond and execution may issue thereon. *

525*#83S

9 525.83 NOTICE.

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

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

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

525*#841S

30 525.841 ESCHEAT RETURNED.

31 In all such cases the commissioner of finance shall be
 32 furnished with a certified copy of the court's order assigning
 33 the escheated property to the persons entitled thereto, and upon
 34 notification of payment of the estate tax, the commissioner of
 35 finance shall draw ~~his~~ a warrant on the state treasurer, or
 36 execute a proper conveyance to the persons designated in such
 37 order. In the event any escheated property has been sold
 38 pursuant to sections 11A.04, clause (9) and 11A.10, subdivision
 39 2 or 94.09 to 94.16, then the warrant shall be for the appraised
 40 value as established during the administration of the decedent's
 41 estate. There is hereby annually appropriated from any moneys
 42 in the state treasury not otherwise appropriated an amount
 43 sufficient to make payment to all such designated persons. No
 44 interest shall be allowed on any amount paid to such persons. *

525*#881S

45 525.881 FEDERAL PATENTS.

46 When any person holding a homestead or tree claim entry
 47 under the laws of the United States has died before making final
 48 proof and final proof has afterwards been made by ~~his~~ the heirs,
 49 devisees, or representatives, and a patent has been granted to
 50 ~~his~~ the "heirs" or "devisees," the district court of the county
 51 in which the real estate so patented is situated, may determine
 52 who are such heirs or devisees, and may determine their
 53 respective shares in such homestead or tree claim. The
 54 provisions of the code of civil procedure relating to the
 55 determination of adverse claims to real estate in so far as the
 56 same may be applicable, shall pertain to and govern the
 57 procedure in the action provided for in this section. *

525*#90S

58 525.90 UNIFORM SIMULTANEOUS DEATH ACT.

59 Subdivision 1. TITLE. Where the title to property
 60 or the devolution thereof depends upon priority of death and
 61 there is no sufficient evidence that the persons have died
 62 otherwise than simultaneously, the property of each person shall
 63 be disposed of as if ~~he~~ the person had survived, except as
 64 provided otherwise in this section. *

65 No change for subd 2 to 7

525*#921S

66 525.921 DEFINITIONS.

67 No change for subd 1 to 3

68 Subd. 4. "Donor" means an individual who makes a gift of
 69 all or part of ~~his~~ the individual's body. *

70 No change for subd 5 to 9

525*#922S

1 525.922 PERSONS WHO MAY EXECUTE AN ANATOMICAL GIFT.
 2 No change for subd 1
 3 Subd. 2. Any of the following persons, in order of
 4 priority stated, when persons in prior classes are not available
 5 at the time of death, and in the absence of actual notice of
 6 contrary indications by the decedent or actual notice of
 7 opposition by a member of the same or a prior class, may give
 8 all or any part of the decedent's body for any purpose specified
 9 in section 525.923:
 10 (a) the spouse,
 11 (b) an adult son or daughter,
 12 (c) either parent,
 13 (d) an adult brother or sister,
 14 (e) a guardian of the person of the decedent at the time of
 15 his death,
 16 (f) any other person authorized or under obligation to
 17 dispose of the body.
 18 No change for subd 3 to 5

525*#923S

19 525.923 PERSONS WHO MAY BECOME DONEES; PURPOSES FOR
 20 WHICH ANATOMICAL GIFTS MAY BE MADE.
 21 The following persons may become donees of gifts of bodies
 22 or parts thereof for the purposes stated:
 23 (1) any hospital, surgeon, or physician, for medical or
 24 dental education, research, advancement of medical or dental
 25 science, therapy, or transplantation; or
 26 (2) any accredited medical or dental school, college or
 27 university for education, research, advancement of medical or
 28 dental science, therapy, or transplantation; or
 29 (3) any bank or storage facility, for medical or dental
 30 education, research, advancement of medical or dental science,
 31 therapy, or transplantation; or
 32 (4) any specified individual for therapy or transplantation
 33 needed by him the individual; or
 34 (5) any approved chiropractic college for education,
 35 research or advancement of chiropractic science.

525*#924S

36 525.924 MANNER OF EXECUTING ANATOMICAL GIFTS.
 37 No change for subd 1
 38 Subd. 2. A gift of all or part of the body under section
 39 525.922, subdivision 1, may also be made by document other than
 40 a will. The gift becomes effective upon the death of the
 41 donor. The document, which may be a card designed to be carried
 42 on the person, must be signed by the donor in the presence of
 43 two witnesses who must sign the document in ~~his~~ the donor's
 44 presence. If the donor cannot sign, the document may be signed
 45 for him the donor at ~~his~~ the donor's direction and in his
 46 the donor's presence in the presence of two witnesses who must
 47 sign the document in ~~his~~ the donor's presence. Delivery of the
 48 document of gift during the donor's lifetime is not necessary to
 49 make the gift valid.
 50 No change for subd 2a to 3
 51 Subd. 4. Notwithstanding section 525.927, subdivision 2,
 52 the donor may designate in ~~his~~ a will, card, or other document
 53 of gift the surgeon or physician to carry out the appropriate
 54 procedures. In the absence of a designation or if the designee
 55 is not available, the donee or other person authorized to accept
 56 the gift may employ or authorize any surgeon or physician for
 57 the purpose.
 58 Subd. 5. Any gift by a person designated in section
 59 525.922, subdivision 2, shall be made by a document signed by
 60 him the person or made by ~~his~~ telegraphic, recorded telephonic,
 61 or other recorded message.
 62 No change for subd 6 to 7

525*#926S

63 525.926 AMENDMENT OR REVOCATION OF THE GIFT.
 64 Subdivision 1. If the will, card, or other document or
 65 executed copy thereof, has been delivered to a specified donee,
 66 the donor may amend or revoke the gift by:
 67 (a) the execution and delivery to the donee of a signed
 68 statement, or
 69 (b) an oral statement made in the presence of two persons
 70 and communicated to the donee, or
 71 (c) a statement during a terminal illness or injury
 72 addressed to an attending physician and communicated to the
 73 donee, or

1 (d) a signed card or document found on ~~his~~ the donor's *
2 person or in ~~his~~ the donor's effects. *

3 No change for subd 2 to 3

525*#927S

4 525.927 RIGHTS AND DUTIES AT DEATH.

5 Subdivision 1. The donee may accept or reject the gift.

6 ~~if~~ The donee accepts, on accepting a gift of the entire body, ~~he~~ *
7 may, subject to the terms of the gift, authorize embalming and
8 the use of the body in funeral services. If the gift is of a
9 part of the body, the donee, upon the death of the donor and
10 prior to embalming, shall cause the part to be removed without
11 unnecessary mutilation. After removal of the part, custody of
12 the remainder of the body vests in the surviving spouse, next of
13 kin, or other persons under obligation to dispose of the body.

14 Subd. 2. The time of death shall be determined by a
15 physician who attends the donor at ~~his~~ death, or, if none, the *
16 physician who certifies the death. The physician shall not
17 participate in the procedures for removing or transplanting a
18 part.

19 Subd. 3. A person who acts in good faith in accord with
20 the terms of sections 171.07, subdivision 5; 171.12, subdivision
21 5; and 525.921 to 525.93, or the anatomical gift laws of another
22 state or a foreign country is not liable for damages in any
23 civil action or subject to prosecution in any criminal
24 proceeding for ~~his~~ the act. *

526*#09S

25 526.09 PSYCHOPATHIC PERSONALITY.

26 The term "psychopathic personality," as used in sections
27 526.09 to 526.11, means the existence in any person of such
28 conditions of emotional instability, or impulsiveness of
29 behavior, or lack of customary standards of good judgment, or
30 failure to appreciate the consequences of ~~his~~ personal acts, or *
31 a combination of any such conditions, as to render such person
32 irresponsible for ~~his~~ personal conduct with respect to sexual *
33 matters and thereby dangerous to other persons.

526*#10S

34 526.10 LAWS RELATING TO MENTALLY ILL PERSONS DANGEROUS
35 TO THE PUBLIC TO APPLY TO PSYCHOPATHIC PERSONALITIES.

36 Except as otherwise provided herein or in chapter 253B, the
37 provisions of chapter 253B, pertaining to persons mentally ill
38 and dangerous to the public shall apply with like force and
39 effect to persons having a psychopathic personality, to persons
40 alleged to have such personality, and to persons found to have
41 such personality, respectively. Before such proceedings are
42 instituted, the facts shall first be submitted to the county
43 attorney, who, if ~~he-is~~ satisfied that good cause exists *
44 therefor, shall prepare the petition to be executed by a person
45 having knowledge of the facts and file the same with the judge
46 of the probate court of the county in which the "patient," as
47 defined in such statutes, has ~~his~~ a settlement or is present. *
48 The judge of probate shall thereupon follow the same procedures
49 set forth in chapter 253B, for judicial commitment. The judge
50 may ~~at-his-discretion~~ exclude the general public from attendance *
51 at such hearing. If, upon completion of the hearing and
52 consideration of the record, the court finds the proposed
53 patient has a psychopathic personality, the court shall commit
54 such person to a public hospital or a private hospital *
55 consenting to receive ~~him~~ the person, subject to a mandatory *
56 review by the head of the hospital within 60 days from the date
57 of the order as provided for in chapter 253B for persons found
58 to be mentally ill and dangerous to the public. The patient
59 shall thereupon be entitled to all of the rights provided for in
60 chapter 253B, for persons found to be mentally ill and dangerous
61 to the public, and all of the procedures provided for in chapter
62 253B, for persons found to be mentally ill and dangerous to the
63 public shall apply to such patient.

526*#20S

64 526.20 SALARIES AND CLERK HIRE NOT TO BE AFFECTED BY
65 DECREASE IN VALUATION.

66 Neither the salary nor allowance for clerk hire of any
67 judge of probate shall be decreased during the term for which ~~he~~ *
68 ~~was~~ elected or appointed by reason of any decline in the *
69 population of the county or by a decrease in the valuation of
70 the county, but such salary and clerk hire shall be paid during
71 the balance of such term of office in the amounts authorized
72 prior to such reduction in population, or by a decrease in

1 valuation of the county.

528*#02S

2 528.02 DEFINITIONS.

3 No change for subd 1 to 6

4 Subd. 7. "Net contribution" of a party to a joint account
5 as of any given time is the sum of all deposits thereto made by
6 or for ~~him~~ the party, less all withdrawals made by or for ~~him~~ *
7 the party which have not been paid to or applied to the use of *
8 any other party, plus a pro rata share of any interest or
9 dividends included in the current balance. The term includes
10 any proceeds of deposit life insurance added to the account by
11 reason of the death of the party whose net contribution is in
12 question.

13 No change for subd 8 to 16

528*#14S

14 528.14 FINANCIAL INSTITUTION PROTECTION; SET-OFF.

15 Without qualifying any other statutory right to set-off or
16 lien and subject to any contractual provision, if a party to a
17 multiple-party account is indebted to a financial institution,
18 the financial institution has a right to set-off against the *
19 account in which the party has or had immediately before ~~his~~ *
20 death a present right of withdrawal. The amount of the account
21 subject to set-off is that proportion to which the debtor is, or
22 was immediately before ~~his~~ death, beneficially entitled, and in *
23 the absence of proof of net contributions, to an equal share
24 with all parties having present rights of withdrawal.

540*#12S

25 540.12 ACTION NOT TO ABATE BY DEATH; TORTS.

26 No action shall abate by reason of the death or disability
27 of a party, or the transfer of ~~his~~ the party's interest, if the *
28 cause of action continues or survives. After a verdict,
29 decision, or report of a referee, fixing the amount of damages
30 for a wrong, such action shall not abate by the death of any
31 party thereto.

540*#13S

32 540.13 EXEMPTIONS OF LEGISLATIVE MEMBERS AND EMPLOYEES.

33 No member, officer, or employee of either branch of the
34 legislature shall be liable in a civil action on account of any
35 act done ~~by-him~~ in pursuance of ~~his-duty-as-such~~ *
36 legislator legislative duties. *

540*#14S

37 540.14 ACTIONS AGAINST RECEIVERS; TRIAL; JUDGMENT, HOW
38 SATISFIED.

39 Any receiver, assignee, or other person appointed by a
40 court to hold or manage property under its direction may be sued
41 on account of any ~~of-his~~ acts or transactions in carrying on the *
42 business connected with such property without prior leave of
43 court.

44 Such action may be brought in any county in which it could
45 have been brought against the person or corporation represented
46 by such receiver or other person, shall be tried in the same
47 manner and subject to the same rules of procedure, and any
48 judgment recovered therein against such receiver or other person
49 shall be paid by ~~him~~ the receiver or other person as a part of *
50 the expenses of managing such property.

540*#151S

51 540.151 SUABILITY; COMMON NAME.

52 When two or more persons associate and act, whether for
53 profit or not, under the common name, including associating and
54 acting as a labor organization or employer organization, whether
55 such common name comprises the names of such persons or not,
56 they may sue in or be sued by such common name, and the summons
57 may be served on an officer or a managing agent of the
58 association. The judgment in such cases shall accrue to the
59 joint or common benefit of and bind the joint or common property
60 of the associates, the same as though all had been named as
61 parties to the action. Any money judgment against a labor
62 organization or employer organization shall be enforceable only
63 against the organization as an entity and against its assets,
64 and shall not be enforceable against any individual member or
65 ~~his~~ the member's assets. *

540*#17S

66 540.17 JOINDER OF CONNECTING CARRIERS.

67 Subdivision 1. JOINDER. When any personal property
68 shall be transported by two or more connecting common carriers
69 into or through this state and shall become injured or damaged

1 during transportation, the consignor, consignee or owner
 2 thereof, or ~~his~~ the owner's assignee, in an action to recover *
 3 damages for such injury, may join as parties defendant one or
 4 more of such connecting common carriers with the last or
 5 delivering common carrier.

6 Subd. 2. PLEADING AND PROOF. In any such action
 7 brought in any court of this state against the last or
 8 delivering carrier and any one or more connecting common
 9 carriers, it shall be sufficient for the plaintiff to allege in
 10 ~~his~~ the complaint and prove upon the trial of such action, that *
 11 such personal property was in good order and condition when
 12 delivered to the initial carrier, that the same was transported
 13 from the initial point of shipment to its destination by two or
 14 more connecting common carriers, including the defendants, that
 15 it was in whole or in part injured or damaged on arrival at
 16 destination, and the general nature and amount of such injury or
 17 damage thereto, and such proof shall be prima facie evidence
 18 that such injury or damage was caused by the negligence of all
 19 the defendants and the amount of loss or damage caused to such
 20 property by the negligence of each and every one of the
 21 defendants shall be determined by the jury upon the trial of the
 22 action from all the evidence in the case, and a verdict rendered
 23 accordingly.

540*#18S

24 540.18 DAMAGE BY MINOR; RESPONSIBILITY OF PARENT,
 25 GUARDIAN, AND MINOR.

26 Subdivision 1. The parent or guardian of the person of a
 27 minor who is under the age of 18 and who is living with the
 28 parent or guardian and who willfully or maliciously causes
 29 injury to any person or damage to any property is jointly and
 30 severally liable with such minor for such injury or damage to an
 31 amount not exceeding \$500, if such minor would have been liable
 32 for such injury or damage if ~~he~~ the minor had been an adult. *
 33 Nothing in this subdivision shall be construed to relieve such
 34 minor from personal liability for such injury or damage. The
 35 liability provided in this subdivision is in addition to and not
 36 in lieu of any other liability which may exist at law. Recovery
 37 under this section shall be limited to special damages.

38 No change for subd 2

541*#01S

39 541.01 APPLICATION TO STATE AND OTHER STATES; EXCEPTIONS.

40 Actions can only be commenced within the periods prescribed
 41 in this chapter, after the cause of action accrues, except where
 42 a different limitation is prescribed by the uniform commercial
 43 code or, in special cases, by other statute; provided that a
 44 cause of action for sales or use taxes imposed by any other
 45 state shall be deemed to have accrued at the time such tax first
 46 becomes due and payable.

47 Such limitation shall apply to actions by or in behalf of
 48 the state and the several political subdivisions thereof;
 49 provided that no occupant of a public way, levee, square, or
 50 other ground dedicated or appropriated to public use shall
 51 acquire, by reason of ~~his~~ occupancy, any title thereto. *

52 No occupant of the land of a public or private cemetery
 53 shall acquire any title to the cemetery land by reason of the
 54 occupancy.

541*#02S

55 541.02 RECOVERY OF REAL ESTATE, 15 YEARS.

56 No action for the recovery of real estate or the possession
 57 thereof shall be maintained unless it appears that the
 58 plaintiff, ~~his~~ the plaintiff's ancestor, predecessor, or *
 59 grantor, was seized or possessed of the premises in question
 60 within 15 years before the beginning of the action.

61 Such limitations shall not be a bar to an action for the
 62 recovery of real estate assessed as tracts or parcels separate
 63 from other real estate, unless it appears that the party
 64 claiming title by adverse possession or ~~his~~ the party's *
 65 ancestor, predecessor, or grantor, or all of them together,
 66 shall have paid taxes on the real estate in question at least
 67 five consecutive years of the time during which ~~he~~ the party *
 68 claims these lands to have been occupied adversely.

69 The provisions of paragraph two shall not apply to actions
 70 relating to the boundary line of lands, which boundary lines are
 71 established by adverse possession, or to actions concerning
 72 lands included between the government or platted line and the
 73 line established by such adverse possession, or to lands not

1 assessed for taxation.

541*#023S

2 541.023 ACTIONS AFFECTING TITLE TO REAL ESTATE.

3 Subdivision 1. COMMENCEMENT. As against a claim of
4 title based upon a source of title, which source has then been
5 of record at least 40 years, no action affecting the possession
6 or title of any real estate shall be commenced by a person,
7 partnership, corporation, state, or any political division
8 thereof, after January 1, 1948, to enforce any right, claim,
9 interest, incumbrance or lien founded upon any instrument, event
10 or transaction which was executed or occurred more than 40 years
11 prior to the commencement of such action, unless within 40 years
12 after such execution or occurrence there has been recorded in
13 the office of the county recorder or filed in the office of the
14 registrar of titles in the county in which the real estate
15 affected is situated, a notice sworn to by the claimant or his
16 the claimant's agent or attorney setting forth the name of the
17 claimant, a description of the real estate affected and of the
18 instrument, event or transaction on which such claim is founded,
19 and stating whether the right, claim, interest, incumbrance or
20 lien is mature or immature. If such notice relates to vested or
21 contingent rights claimed under a condition subsequent or
22 restriction it shall affirmatively show why such condition or
23 restriction is not, or has not become nominal so that it may be
24 disregarded under the provisions of Minnesota Statutes 1945,
25 Section 500.20, Subdivision 1.

26 No change for subd 2 to 7

541*#05S

27 541.05 VARIOUS CASES, SIX YEARS.

28 Subdivision 1. Except where the uniform commercial code
29 otherwise prescribes, the following actions shall be commenced
30 within six years:

31 (1) Upon a contract or other obligation, express or
32 implied, as to which no other limitation is expressly prescribed;

33 (2) Upon a liability created by statute, other than those
34 arising upon a penalty or forfeiture or where a shorter period
35 is provided by section 541.07;

36 (3) For a trespass upon real estate;

37 (4) For taking, detaining, or injuring personal property,
38 including actions for the specific recovery thereof;

39 (5) For criminal conversation, or for any other injury to
40 the person or rights of another, not arising on contract, and
41 not hereinafter enumerated;

42 (6) For relief on the ground of fraud, in which case the
43 cause of action shall not be deemed to have accrued until the
44 discovery by the aggrieved party of the facts constituting the
45 fraud;

46 (7) To enforce a trust or compel a trustee to account,
47 where he the trustee has neglected to discharge the trust, or
48 claims to have fully performed it, or has repudiated the trust
49 relation;

50 (8) Against sureties upon the official bond of any public
51 officer, whether of the state or of any county, town, school
52 district, or a municipality therein; in which case the
53 limitation shall not begin to run until the term of such officer
54 for which the bond was given shall have expired;

55 (9) For damages caused by a dam, used for commercial
56 purposes.

57 No change for subd 2

541*#051S

58 541.051 LIMITATION OF ACTION FOR DAMAGES BASED ON
59 SERVICES OR CONSTRUCTION TO IMPROVE REAL PROPERTY.

60 Subdivision 1. Except where fraud is involved, no action
61 by any person in contract, tort, or otherwise to recover damages
62 for any injury to property, real or personal, or for bodily
63 injury or wrongful death, arising out of the defective and
64 unsafe condition of an improvement to real property, nor any
65 action for contribution or indemnity for damages sustained on
66 account of the injury, shall be brought against any person
67 performing or furnishing the design, planning, supervision,
68 materials, or observation of construction or construction of the
69 improvement to real property or against the owner of the real
70 property more than two years after discovery thereof, nor, in
71 any event shall such a cause of action accrue more than 15 years
72 after substantial completion of the construction. Date of
73 substantial completion shall be determined by the date when

1 construction is sufficiently completed so that the owner or ~~his~~ *
 2 the owner's representative can occupy or use the improvement for *
 3 the intended purpose.

4 Nothing in this section shall apply to actions for damages
 5 resulting from negligence in the maintenance, operation or
 6 inspection of the real property improvement against the owner or
 7 other person in possession.

8 No change for subd 2 to 4

541*#06S

9 541.06 SHERIFFS, CORONERS, CONSTABLES; FORFEITURES,
 10 THREE YEARS.

11 The following actions shall be commenced within three years:
 12 Against a sheriff, coroner, or constable for any act done
 13 in ~~his~~ an official capacity and in virtue of ~~his~~ an office, or *
 14 for any omission of an official duty, including the non-payment
 15 of money collected or received on a judgment or execution.

541*#13S

16 541.13 ABSENCE FROM STATE.

17 When a cause of action accrues against a person who is out
 18 of the state and while out of the state is not subject to
 19 process under the laws of this state or after diligent search ~~he~~ *
 20 the person cannot be found for the purpose of personal service *
 21 when personal service is required, an action may be commenced
 22 within the times herein limited after ~~his~~ the person's return to *
 23 the state; and if, after a cause of action accrues, ~~he~~ the *
 24 person departs from and resides out of the state and while out *
 25 of the state is not subject to process under the laws of this
 26 state or after diligent search ~~he~~ the person cannot be found for *
 27 the purpose of personal service when personal service is
 28 required, the time of ~~his~~ the person's absence is not part of *
 29 the time limited for the commencement of the action.

541*#15S

30 541.15 PERIODS OF DISABILITY NOT COUNTED.

31 Any of the following grounds of disability, existing at the
 32 time when a cause of action accrued or arising anytime during
 33 the period of limitation, shall suspend the running of the
 34 period of limitation until the same is removed; provided that
 35 such period, except in the case of infancy, shall not be
 36 extended for more than five years, nor in any case for more than
 37 one year after the disability ceases:

38 (1) That the plaintiff is within the age of 18 years;

39 (2) ~~His~~ The plaintiff's insanity; *

40 (3) ~~His~~ The plaintiff's imprisonment on a criminal charge, *
 41 or under a sentence of a criminal court for a term less than ~~his~~ *
 42 the plaintiff's natural life; *

43 (4) Is an alien and the subject or citizen of a country at
 44 war with the United States;

45 (5) When the beginning of the action is stayed by
 46 injunction or by statutory prohibition.

47 If two or more disabilities shall coexist, the suspension
 48 shall continue until all are removed.

542*#03S

49 542.03 OFFICIAL MISCONDUCT, WHERE CAUSE AROSE.

50 Subdivision 1. Except as provided in subdivision 2,
 51 actions against a public officer, or person specially appointed
 52 to execute ~~his~~ a public officer's duties, for acts done by *
 53 virtue of ~~his~~ the office, and against any person for like cause *
 54 who has acted in place or in aid of the officer, and actions to
 55 recover penalties or forfeitures imposed by statute, shall be
 56 tried in the county in which the cause of action arose. If the
 57 act for which the penalty or forfeiture is imposed is committed
 58 upon a lake or stream extending into, or bordering upon, more
 59 than one county, the action may be tried in any of these
 60 counties.

61 No change for subd 2

542*#06S

62 542.06 REPLEVIN.

63 Actions to recover the possession of personal property
 64 wrongfully taken shall be tried in the county in which the
 65 taking occurred, or, at claimant's election, in the county in
 66 which ~~he~~ the claimant resides; in other cases in the county in *
 67 which the property is situated.

542*#10S

68 542.10 CHANGE OF VENUE AS OF RIGHT; DEMAND.

69 If the county designated in the complaint is not the proper
 70 county, the action may notwithstanding be tried therein unless,

1 within 20 days after the summons is served, the defendant
 2 demands in writing that it be tried in the proper county. This
 3 demand shall be accompanied by the affidavit of the defendant,
 4 or ~~his~~ defendant's agent or attorney, setting forth the county
 5 of ~~his~~ residence at the time of the commencement of the action,
 6 the date of service of the summons, and stating that neither the
 7 cause of action nor any part thereof arose in the county
 8 designated in the complaint. This demand and affidavit, with
 9 proof of service thereof upon the plaintiff's attorney, shall be
 10 filed with the clerk in the county where the action was begun
 11 within 30 days from the date of its service and thereupon,
 12 unless the county where the action was begun is a county in
 13 which the cause of action or some part thereof arose, the place
 14 of trial shall be changed to the county where the defendant
 15 resides without any other proceedings. If the county designated
 16 in the complaint is not the county in which the cause of action
 17 or some part thereof arose and if there are several defendants
 18 residing in different counties, the trial shall be had in the
 19 county upon which a majority of them unite in demanding or, if
 20 the numbers be equal, in that whose county seat is nearest.
 21 When the place of trial is changed all other proceedings shall
 22 be had in the county to which the change is made, unless
 23 otherwise provided by consent of parties filed with the clerk or
 24 by order of the court and the papers shall be transferred and
 25 filed accordingly. When a demand for a change of the place of
 26 trial is made as herein provided the action shall not for any of
 27 the reasons specified in section 542.11 be retained for trial in
 28 the county where begun, but can be tried therein only upon
 29 removal thereto from the proper county in the cases provided by
 30 law.

31 A party who has paid the filing fee of the county where the
 32 action originated shall not be required to pay the filing fee of
 33 the county to which the action is transferred. The transferor
 34 county may retain any filing fees received prior to the change
 35 of county, but shall in writing advise the county to which the
 36 action is transferred of any and all such filing fees paid to
 37 the transferor county.

542*#13S

38 542.13 INTEREST OR BIAS OF JUDGE.
 39 No judge shall sit in any cause, except to hear a motion to
 40 change the venue, if ~~he-be~~ interested in its determination, or
 41 if ~~he~~ the judge might be excluded for bias from acting therein
 42 as a juror. If ~~he-be-the-only~~ there is no other judge of the
 43 court or district, ~~he~~ the judge shall grant a change of the
 44 venue when, upon a motion therefor, ~~his~~ the interest or bias
 45 shall be made to appear, unless before the motion is heard the
 46 governor shall have assigned another judge to try such
 47 cause. ~~This-sole-judge-may-order~~ The venue may be changed
 48 upon ~~his-own~~ the sole judge's motion ~~when-he-deems~~ upon deeming
 49 it improper to sit in the cause.

542*#16S

50 542.16 NOTICE TO REMOVE.
 51 Subdivision 1. INITIAL DISQUALIFICATION. Any party,
 52 or ~~his~~ the party's attorney, to a cause pending in a district
 53 court, within one day after it is ascertained which judge is to
 54 preside at the trial or hearing thereof, or at the hearing of
 55 any motion or order to show cause, may make and file with the
 56 clerk of the court in which the action is pending and serve on
 57 the opposite party a notice to remove. Thereupon without any
 58 further act or proof, the chief judge of the judicial district
 59 shall assign any other judge of any court within the district to
 60 preside at the trial of the cause or the hearing of the motion
 61 or order to show cause, and the cause shall be continued on the
 62 calendar, until the assigned judge can be present. In criminal
 63 actions the notice to remove shall be made and filed with the
 64 clerk by the defendant, or ~~his~~ the defendant's attorney, not
 65 less than two days before the expiration of the time allowed ~~him~~
 66 by law to prepare for trial and in any of those cases the
 67 presiding judge shall be incapacitated to try the cause. In
 68 criminal cases, the chief judge, for the purpose of securing a
 69 speedy trial, may ~~in-his-discretion~~ change the place of trial to
 70 another county.
 71 Subd. 2. SUBSEQUENT DISQUALIFICATIONS. After a
 72 ~~litigant-has~~ having once disqualified a presiding judge as a
 73 matter of right under subdivision 1, ~~he~~ a litigant may
 74 disqualify the substitute judge, but only by making an

1 affirmative showing of prejudice. A showing that the judge
 2 might be excluded for bias from acting as a juror in the matter
 3 constitutes an affirmative showing of prejudice. If a litigant
 4 makes an affirmative showing of prejudice against a substitute
 5 judge, the chief judge of the judicial district shall assign any
 6 other judge of any court within the district to hear the cause.

542*#17S

7 542.17 EXPENSES PAID IN FIRST INSTANCE; REIMBURSEMENT.

8 When the venue shall be changed in a civil action upon the
 9 consent of parties, with or without an order of court, to a
 10 county other than the one where the same is properly triable or
 11 by an order of the court under section 542.11, clause (3), or
 12 clause (4), the expenses of the trial of such action, including
 13 officers and jurors fees, and all expenses caused by the trial
 14 of such action which would not otherwise have been incurred by
 15 the county where the same is tried shall be paid by the county
 16 in which such action was commenced.

17 Such expenses shall be paid in the first instance by the
 18 county in which the action is tried and thereupon the clerk of
 19 court of that county shall prepare, under ~~his~~ hand and seal, an
 20 itemized statement of such expenses and, upon approval thereof *
 21 by the judge of the court in which the trial was had, and the
 22 filing of such itemized statement and approval in the office of
 23 the auditor of the county in which such action was commenced, *
 24 such auditor shall issue ~~his~~ a warrant for the amount of such
 25 approved statement in favor of the county in which the trial was
 26 had.

543*#08S

27 543.08 SUMMONS, SERVICE UPON CERTAIN CORPORATIONS.

28 If a private domestic corporation has no officer at the
 29 registered office of the corporation within the state upon whom
 30 service can be made, of which fact the return of the sheriff of
 31 the county in which that office is located, or the affidavit of
 32 a private person not a party, that none can be found in that
 33 county shall be conclusive evidence, service of the summons upon
 34 it may be made by depositing two copies, together with a fee of
 35 \$15 with the secretary of state, which shall be deemed personal
 36 service upon the corporation. One of the copies shall be filed
 37 by the secretary, and the other forthwith mailed by ~~him~~ the *
 38 secretary to the corporation by certified mail, if the place of *
 39 its main office is known to ~~him~~ the secretary or is disclosed by *
 40 the files of ~~his~~ in the office. *

41 If the defendant is a foreign insurance corporation, the
 42 summons may be served by two copies delivered to the
 43 commissioner of commerce, who shall file one in ~~his~~ the *
 44 commissioner's office and forthwith mail the other postage *
 45 prepaid to the defendant at its home office.

543*#19S

46 543.19 PERSONAL JURISDICTION OVER NON-RESIDENTS.

47 Subdivision 1. As to a cause of action arising from any
 48 acts enumerated in this subdivision, a court of this state with
 49 jurisdiction of the subject matter may exercise personal
 50 jurisdiction over any foreign corporation or any non-resident
 51 individual, or ~~his~~ the individual's personal representative, in *
 52 the same manner as if it were a domestic corporation or ~~he~~ the *
 53 individual were a resident of this state. This section applies *
 54 if, in person or through an agent, the foreign corporation or
 55 non-resident individual:

56 (a) Owns, uses, or possesses any real or personal property
 57 situated in this state, or

58 (b) Transacts any business within the state, or

59 (c) Commits any act in Minnesota causing injury or property
 60 damage, or

61 (d) Commits any act outside Minnesota causing injury or
 62 property damage in Minnesota, subject to the following
 63 exceptions when no jurisdiction shall be found:

64 (1) Minnesota has no substantial interest in providing a
 65 forum; or

66 (2) the burden placed on the defendant by being brought
 67 under the state's jurisdiction would violate fairness and
 68 substantial justice; or

69 (3) the cause of action lies in defamation or privacy.

70 No change for subd 2

71 Subd. 3. Only causes of action arising from acts
 72 enumerated in subdivision 1 may be asserted against a defendant
 73 in an action in which jurisdiction over ~~him~~ the defendant is *

1 based upon this section.

2 No change for subd 4

3 Subd. 5. Non-resident individual, as used in this section,
4 means any individual, or ~~his~~ the individual's personal
5 representative, who is not domiciled or residing in the state
6 when suit is commenced.

543*#20S

7 543.20 PERSONAL JURISDICTION IN SUPPORT ENFORCEMENT
8 CASES AND PATERNITY SUITS.

9 Subdivision 1. SERVICE. In addition to the methods
10 of service of process provided in the rules of civil procedure,
11 service of a summons, an order to show cause, or an order or
12 judgment within this state may also be made upon an individual
13 by delivering a copy to ~~him-or-her~~ the individual personally
14 at ~~his-or-her~~ the individual's place of employment or at a
15 post-secondary education institution in which ~~he-or-she~~ the
16 individual is enrolled. The employer shall make the individual
17 available for the purpose of delivering a copy. The
18 post-secondary education institution must make the individual's
19 class schedule available to the process server or make the
20 individual available for the purpose of delivering a copy. No
21 employer or post-secondary education institution shall deny a
22 process server admittance to the employer's or post-secondary
23 education institution's premises for the purpose of making
24 service under this section.

25 No service shall be allowed under this section unless such
26 service is made personally on the individual.

27 No change for subd 2 to 4

544*#043S

28 544.043 DEFAMATION BY TELEVISION AND RADIO; DEFENSE.

29 The owner, licensee or operator of a visual or sound radio
30 broadcasting station or network of stations, or any agent or
31 employee of any such owner, licensee, or operator, is not liable
32 for damages for any defamatory statement published or uttered in
33 or as a part of a visual or sound radio broadcast, by any one
34 other than such owner, licensee, or operator, or agent or
35 employee thereof, if such owner, licensee, operator, or such
36 agent or employee, shows ~~that-he-has-exercised~~ an exercise of
37 due care to prevent the publication or utterance of the
38 statement in that broadcast. Provided, however, the exercise of
39 due care shall be construed to include a bona fide compliance
40 with any federal law or the regulation of any federal regulatory
41 agency.

42 The provisions of this section shall not affect any action
43 or proceeding now pending or which shall be commenced within six
44 months after the passage thereof, in any of the courts of the
45 state.

544*#15S

46 544.15 SUBSCRIPTION AND VERIFICATION.

47 Every pleading may be verified in the manner following:

48 (1) By the affidavit of the party, or of one or more of the
49 parties pleading together, that the affiant knows the contents
50 of the pleading, that the averments thereof are true of ~~his~~
51 affiant's own knowledge, save as to such as are therein stated
52 on information and belief, and that as to those ~~he~~ the affiant
53 believes them to be true;

54 (2) If the party be a corporation, the affidavit may be
55 made by any officer thereof having knowledge of the facts sworn
56 to; if the state, or any officer thereof acting in its behalf,
57 by the attorney general;

58 (3) If no party or officer acquainted with the facts and
59 capable of making such affidavit be within the county where the
60 attorney resides, the pleading may be verified by the attorney
61 or agent of the party, stating the fact of such absence and that
62 the pleading is true to the best of ~~his~~ the verifier's knowledge
63 and belief.

546*#07S

64 546.07 ORDER OF TRIAL; ABSENCE OF PARTIES.

65 The issues on the calendar of a general term shall be
66 disposed of in the following order, unless the court shall
67 otherwise direct:

68 (1) Jury cases;

69 (2) Issues of fact to be tried by the court;

70 (3) Issues of law.

71 If a party be absent, unless the court for good cause shall
72 otherwise order, the adverse party may proceed with ~~his~~ the case

1 and take a dismissal of the action or a verdict or judgment as
2 the case may require. If neither be present, the cause shall be
3 stricken from the calendar.

546*#10S

4 546.10 CHALLENGES.

5 In any civil action or proceeding either party may
6 challenge the panel, or individual jurors thereon, for the same
7 causes and in the same manner as in criminal trials, except that
8 the number of peremptory challenges to be allowed on either side
9 shall be as provided in this section. Before challenging a
10 juror, either party may examine ~~him~~ the juror in reference to
11 ~~his~~ qualifications to sit as a juror in the cause. A sufficient
12 number of jurors shall be called in the action so that six shall
13 remain after the exercise of the peremptory challenges as
14 provided in this section, and to provide alternate jurors when
15 ordered by the court under Rule 47.02 of the rules of civil
16 procedure. Each party shall be entitled to two peremptory
17 challenges, which shall be made alternately beginning with the
18 defendant. The parties to the action shall be deemed two, all
19 plaintiffs being one party, and all defendants being the other
20 party, except, in case two or more defendants have adverse
21 interests, the court, if satisfied that the due protection of
22 their interests so requires, may allow the defendant or
23 defendants on each side of the adverse interests not to exceed
24 two peremptory challenges. When the peremptory challenges have
25 been exhausted or declined, the first six of the remaining
26 jurors shall constitute the jury.

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546*#11S

27 546.11 ORDER OF TRIAL.

28 In a civil case when the jury is completed and sworn, the
29 trial shall proceed in the following order, unless for special
30 reasons the court shall otherwise direct:

31 (1) The plaintiff, after stating the issue, shall produce
32 the plaintiff's evidence ~~on-his-part~~;

33 (2) The defendant may then open ~~his~~ the defense, and
34 produce ~~his~~ evidence in support thereof;

35 (3) The parties may then respectively offer rebutting
36 evidence only, unless the court, in furtherance of justice,
37 shall permit either to introduce evidence upon ~~his~~ each's
38 original case;

39 (4) When the evidence is concluded, unless the case be
40 submitted by one side or both without argument, the defendant
41 shall open and the plaintiff close the argument to the jury;
42 provided, that if the defendant have the affirmative of the
43 issue to be tried the foregoing order of trial shall be reversed;

44 (5) If several defendants, having separate defenses, appear
45 by different counsel, the court shall determine their relative
46 order in respect to both evidence and argument;

47 (6) When the argument is closed the court may charge the
48 jury.

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546*#13S

49 546.13 SICKNESS OF JUROR; FOOD AND LODGING.

50 If a juror becomes sick or otherwise unable to perform ~~his~~
51 duty, the court may discharge ~~him~~ the juror. In that case,
52 unless the parties consent to accept the verdict of the
53 remaining jurors, another may be sworn in ~~his~~ place of the
54 discharged juror and the trial begun anew, or the jury may be
55 discharged and another then or afterward impaneled. If the
56 court, while a jury is kept together, shall order that they be
57 provided with food and lodging, the sheriff shall furnish the
58 same at the expense of the county.

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546*#16S

59 546.16 VERDICT, WHEN RECEIVED; CORRECTING SAME; POLLING
60 JURY.

61 While the jury are absent the court may adjourn from time
62 to time, in respect to other business, but it shall be
63 considered open, for all purposes connected with the cause
64 submitted, until a verdict is rendered or the jury discharged.
65 A final adjournment shall discharge the jury. Before the
66 verdict is recorded either party may require the jury to be
67 polled, whereupon the clerk shall ask if each juror-if-it-be-his
68 juror's verdict is the same as the announced verdict. If any
69 answer in the negative, the jury shall be sent out for further
70 deliberation. If the verdict be defective in form or
71 insufficient, it may be corrected under the advice of the court,
72 or the jury may be again sent out.

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546*#18S

1 546.18 VERDICT; HOW SIGNED.

2 Where the verdict is agreed to by the full membership of
3 the jury the ~~foreman~~ foreperson only shall sign the verdict,
4 when less than the full number agree on the verdict the same
5 shall be signed by all the jurors who concur therein, and the
6 clerk of court shall enter on ~~his~~ the minutes the number of
7 jurors concurring in the verdict.

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546*#23S

8 546.23 VERDICT IN REPLEVIN.

9 In an action for the recovery of specific personal
10 property, if the property has not been delivered to the claimant
11 and the jury find that ~~he~~ the claimant is entitled to its
12 recovery, or if the property is not in the possession of the
13 respondent, and by ~~his~~ answer ~~he~~ the respondent claims a return
14 thereof, and the verdict is in ~~his~~ the respondent's favor, the
15 jury shall assess the value of the property and the damages, if
16 any are claimed in the complaint or answer, which the prevailing
17 party has sustained by reason of the detention, or taking and
18 withholding, of such property. When the verdict is in favor of
19 the party having possession of the property its value shall not
20 be found.

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546*#42S

21 546.42 PERSONS HANDICAPPED IN COMMUNICATION;
22 INTERPRETERS.

23 For the purposes of sections 546.42 to 546.44 a person
24 handicapped in communication is one who, because of a hearing,
25 speech or other communication disorder, or because of difficulty
26 in speaking or comprehending the English language, is unable to
27 fully understand the proceedings in which ~~he~~ the person is
28 required to participate, or when named as a party to a legal
29 proceeding, is unable by reason of the deficiency to obtain due
30 process of law.

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546*#44S

31 546.44 QUALIFIED INTERPRETER.

32 Subdivision 1. No person shall be appointed as a qualified
33 interpreter pursuant to sections 546.42 to 546.44 unless ~~he~~ that
34 person is readily able to communicate with the handicapped
35 person, translate the proceedings for ~~him~~ the handicapped
36 person, and accurately repeat and translate the statements of
37 the handicapped person to the officials before whom the
38 proceeding is taking place.

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39 Subd. 2. A qualified interpreter appointed pursuant to the
40 provisions of sections 546.42 to 546.44, before entering upon
41 ~~his~~ any duties shall take an oath ~~that he will~~ promising, to the
42 best of ~~his~~ skill and judgment, to make a true interpretation to
43 the handicapped person being examined of all the proceedings, in
44 a language which the person understands, and that ~~he~~ the
45 interpreter will repeat in the English language the statements
46 of the handicapped person to the court or other official before
47 whom the proceeding is taking place.

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48 No change for subd 3

49 Subd. 4. DISCLOSURE. Whenever A person ~~serves~~
50 servng as an interpreter pursuant to sections 546.42 to
51 546.44, ~~he~~ shall not, without the consent of the person
52 handicapped in communication, be allowed to disclose any
53 privileged communication made by the person or any privileged
54 information gathered from the person which was communicated or
55 gathered during the time ~~he was serving~~ of service as the
56 interpreter.

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548*#04S

57 548.04 JUDGMENT IN REPLEVIN.

58 In an action to recover the possession of personal
59 property, judgment may be rendered for the plaintiff and for the
60 defendant, or for either. Judgment for either, if the property
61 has not been delivered ~~to him~~, and a return is claimed in the
62 complaint or answer, may be for the possession or the value
63 thereof in case possession cannot be obtained, and damages for
64 the detention, or the taking and withholding. If possession
65 cannot be obtained of the whole of such property but may be
66 obtained for part thereof then the party entitled thereto may
67 have possession of the part which may be obtained and recover
68 the value of the remainder or may elect to take judgment for the
69 value of the whole of such property. When the prevailing party
70 is in possession of the property, the value thereof shall not be
71 included in the judgment. If the property has been delivered to

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1 the plaintiff, and the action be dismissed before answer, or if
 2 the answer so claim, the defendant shall have judgment for a
 3 return, and damages, if any, for the detention, or the taking
 4 and withholding, of such property; but such judgment shall not
 5 be a bar to another action for the same property or any part
 6 thereof; provided, that in an action for the recovery of
 7 specific personal property by the vendor in a conditional sale
 8 contract therefor, or by ~~his~~ the vendor's successor in interest,
 9 by reason of default in the terms of such conditional sale
 10 contract, where it shall appear that the defendant in said
 11 action is an innocent purchaser for value of the property and
 12 without actual knowledge of the existence of such conditional
 13 sale contract, in the event that the plaintiff shall prevail in
 14 the action, the measure of ~~his~~ the plaintiff's recovery shall be
 15 the balance unpaid on the conditional sale contract with
 16 interest thereon at the rate fixed in the conditional sale
 17 contract, if any, reasonable attorney's fees to be approved by
 18 the court and the costs and disbursements of the action.

548*#05S

19 548.05 TREBLE DAMAGES FOR TRESPASS.

20 Whoever shall carry away, use or destroy any wood, timber,
 21 lumber, hay, grass, or other personal property of another
 22 person, without lawful authority, shall be liable to the owner
 23 thereof for treble the amount of damages assessed therefor in an
 24 action to recover such damages. If ~~he shall show~~, upon the
 25 trial, ~~that he had~~ the defendant proves having probable cause to
 26 believe that such property was ~~his~~ the defendant's own, or was
 27 owned by the person for whom ~~he~~ the defendant acted, judgment
 28 shall be given for the actual damages only, and for costs.

548*#06S

29 548.06 DAMAGES FOR LIBEL.

30 In an action for damages for the publication of a libel in
 31 a newspaper, the plaintiff shall recover no more than special
 32 damages, unless a retraction be demanded and refused as
 33 hereinafter provided. ~~He~~ The plaintiff shall serve upon the
 34 publisher at the principal place of publication, a notice,
 35 specifying the statements claimed to be libelous, and requesting
 36 that the same be withdrawn. If a retraction thereof be not
 37 published on the same page and in the same type and the
 38 statement headed in 18 point type or larger "RETRACTION," as
 39 were the statements complained of, in a regular issue thereof
 40 published within one week after such service, ~~he~~ the plaintiff
 41 may allege such notice, demand, and failure to retract in ~~his~~
 42 the complaint and recover both special and general damages,
 43 if ~~his~~ the cause of action be maintained. If such retraction be
 44 so published, ~~he~~ the plaintiff may still recover general
 45 damages, unless the defendant shall show that the libelous
 46 publication was made in good faith and under a mistake as to the
 47 facts. If the plaintiff was a candidate for office at the time
 48 of the libelous publication, no retraction shall be available
 49 unless published on the same page and in the same type and the
 50 statement headed in 18 point type or larger "RETRACTION," as
 51 were the statements complained of, in a regular issue thereof
 52 published within one week after such service and in a
 53 conspicuous place on the editorial page, nor if the libel was
 54 published within one week next before the election. This
 55 section shall not apply to any libel imputing unchastity to a
 56 woman.

548*#07S

57 548.07 JUDGMENT AFTER DEATH OF PARTY.

58 Judgment may be entered after the death of a party upon a
 59 verdict, or decision upon an issue of fact, rendered in ~~his~~ the
 60 party's lifetime. Such judgment shall not be a lien on real
 61 property of the decedent, but shall be payable, in the course of
 62 administration of ~~his~~ the decedent's estate, as if allowed by
 63 the probate court against ~~his~~ the estate.

548*#09S

64 548.09 LIEN OF JUDGMENT.

65 No change for subd 1

66 Subd. 2. JUDGMENT CREDITOR'S AFFIDAVIT. No judgment,
 67 except for taxes, shall be docketed until the judgment creditor,
 68 or ~~his~~ the creditor's agent or attorney, has filed with the
 69 clerk an affidavit, stating the full name, occupation, place of
 70 residence, and post office address of the judgment debtor, to
 71 the best of affiant's information and belief. If the residence
 72 is within an incorporated place having more than 5,000

1 inhabitants, the street number of both ~~his~~ the judgment *
 2 creditor's place of residence and place of business, if ~~he~~ the *
 3 creditor has one, shall be stated. *

4 No change for subd 3

548*#091S

5 548.091 SUPPORT AND MAINTENANCE JUDGMENT.

6 Subdivision 1. DOCKETING OF JUDGMENT. A judgment for
 7 unpaid amounts under a judgment or decree of dissolution or
 8 legal separation, determination of parentage, an order under
 9 chapter 518C, or an order under section 256.87, any of which
 10 provide for installment or periodic payments of child support,
 11 maintenance, or both, shall be entered and docketed by the clerk
 12 of court only when ordered by the court or when the following
 13 conditions are met:

14 (a) The obligee or the public authority determines that the
 15 obligor is at least 30 days in arrears;

16 (b) The obligee or public authority serves a copy of an
 17 affidavit of default and notice of intent to enter judgment on
 18 the obligor by mail at ~~his~~ the obligor's last known post office *
 19 address. Service shall be deemed complete upon mailing in the
 20 manner designated. The affidavit shall state the full name,
 21 occupation, place of residence, and last known post office
 22 address of the obligor, the name and post office address of the
 23 obligee, the date of the first unpaid amount, the date of the
 24 last unpaid amount, and the total amount unpaid;

25 (c) The obligor fails within 20 days after mailing of the
 26 notice either to pay all unpaid amounts or to request a hearing
 27 on the issue of whether arrears claimed owing have been paid and
 28 to seek, ex parte, a stay of entry of judgment; and

29 (d) Not less than 20 days after service on the obligor in
 30 the manner provided, the obligee or public authority files with
 31 the clerk the affidavit of default together with proof of
 32 service and, if payments have been received by the obligee or
 33 public authority since execution of the affidavit of default, a
 34 supplemental affidavit setting forth the amount of payment
 35 received.

36 No change for subd 2 to 3

548*#10S

37 548.10 NEW COUNTY; DOCKETING OLD JUDGMENTS; REAL ESTATE
 38 TAX JUDGMENTS.

39 When a new county is created, the clerk of the district
 40 court thereof shall transcribe into ~~his~~ the clerk's records all *
 41 the docket entries relative to judgments for the payment of
 42 money, including real estate tax judgments, against lands
 43 situated in such new county, rendered within the ten years next
 44 preceding such creation and docketed in the counties from which
 45 such new county was set off, and such transcribed entries shall
 46 have the same effect as transcripts of dockets of judgments made
 47 by the clerk of court of the county where the originals were
 48 docketed and filed in another county. For such transcription
 49 the clerk shall receive from the new county 15 cents for each
 50 judgment.

548*#11S

51 548.11 FEDERAL COURT JUDGMENT; DOCKETING.

52 Every judgment requiring the payment of money rendered in a
 53 circuit or district court of the United States within this state
 54 shall be, from the docketing thereof in said court, a lien upon
 55 the real property of the judgment debtor situated in the county
 56 in which it is so docketed, the same as a judgment of the state
 57 court. A transcript of such docket may be filed with the clerk
 58 of the district court of any other county, and shall be docketed
 59 in ~~his~~ the clerk's office as in the case of judgments of the *
 60 state courts, and with like effect.

548*#13S

61 548.13 ASSIGNMENT OF JUDGMENT; MODE AND EFFECT.

62 Every assignment of a judgment shall be in writing, signed
 63 and acknowledged by the assignor, except that written notice of
 64 assignment shall be sufficient in the case of assignment under
 65 section 256.74. No assignment shall be valid as against a
 66 subsequent purchaser of the judgment in good faith for value, or
 67 against a creditor levying upon or attaching the same, unless it
 68 is filed with the clerk and an entry is made in the docket.

69 When filed and entered, no one but the assignee, ~~his~~ the *
 70 assignee's agent, or attorney, shall be authorized to collect or *
 71 enforce the judgment; provided, that the lien of an attorney on
 72 the judgment shall not be affected by the assignment.

548*#14S

1 548.14 JUDGMENTS, PROCURED BY FRAUD, SET ASIDE BY ACTION.
 2 Any judgment obtained in a court of record by means of
 3 perjury, subornation of perjury, or any fraudulent act,
 4 practice, or representation of the prevailing party, may be set
 5 aside in an action brought for that purpose by the aggrieved
 6 party in the same judicial district within three years after the
 7 discovery by ~~him~~ the aggrieved party of such perjury or fraud. *
 8 In such action the court may either enjoin the enforcement of
 9 the judgment or command the satisfaction thereof, may compel the
 10 party procuring the same to restore any property received by
 11 virtue thereof, and may make such other or further order or
 12 judgment as justice shall require; but no right or interest of a
 13 third party acquired under such judgment in good faith, and
 14 without *knowledge of the wrong complained of, shall be affected
 15 by the action herein provided for; provided, if during the
 16 pendency of such action the enforcement of such judgment or an
 17 action thereon shall become barred by the statute of
 18 limitations, and such judgment is sustained, the same may be
 19 enforced, or an action commenced thereon, within one year after
 20 such action is finally determined.

548*#15S

21 548.15 DISCHARGE OF RECORD.
 22 Upon the satisfaction of a judgment, whether wholly or in
 23 part, or as to all or any of several defendants, the clerk shall
 24 enter the satisfaction in the judgment roll, and note it, with
 25 its date, on the docket. If the docketing is upon a transcript
 26 from another county, the entry on the docket shall be
 27 sufficient. A judgment shall be deemed satisfied when there is
 28 filed with the clerk:

- 29 (1) An execution satisfied, to the extent stated in the
 30 sheriff's return on it;
 31 (2) A certificate of satisfaction signed and acknowledged
 32 by the judgment creditor;
 33 (3) A like certificate signed and acknowledged by the
 34 attorney of the creditor, unless ~~his~~ that attorney's authority *
 35 as attorney has previously been revoked and an entry of the
 36 revocation made upon the register; the authority of an attorney
 37 to satisfy a judgment ceases at the end of six years from its
 38 entry;
 39 (4) An order of the court, made on motion, requiring the
 40 execution of a certificate of satisfaction, or directing
 41 satisfaction to be entered without it;
 42 (5) Where a judgment is docketed on transcript, a copy of
 43 either of the foregoing documents, certified by the clerk of the
 44 court in which the judgment was originally entered and in which
 45 the originals were filed.

46 A satisfaction made in the name of a partnership is valid
 47 if executed by a member of it while the partnership continues.
 48 The judgment creditor, or ~~his~~ the creditor's attorney while ~~his~~ *
 49 the attorney's authority continues, may also satisfy a judgment *
 50 of record by a brief entry on the register, signed by ~~him~~ the *
 51 creditor or the creditor's attorney and dated and witnessed by *
 52 the clerk, who shall note the satisfaction on the margin of the
 53 docket. When a judgment is satisfied otherwise than by return
 54 of execution, the judgment creditor or ~~his~~ the creditor's *
 55 attorney shall give a certificate of it within ten days after
 56 the satisfaction.

548*#17S

57 548.17 PAYMENT AND SATISFACTION BY CLERK.
 58 Subdivision 1. JUDGMENTS OTHER THAN FOR SUPPORT AND
 59 MAINTENANCE. Except as provided in subdivision 2, when a
 60 judgment debtor or other person whose property is subject to the
 61 lien of a money judgment files with the clerk an affidavit ~~that~~ *
 62 he has of having made a diligent search and inquiry and *
 63 is being unable to find any person having authority to receive *
 64 payment and give satisfaction of such judgment, he the debtor or *
 65 other person may pay the amount due on the judgment to the *
 66 clerk, who, upon receipt, shall note satisfaction of the
 67 judgment on the docket and register of the action where it was
 68 entered, and the clerk shall issue a certificate reciting the
 69 payment and satisfaction under ~~his~~ the clerk's seal to the *
 70 person paying the judgment. The clerk shall at once notify all
 71 persons appearing of record to have an interest in the judgment,
 72 including the attorney of the judgment creditor, of its payment
 73 and satisfaction. Upon demand, the clerk shall pay the money to

1 the person entitled, taking duplicate receipts, one of which he *
2 the clerk shall retain and one which he the clerk shall file in *
3 the case.

4 Subd. 2. JUDGMENTS FOR SUPPORT AND MAINTENANCE. When
5 an obligor whose property is subject to the lien of a judgment
6 for installment of periodic payments of child support,
7 maintenance, or both, under section 548.091, files an affidavit
8 with the clerk that the obligee cannot be found or refuses to
9 receive payment and give satisfaction for the amount of each sum
10 docketed, he the obligor may pay the amount due on the judgment *
11 to the clerk who, upon receipt, shall note satisfaction of the
12 amount due on the docket and register of the action where it was
13 entered, and the clerk shall issue a certificate under his the *
14 clerk's seal to the obligor which recites the payment and *
15 satisfaction. The clerk shall at once notify all persons
16 appearing of record to have an interest in the judgment,
17 including the obligee's attorney, of the payment and
18 satisfaction. Upon demand, the clerk shall pay the money to the
19 person entitled, taking duplicate receipts, one which he the *
20 clerk shall retain, and one which he the clerk shall file in the *
21 case.

548*#18S

22 548.18 DISCHARGE OF JUDGMENTS AGAINST BANKRUPTS.
23 Any person discharged from his debts pursuant to the act of *
24 congress known as "An act to establish a uniform system of *
25 bankruptcy throughout the United States, approved July first,
26 1898," and all amendments thereto, may, after the expiration of
27 one year from the date of such discharge, apply to any court of
28 record in which a judgment shall have been rendered or a
29 transcript thereof filed against him the person discharged, for *
30 the discharge thereof from record, and if it shall appear to the *
31 court that he the person has thus been discharged from the *
32 payment of such judgment, the court may order and direct that
33 such judgment be discharged and satisfied of record, and
34 thereupon the clerk of such court shall enter a satisfaction
35 thereof. No such application shall be made or order granted
36 except upon ten days' notice of such application to the judgment
37 creditor whose judgment is sought thereby to be satisfied of
38 record, his the judgment creditor's executors, administrators or *
39 assigns, served in the manner provided for the service of
40 notices in civil actions, or in case such creditor, or his *
41 creditor's executors, administrators or assigns, shall not *
42 reside within this state, in such manner as the court shall
43 provide by order. Nothing in this section shall be construed to
44 apply to judgments not listed among the liabilities of the
45 bankrupt in his the bankrupt's petition to be adjudged a *
46 bankrupt under the act of July first, 1898, and all amendments
47 thereto.

548*#19S

48 548.19 JOINT DEBTORS; CONTRIBUTION AND SUBROGATION.
49 When a judgment against two or more persons shall be
50 enforced against or paid by one of them, or one of them shall
51 pay more than his a proper share as between himself that debtor *
52 and the other judgment debtors, he the debtor may continue the *
53 judgment in force for the purpose of compelling contribution;
54 and, if within ten days after such enforcement or payment, he *
55 the debtor shall file with the clerk a notice of the amount paid *
56 by or collected from him the debtor in excess of his the *
57 debtor's proper share, and of his the debtor's claim for *
58 contribution, the clerk shall make a note thereof on the margin
59 of the docket. Thereupon the judgment shall remain in effect in
60 favor of the party filing such notice for the amount and against
61 the party in such notice specified.

548*#21S

62 548.21 DISCHARGE OF JOINT DEBTOR.
63 A creditor who has a debt, demand, or judgment against a
64 copartnership, or several joint obligors, promisors, or debtors,
65 may discharge one or more of such copartners, obligors,
66 promisors, or debtors, without impairing his the creditor's *
67 right to recover the residue of his the debt or demand against *
68 the others, or preventing the enforcement of the proportionate
69 share of any undischarged under such judgment. The discharge
70 shall have the effect of a payment by the party discharged
71 of his the party's equal share of the debt, according to the *
72 number of debtors, aside from sureties. Such discharge shall
73 not affect the liability of such copartners, obligors,

1 promisors, or debtors to each other. In an action by the
2 creditor to recover against those not discharged, the complaint
3 shall set forth that the contract was made with the defendants
4 and the party discharged, and that such party has been
5 discharged.

548*#28S

6 548.28 NOTICE OF FILING.

7 Subdivision 1. At the time of the filing of the foreign
8 judgment, the judgment creditor or ~~his~~ the creditor's lawyer *
9 shall make and file with the clerk of court an affidavit setting
10 forth the name and last known post office address of the
11 judgment debtor, and the judgment creditor.

12 No change for subd 2 to 3

548*#31S

13 548.31 OPTIONAL PROCEDURE.

14 The right of a judgment creditor to bring an action to
15 enforce ~~his~~ a judgment instead of proceeding under sections *
16 548.26 to 548.30 remains unimpaired.

549*#01S

17 549.01 AGREEMENT AS TO FEES OF ATTORNEY.

18 A party shall have an unrestricted right to agree with ~~his~~ *
19 an attorney as to ~~his~~ compensation for services, and the measure *
20 and mode thereof; but certain sums may be allowed to the
21 prevailing party for expenses in an action, which are termed
22 costs.

549*#02S

23 549.02 COSTS IN DISTRICT COURTS.

24 In actions commenced in the district court, costs shall be
25 allowed as follows:

26 To plaintiff: (1) Upon a judgment in ~~his~~ the plaintiff's *
27 favor of \$100 or more in an action for the recovery of money
28 only, when no issue of fact or law is joined, \$5; when issue is
29 joined, \$10. (2) In all other actions, including an action by a
30 public employee for wrongfully denied or withheld employment
31 benefits or rights, except as otherwise specially provided, \$10.

32 To defendant: (1) Upon discontinuance or dismissal, \$5.

33 (2) When judgment is rendered in ~~his~~ the defendant's favor on *
34 the merits, \$10.

549*#03S

35 549.03 ACTIONS FOR SERVICES; DOUBLE COSTS.

36 When any person who employed another to perform any labor
37 or service neglects or refuses to pay the agreed price, or the
38 reasonable value if there is no agreement, for 30 days after it
39 is due and payment is demanded, and the payment is recovered by
40 action, there shall be allowed to the plaintiff, and included in
41 ~~his~~ the judgment, all of ~~his~~ the disbursements allowed by law *
42 and double ~~his~~ the costs. *

549*#06S

43 549.06 SEVERAL ACTIONS; COSTS, HOW ALLOWED.

44 When several actions are brought on one instrument, or for
45 the same cause of action, against several parties who might have
46 been joined as defendants in the same action, costs shall be
47 allowed to the plaintiff in but one of such actions, to be
48 selected by ~~him~~ the plaintiff, if at the commencement of such *
49 action the defendants in the other actions were openly within
50 the state; but plaintiff's disbursements may be allowed as
51 provided in section 549.04.

549*#08S

52 549.08 ACTION ON JUDGMENT.

53 Costs shall not be allowed to plaintiff in an action upon a
54 domestic judgment between the same parties, unless such action
55 was brought with previous leave of the court for cause shown;
56 but this shall not apply to an action upon the judgment of a
57 justice brought in another county or in the same county where
58 the summons was not served upon all the defendants, or in case
59 of the death of a party, or the death, resignation, incapacity
60 to act, or removal from the county of the justice, or the loss
61 of ~~his~~ the docket. *

549*#12S

62 549.12 AGAINST GUARDIAN OF INFANT PLAINTIFF.

63 When costs or disbursements are adjudged against an infant
64 plaintiff, the guardian by whom ~~he~~ the infant appears in the *
65 action shall be responsible for them, and judgment therefor may
66 be entered against both infant and guardian.

549*#13S

67 549.13 DEFENDANT AFTER TENDER.

1 When in an action on contract, express or implied, the
 2 defendant alleges in ~~his~~ the answer that before the commencement
 3 of the action ~~he~~ the defendant tendered to the plaintiff the
 4 full amount to which ~~he~~ the plaintiff was entitled, and
 5 thereupon deposits in court for the plaintiff the amount so
 6 tendered, and the allegation is found true, the defendant shall
 7 be entitled to costs and disbursements.

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549*#14S

8 549.14 CHARGEABLE ON ESTATE OR FUND.

9 In an action prosecuted or defended by an executor,
 10 administrator, trustee of an express trust, or person expressly
 11 authorized by statute, costs and disbursements may be recovered
 12 as in an action by and against a person prosecuting or defending
 13 in ~~his~~ the person's own right. The same shall be made
 14 chargeable only upon the estate, fund, or party represented,
 15 unless the court shall direct the same to be paid by the
 16 plaintiff or defendant personally, for mismanagement or bad
 17 faith in the action; but no costs or disbursements are
 18 recoverable against an executor or administrator unless it
 19 appears that the demand was first presented to ~~him~~ the executor
 20 or administrator, verified by oath, and payment demanded.

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549*#15S

21 549.15 RELATOR ENTITLED TO, AND LIABLE FOR, COSTS.

22 When an action or proceeding is instituted in the name of
 23 the state on the relation or petition of any citizen, such
 24 relator or petitioner is entitled to, and liable for, costs and
 25 disbursements in the same cases and to the same extent as if
 26 such action or proceeding had been instituted in ~~his~~ the
 27 relator's or petitioner's own name.

*
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549*#17S

28 549.17 ADDITIONAL COSTS ON CHANGE OF VENUE; AMOUNT;
 29 PAYMENT OR WAIVER OF; TAXATION.

30 When service of summons is made upon a defendant within a
 31 county of which ~~he~~ the defendant is an actual resident at the
 32 time of such service, and the place of trial of such action is
 33 thereafter changed to such county in the manner provided by
 34 section 542.10, or when service of summons is made upon a
 35 defendant in a county of which ~~he~~ the defendant is not a
 36 resident, and the place of such trial is in like manner changed
 37 to a county of which the defendant has been an actual resident
 38 for more than one year immediately preceding such service, which
 39 fact shall be set forth in defendant's affidavit for change of
 40 venue, the plaintiff shall forthwith in either case, pay to each
 41 defendant demanding such change of venue the sum of \$10 as
 42 additional costs.

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*
*

43 No judgment shall be entered by plaintiff in any cause, the
 44 venue of which has been changed as aforesaid, until the
 45 plaintiff shall have filed with the clerk of court a receipt
 46 for, or a waiver of, such sum by all of the defendants who
 47 demanded such change of venue, or their respective attorneys.
 48 Such sums if not paid by plaintiff, or waived by defendant, may
 49 be taxed against plaintiff by defendant as other costs if
 50 defendant prevails, or deducted from plaintiff's judgment, if
 51 plaintiff prevails. The provisions of this section shall not
 52 apply to causes where there are several defendants residing in
 53 different counties, or an even number of defendants, and the
 54 place or trial is determined by joinder of demands or nearness
 55 to the county-seat and not by actual residence of the defendants
 56 as of right.

549*#18S

57 549.18 SECURITY FOR COSTS.

58 When an action is begun in the district court by a
 59 plaintiff who is committed for a crime, or is a non-resident or
 60 a foreign corporation, or when such action is brought into the
 61 district court on appeal by defendant, such plaintiff shall file
 62 a bond to the clerk, before service of summons, or in case of
 63 appeal within five days after perfecting the same, in the sum of
 64 at least \$75, conditioned for the payment of all costs and
 65 disbursements that may be adjudged against ~~him~~ the plaintiff.
 66 If, after the commencement of the action or the taking of an
 67 appeal, all parties plaintiff therein become non-residents, or
 68 the sureties on the bond remove from the state or become
 69 insolvent, the court, on motion, may require such bond, or an
 70 additional bond, to be filed, conditioned as aforesaid. This
 71 section shall not apply to any action brought for the recovery
 72 of wages or claims for personal services.

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549*#19S

1 549.19 NEGLECT TO FILE SECURITY; PROSECUTION OF BOND.
 2 When any party shall commence an action without filing a
 3 bond, or fail to provide an additional bond when so required,
 4 the court, on motion of defendant, may order a stay of all
 5 proceedings in such action, or a dismissal thereof at the cost
 6 of the attorney commencing the same. When judgment is entered
 7 against any party who has given security as required, and the
 8 costs and disbursements adjudged against ~~him~~ the party remain *
 9 unpaid in whole or in part for ten days, such bond may be put in
 10 suit and prosecuted to final judgment.

549*#20S

11 549.20 PUNITIVE DAMAGES.
 12 No change for subd 1
 13 Subd. 2. Punitive damages can properly be awarded against
 14 a master or principal because of an act done by an agent only if:
 15 (a) the principal authorized the doing and the manner of
 16 the act, or
 17 (b) the agent was unfit and the principal was reckless in
 18 employing ~~him~~ the agent, or *
 19 (c) the agent was employed in a managerial capacity and was
 20 acting in the scope of employment, or
 21 (d) the principal or a managerial agent of the principal
 22 ratified or approved the act.
 23 No change for subd 3

550*#02S

24 550.02 JUDGMENTS; METHODS OF ENFORCEMENT.
 25 Where a judgment requires the payment of money, or the
 26 delivery of real or personal property, it may be enforced in
 27 those respects by execution. Where it requires the performance
 28 of any other act, a certified copy of the judgment may be served
 29 upon the party against whom it is given, or the person or
 30 officer who is required thereby or by law to obey the same, ~~and~~ *
 31 ~~if he refuses, he.~~ A person so served who refuses may be *
 32 punished by the court as for contempt, and his the individual's *
 33 obedience thereto enforced.

550*#04S

34 550.04 EXECUTION, HOW ISSUED; CONTENTS.
 35 The execution shall be under the seal of the court,
 36 subscribed by the clerk, tested in the name of the district
 37 judge, directed to the sheriff, or to the coroner if the sheriff
 38 be a party or interested, and endorsed by the party applying
 39 therefor or ~~his~~ the party's attorney. It shall refer *
 40 intelligibly to the judgment, stating the court, the county
 41 where the judgment roll or transcript is filed, the names of the
 42 parties, the amount of the judgment, if it be for money, the
 43 amount actually due thereon, and the time of docketing in the
 44 county to which the execution is issued, and shall require the
 45 officer substantially as follows:
 46 (1) If it be against the property of the judgment debtor,
 47 to satisfy the judgment, with interest, out of ~~his~~ the debtor's *
 48 personal property, and, if sufficient personal property cannot
 49 be found, out of the real property belonging to ~~him~~ the debtor *
 50 on the day when the judgment was docketed in the county, or at
 51 any time thereafter not exceeding ten years;
 52 (2) If real property has been attached, and judgment
 53 rendered in favor of the plaintiff in the same action, the
 54 execution thereon may also direct a sale of all the property
 55 which the defendant had in such real estate at the time it was
 56 so attached, or at any time after entry of judgment not
 57 exceeding ten years; in such case, if after the attachment the
 58 judgment creditor has paid taxes on the real property and filed
 59 with the clerk the tax receipt, it shall be attached to the
 60 judgment roll, and the execution shall also state that it has
 61 been filed, and the date and amount thereof, and the date of
 62 filing; and, if the property be sold under the execution, the
 63 proceeds, after deducting the expenses of sale, shall be first
 64 applied to the payment of the amount so paid for taxes, with
 65 interest;
 66 (3) If it be against real or personal property in the hands
 67 of personal representatives, heirs, devisees, legatees,
 68 trustees, or tenants of real property, it shall require the
 69 officer to satisfy the judgment, with interest, out of such
 70 property;
 71 (4) If it be against defendants jointly indebted on a
 72 contract, a part of whom only have been summoned in the action,

1 it shall issue in form against all; but the party causing it to
 2 be issued, or ~~his~~ the party's attorney, shall endorse thereon *
 3 the names of those defendants who have not been summoned, and it
 4 shall not be levied upon the sole property of any such
 5 defendant; but it may be levied upon the personal property owned
 6 by such defendant as a partner with any or all of the other
 7 defendants;

8 (5) If it be for delivery of the possession of real or
 9 personal property, it shall require the officer to deliver
 10 possession of the same, particularly describing it, to the party
 11 entitled thereto; and it may, at the same time, require the
 12 officer to satisfy, out of the personal property of the party
 13 against whom the judgment was rendered, any costs, charges,
 14 damages, rents, or profits recovered thereby, and the value of
 15 the property for which the judgment was recovered, to be
 16 specified therein, if a delivery thereof cannot be had; and if
 17 sufficient personal property cannot be found, then out of the
 18 real property, as provided in the first clause of this section,
 19 and in that respect it shall be deemed an execution against
 20 property.

550*#041S

21 550.041 SUMMARY EXECUTION OF JUDGMENT DEBTS.

22 Subdivision 1. COVERAGE. When a judgment creditor
 23 proposes to make execution on a judgment debt from money owed to
 24 the judgment debtor by a third party, the execution may be made
 25 by the attorney for the judgment creditor or sheriff, or their
 26 agents, through a registered or certified letter or by personal
 27 service to the third party containing a copy of the execution.
 28 Upon receipt, the third party shall remit as much of the amount
 29 due under section 550.04, but not more than \$5,000, as ~~his~~ the
 30 third party's own debt equals to the sheriff or attorney who *
 31 shall proceed in all other respects like the sheriff making a *
 32 similar execution. No more than \$5,000 may be recovered in an
 33 execution pursuant to this section.

34 No change for subd 2

35 Subd. 3. DUTY OF FINANCIAL INSTITUTION; EXEMPTION;
 36 OBJECTION. Upon receipt of the execution and exemption
 37 notices, the financial institution shall attach and bind as much
 38 of the amount due under section 550.04 as ~~his~~ its own debt *
 39 equals. Within two business days after receipt of the judgment
 40 creditor's letter, the financial institution shall serve upon
 41 the judgment debtor two copies of the exemption notice. The
 42 exemption notice shall be served by first class mail to the last
 43 known address of the judgment debtor. If no claim of exemption
 44 is received by the financial institution prior to the expiration
 45 of 14 days after the exemption notices are mailed to the
 46 judgment debtor, the financial institution shall remit as much
 47 of the amount due under section 550.04 as its own debt equals to
 48 the sheriff or attorney who shall proceed in all other respects
 49 like the sheriff making a similar execution. If the judgment
 50 debtor elects to claim an exemption, ~~he~~ the debtor shall *
 51 complete the exemption notice, affix ~~his~~ a signature under *
 52 penalty of perjury, and deliver one copy to the financial
 53 institution and one copy to the judgment creditor within 14 days
 54 of the date postmarked on the correspondence mailed to the
 55 judgment debtor containing the exemption notices. Failure of
 56 the judgment debtor to serve the executed exemption notice does
 57 not constitute a waiver of any right ~~he~~ the debtor may have to *
 58 an exemption. Upon timely receipt of a claim of exemption, the
 59 financial institution shall remit as much of the amount due
 60 under section 550.04 as ~~his~~ its own debt equals to the sheriff *
 61 or attorney from funds not claimed to be exempt by the judgment
 62 debtor. All money claimed to be exempt shall be released to the
 63 judgment debtor upon the expiration of seven days after the date
 64 postmarked on the correspondence containing the executed
 65 exemption notice mailed to the judgment creditor or the date of
 66 personal delivery of the executed exemption notice to the
 67 judgment creditor, unless within that time a timely objection to
 68 the exemption is interposed by the judgment creditor. Objection
 69 is made by mailing or delivering one copy of a written objection
 70 to the claim of exemption to the financial institution and one
 71 copy of the objection to the judgment debtor. Upon timely
 72 receipt of a written objection from the judgment creditor, the
 73 financial institution shall retain the funds claimed to be
 74 exempt. Unless the third party receives a notice of motion and
 75 motion from the judgment debtor asserting exemption rights

1 within ten days after receipt of the objection, the financial
 2 institution shall remit as much of the amount due under section
 3 550.04 as ~~his~~ its own debt equals to the sheriff or attorney *
 4 representing the judgment creditor. Either the judgment
 5 creditor or the judgment debtor may bring a motion to determine
 6 the validity of an exemption claim by following the procedure
 7 set out in section 571.41, subdivision 7. If a notice of motion
 8 and motion to determine the validity of a claim of exemption is
 9 received by the financial institution within the period
 10 provided, it shall retain the funds claimed to be exempt until
 11 otherwise ordered by a court. However, at any time during the
 12 procedure specified in this subdivision, the judgment debtor or
 13 the judgment creditor may, by a writing dated subsequent to the
 14 service of the execution, direct the financial institution to
 15 release the funds in question to the other party. Upon receipt
 16 of a release, the financial institution shall release the funds
 17 as directed.

18 Subd. 4. SUBSEQUENT PROCEEDINGS; BAD FAITH CLAIMS.
 19 If in subsequent proceedings brought by the judgment debtor or
 20 the judgment creditor, the claim of exemption is not upheld, and
 21 the court finds that it was asserted in bad faith, the judgment
 22 creditor shall be awarded actual damages, costs, and reasonable
 23 attorney fees resulting from the additional proceedings, and an
 24 amount not to exceed \$100. If the claim of exemption is upheld,
 25 and the court finds that the judgment creditor disregarded the
 26 claim of exemption in bad faith, the judgment debtor shall be
 27 awarded costs, reasonable attorney fees, actual damages, and an
 28 amount not to exceed \$100. The underlying judgment shall be
 29 modified to reflect assessment of damages, costs, and attorney
 30 fees. However, if the party in whose favor a penalty assessment
 31 is made is not actually indebted to ~~his~~ the party's attorney for *
 32 fees, the attorney's fee award shall be made directly to the
 33 attorney and an appropriate judgment in favor of the attorney
 34 shall be entered. Upon motion of any party in interest, on
 35 notice, the court shall determine the validity of any claim of
 36 exemption and may make any order necessary to protect the rights
 37 of those interested. No financial institution shall be liable
 38 for damages for complying with this section. Both copies of an
 39 exemption claim or an objection to an exemption claim shall be
 40 mailed or delivered on the same date. The financial institution
 41 may rely on the date of mailing or delivery of a notice to it in
 42 computing any time periods in this section.

43 No change for subd 5

550*#05S

44 550.05 WHEN RETURNABLE; INVENTORY.

45 Subdivision 1. The execution shall be made returnable,
 46 within 60 days after its receipt by the officer, to the clerk
 47 with whom the judgment roll is filed; but if the officer having
 48 such execution levies upon any property before the expiration of
 49 such 60 days, ~~he~~ the officer may retain the execution in ~~his~~ the *
 50 officer's hands until ~~he~~ the officer sells such property in the *
 51 manner prescribed by law. Upon demand of the judgment creditor *
 52 or ~~his~~ the creditor's attorney within such 60 days, the officer *
 53 shall pay to ~~him~~ the creditor all moneys collected upon *
 54 execution in ~~his~~ the officer's hands, after deducting ~~his~~ the *
 55 officer's fees. The officer shall make a full inventory of the *
 56 property levied on, and return it with the execution.

57 Subd. 2. In case of satisfaction, either partial or in
 58 full, such officer shall make return thereof to the clerk
 59 originally issuing such writ of execution and a duplicate copy
 60 thereof to the clerk of ~~his~~ the officer's own county, if *
 61 execution is upon judgment transcribed from another county.
 62 The clerk to whom such duplicate return is so made shall enter *
 63 the record of such satisfaction upon ~~his~~ the judgment docket and *
 64 note in the margin thereof that such entry is made upon
 65 "duplicate return."

550*#06S

66 550.06 EXECUTION AFTER DEATH.

67 After the expiration of one year from the death of a party
 68 against whom judgment has been rendered, execution thereon may
 69 be issued against any property upon which such judgment was a
 70 lien at the time of ~~his~~ the party's death, and may be executed *
 71 in the same manner and with like effect as if ~~he~~ the party were *
 72 living.

550*#11S

73 550.11 LEVY ON PROPERTY SUBJECT TO JUDGMENT LIEN;

1 RELEASE.

2 It shall be deemed a sufficient levy upon property subject
3 to the lien of the judgment if the officer make a minute on the
4 execution, stating the time when it was delivered to ~~him~~ the
5 officer, and that at such time ~~he~~ the officer levied upon such
6 property, describing it. At the time of or during the progress
7 of the execution sale, or prior thereto on the request of the
8 judgment creditor, the officer may release such property, or so
9 much thereof as has not been actually sold, from such levy,
10 before full satisfaction of the judgment; and the judgment, or
11 such part thereof as has not been actually satisfied by a
12 payment or sale, and the lien thereof, shall not be affected by
13 such levy and release, but shall remain in force as if no levy
14 had been made.

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550*#13S

15 550.13 LEVY ON BULKY ARTICLES.

16 When personal property, by reason of its bulk or other
17 cause, cannot be immediately removed, it shall be a sufficient
18 levy thereon if the officer, within three days thereafter, file
19 in the appropriate filing office under the uniform commercial
20 code, section 336.9-401, a certified copy of the execution, and
21 of ~~his~~ the officer's return and levy thereon. The officer shall
22 pay the filing fee and include it in ~~his~~ the charges.

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550*#14S

23 550.14 LEVY ON OTHER PERSONAL PROPERTY.

24 No change for subd 1 to 2

25 Subd. 3. DUTY OF FINANCIAL INSTITUTION; EXEMPTION;

26 OBJECTION. Upon receipt of the execution and exemption
27 notices, the financial institution shall attach and bind as much
28 of the amount due under section 550.04 as ~~his~~ its own debt
29 equals. Within two business days after receipt of the judgment
30 creditor's execution of the execution and exemption notices, the
31 financial institution shall serve upon the judgment debtor two
32 copies of the exemption notice. The exemption notice shall be
33 served by first class mail to the last known address of the
34 judgment debtor. If no claim of exemption is received by the
35 financial institution within 14 days after the exemption notices
36 are mailed to the judgment debtor, the financial institution
37 shall remit as much of the amount due under section 550.04 as
38 its own debt equals to the sheriff. If the judgment debtor
39 elects to claim an exemption, ~~he~~ the debtor shall complete the
40 exemption notice, affix ~~his~~ a signature under penalty of
41 perjury, and deliver one copy to the financial institution and
42 one copy to the judgment creditor within 14 days of the date
43 postmarked on the correspondence mailed to the judgment debtor
44 containing the exemption notices. Failure of the judgment
45 debtor to serve the executed exemption notice does not
46 constitute a waiver of any right ~~he~~ the debtor may have to an
47 exemption. Upon timely receipt of a claim of exemption, the
48 financial institution shall remit as much of the amount due
49 under section 550.04 as ~~his~~ its own debt equals to the sheriff
50 from funds not claimed to be exempt by the judgment debtor. All
51 money claimed to be exempt shall be released to the judgment
52 debtor upon the expiration of seven days after the date
53 postmarked on the correspondence containing the executed
54 exemption notice mailed to the judgment creditor, or the date of
55 personal delivery of the executed exemption notice to the
56 judgment creditor, unless within that time a written objection
57 to the claim of exemption is interposed by the judgment
58 creditor. Objection is made by mailing or delivering one copy
59 of the objection to the financial institution, and one copy to
60 the judgment debtor. Upon timely receipt of a written objection
61 from the judgment creditor, the financial institution shall
62 retain the funds claimed to be exempt. Unless the financial
63 institution receives a notice of motion and motion from the
64 judgment debtor asserting an exemption within ten days after
65 receipt of the objection, the financial institution shall remit
66 as much of the amount due under section 550.04 as its own debt
67 equals to the sheriff. Either the judgment creditor or the
68 judgment debtor may bring a motion to determine the validity of
69 an exemption claim by following the procedure set out in section
70 571.41, subdivision 7. If a notice of motion and motion to
71 determine the validity of a claim of exemption is received by
72 the financial institution within the period provided, the
73 financial institution shall retain the funds claimed to be
74 exempt until otherwise ordered by the court. However, at any

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1 time during the procedure specified in this subdivision, the
 2 judgment debtor or the judgment creditor may, by a writing dated
 3 subsequent to the service of the execution, direct the financial
 4 institution to release the funds in question to the other
 5 party. Upon receipt of a release, the financial institution
 6 shall release the funds as directed.

7 Subd. 4. SUBSEQUENT PROCEEDINGS. If in subsequent
 8 proceedings brought by the judgment debtor or the judgment
 9 creditor, the claim of exemption is not upheld, and the court
 10 finds that it was asserted in bad faith, the judgment creditor
 11 shall be awarded actual damages, costs, and reasonable attorney
 12 fees resulting from the additional proceedings and an amount not
 13 to exceed \$100. If the claim of exemption is upheld, and the
 14 court finds that the judgment creditor disregarded the claim of
 15 exemption in bad faith, the judgment debtor shall be awarded
 16 costs, reasonable attorney fees, actual damages, and an amount
 17 not to exceed \$100. The underlying judgment shall be modified
 18 to reflect assessment of damages, costs, and attorney fees.
 19 However, if the party in whose favor a penalty assessment is
 20 made is not actually indebted to ~~his~~ the party's attorney for
 21 fees, the attorney's fee award shall be made directly to the
 22 attorney and an appropriate judgment in favor of the attorney
 23 shall be entered. Upon motion of any party in interest, on
 24 notice, the court shall determine the validity of any claim of
 25 exemption and may make any order necessary to protect the rights
 26 of those interested. No financial institution shall be liable
 27 for damages for complying with this section. Both copies of an
 28 exemption claim or an objection to an exemption claim shall be
 29 mailed or delivered on the same date. The financial institution
 30 may rely on the date of mailing or delivery of a notice to it in
 31 computing any time periods in this section.

550*#141S

32 550.141 LEVY OF EARNINGS; INDEBTEDNESS.

33 No change for subd 1

34 Subd. 2. On any judgment prior to the first levy on
 35 earnings in the possession of an employer, the judgment creditor
 36 shall comply with the following notice requirements:

37 (1) Serve upon the judgment debtor no less than ten days
 38 prior to the service of the execution, a notice that such
 39 execution may be served on the debtor's employer. Said notice
 40 may be served in the manner permitted by section 571.41 and
 41 shall be substantially in the form set out in section 571.41.
 42 Bad faith assertion or disregard of a judgment debtor's claim of
 43 exemption shall be subject to the procedures, remedies, and
 44 penalties set out in section 571.41.

45 (2) Serve upon the judgment debtor's employer with the
 46 execution an execution disclosure form, that shall be
 47 substantially in the form set out in section 571.495,
 48 subdivision 3.

49 (3) Serve by mail upon the judgment debtor not later than
 50 five days after service is made on ~~his~~ the debtor's employer, a
 51 copy of the execution and copies of all other papers served on
 52 the debtor's employer.

53 (4) The notice requirement in clause (1) shall not apply to
 54 a levy on wages being held by an employer due to a garnishment
 55 served pursuant to chapter 571.

56 Subd. 3. SERVICE OF EXECUTION. If the execution has
 57 not been served within one year after service of the notice, the
 58 judgment creditor shall serve another notice upon the judgment
 59 debtor prior to serving the execution on ~~his~~ the debtor's
 60 employer. If more than one year has passed since the most
 61 recent execution, the judgment creditor shall serve another
 62 notice upon the judgment debtor no less than ten days prior to
 63 service of a subsequent execution on ~~his~~ the debtor's employer.

550*#142S

64 550.142 PUBLIC EMPLOYEES; WAGES, EXECUTION LEVY.

65 The salary or wages of any public employee or officer may
 66 be levied upon and disposed of on execution. Where the person
 67 is an officer, the writ shall be served upon the auditor,
 68 treasurer, or clerk of the subdivision or department of which ~~he~~
 69 the person is an officer. Where the person is an employee other
 70 than an officer, the writ shall be served upon the person in
 71 charge of the office or department in which the employee works.

72 When payment has been made pursuant to levy, a copy of the
 73 execution with certificate of satisfaction shall be delivered to
 74 the treasurer as ~~his~~ a voucher for such payment.

550*#15S

1 550.15 CERTIFICATE TO BE FURNISHED OFFICER.
2 When the officer, with a writ of attachment or an execution
3 against the defendant, applies to any person mentioned in
4 section 550.14 for the purpose of attaching or levying upon
5 property mentioned therein, such person shall furnish ~~him~~ the *
6 officer with a certificate showing the description and amount of *
7 the property of the judgment debtor held by such person or
8 corporation, the number of rights or shares of such debtor in
9 the stock of the corporation, with any dividend thereon, or the
10 debt owing to the judgment debtor, with any encumbrance upon the
11 property; and, on refusal so to do, such person may be required
12 by the court to attend before it and be examined on oath
13 concerning the same.

550*#16S

14 550.16 LEVY ON PLEDGED OR MORTGAGED CHATTELS.
15 When personal property is pledged or mortgaged for the
16 payment of money or the performance of any contract or
17 agreement, the right and interest of the pledgor or mortgagor in
18 such property may be sold on execution against ~~him~~ the pledgor *
19 or mortgagor, and the purchaser shall acquire all ~~his~~ the *
20 pledgor's or mortgagor's right and interest therein, and be *
21 entitled to the possession of such property, on complying with
22 the terms and conditions of the pledge or mortgage.

550*#18S

23 550.18 NOTICE OF SALE.
24 Before the sale of property on execution notice shall be
25 given as follows:
26 (1) If the sale be of personal property, by giving ten days
27 posted notice of the time and place thereof;
28 (2) If the sale be of real property, on execution or on
29 judgment, by six weeks posted and published notice of the time
30 and place thereof, describing the property with sufficient
31 certainty to enable a person of common understanding to identify
32 it.
33 An officer who sells without such notice shall forfeit \$100
34 to the party aggrieved, in addition to ~~his~~ paying actual damages; *
35 and a person who before the sale or the satisfaction of the
36 execution, and without the consent of the parties, takes down or
37 defaces the notice posted, shall forfeit \$50; but the validity
38 of the sale shall not be affected by either act, either as to
39 third persons or parties to the action.

550*#19S

40 550.19 SERVICE ON JUDGMENT DEBTOR.
41 At or before the time of posting notice of sale, the
42 officer shall serve a copy of the execution and inventory, and
43 of such notice, upon the judgment debtor, if ~~he~~ the debtor be a *
44 resident of the county, in the manner required by law for the
45 service of a summons in a civil action.

550*#20S

46 550.20 SALE, WHEN AND HOW.
47 The sale shall be by auction, between 9 o'clock a.m. and
48 sunset, in the county where the property or some part thereof is
49 situated. If the sale is of personal property capable of manual
50 delivery, it shall be within view of those who attend, and shall
51 be sold in such parcels as are likely to bring the highest
52 price. If of real property consisting of several known parcels,
53 the parcels shall be sold separately; and, if a portion thereof
54 is claimed by a third person who requires it to be sold
55 separately, it shall be so sold. No more shall be sold than is
56 sufficient to satisfy the execution, and neither the officer nor
57 ~~his~~ the officer's deputy may purchase. *

550*#21S

58 550.21 SALE OF CORPORATE STOCK.
59 In case of the sale of any rights or shares in the stock of
60 a corporation, the sheriff shall execute to the purchaser a
61 certificate of such sale, which shall transfer to ~~him~~ the *
62 purchaser all the rights of the judgment debtor in respect *
63 thereto.

550*#24S

64 550.24 REDEMPTION OF REALTY.
65 Upon the sale of real property, where the estate sold is
66 less than a leasehold of two years' unexpired term, the sale is
67 absolute; in all other cases the property sold, or any portion
68 thereof which has been sold separately, is subject to redemption:
69 (1) By the judgment debtor, ~~his~~ the debtor's heirs or *

1 assigns;

2 (2) By a creditor having a lien, legal or equitable, on the
3 property or some part thereof, subsequent to that on which it
4 was sold.

5 Creditors shall redeem in the order of their respective
6 liens.

550*#25S

7 550.25 ORDER OF REDEMPTION.

8 Within one year after the day of sale the judgment debtor,
9 ~~his~~ the debtor's heirs or assigns, may redeem by paying to the *
10 purchaser the amount for which the property was sold, with
11 interest, and, if the purchaser be a creditor having a prior
12 lien, the amount thereof, with interest. If no such redemption
13 be made, the senior creditor may redeem within five days after
14 the expiration of such year, and each subsequent creditor within
15 five days after the time allowed all prior lienholders, by
16 paying the aforesaid amount, and all liens prior to ~~his~~ the *
17 creditor's own, held by the party from whom ~~he~~ the creditor *
18 redeems; provided, that no creditor can redeem unless within *
19 such year ~~he~~ the creditor files notice of ~~his~~ an intention *
20 so to do with the clerk of the court where the judgment is
21 entered.

550*#26S

22 550.26 REDEMPTION, HOW MADE.

23 The person desiring to redeem shall pay to the person
24 holding the right acquired under such sale, or for ~~him~~ the *
25 person to the sheriff or the clerk of the district court of the *
26 county in which the real property is situated, the amount
27 required by law for such redemption, and shall produce to such
28 person or officer the same documents required by law to be
29 produced by a person desiring to redeem from a sale of real
30 property under foreclosure of a mortgage by advertisement; and
31 the person redeeming shall cause such documents to be filed with
32 the county recorder as required in the case of redemption from
33 such foreclosure sale.

550*#27S

34 550.27 CERTIFICATE OF REDEMPTION; EFFECT OF REDEMPTION.

35 The person or officer from whom such redemption is made
36 shall execute to the person redeeming a certificate in
37 substantially the same form as the certificate required by law
38 to be executed on redemption from a sale of real property under
39 foreclosure of a mortgage by advertisement; and all the
40 provisions of law applicable to the recording and to the effect
41 of such certificate, and to the effect of redemption of the
42 property sold on such foreclosure sale, by the owner, ~~his~~ the *
43 owner's heirs, personal representatives, or assigns, or by *
44 creditors, shall be applicable to the certificate required by
45 this section, and to redemption made under this chapter.

550*#28S

46 550.28 SALE IRREGULAR OR JUDGMENT REVERSED.

47 If the purchaser of real property sold on execution, or ~~his~~ *
48 the purchaser's successor in interest, be evicted therefrom in *
49 consequence of irregularities in the proceedings concerning the
50 sale, or of the reversal or discharge of the judgment, ~~he~~ the *
51 purchaser or successor may recover from the judgment creditor *
52 the price paid, with interest. When such recovery is had in
53 consequence of irregularity, the judgment creditor shall
54 thereupon be entitled, within ten years after such eviction, to
55 a new execution on the judgment for the price paid on the sale,
56 with interest; and for that purpose the judgment shall be deemed
57 valid against the judgment debtor, ~~his~~ the debtor's personal *
58 representatives, heirs, or devisees, but not against a purchaser
59 or encumbrancer in good faith who became such before a levy on
60 such new execution.

550*#29S

61 550.29 REDEMPTION PENDING ACTION TO SET ASIDE EXECUTION
62 SALE.

63 When an action is brought to set aside an execution sale of
64 land, and the time of redemption from such sale may expire
65 before final judgment therein, any person having the right to
66 redeem therefrom, for the purpose of saving such right, may
67 deposit with the sheriff, before the time of redemption expires,
68 the amount that will be necessary to redeem such premises at the
69 date of such expiration, together with a bond in an amount and
70 with sureties to be approved by such sheriff, conditioned to pay
71 all interest that may accrue or be allowed on such deposit until

1 final redemption as hereinafter provided. Such deposit and bond
2 shall operate to extend the time of redemption for 30 days after
3 the final determination of such action, during which time any
4 person entitled by law to redeem may do so by paying to the
5 sheriff the amount of such deposit with accrued interest. The
6 deposit and bond shall be brought to the attention of the court
7 by supplemental complaint in the action, and the judgment shall
8 determine the validity of the execution sale, and the right of
9 the parties to the moneys and bonds so deposited, which shall be
10 paid and delivered by the sheriff as directed by such judgment,
11 upon delivery to ~~him~~ the sheriff of a certified copy thereof. *

12 The remedy herein provided shall be in addition to other
13 remedies now existing.

550*#31S

14 550.31 CREDITOR TO FILE ORDER WITH COUNTY RECORDER.

15 For the purpose of such redemption a creditor whose claim
16 against the estate of a decedent shall have been so allowed
17 shall file for record in the office of the county recorder of
18 the county in which the real estate sought to be redeemed is
19 situated, within the year of redemption, a certified copy of the
20 order of the probate court allowing such claim, and thereupon
21 such claim shall constitute a lien upon the unexempt real estate
22 of the decedent sold upon foreclosure or execution. The creditor
23 shall also within such time file a notice in the office of such
24 county recorder briefly describing the sale of the decedent's
25 lands, a description of the lands sold, and stating, in a
26 general way, the nature, date and amount of the claim of the
27 creditor, and that ~~he~~ the creditor intends to redeem such lands *
28 from the sale thereof described in such notice. In the case of
29 redemption from execution sales such notice shall also be filed
30 in the office of the clerk of the district court in which such
31 lands are situated.

550*#33S

32 550.33 CREDITOR MAY REDEEM WHEN.

33 If no redemption is made by the personal representative of
34 the deceased debtor, or by the assigns of such decedent, within
35 one year after the date of such sale, or within one year after
36 the date of the confirmation of such sale, as the case may be,
37 the senior creditor having a lien, legal or equitable, upon the
38 premises sold upon the foreclosure of a mortgage or upon
39 execution, and subsequent to the mortgage or judgment lien under
40 or by reason of which the premises were sold, including the
41 creditors of a deceased debtor whose claims have been perfected
42 and recorded as herein provided, may redeem within five days
43 after the expiration of said 12 months by payment of the amount
44 required by law for that purpose; and each subsequent creditor
45 having a lien in succession, according to priority of liens,
46 within five days after the time allowed the prior lienholder,
47 respectively, may redeem by paying the amount aforesaid and all
48 liens prior to ~~his~~ the creditor's own held by the person from *
49 whom redemption is made.

550*#34S

50 550.34 PROBATE COURT TO DETERMINE AMOUNT.

51 When any such creditor redeems from the foreclosure of a
52 mortgage under the provisions of sections 550.30 to 550.35 the
53 probate court shall determine the amount that shall be credited
54 on ~~his~~ the creditor's claim against the estate. *

550*#36S

55 550.36 STAY OF EXECUTION ON MONEY JUDGMENT.

56 Execution of a judgment for the payment of money only shall
57 be stayed for six months if, within ten days after the entry
58 thereof, the judgment debtor shall file with the clerk a bond,
59 running to the judgment creditor, ~~his~~ the creditor's personal *
60 representatives and assigns, in double the amount of the
61 judgment, to be approved by the court, and conditioned for the
62 payment of the judgment, with interest during the time for which
63 the stay is granted. Interest shall be computed in the same
64 manner and at the same rate provided for interest on verdicts in
65 section 549.09. Within two days thereafter notice that such
66 bond has been filed, with a copy of the same, shall be served on
67 the judgment creditor, if ~~he~~ the creditor be a resident of the *
68 county, or upon ~~his~~ the creditor's agent or attorney, if ~~he have~~ *
69 the creditor has one, and the judgment creditor may except to *
70 the sufficiency of the bond; and, upon ~~his~~ the creditor's *
71 application upon notice or order to show cause, the court, if it
72 find the bond insufficient, may order execution to issue

1 notwithstanding the same, unless the judgment debtor give such
2 further bond as it shall deem sufficient. If the condition of
3 any such bond be not performed, the execution shall issue for
4 the amount of the judgment, with interest and costs, against the
5 judgment debtor and the sureties. When an execution issues
6 against sureties the officer shall certify in ~~his~~ the return *
7 what amount, if any, was collected from them and the date
8 thereof. If a stay be granted after execution issued, any levy
9 made thereon shall be released and the execution shall be
10 returned and the reason noted by the officer.

550*#37S

11 550.37 PROPERTY EXEMPT.

12 No change for subd 1 to 3

13 Subd. 4. PERSONAL GOODS. (a) All wearing apparel,
14 one watch, utensils, and foodstuffs of the debtor and ~~his~~ the *
15 debtor's family; and (b) household furniture, household *
16 appliances, phonographs, radio and television receivers of the *
17 debtor and ~~his~~ the debtor's family, not exceeding \$4,500 in
18 value. The exemption provided by this subdivision may not be
19 waived except with regard to purchase money security interests.
20 Except for a pawnbroker's possessory lien, a nonpurchase money
21 security interest in the property exempt under this subdivision
22 is void.

23 If a debtor has property of the type which would
24 qualify for the exemption under clause (b) of this subdivision,
25 of a value in excess of \$4,500 an itemized list of the exempt
26 property, together with the value of each item listed, shall be
27 attached to the security agreement at the time a security
28 interest is taken, and a creditor may take a nonpurchase money
29 security interest in the excess over \$4,500 by requiring the
30 debtor to select ~~his~~ the exemption in writing at the time the *
31 loan is made.

32 Subd. 4a. ADJUSTMENT OF DOLLAR AMOUNTS. (a) The
33 dollar amounts in this section shall change periodically as
34 provided in this subdivision to the extent of changes in the
35 implicit price deflator for the gross national product, 1972 =
36 100, compiled by the United States Department of Commerce, and
37 hereafter referred to as the index. The index for December,
38 1980, is the reference base index.

39 (b) The designated dollar amounts shall change on July 1 of
40 each even-numbered year if the percentage of change, calculated
41 to the nearest whole percentage point, between the index for
42 December of the preceding year and the reference base index is
43 ten percent or more. The portion of the percentage change in
44 the index in excess of a multiple of ten percent shall be
45 disregarded and the dollar amounts shall change only in
46 multiples of ten percent of the amounts stated in this section.

47 (c) If the index is revised, the percentage of change
48 pursuant to this section shall be calculated on the basis of the
49 revised index. If a revision of the index changes the reference
50 base index, a revised reference base index shall be determined
51 by multiplying the reference base index then applicable by the
52 rebasing factor furnished by the department of commerce. If the
53 index is superseded, the index referred to in this section is
54 the one represented by the department of commerce as reflecting
55 most accurately changes in the purchasing power of the dollar
56 for consumers.

57 (d) The commissioner of commerce shall announce and publish:

58 (1) on or before April 30 of each year in which dollar
59 amounts are to change, the changes in dollar amounts required by
60 paragraph (b); and

61 (2) promptly after the changes occur, changes in the index
62 required by paragraph (c) including, if applicable, the
63 numerical equivalent of the reference base index under a revised
64 reference base index and the designation or title of any index
65 superseding the index.

66 (e) A person does not violate this chapter with respect to
67 a transaction otherwise complying with this chapter if ~~he~~ the *
68 person relies on dollar amounts either determined according to *
69 paragraph (b) or appearing in the last publication of the
70 commissioner announcing the then current dollar amounts.

71 No change for subd 5 to 13

72 Subd. 14. PUBLIC ASSISTANCE. All relief based on
73 need, and the earnings or salary of a person who is a recipient
74 of relief based on need, shall be exempt from all claims of
75 creditors including any contractual set-off or security interest

1 asserted by a financial institution. For the purposes of this
 2 chapter, relief based on need includes AFDC, general assistance
 3 medical care, supplemental security income, medical assistance,
 4 Minnesota supplemental assistance, and general assistance. The
 5 salary or earnings of any debtor who is or has been a recipient
 6 of relief based on need, or an inmate of a correctional
 7 institution shall, upon ~~his~~ the debtor's return to private *
 8 employment or farming after having been a recipient of relief
 9 based on need, or an inmate of a correctional institution, be
 10 exempt from attachment, garnishment, or levy of execution for a
 11 period of six months after ~~his~~ the debtor's return to employment *
 12 or farming and after all public assistance has been terminated.
 13 The exemption provisions contained in this subdivision also
 14 apply for 60 days after deposit in any financial institution,
 15 whether in a single or joint account. In tracing the funds, the
 16 first-in first-out method of accounting shall be used. The
 17 burden of establishing that funds are exempt rests upon the
 18 debtor. Agencies distributing relief and the correctional
 19 institutions shall, at the request of creditors, inform them
 20 whether or not any debtor has been a recipient of relief based
 21 on need, or an inmate of a correctional institution, within the
 22 preceding six months.

23 No change for subd 15

24 Subd. 16. The claim for damages recoverable by any person
 25 by reason of a levy upon or sale under execution of ~~his~~ the *
 26 person's exempt personal property, or by reason of the wrongful *
 27 taking or detention of such property by any person, and any
 28 judgment recovered for such damages.

29 Subd. 17. All articles exempted by this section shall be
 30 selected by the debtor, ~~his~~ the debtor's agent, or legal *
 31 representative.

32 No change for subd 18 to 24

550*#41S

33 550.41 LEVY ON PROPERTY IN EXCESS OF EXEMPTION.

34 When the officer holding an execution is of the opinion
 35 that the judgment debtor has more property of the classes
 36 specified in section 550.37 than is exempt ~~he~~ the officer may *
 37 levy upon the whole of any one class and make an inventory
 38 thereof and cause the same to be appraised on oath by two
 39 disinterested persons. If such appraisal exceeds the amount
 40 exempt of that class, the debtor may forthwith select of such
 41 property an amount not exceeding in appraised value the amount
 42 exempt, and the balance shall be applied by the officer as in
 43 other cases. If the debtor does not make such selection, the
 44 officer may make the same. If one or more indivisible articles
 45 of such class is of greater value than the whole amount exempt
 46 of that class, the officer shall sell the same and, after paying
 47 to the debtor the amount thereof exempt, shall apply the residue
 48 in discharge of the process.

556*#01S

49 556.01 USURPATION OF OFFICE, ILLEGAL ACT.

50 When the attorney general has reason to believe that a
 51 cause of action can be proved, ~~he~~ the attorney general may bring *
 52 an action in the name of the state, upon-his-own-information-or *
 53 upon the complaint of a private person, or upon other *
 54 information, against the person offending, in the following *
 55 cases:

- 56 (1) When any person usurps, intrudes into, or unlawfully
- 57 holds or exercises any public office or any franchise, or any
- 58 office in a corporation created by authority of the state;
- 59 (2) When any public officer does or suffers an act which by
- 60 law causes a forfeiture of ~~his~~ office; or *
- 61 (3) When an association or number of persons acts as a
- 62 corporation without being duly incorporated.

556*#02S

63 556.02 USURPING OFFICE; COMPLAINT; JUDGMENT.

64 When such action is brought against a person for usurping
 65 an office, the attorney general, in addition to the statement of
 66 the cause of action, may also set forth in the complaint the
 67 name of the person rightfully entitled to the office, and ~~his~~ by *
 68 what right thereto; and in every such case judgment may be *
 69 rendered upon the right of the defendant, and also upon that of
 70 the person so alleged to be entitled, if justice shall require.

556*#03S

71 556.03 CLAIMANT TO HAVE OFFICE.

72 If judgment be rendered in favor of the person so alleged

1 to be entitled, ~~he~~ that person may ~~take-upon-himself-the~~ *
 2 ~~execution-of~~ assume the office, and, by order of the court, may *
 3 be put in possession thereof, and of the books and papers
 4 belonging thereto, and ~~he~~ may recover, by action, any damages *
 5 sustained ~~by-him~~ by reason of such usurpation. *

556*#07S

6 556.07 CORPORATE CHARTER, VACATION.
 7 An action may be brought by the attorney general in the
 8 name of the state to vacate the charter or annul the existence
 9 of a corporation, other than municipal, whenever such
 10 corporation:
 11 (1) Offends against any act creating, altering, or renewing
 12 it;
 13 (2) Violates any provision of law whereby it forfeits its
 14 charter by abuse of its powers;
 15 (3) Forfeits its privileges or franchises by failure to
 16 exercise its powers;
 17 (4) Does or omits any act amounting to a surrender of its
 18 corporate rights, privileges and franchise; or
 19 (5) Exercises a franchise or privilege not conferred upon
 20 it by law.
 21 The attorney general shall bring action in every case of
 22 public interest, whenever ~~he~~ the attorney general has reason to *
 23 believe that any of these acts or omissions can be proved, and
 24 in every other case in which satisfactory security shall be
 25 given to indemnify the state against costs and expenses.

556*#11S

26 556.11 LETTERS PATENT, VACATION.
 27 The attorney general may bring an action in the name of the
 28 state to vacate or annul letters patent granted by the state,
 29 whenever ~~he~~ the attorney general has reason to believe: *
 30 (1) That such letters were obtained by means of some
 31 fraudulent suggestion or concealment of a material fact, made by
 32 or with the consent or knowledge of the person to whom they were
 33 issued;
 34 (2) That such letters were issued through mistake, or in
 35 ignorance of a material fact; or
 36 (3) That the patentee, or those claiming under ~~him~~ the *
 37 patentee, have done or omitted an act in violation of the terms *
 38 and conditions on which the letters were granted, or have by any
 39 other means forfeited the interest acquired thereunder.

557*#02S

40 557.02 NOTICE OF LIS PENDENS.
 41 In all actions in which the title to, or any interest in or
 42 lien upon, real property is involved or affected, or is brought
 43 in question by either party, any party thereto, at the time of
 44 filing the complaint, or at any time thereafter during the
 45 pendency of such action, may file for record with the county
 46 recorder of each county in which any part of the premises lies a
 47 notice of the pendency of the action, containing the names of
 48 the parties, the object of the action, and a description of the
 49 real property in such county involved, affected or brought in
 50 question thereby. From the time of the filing of such notice,
 51 and from such time only, the pendency of the action shall be
 52 notice to purchasers and encumbrancers of the rights and
 53 equities of the party filing the same to the premises. When any
 54 pleading is amended in such action, so as to alter the
 55 description of, or to extend the claim against, the premises
 56 affected, a new notice may be filed, with like effect. Such
 57 notice shall be recorded in the same book and in the same manner
 58 in which mortgages are recorded, and may be discharged by an
 59 entry to that effect in the margin of the record by the party
 60 filing the same, or ~~his~~ the party's attorney, in the presence of *
 61 the recorder, or by writing executed and acknowledged in the
 62 manner of conveyance, whereupon the recorder shall enter a
 63 minute thereof on the margin of such record. The filing of such
 64 lis pendens at the time of filing the complaint and before the
 65 commencement of the action shall have no force, effect, or
 66 validity against the premises described in the lis pendens,
 67 unless the filing of the complaint is followed by the service of
 68 the summons in the action within 90 days after the filing of the
 69 complaint therein. Any party claiming any title or interest in
 70 or to the real property involved or affected may on such notice
 71 as the court shall in each case prescribe, make application to
 72 the district court in the county in which the action is pending
 73 or in which the real property involved or affected is situated,

1 for an order discharging the lis pendens of record, when any
 2 such action has not been brought on for trial within two years
 3 after the filing of the lis pendens and in case the court orders
 4 the lis pendens discharged of record upon the filing of a
 5 certified copy of the order of the court in the office of the
 6 county recorder, where the real property is situated, the lis
 7 pendens shall be void and of no force nor effect.

557*#03S

8 557.03 NOTICE OF NO PERSONAL CLAIM.

9 When in any such action there are defendants against whom
 10 no personal claim is made, the plaintiff may serve upon them, at
 11 the time of the service of the summons, a notice subscribed by
 12 him the plaintiff or his the plaintiff's attorney, and setting *
 13 forth the general object of the action, a description of the
 14 property affected by it, and that no personal claim is made
 15 against such defendants. If any defendant on whom such notice
 16 is served unreasonably defends the action, he that defendant *
 17 shall pay full costs to the plaintiff.

557*#06S

18 557.06 ACTION AGAINST COTENANT.

19 One joint tenant or tenant in common, and his the tenant's *
 20 executors or administrators, may maintain an action against his *
 21 a cotenant for receiving more than his the just proportion of *
 22 the rents and profits of the estate owned by them as joint
 23 tenants or tenants in common.

557*#07S

24 557.07 SETTLER; ACTION FOR POSSESSION.

25 Any person who has settled on not more than 160 acres,
 26 consisting of not more than two distinct tracts, of the lands
 27 belonging to the United States, on which settlement is not
 28 prohibited by the general government, may maintain an action for
 29 injuries done thereto, or to recover the possession thereof,
 30 provided he the settler has made improvements thereon of the *
 31 value of \$50 and has actually occupied or cultivated the same.
 32 A neglect to occupy or cultivate such land, continued for six
 33 months, shall be deemed an abandonment, and preclude such person
 34 from maintaining such action.

557*#09S

35 557.09 FORCIBLE ENTRY; TREBLE DAMAGES.

36 In case of forcible entry and detention, if a person,
 37 claiming in good faith, under color of title, to be rightfully
 38 in possession, so put out or kept out, shall recover damages *
 39 therefor, judgment may be entered in his that person's favor for
 40 three times the amount at which the actual damages are assessed.

558*#03S

41 558.03 COMPLAINT.

42 The complaint shall particularly set forth the interest of
 43 all persons in the property, whether by way of ownership or
 44 lien, so far as known to the plaintiff; and if any such person,
 45 or his the person's share or interest, is unknown to the *
 46 plaintiff, or is uncertain or contingent, or the ownership of
 47 the inheritance depends upon an executory devise, or there is a
 48 contingent remainder, so that such person cannot be named, that
 49 fact shall be set forth. The complaint shall also state the
 50 cash value of the property, and shall be verified.

558*#06S

51 558.06 DUTY OF REFEREES; REPORT; EXPENSES.

52 When partition is made, the referees shall divide the
 53 property, and allot the several portions thereof to the
 54 respective parties, quantity and quality relatively considered,
 55 according to their respective rights, designating the several
 56 portions by proper landmarks, and may employ a surveyor, with
 57 necessary assistants, to aid them therein. They shall make a
 58 report of their proceedings, specifying the manner of executing
 59 the trust, and describing the property and the share allotted to
 60 each party, with a particular description thereof. The expenses
 61 and fees of the referees, including those of a surveyor and his *
 62 assistants, when employed, shall be paid by the plaintiff, and
 63 may be allowed as part of the charges.

558*#11S

64 558.11 COMPENSATION BECAUSE OF INEQUALITY.

65 When it appears that partition cannot be made equal between
 66 the parties without prejudice to the rights or interests of
 67 some, the court may adjudge compensation to be made by one to
 68 another for equality of partition; but such compensation shall
 69 not be required to be made by an unknown owner, nor by an

1 infant, unless it appear that the infant has personal property
 2 sufficient therefor, and that ~~his~~ the infant's interest will be
 3 promoted thereby. *

558*#12S

4 558.12 PROPERTY NOT CAPABLE OF DIVISION MAY BE SET OFF;
 5 OCCUPANCY ASSIGNED.

6 When the premises consist of a mill or other tenement which
 7 cannot be divided without damage to the owners, or when any
 8 specified part is of greater value than either party's share,
 9 and cannot be divided without damage to the owners, the whole
 10 premises or the part so incapable of division may be set off to
 11 any party who will accept it, ~~he~~ that party paying to one or
 12 more of the others such sums of money as the referees award to
 13 make the partition just and equal; or the referees may assign
 14 the exclusive occupancy and enjoyment of the whole or of such
 15 part to each of the parties alternately for specified times, in
 16 proportion to their respective interests. *

558*#13S

17 558.13 OCCUPANT LIABLE TO COTENANTS; TRESPASS.

18 When the whole or a specific part of the premises is thus
 19 assigned, the person entitled for the time being to the
 20 exclusive occupancy shall be liable to ~~his~~ the cotenants for any
 21 injury thereto occasioned by ~~his~~ that person's misconduct, as a
 22 tenant for years under a common lease without express covenants
 23 would be liable to ~~his~~ the landlord; and the other tenants in
 24 common may have their remedy therefor against ~~him~~ the person
 25 entitled to exclusive occupancy by action, jointly or severally,
 26 at their election. While the estate is in the exclusive
 27 occupancy of such cotenant, ~~he~~ that cotenant shall have the same
 28 remedy against one who trespasses upon or otherwise injures the
 29 premises as if ~~he~~ the cotenant held the same under a lease for
 30 the term for which they were so assigned ~~to him~~, and ~~he~~ the
 31 cotenant and all the other tenants in common may recover such
 32 other and further damages as they have sustained by the same
 33 trespass or injury in like manner as if the premises had been
 34 leased by them. Joint damages recovered by such tenants in
 35 common shall be apportioned and divided between them according
 36 to their respective rights by the court in which the judgment is
 37 recovered. *

558*#15S

38 558.15 LIENS; NEW PARTIES; NO SALE, WHEN.

39 Proof shall be made of the existence, amount, and priority
 40 of any liens on the property of which partition is sought in
 41 such manner and upon such notice to those interested as the
 42 court shall direct. When any person having a lien has not been
 43 made a party, the court may make an order requiring ~~him~~ that
 44 person to appear and become a party defendant, and no such
 45 person can be affected by a sale unless ~~he has been~~ made a
 46 party. If there are liens on the property amounting to more
 47 than its value as alleged in the complaint, or if it appears
 48 probable after examination that the property will not sell for a
 49 sum in cash equal to the amount of such liens, with costs and
 50 expenses, no sale shall be ordered; but, if such liens do not
 51 amount to the value of the property as admitted or proved, the
 52 court may order a sale, and in such case the sale shall not be
 53 delayed by the proceedings to ascertain the priority of the
 54 liens. *

558*#19S

55 558.19 PURCHASE BY PART OWNER.

56 When a party entitled to a share in the property, or an
 57 encumbrancer entitled to have ~~his~~ a lien paid out of the
 58 proceeds of the same, becomes a purchaser, the referees may
 59 take ~~his~~ the receipt for so much of the proceeds of the sale as
 60 belong to ~~him~~ the entitled party or encumbrancer. They shall
 61 also pay over to the plaintiff or ~~his~~ the plaintiff's attorney,
 62 and take ~~his~~ the plaintiff's receipt for, the costs and charges
 63 of the action. *

558*#25S

64 558.25 ESTATE FOR LIFE OR YEARS, MAY BE SET OFF OR SOLD.

65 When the estate of a tenant for life or for years in the
 66 whole or any part of the property has been proved or admitted to
 67 exist at the time of the order for sale, and the person entitled
 68 thereto has been made a party, such estate may first be set off
 69 out of any part of the property, and a sale made of such part
 70 subject to such estate; but if, in the judgment of the court, a
 71 due regard to the interest of all parties requires that such

1 estate be sold, the sale may be so ordered. If a sale of the
 2 property including such estate is ordered, such estate passes
 3 thereby, and the purchaser, his the purchaser's heirs and
 4 assigns, shall hold the property discharged from all claim by
 5 virtue thereof, whether the same relate to the undivided share
 6 of a joint tenant or tenant in common, or to the whole or any
 7 part of the property sold.

558*#26S

8 558.26 GROSS SUM IN LIEU OF ESTATE; PROCEEDS OF SALE TO
 9 BE INVESTED, WHEN; UNKNOWN PARTIES.

10 Such person whose estate has been so sold shall be entitled
 11 to receive such sum in gross as may be deemed, upon principles
 12 of law applicable to annuities, a reasonable satisfaction
 13 therefor. His That person's written consent to accept such sum
 14 in lieu of such estate, executed and acknowledged in the same
 15 manner as a conveyance, must be filed at or before the report of
 16 sale. If consent be not so given, the court shall direct that
 17 the whole proceeds of the sale of the property, or of the
 18 individual share thereof in which such estate may be, shall be
 19 deposited in court, and invested for the benefit of the person
 20 entitled to such estate during the period thereof; and, if any
 21 person entitled to any such estate is unknown, the court shall
 22 provide for the protection of his the unknown person's rights in
 23 the same manner, so far as may be, as if he that person were
 24 known and had appeared. In all cases the proper proportion of
 25 expenses of the proceedings shall be deducted from the proceeds
 26 of sale.

558*#29S

27 558.29 INVESTMENT OF PROCEEDS.

28 When there are proceeds of sale belonging to an unknown
 29 owner, or to a person without the state who has no
 30 representative within it, or when there are proceeds arising
 31 from the sale of property including the prior estate of a tenant
 32 for life or for years, which are paid into court or deposited
 33 with the clerk, the same shall be invested in interest-bearing
 34 securities for the benefit of the persons entitled thereto.
 35 Except as in this chapter otherwise provided, such investment
 36 shall be made in the name of the clerk and his the clerk's
 37 successors in office, who shall hold the same for the use and
 38 benefit of the persons interested, subject to the order of the
 39 court. The clerk shall receive the interest and principal as it
 40 becomes due, apply and invest the same as the court may direct,
 41 file in his the clerk's office the securities taken, and keep an
 42 account of such investments and of the moneys received thereon
 43 and his the disposition thereof, in a book kept for that
 44 purpose, which shall be open to inspection by all persons.

558*#30S

45 558.30 SHARE OF INFANT, HOW PAID.

46 When the share of an infant is sold, his that share of the
 47 proceeds may be paid by the referees making the sale to his the
 48 infant's general guardian, or to the special guardian appointed
 49 for him the infant in the action, if the guardian has given the
 50 security required by law.

558*#31S

51 558.31 SHARE OF INCAPABLE PERSON.

52 When the share of an insane person, or other person
 53 adjudged incapable of conducting his the person's own affairs,
 54 is sold, his that person's share of the proceeds may be paid by
 55 the referees making the sale to the guardian who is entitled to
 56 the custody and management of his that person's estate, if the
 57 guardian has executed an undertaking, approved by a judge of the
 58 court, ~~that-he-will~~ to faithfully discharge the trust reposed
 59 in him the guardian, and will render a true and just account to
 60 the person entitled thereto, or his that person's
 61 representatives.

559*#01S

62 559.01 ACTION TO DETERMINE ADVERSE CLAIMS.

63 Any person in possession of real property ~~by-himself~~
 64 personally or his through the person's tenant, or any other
 65 person having or claiming title to vacant or unoccupied real
 66 property, may bring an action against ~~any-person~~ another who
 67 claims an estate or interest therein, or a lien thereon, adverse
 68 to him the person bringing the action, for the purpose of
 69 determining such adverse claim and the rights of the parties,
 70 respectively.

559*#02S

1 559.02 UNKNOWN DEFENDANTS.

2 In any action brought under section 559.01, the plaintiff
 3 may insert in the title thereof, in addition to the names of
 4 such persons as are known or appear of record to have some
 5 right, title, estate, interest, or lien in or on the real
 6 property in controversy, the following: "Also all other persons
 7 unknown claiming any right, title, estate, interest, or lien in
 8 the real estate described in the complaint herein." Service of
 9 the summons may be had upon all such unknown persons defendant
 10 by publication in the same manner as against non-resident
 11 defendants, upon the filing of an affidavit of the plaintiff,
 12 his the plaintiff's agent or attorney, stating the existence of *
 13 a cause of action under section 559.01, and if in addition to
 14 the above known or unknown defendants, the heirs of a deceased
 15 person are proper parties defendant, and their names are
 16 unknown, and such affidavit shall further state that the heirs
 17 of such deceased person are proper parties to such action, and
 18 that their names and residences cannot with reasonable diligence
 19 be ascertained, then service of summons may be made on such
 20 unknown heirs by publication thereof in the same manner as
 21 against non-residents, and in such case the plaintiff may insert
 22 in the title thereof the following: "Also the unknown heirs of *
 23 (naming him the deceased) and all other persons unknown claiming
 24 any right, title, estate, interest, or lien in the real estate
 25 described in the complaint herein." The plaintiff shall, before
 26 the commencement of such publication, file with the county
 27 recorder a notice of the pendency of the action. All such
 28 unknown persons so served shall have the same rights to appear
 29 and defend before and after judgment as would named defendants
 30 upon whom service is made by publication, and any order or
 31 judgment in the action shall be binding upon them, whether they
 32 be of age or minors; but, if they be minors when judgment is
 33 rendered, they may be allowed to defend at any time within two
 34 years after becoming of age.

559*#03S

35 559.03 DISCLAIMER; DEFAULT; COSTS.

36 If the defendant, in his the answer, disclaims any interest *
 37 in the property, or suffers judgment to be taken against him the *
 38 defendant without answer, the plaintiff cannot recover costs; *
 39 but if the summons has been served upon the defendant
 40 personally, and it is made to appear that after the accrual of
 41 the cause of action, and before commencement thereof, the
 42 plaintiff demanded in writing of the defendant, and the
 43 defendant neglected to execute within a reasonable time
 44 thereafter, a good and sufficient quitclaim deed of the property
 45 described in the complaint, upon tender of such deed ready for
 46 execution, the plaintiff shall nevertheless recover his costs. *

559*#04S

47 559.04 CLAIMANTS UNDER COMMON GRANTOR; JOINDER.

48 When lots or tracts of real estate are claimed in severalty
 49 by two or more persons from or under conveyance from the same
 50 grantor, as the common source of title, and an adverse claim of
 51 title thereto is made by some person as against the title of
 52 such grantor, any one claiming under such grantor may bring an
 53 action in behalf of himself the grantor and all others who may *
 54 come in and become parties thereto against such adverse
 55 claimant, to have the title to such grantor perfected or quieted
 56 as to such lots or tracts claimed by the plaintiff and the
 57 others who may become parties. Any person who so claims under
 58 the same grantor as the plaintiff, and whose title is
 59 controverted by the same defendant upon the same ground as the
 60 title of the plaintiff, may become a party, as of course, by
 61 filing a complaint setting forth the property he-claims claimed *
 62 and his the source of title, and may have his the claimed rights *
 63 adjudicated with those of the original plaintiff. The answer of
 64 the defendant shall be taken as an answer to all who may thus
 65 become parties.

559*#05S

66 559.05 ACTION AGAINST COTENANT; DENIAL OF RIGHT.

67 In an action by a tenant in common or joint tenant of real
 68 property against a cotenant, the plaintiff shall show, in
 69 addition to the evidence of his the plaintiff's right, that the *
 70 defendant either denied the plaintiff's right, or did some act
 71 amounting to such denial.

559*#08S

72 559.08 EJECTMENT; DAMAGES; IMPROVEMENTS.

1 Damages for withholding the property recovered shall not
 2 exceed the fair value of the use of the property, exclusive of
 3 the use of improvements made by the defendant, for a period not
 4 exceeding six years; and, when permanent improvements have been
 5 made by a defendant, or those under whom he the defendant
 6 claims, holding under color of title adversely to the claims of
 7 the plaintiff, in good faith, the value thereof shall be allowed
 8 as a set-off against the damages of the plaintiff.

559*#09S

9 559.09 REMOVAL OF BUILDING ERECTED IN GOOD FAITH.
 10 When any person, in good faith and under color of title,
 11 and with good reason to believe that the legal title to land is
 12 vested in him the person, has erected any building or other
 13 structure thereon, when the legal and equitable title thereto
 14 was vested in another, such person may remove the same, doing no
 15 unnecessary damage, and in so doing shall be liable only for the
 16 actual damage to the land. Such removal shall be made within 60
 17 days after the determination adversely to him that person of any
 18 action or proceeding respecting the title, or within 60 days
 19 after notice from the holder of the legal title to remove the
 20 same; provided, if, within 60 days after receiving such notice,
 21 such person brings action to try such title, he that person may
 22 make such removal within 60 days after the determination thereof.

559*#10S

23 559.10 OCCUPYING CLAIMANT; COMPENSATION FOR IMPROVEMENTS.
 24 When any person, under color of title in fee and in good
 25 faith, has peaceably taken possession of land for which he that
 26 person has given a valuable consideration, or when any person
 27 has taken possession of land under the official deed of any
 28 person or officer empowered by law or by any court of competent
 29 jurisdiction to sell land, and such deed is regular upon its
 30 face, and he the person has no actual notice of any defects
 31 invalidating the same, neither such person, nor his the person's
 32 heirs, representatives, or assigns, shall be ejected from such
 33 land, except as hereinafter provided, until compensation is
 34 tendered him the person or them the person's heirs,
 35 representatives, or assigns for such improvement which he the
 36 person or they the person's heirs, representatives, or assigns
 37 have made upon such land previous to actual notice of the claim
 38 upon which the action is founded, or, in case of possession
 39 under an official deed, previous to actual notice of defects
 40 invalidating the same. The word "improvement" shall be
 41 construed to include all kinds of buildings and fences, and
 42 ditching, draining, grubbing, clearing, breaking, and all other
 43 necessary or useful labor of permanent value to the land. When
 44 the occupant holds as heir, devisee, or grantee, either
 45 immediate or remote, of any person who is not a resident of the
 46 state, the good faith of the original taker shall be presumed.

559*#11S

47 559.11 PLEADINGS; TRIAL; VERDICT.
 48 In an action to try the title to land, brought by any
 49 person claiming title thereto against the occupant, the occupant
 50 may, in addition to other defenses, allege the amount and value
 51 of all improvements made, and the amount of all taxes and
 52 assessments paid, by himself the occupant or those under whom he
 53 the occupant claims, and, if the claim be under an official
 54 deed, the purchase money paid therefor; and the claimant may
 55 reply, alleging the value of the premises without improvements
 56 at the commencement of the action, and also the value of the
 57 yearly rent of the land without improvements during the
 58 possession of the occupant. In any such action brought by the
 59 occupant against a claimant to quiet title or to determine any
 60 adverse claim, the claimant, in his the answer in addition to
 61 setting up his the claimant's title, may allege the value of the
 62 premises without improvements at the commencement of the action,
 63 and also the value of the yearly rent of the land without
 64 improvements during the possession of the occupant; and the
 65 occupant may, in addition to other proper matters of reply,
 66 allege the amount and value of all improvements made, and the
 67 amount of all taxes and assessments paid by himself the occupant
 68 or those under whom he the occupant claims, and, if the claim be
 69 under an official deed, the purchase money paid therefor. In
 70 case the title be found to be in the claimant, the jury, or, if
 71 the case be tried without a jury, the court, shall assess the
 72 value of all improvements made and taxes and assessments paid
 73 upon the land by the occupant, or those under whom he the

1 occupant claims, with interest at six percent, and, if ~~he~~ the *
 2 occupant claims under an official deed, regular upon its face, *
 3 and without actual notice of any defect invalidating it, shall *
 4 also find the purchase money paid by ~~him~~ the occupant, or those *
 5 under whom ~~he~~ the occupant claims, with interest at six percent; *
 6 and the jury or court shall also assess the value of the land at
 7 the commencement of the action, without improvements, and also
 8 the value of the yearly rent thereof during the occupant's
 9 possession. If the land has depreciated in value since its
 10 purchase at an official sale, the jury or court may allow such
 11 part only of the purchase money as, in their discretion, they
 12 may see fit.

559*#13S

13 559.13 OCCUPANT TO PAY VALUE OF LAND, WHEN.

14 Unless the occupant claims under an official deed given
 15 either to ~~himself~~ the occupant or those under whom ~~he~~ the *
 16 occupant claims, as hereinbefore provided, or under an entry in *
 17 the land office of the United States, or the official
 18 certificate, duplicate or receipt thereof, or unless the
 19 claimant has had notice, actual or constructive, of the
 20 occupant's possession, the claimant may, within 30 days after
 21 entry of judgment on the verdict or findings in ~~his~~ the *
 22 claimant's favor, serve upon the occupant a written demand that *
 23 within one year ~~he~~ the occupant pay the claimant the sum *
 24 assessed as the value of the land without the improvements, less
 25 the taxes and assessments paid thereon as aforesaid, with
 26 interest as aforesaid. Such demand shall be served, and the
 27 service proved, as in the case of a summons, and shall then be
 28 filed with the clerk. If the occupant does not within one year
 29 after such service pay into court the amount so demanded, ~~he~~ the *
 30 occupant shall forfeit all claim to compensation, and execution *
 31 may then issue for the possession of the land; but, if ~~he~~ the *
 32 occupant do so pay, the court shall by judgment confirm the *
 33 title in ~~him~~ the occupant.

559*#14S

34 559.14 MAY REMOVE CROPS.

35 In case of ejection, the occupant shall be entitled to
 36 enter upon the land, and gather and remove all crops sown
 37 thereon prior to entry of judgment ~~against-him~~.

559*#15S

38 559.15 OCCUPANT NOT IN ACTUAL POSSESSION; ACTIONS IN
39 OTHER FORM.

40 All the provisions of sections 559.10 to 559.14 shall apply
 41 to cases where the occupant is or is not, ~~as well as where he~~ *
 42 ~~is~~, in actual possession. In case an action is brought for *
 43 damages for trespass upon such land, or for the rents and
 44 profits or use and occupation thereof, or in any other form, if
 45 the action is one in effect to test the validity of the title
 46 thereto, all said sections shall, so far as possible, be
 47 complied with; and the value of all improvements, taxes, and
 48 assessments, and the purchase money in case the occupant claims
 49 under an official deed, with interest as aforesaid, shall be set
 50 off against any judgment for money that the claimant may obtain;
 51 and, if any excess remain in favor of the occupant after such
 52 set-off, such excess may be set-off against any judgment that
 53 the claimant, or those claiming under ~~him~~ the claimant, may *
 54 subsequently obtain in any such or similar action relating to
 55 the same land.

559*#16S

56 559.16 ORDER FOR SURVEY.

57 When an action for the recovery of real property is
 58 pending, upon motion of either party, and for cause shown, the
 59 court may make an order describing the property, and allowing
 60 such party to enter thereon and make survey thereof for the
 61 purpose of the action. A copy of the order shall be served on
 62 the owner or occupant, and thereupon such party may enter upon
 63 the property, with necessary surveyors and assistants, and make
 64 such survey; but, if any unnecessary injury is done to the
 65 property, ~~he~~ the party is liable therefor. *

559*#17S

66 559.17 MORTGAGEE NOT ENTITLED TO POSSESSION.

67 No change for subd 1

68 Subd. 2. A mortgagor may assign, as additional security
 69 for the debt secured by the mortgage, the rents and profits from
 70 the mortgaged real property, if the mortgage:

71 (1) Was executed, modified or amended subsequent to August

1 1, 1977;

2 (2) Secured an original principal amount of \$500,000 or
3 more; and

4 (3) Is not a lien upon property which was entirely
5 homesteaded as agricultural property. The assignment may be
6 enforced as follows:

7 (a) If, by the terms of an assignment, a receiver is to be
8 appointed upon the occurrence of some specified event, and a
9 showing is made that the event has occurred, the court shall,
10 without regard to waste, adequacy of the security, or solvency
11 of the mortgagor, appoint a receiver who shall, with respect to
12 the excess cash remaining after application as provided in
13 section 576.01, subdivision 2, apply it as prescribed by the
14 assignment. If the assignment so provides, the receiver shall
15 apply the excess cash in the manner set out herein from the date
16 of his appointment through the entire redemption period from any
17 foreclosure sale. Subject to the terms of the assignment, the
18 receiver shall have the powers and duties as set forth in
19 section 576.01, subdivision 2.

20 (b) If no provision is made for the appointment of a
21 receiver in the assignment, the assignment shall be binding upon
22 the assignor without regard to waste, adequacy of the security
23 or solvency of the mortgagor, but only in the event of default
24 in the terms and conditions of the mortgage, and only in the
25 event the assignment requires the holder thereof to first apply
26 the rents and profits received as provided in section 576.01,
27 subdivision 2, in which case the same shall operate against and
28 be binding upon the occupiers of the premises from the date of
29 filing by the holder of the assignment in the office of the
30 county recorder or the office of the registrar of titles for the
31 county in which the property is located of a notice of default
32 in the terms and conditions of the mortgage and service of a
33 copy of the notice upon the occupiers of the premises. The
34 holder of the assignment shall apply the rents and profits
35 received in accordance with the terms of the assignment, and, if
36 the assignment so provides, for the entire redemption period
37 from any foreclosure sale. A holder of an assignment who
38 enforces it in accordance with this clause shall not be deemed
39 to be a mortgagee in possession with attendant liability.

40 Nothing contained herein shall prohibit the right to
41 reinstate the mortgage debt granted pursuant to section 580.30,
42 nor the right to redeem granted pursuant to sections 580.23 and
43 581.10, and any excess cash, as that term is used herein,
44 collected by the receiver under clause (a), or any rents and
45 profits taken by the holder of the assignment under clause (b),
46 shall be credited to the amount required to be paid to effect a
47 reinstatement or redemption.

559*#18S

48 559.18 CONVEYANCE BY MORTGAGOR TO MORTGAGEE.

49 No conveyance absolute in form between parties sustaining
50 the relation of mortgagor and mortgagee, whereby the mortgagor
51 or his the mortgagor's successor in interest conveys any right,
52 title or interest in real property theretofore mortgaged, shall
53 be presumed to have been given as further security, or as a new
54 form of security, for the payment of any existing mortgage
55 indebtedness, or any other indebtedness, or as security for any
56 purpose.

559*#21S

57 559.21 TERMINATION OF CONTRACT OF SALE; NOTICE, SERVICE
58 AND RETURN, COSTS, REINSTATEMENT.

59 No change for subd 2a to 3

60 Subd. 4. (a) The notice required by this section must be
61 given notwithstanding any provisions in the contract to the
62 contrary, except that earnest money contracts, purchase
63 agreements, and exercised options that are subject to this
64 section may, by their terms, provide for a shorter termination
65 period, not less than 30 days. The notice must be served within
66 the state in the same manner as a summons in the district court,
67 and outside of the state, in the same manner, and without
68 securing any sheriff's return of not found, making any
69 preliminary affidavit, mailing a copy of the notice or doing any
70 other preliminary act or thing whatsoever. Service of the
71 notice outside of the state may be proved by the affidavit of
72 the person making the same, made before an authorized officer
73 having a seal, and within the state by such an affidavit or by
74 the return of the sheriff of any county therein.

1 (b) Three weeks published notice, and if the premises
 2 described in the contract are actually occupied, then in
 3 addition thereto, the personal service of a copy of the notice
 4 within ten days after the first date of publication of the
 5 notice, and in like manner as the service of a summons in a
 6 civil action in the district court upon the person in possession
 7 of the premises, has the same effect as the personal service of
 8 the notice upon the purchaser, ~~his~~ the purchaser's personal *
 9 representatives or assigns, either within or outside of the
 10 state as herein provided for. In case of service by
 11 publication, as herein provided, the notice shall specify the
 12 conditions in which default has been made, state that the
 13 purchaser, ~~his~~ the purchaser's personal representative, or *
 14 assigns are allowed 90 days from and after the first date of
 15 publication of the notice to comply with the conditions of the
 16 contract, and state that the contract will terminate 90 days
 17 after the first date of publication of the notice, unless prior
 18 thereto the purchaser:

19 (1) complies with the conditions;

20 (2) makes all payments due and owing to the seller under
 21 the contract through the date that payment is made;

22 (3) pays the costs of service, as provided in subdivision
 23 2a;

24 (4) pays two percent of the amount in default at the time
 25 of service, not including the final balloon payment, any taxes,
 26 assessments, mortgages, or prior contracts that are assumed by
 27 the purchaser; and

28 (5) pays attorneys' fees as provided in subdivision 2a.

29 (c) The contract is reinstated if, within the time
 30 mentioned, the person served:

31 (1) complies with the conditions;

32 (2) makes all payments due and owing to the seller under
 33 the contract through the date that payment is made;

34 (3) pays the costs of service as provided in subdivision 2a;

35 (4) pays two percent of the amount in default, not
 36 including the final balloon payment, any taxes, assessments,
 37 mortgages, or prior contracts that are assumed by the purchaser;
 38 and

39 (5) pays attorneys' fees as provided in subdivision 2a.

40 (d) The contract is terminated if the provisions of
 41 paragraph (c) are not met.

42 (e) In the event that the notice was not signed by an
 43 attorney for the seller and the seller is not present in the
 44 state, or cannot be found therein, then compliance with the
 45 conditions specified in the notice may be made by paying to the
 46 clerk of the district court in the county wherein the real
 47 estate or any part thereof is situated any money due and filing
 48 proof of compliance with other defaults specified, and the clerk
 49 of the district court shall be deemed the agent of the seller
 50 for such purposes. A copy of the notice with proof of service
 51 thereof, and the affidavit of the seller, ~~his~~ the seller's agent *
 52 or attorney, showing that the purchaser has not complied with
 53 the terms of the notice, may be recorded with the county
 54 recorder, and is prima facie evidence of the facts therein
 55 stated; but this section in no case applies to contracts for the
 56 sale or conveyance of lands situated in another state or in a
 57 foreign country.

58 No change for subd 5 to 8

559*#214S

59 559.214 SUPPLEMENTARY AFFIDAVIT.

60 In any instance where such copy of notice, proof of service
 61 thereof and affidavit have been or shall hereafter be recorded,
 62 the vendor or ~~his~~ the vendor's successors or assigns may record *
 63 with the county recorder a supplementary affidavit, verified by
 64 a person shown by such supplementary affidavit to have knowledge
 65 of the facts, showing that the purchaser under the contract
 66 referred to in such notice and ~~his~~ the purchaser's personal *
 67 representatives, successors and assigns, if any, have abandoned
 68 the real estate referred to in such contract and that such
 69 abandonment has continued for at least six consecutive years
 70 after such termination proceedings and next prior to the
 71 recording of the supplementary affidavit. The recording of the
 72 supplementary affidavit shall be prima facie evidence that the
 73 real estate has been abandoned and the contract terminated,
 74 notwithstanding defects, substantial or otherwise, in the
 75 termination proceedings, including the defect occasioned by

1 lapse of less than 30 days between the date of service of notice
2 of termination of the contract and the date of beginning of any
3 moratorium. Such supplementary affidavit may be verified by the
4 vendor or ~~his~~ the vendor's successor or assigns in person or by
5 an agent or attorney. *

559*#22S

6 559.22 CONVEYANCE BY DEFENDANT IN EJECTMENT; LIABILITY
7 OF PURCHASER.

8 An action for the recovery of real property against a
9 person in possession or in receipt of the rents and profits
10 thereof cannot be prejudiced by an alienation made by ~~him~~ that *
11 person either before or after the commencement of the action; *
12 but in such case, if the defendant has no property sufficient to
13 satisfy the damages recovered for the withholding of possession,
14 such damages may be collected by action against the purchaser.

559*#23S

15 559.23 ACTION TO DETERMINE BOUNDARY LINES.

16 An action may be brought by any person owning land or any
17 interest therein against the owner, or persons interested in
18 adjoining land, to have the boundary lines established; and when
19 the boundary lines of two or more tracts depend upon any common
20 point, line, or landmark, an action may be brought by the owner
21 or any person interested in any of such tracts, against the
22 owners or persons interested in the other tracts, to have all
23 the boundary lines established. The court shall determine any
24 adverse claims in respect to any portion of the land involved
25 which it may be necessary to determine for a complete settlement
26 of the boundary lines, and shall make such order respecting
27 costs and disbursements as it shall deem just. The decree of
28 the court shall be filed with the clerk, and a certified copy
29 thereof shall be recorded in the office of the county recorder
30 or filed in the office of registrar of titles or both, if
31 necessary; provided that such decree shall not be accepted for
32 such recording or filing until it shall be presented to the
33 county auditor who shall enter the same in the transfer record
34 and note upon the instrument over ~~his~~ the auditor's official *
35 signature the words "ENTERED IN THE TRANSFER RECORD."

559*#25S

36 559.25 JUDGMENT; LANDMARKS.

37 The judgment shall locate and define the boundary lines
38 involved by reference to well-known permanent landmarks, and, if
39 it shall be deemed for the interest of the parties, after the
40 entry of judgment, the court may direct a competent surveyor to
41 establish a permanent stone or iron landmark in accordance with
42 the judgment, from which future surveys of the land embraced in
43 the judgment shall be made. Such landmarks shall have distinctly
44 cut or marked thereon "Judicial Landmark." The surveyor shall
45 make report to the court, and in ~~his~~ the report shall accurately *
46 describe the landmark so erected, and define its location as
47 nearly as practicable.

560*#04S

48 560.04 ENTRY UPON LANDS; ACCOUNTING; APPLICATION OF
49 RECEIPTS; EXPENSES.

50 The complainant or complainants may thereupon, after the
51 filing and approval of the bond provided for in section 560.03,
52 enter upon these lands and develop the same, and produce
53 therefrom and from the lodes, veins, and deposits the iron, iron
54 ore, minerals, mineral ores of any kind, coal, sand, clay,
55 gravel, and peat that exist thereon or therein. A strict
56 account shall be kept, by the party or parties operating these
57 properties and workings, of all expenses of opening and working
58 any and all such mines, or iron or iron ores, minerals or
59 mineral ores of any kind, coal, or deposits of clay, sand,
60 gravel, or peat; and a true and correct account of the output of
61 these workings in tons and of the receipts from the sale or
62 disposal of the output. A monthly statement of such expenses
63 and the output shall be made by the parties operating these
64 workings and properties and filed with the clerk of the court
65 where the action was commenced or is pending. The parties
66 operating such properties shall be entitled to use so much of
67 the receipts from the sales of the total output as may be
68 necessary for the payment of the expenses and charges of opening
69 and operating such property, and the surplus of receipts over
70 the amount so paid out for expenses and charges of opening and
71 operating such property shall be divided pro rata among all the
72 owners of such property according to their interests, and the

1 amount to which any party is entitled shall be paid to ~~him~~ that *
 2 party by the parties operating such property upon demand at any *
 3 time after the filing of any monthly statement, as herein
 4 provided, which shows a surplus over the charges and expenses
 5 aforesaid. No part of the expenses or charges, and no claim for
 6 work or labor performed in or about the opening, operating, or
 7 improvement of such property shall be a lien upon or a charge
 8 against any portion of the property or interest therein not
 9 owned by the parties operating such property, and none of the
 10 owners of any part of or interest in the property who are not
 11 operating such property shall be liable for any of the charges
 12 or expenses of opening, operating, or improving such property.

560*#05S

13 560.05 SURFACE RIGHTS.

14 The parties operating these veins, lodes, and deposits, as
 15 herein provided, shall have the right to use the surface of the
 16 ground for placing machinery and coverings therefor, for roads,
 17 tramways, drains, water pipes, steam and electric plants, and
 18 all other appliances necessary in the operation and developing
 19 of the properties and workings, including buildings for offices
 20 and houses for ~~men~~ workers, and shelter for animals, engaged and *
 21 employed in and by the workings, without charge from coowners.

560*#06S

22 560.06 RIGHTS OF NON-OPERATING OWNERS.

23 The owners of said property not engaged in operating the
 24 same shall have access to the property and workings therein at
 25 all reasonable times for the purpose of measuring up the
 26 workings and verifying thereby the accounts of operators
 27 thereof, and shall have access to the property for the purpose
 28 of removing and taking away the property delivered to them on
 29 the dump of the property as herein provided. This right must be
 30 so exercised as not to interfere with the parties operating the
 31 property and workings on or in the property, or of any of the
 32 hoisting or working apparatus, railroads, roads, tramways, or
 33 other appliances thereon, or of the ~~workmen~~ workers, servants of *
 34 the operators of the property.

560*#08S

35 560.08 LIENS, ATTACHMENT.

36 No liens created by the statutes of this state, whether
 37 those of mechanics, materialmen material suppliers, or laborers, *
 38 or for other supplies or any other liens except those of *
 39 judgment against owners of interests in the lands, shall attach
 40 to the lands on or in which operations for producing from the
 41 veins, lodes, or deposits of iron, iron ores, minerals, or
 42 mineral ores of all kinds, coal, clay, sand, gravel, or peat are
 43 carried on under and in accordance with this chapter.

561*#03S

44 561.03 REMEDIES.

45 Any such owner or occupant injured, either in ~~his~~ his comfort *
 46 or in the enjoyment of ~~his~~ an estate by such fence, or any other *
 47 structure, may have an action of tort for the damage sustained
 48 thereby and may have such nuisance abated.

561*#04S

49 561.04 TRESPASS; TREBLE DAMAGES.

50 Whoever without lawful authority cuts down or carries off
 51 any wood, underwood, tree, or timber, or girdles or otherwise
 52 injures any tree, timber, or shrub, on the land of another
 53 person, or in the street or highway in front of any person's
 54 house, city lot, or cultivated grounds, or on the commons or
 55 public grounds of any city or town, or in the street or highway
 56 in front thereof, is liable in a civil action to the owner of
 57 such land, or to such city or town, for treble the amount of
 58 damages which may be assessed therefor, unless upon the trial it
 59 appears that the trespass was casual or involuntary, or that the
 60 defendant had probable cause to believe that the land on which
 61 the trespass was committed was ~~his-own~~ the defendant's, or that *
 62 of the person in whose service or by whose direction the act was
 63 done, in which case judgment shall be given for only the single
 64 damages assessed. This section shall not authorize the recovery
 65 of more than the just value of timber taken from uncultivated
 66 woodland for the repair of a public highway or bridge upon or
 67 adjoining the land.

561*#09S

68 561.09 OWNER OF ANIMALS LIABLE FOR TRESPASS.

69 In case the owner or occupant of lands shall not distrain
 70 the animals or fowls doing damage as provided herein, then any

1 person who shall knowingly permit the running at large or
 2 trespass of any such domestic animal or fowl within any city,
 3 shall be liable to the person aggrieved for treble the damages
 4 sustained by him, to be recovered in a civil action. *

561*#10S

5 561.10 TRESPASS AFTER EXECUTION OR FORECLOSURE SALE.

6 When real property is sold on execution or under judgment
 7 or mortgage, the purchaser thereof, or any person who has
 8 succeeded to ~~his~~ the purchaser's interest, after ~~his~~ the estate
 9 becomes absolute, may recover damages for injury to the property
 10 by the tenant in possession after the sale, and before
 11 possession is delivered under the conveyance. *

561*#11S

12 561.11 CULTIVATION OF LANDS SOLD UNDER MORTGAGE
13 FORECLOSURES OR EXECUTION; PETITIONS.

14 Where any mortgage upon farm lands has been foreclosed or
 15 farm lands have been sold upon execution and the period of
 16 redemption shall expire between April fifteenth and October
 17 first of any year and it is made to appear to the court that
 18 these lands may not be farmed or cultivated during that year,
 19 the mortgagor, or the owner in possession of the mortgaged
 20 premises or any one claiming under such mortgagor, or any one
 21 liable for the mortgage debt at the time of the making of the
 22 application, may apply to the district court of the county
 23 wherein such foreclosure proceedings were held, or are pending,
 24 by filing in the court, a verified petition setting forth the
 25 claims of the applicant of ~~his~~ the applicant's interest in the
 26 land or in the crops that may be raised thereon in the year in
 27 which the period of redemption expires and setting forth that
 28 the land can not be farmed or cultivated during that year except
 29 under order of the court and that ~~he~~ the applicant is unable to
 30 redeem the lands at the time the year for redemption will
 31 expire, and offering to farm and cultivate the land during that
 32 year upon such terms as the court shall find to be just and
 33 equitable. *

561*#12S

34 561.12 SERVICE OF NOTICE OF PETITION; HEARING.

35 Such petition and notice of motion for hearing thereon
 36 shall be served as now provided for the service of a summons in
 37 a civil action upon the mortgagee or execution creditor if ~~he~~
 38 either is the owner of the sheriff certificate of sale of record
 39 and upon each creditor of the mortgagor holding a lien of record
 40 upon the mortgaged premises; if this certificate has been
 41 transferred of record, then upon the owner of the sheriff
 42 certificate of redemption or execution sale appearing of
 43 record. If the owner of record is the original mortgagee or the
 44 execution creditor, then service may be made by certified mail
 45 upon such mortgagee or execution creditor or upon ~~his~~ the
 46 attorney of either of them, who is foreclosing the mortgage or
 47 the attorney whose name appears on the execution as attorney for
 48 the execution creditor in the case of an execution sale. *

49 The hearing upon the motion shall be not less than ten, nor
 50 more than 20, days after the service of such notice of motion.

561*#14S

51 561.14 COURT TO DETERMINE FAIR RENTAL VALUE.

52 Upon such hearing, if the court shall find that the
 53 allegations of the petition are true and that the lands may not
 54 be farmed or cultivated during the year in which the period of
 55 redemption expires, the court shall determine the fair rental
 56 value of the premises from the time the period of redemption
 57 expires until the first day of October in that year, assuming
 58 that the land is farmed in a good and husbandlike manner, and
 59 what rent or share shall be paid to the holder of the sheriff
 60 certificate of foreclosure sale or execution sale during the
 61 extended period and provide for the giving of security by the
 62 applicant or tenant for the payment of such rents or share of
 63 the crops or income from the lands, and the court may require
 64 the parties to execute a lease to carry out the order of the
 65 court, the lease by its terms to expire on October first, of the
 66 year in which made; but the tenant shall have a reasonable time
 67 thereafter to remove from the land ~~his~~ the tenant's crops grown
 68 thereon and other articles of personal property owned by ~~him~~ the
 69 tenant. *

561*#17S

70 561.17 ACTION FOR WASTE.

71 If a guardian, tenant for life or years, joint tenant, or

1 tenant in common, of real property, commits waste thereon, any
 2 person injured by the waste may bring an action against him the *
 3 waster therefor, in which there may be judgment for treble *
 4 damages, forfeiture of the estate of the party offending, and
 5 eviction from the property. Judgment of forfeiture and eviction
 6 can only be given in favor of the person entitled to the
 7 reversion, against the tenant in possession when the injury to
 8 the estate in reversion is adjudged in the action to be equal to
 9 the value of the tenant's estate or unexpired term, or to have
 10 been done in malice.

561*#18S

11 561.18 WASTE PENDING YEAR FOR REDEMPTION; INJUNCTION.

12 When real property is sold upon execution or under judgment
 13 or mortgage, until the expiration of the time allowed for
 14 redemption, the court may restrain the commission of waste on
 15 the property, by order granted, with or without notice, on
 16 application of the purchaser or his the purchaser's assigns *
 17 holding the certificate of sale; but it is not waste for the
 18 person in possession of the property at the time of sale, or
 19 entitled to the possession afterwards, during the time allowed
 20 for redemption, to continue to use it in the same manner in
 21 which it was previously used, or to use it in the ordinary
 22 course of husbandry, or to make the necessary repairs of the
 23 buildings thereon, or to use wood or timber on the property
 24 therefor, or for the repair of fences or for fuel for his the *
 25 possessor's family, while he the possessor occupies the property. *

562*#03S

26 562.03 REQUISITES OF BOND.

27 Such bond shall be executed by the party of whom it is
 28 required or some person for him the party as principal, or may *
 29 be in the form of an undertaking, and shall be in a penal sum to
 30 be fixed by the court for the protection of the public body and
 31 the taxpayers against such loss or damage. During the pendency
 32 of the litigation, the court, on motion, may require additional
 33 security if found necessary, and upon failure to furnish the
 34 same shall dismiss the action or proceeding with prejudice. The
 35 court may likewise, on motion, reduce the amount of a bond
 36 theretofore required or release the bond upon finding that the
 37 amount is excessive or the bond no longer required. The public
 38 body shall have recovery for any loss or damage in an action on
 39 the bond. The amount of damages may be ascertained by reference
 40 or otherwise, as the court may direct, and the surety shall have
 41 the right to intervene in the proceeding to determine the amount
 42 of damage.

563*#01S

43 563.01 FORMA PAUPERIS PROCEEDINGS; AUTHORIZATION.

44 No change for subd 1 to 2

45 Subd. 3. Any court of the state of Minnesota or any
 46 political subdivision thereof may authorize the commencement or
 47 defense of any civil action, or appeal therein, without
 48 prepayment of fees, costs and security for costs by a natural
 49 person who makes affidavit stating (a) the nature of the action,
 50 defense or appeal, (b) his a belief that he affiant is entitled *
 51 to redress, and (c) that he affiant is unable to pay the fees, *
 52 costs and security for costs. Upon a finding by the court that
 53 the action is not of a frivolous nature, the court shall allow
 54 the person to proceed in forma pauperis if the affidavit is
 55 substantially in the language required by this subdivision and
 56 is not found by the court to be untrue.

57 No change for subd 4 to 12

565*#26S

58 565.26 ORDER FOR SEIZURE OF PROPERTY.

59 No change for subd 1

60 Subd. 2. An order for seizure of property may:

61 (a) Describe the place or places which may be entered by
 62 force by the sheriff subject to the limitations of clause (c);

63 (b) Require that the respondent, his the respondent's *
 64 agents or employees deliver the property to claimant or disclose
 65 its location, and, if delivery is not made or the location is
 66 not disclosed, that respondent must appear in court at a
 67 specified time and place to give testimony as to the location of
 68 the property and to show cause why an order should not be
 69 entered finding respondent in contempt of court for failure to
 70 deliver the property or to disclose its location; and

71 (c) Provide that if the property, or any of it is
 72 concealed in a building or elsewhere, and a public demand made

1 by the sheriff for its delivery is refused or there is no
 2 response, the sheriff shall cause the building or enclosure to
 3 be broken open and shall take the property therefrom. The
 4 sheriff may not enter the residence of a person other than
 5 respondent unless the order specifies, identifying with
 6 particularity the residence or residences which may be entered,
 7 on the basis of a finding by the court that probable cause
 8 exists to believe that the property is at this residence.

565*#28S

9 565.28 FEES TO SHERIFF.

10 ~~When the sheriff has taken~~ Upon taking property pursuant to *
 11 an order of the court, ~~he the sheriff~~ shall keep it in a secure *
 12 place and shall deliver it to the party entitled thereto as soon *
 13 as reasonably possible upon receiving ~~his~~ lawful fees and *
 14 expenses for taking and keeping the property.

15 The sheriff shall promptly return, without cost, any
 16 property taken which is not specified in the court's order.

566*#01S

17 566.01 FORCIBLE ENTRY AND UNLAWFUL DETAINER.

18 No person shall make entry into lands or tenements except *
 19 in cases where ~~his~~ entry is allowed by law, and in such cases ~~he~~ *
 20 the person shall not enter by force, but only in a peaceable *
 21 manner.

566*#03S

22 566.03 RECOVERY OF POSSESSION; DEFENSES.

23 Subdivision 1. When any person holds over lands or
 24 tenements after a sale thereof on an execution or judgment, or
 25 on foreclosure of a mortgage, and expiration of the time for
 26 redemption, or after termination of contract to convey the same,
 27 provided that if the person holding such lands or tenements
 28 after the sale, foreclosure, or termination is a tenant, ~~he the~~ *
 29 person has received at least one month's written notice of the *
 30 termination of ~~his~~ tenancy as a result of the sale, foreclosure, *
 31 or termination; or when any person holds over lands or tenements *
 32 after termination of the time for which they are demised or let *
 33 to ~~him~~ that person or to the persons under whom ~~he that person~~ *
 34 holds possession, or contrary to the conditions or covenants of *
 35 the lease or agreement under which ~~he that person~~ holds, or *
 36 after any rent becomes due according to the terms of such lease *
 37 or agreement; or when any tenant at will holds over after the
 38 determination of any such estate by notice to quit; in all such
 39 cases the person entitled to the premises may recover possession
 40 thereof in the manner hereinafter provided.

41 No change for subd 2

42 Subd. 3. In any proceeding for the restitution of premises
 43 upon the ground of nonpayment of rent, it shall be a defense
 44 thereto if the tenant establishes by a preponderance of the
 45 evidence that the plaintiff increased the tenant's rent or
 46 decreased the services as a penalty in whole or part for any
 47 lawful act of the tenant as described in subdivision 2,
 48 providing that the tenant tender to the court or to the
 49 plaintiff the amount of rent due and payable under ~~his the~~ *
 50 tenant's original obligation. *

51 Subd. 4. Nothing contained herein shall limit the right of
 52 the lessor pursuant to the provisions of subdivision 1 to
 53 terminate a tenancy for a violation by the tenant of a lawful,
 54 material provision of a lease or contract, whether written or
 55 oral, or to hold the tenant liable for damage to the premises
 56 caused by the tenant or a person acting under ~~his the tenant's~~ *
 57 direction or control.

566*#04S

58 566.04 LIMITATION.

59 No restitution shall be made under this chapter of any *
 60 lands or tenements of which the party complained of, or ~~his that~~ *
 61 person's ancestors, or those under whom ~~he the person~~ holds the *
 62 premises, have been in quiet possession for three years next *
 63 before the filing of the complaint, after the determination of *
 64 the leasehold estate that ~~he the person~~ may have had therein. *

566*#06S

65 566.06 SUMMONS; HOW SERVED.

66 The summons shall be served at least seven days before the
 67 return day in the manner provided for service of a summons in a
 68 civil action in the district court. If the person cannot be
 69 found in the county, the summons may be served ~~on-him~~ at least *
 70 seven days before its return day by leaving a copy at ~~his the~~ *
 71 person's last usual place of abode with a family member of-his *

1 ~~family~~, or a person of suitable age and discretion residing *
 2 there, or if ~~he~~ the person had no place of abode, by leaving a *
 3 copy upon the premises described in the complaint with a person
 4 of suitable age and discretion occupying the same or any part
 5 thereof. The summons may be served by any person not named a
 6 party to the action. If the defendant cannot be found in the
 7 county, of which the return of the sheriff or constable shall be
 8 prima facie proof, and, in the case of a nonresidential
 9 premises, no person actually occupies the premises described in
 10 the complaint, or, in case the premises described in the
 11 complaint is residential, service has been attempted at least
 12 twice on different days, with at least one of the attempts
 13 having been made between the hours of 6:00 and 10:00 p.m., upon
 14 the filing of an affidavit of the plaintiff or ~~his~~ the *
 15 plaintiff's attorney stating that (1) the defendant cannot be *
 16 found or on belief that the defendant is not in this state, and
 17 (2) a copy of the summons has been mailed to the defendant
 18 at ~~his~~ the defendant's last known address if any is known to the *
 19 plaintiff, service of the summons may be made upon the defendant
 20 by posting the summons in a conspicuous place on the premises
 21 for not less than one week. If the defendant or ~~his~~ the *
 22 defendant's attorney does not appear in court upon the return *
 23 day in the action, the trial thereof shall proceed.

566*#07S

24 566.07 ANSWER; TRIAL.

25 After the return of the summons, at the time and place
 26 appointed therein, ~~if~~ the defendant ~~appear~~, he on appearing, may *
 27 answer the complaint, and all matters in excuse, justification,
 28 or avoidance of the allegations thereof shall be set up in the
 29 answer; and thereupon the court shall hear and determine the
 30 action, unless it shall adjourn the trial as provided in section
 31 566.08, but either party may demand a trial by jury. The
 32 proceedings in such action shall be the same as in other civil
 33 actions, except as in this chapter otherwise provided.

566*#08S

34 566.08 ADJOURNMENT; SECURITY FOR RENT.

35 The court, in its discretion, may adjourn the trial, but
 36 not beyond six days after the return day, unless by consent of
 37 parties; but in all cases mentioned in section 566.03, except in
 38 an action upon a written lease signed by both parties thereto,
 39 if the defendant, ~~his~~ or the defendant's agent or attorney, *
 40 shall make oath that he the defendant cannot safely proceed to *
 41 trial for want of a material witness, naming ~~him~~ the witness, *
 42 and that he the defendant has made due exertion to obtain the *
 43 witness, and believes that, if such adjournment be allowed, he *
 44 the defendant will be able to procure the attendance of such *
 45 witness at the trial, or ~~his~~ the witness' deposition, and shall *
 46 give bond conditioned to pay to the plaintiff all rent which may
 47 accrue during the pendency of the action, and all costs and
 48 damages consequent upon such adjournment, the court shall
 49 adjourn the trial for such time as may appear necessary, not
 50 exceeding three months.

566*#09S

51 566.09 JUDGMENT; FINE; EXECUTION.

52 If the court or jury finds for the plaintiff, the court
 53 shall immediately enter judgment that the plaintiff have
 54 restitution of the premises and tax the costs for ~~him~~ the *
 55 plaintiff. The court shall issue execution in favor of the *
 56 plaintiff for the costs and also immediately issue a writ of
 57 restitution. Upon a showing by the defendant that immediate
 58 restitution of the premises would work a substantial hardship
 59 upon ~~him~~ the defendant or ~~his~~ the defendant's family, the court *
 60 shall stay the writ of restitution for a reasonable period, not
 61 to exceed seven days. If the court or jury finds for the
 62 defendant, the court shall enter judgment for the defendant, tax
 63 the costs against the plaintiff, and issue execution therefor.

566*#11S

64 566.11 WRIT OF RESTITUTION; EFFECT OF APPEAL.

65 If the party against whom judgment for restitution is
 66 rendered or ~~his~~ the party's attorney state to the court ~~that-he~~ *
 67 intends an intent to take an appeal, a writ of restitution shall *
 68 not issue for 24 hours after judgment. In an action on a lease,
 69 against a tenant holding over after the expiration of the term
 70 thereof, or a termination thereof by a notice to quit, such writ
 71 may issue forthwith notwithstanding such notice of appeal, if
 72 the plaintiff give a bond conditioned to pay all costs and

1 damages in case on the appeal the judgment of restitution be
2 reversed and a new trial ordered.

566*#12S

3 566.12 APPEAL; STAY.

4 ~~If either~~ A party who feels aggrieved by the judgment he *
5 may appeal within ten days as in other cases triable before *
6 courts except that if the party appealing remains in possession *
7 of the premises, his bond shall be conditioned to pay all costs *
8 of such appeal and abide the order the court may make therein
9 and pay all rents and other damages justly accruing to the party
10 excluded from possession during the pendency of the appeal.
11 Upon the taking of such appeal all further proceedings in the
12 case shall be stayed, except that in an action on a lease
13 against a tenant holding over after the expiration of the term
14 thereof or termination thereof by notice to quit, if the
15 plaintiff give bond as provided in section 566.11, a writ of
16 restitution shall issue as if no appeal had been taken and the
17 appellate court shall thereafter issue all needful writs and
18 processes to carry out any judgment which may be rendered in
19 such court.

566*#13S

20 566.13 APPEAL AFTER ISSUANCE OF WRIT; STAY.

21 If a writ of restitution has issued before the taking of an
22 appeal, the court shall give appellant a certificate of the
23 allowance thereof and. Upon ~~service-of~~ being served with such *
24 certificate upon, the officer having the writ he shall cease all *
25 further proceedings thereunder and if the writ has not been
26 completely executed the defendant shall remain in possession of
27 the premises until the determination of the appeal, but this
28 section shall not apply to a case where judgment for restitution
29 has been entered on a lease against a tenant holding over after
30 the expiration of the term thereof or determination thereof by
31 notice to quit.

566*#17S

32 566.17 EXECUTION OF THE WRIT OF RESTITUTION.

33 The officer holding the writ of restitution shall execute *
34 the same by making a demand upon defendant if ~~he can be~~ found in *
35 the county or any adult member of his the defendant's family *
36 holding possession of the premises, or other person in charge *
37 thereof, for the possession of the same, and that the *
38 defendant ~~remove-himself~~ leave, taking his family and all of *
39 his personal property from such premises within 24 hours after *
40 such demand. If defendant fails to comply with the demand, then *
41 the officer shall ~~take-with-him~~ bring, if necessary, the force *
42 of the county and whatever assistance may be necessary, at the *
43 cost of the complainant, remove the said defendant, his family *
44 and all his personal property from said premises detained, *
45 immediately and place the plaintiff in the possession thereof.
46 In case defendant cannot be found in the county, and there is no
47 person in charge of the premises detained, so that no demand can
48 be made upon the defendant, then the officer shall enter into
49 the possession of the premises, breaking in if necessary, and
50 remove all property of the defendant at the expense of the
51 plaintiff. The plaintiff shall have a lien upon all of the
52 goods upon the premises for the reasonable costs and expenses
53 incurred for removing the personal property and for the proper
54 caring and storing the same, and the costs of transportation of
55 the same to some suitable place of storage, in case defendant
56 shall fail or refuse to make immediate payment for all the
57 expenses of such removal from the premises and plaintiff shall
58 have the right to enforce such lien by detaining the same until
59 paid, and, in case of non-payment for 60 days after the
60 execution of the writ, shall have the right to enforce his the *
61 lien and foreclose the same by public sale as provided for in *
62 case of sales under sections 514.18 to 514.22.

566*#175S

63 566.175 UNLAWFUL REMOVAL OR EXCLUSION; RECOVERY OF
64 POSSESSION.

65 Subdivision 1. Any tenant who is unlawfully removed or *
66 excluded from lands or tenements which are demised or let to him *
67 the tenant may recover possession of the premises in the *
68 following manner:

69 (a) The tenant shall present a verified petition to the
70 county or municipal court of the county in which the premises
71 are located, which petition shall:

72 (1) describe the premises of which possession is claimed

1 and the owner, as defined in section 566.18, subdivision 3, of
2 the premises;

3 (2) specifically state the facts and grounds that
4 demonstrate that the removal or exclusion was unlawful including
5 a statement that no judgment and writ of restitution have been
6 issued under section 566.09 in favor of the owner and against
7 petitioner as to the premises and executed in accordance with
8 section 566.17; and

9 (3) ask for possession thereof.

10 (b) If it clearly appears from the specific grounds and
11 facts stated in the verified petition or by separate affidavit
12 of petitioner or ~~his~~ the petitioner's counsel or agent that the
13 removal or exclusion was unlawful, the court shall immediately
14 order that petitioner have possession of the premises. *

15 (c) The petitioner shall furnish monetary or other security
16 if any as the court deems appropriate under the circumstances
17 for payment of all costs and damages the defendant may sustain
18 if the order is subsequently found to have been obtained
19 wrongfully. In determining the appropriateness of any security
20 the court shall consider petitioner's ability to afford monetary
21 security.

22 (d) The court shall direct the order to the sheriff or any
23 constable of the county in which the premises is located and the
24 sheriff or constable shall execute the order immediately by
25 making a demand upon the defendant, if ~~he can be~~ found, or ~~his~~
26 the defendant's agent or other person in charge of the premises, *
27 for possession of the premises. If the defendant fails to *
28 comply with the demand, the officer shall take ~~with him~~ whatever *
29 assistance may be necessary and immediately place the petitioner
30 in possession of the premises. If the defendant or ~~his~~ the *
31 defendant's agent or other person in control of the premises *
32 cannot be found and if there is no person in charge of the
33 premises detained so that no demand can be made, the officer
34 shall immediately enter into possession of the premises and
35 place the petitioner in possession of the premises. The officer
36 shall also serve the order and verified petition or affidavit
37 without delay upon the defendant or ~~upon his~~ agent, in the same *
38 manner as a summons is required to be served in a civil action
39 in district court.

40 Subd. 2. The defendant by written motion and notice served
41 by mail or personally upon petitioner or ~~his~~ petitioner's *
42 attorney at least two days prior to the hearing date on the
43 motion may obtain dissolution or modification of the order for
44 possession, issued pursuant to subdivision 1, clause (b), unless
45 the petitioner proves the facts and grounds upon which the writ
46 is issued. A defendant bringing a motion pursuant to this
47 subdivision may recover possession of the premises only in
48 accordance with sections 566.03 to 566.17 or otherwise provided
49 by law. Upon the dissolution of the order, the court shall tax
50 costs to petitioner, subject to the provisions of section
51 563.01, and may allow damages and reasonable attorney's fees for
52 the wrongful granting of the order for possession. If the order
53 is affirmed the court shall tax costs against defendant and may
54 allow petitioner reasonable attorney's fees.

55 Subd. 3. An order issued under subdivision 1, clause (b),
56 or affirmed, modified or dissolved under subdivision 2 is a
57 final order for purposes of appeal and either party aggrieved by
58 the order may appeal within ten days after the entry of the
59 order. If the party appealing remains in possession of the
60 premises, ~~his~~ bond shall be conditioned to pay all costs of the *
61 appeal, to abide by the order the court may make and to pay all
62 rent and other damages justly accruing to the party excluded
63 from possession during the pendency of the appeal.

64 No change for subd 4 to 6

566*#18S

65 566.18 REMEDIES FOR TENANTS; DEFINITIONS.

66 No change for subd 1 to 7

67 Subd. 8. INSPECTOR. "Inspector" means the person
68 charged by the governing body of the political subdivision in
69 which a building is situated, with the responsibility of
70 enforcing provisions of local law, the breach of which could
71 constitute a violation as defined in subdivision 6, clause (a),
72 or if no such person, the county health officer or the ~~chairman~~ *
73 chair of the board of county commissioners, and in the case of a *
74 manufactured home park, the state department of health, or its
75 designee.

566*#19S

1 566.19 INSPECTION, NOTICE.

2 No change for subd 1

3 Subd. 2. After an inspection of a building has been made
4 upon demand by a tenant, the owner or ~~his~~ the owner's agent and *
5 the complaining tenant shall be informed in writing by the
6 inspector of any code violations discovered and a reasonable
7 period of time shall be allowed in which to correct the
8 violations.

9 No change for subd 3 to 4

566*#21S

10 566.21 SUMMONS.

11 No change for subd 1

12 Subd. 2. The summons and complaint shall be served upon
13 the owner or ~~his~~ the owner's agent at least five and not more *
14 than ten days before the time at which the complaint is to be
15 heard. Service shall be by personal service upon the defendant
16 pursuant to the Minnesota rules of civil procedure except that
17 if such service cannot be made with due diligence, service may
18 be made by affixing a copy of the summons and complaint
19 prominently to the building involved, and mailing at the same
20 time a copy of the summons and complaint by certified mail to
21 the last known address of the defendant.

566*#23S

22 566.23 DEFENSES.

23 It shall be a sufficient defense that:

24 (a) The violation or violations alleged in the complaint do
25 not in fact exist or that the violation or violations have been
26 removed or remedied; or

27 (b) The violations have been caused by the wilful,
28 malicious, negligent or irresponsible conduct of a complaining
29 tenant or anyone under ~~his~~ the tenant's direction or control; or *

30 (c) Any tenant of the building has unreasonably refused
31 entry to the owner or ~~his~~ the owner's agent to a portion of the *
32 premises for the purpose of correcting the violation, and the
33 effort to correct was made in good faith.

566*#25S

34 566.25 JUDGMENT.

35 Upon finding the complaint proved, the court may, in its
36 discretion, do any or all of the following, either alone or in
37 combination:

38 (a) Order the owner to remedy the violation or violations
39 found by the court to exist if the court is satisfied that
40 corrective action will be undertaken promptly; or

41 (b) Order the tenant to remedy the violation or violations
42 found by the court to exist and deduct the cost from ~~his~~ the *
43 rent subject to the terms as the court determines to be just; or

44 (c) Appoint an administrator with powers as set out in
45 section 566.29, and

46 (1) direct that rents due:

47 (i) on and from the day of entry of judgment, in the case
48 of petitioning tenants, and

49 (ii) on and from the day of service of the judgment on all
50 other tenants and commercial tenants of the building, if any,
51 shall be deposited with the administrator appointed by the
52 court, and

53 (2) direct that the administrator use the rents collected
54 for the purpose of remedying the violations found to exist by
55 the court paying the debt service, taxes and insurance, and
56 providing the services necessary to the ordinary operation and
57 maintenance of the building which the owner is obligated to
58 provide but ~~which he~~ fails or refuses to provide; or *

59 (d) Find the extent to which any uncorrected violations
60 impair the tenants' use and enjoyment of the premises contracted
61 for and order the rent abated accordingly. Should the court
62 choose to enter judgment under this paragraph the parties shall
63 be informed and the court shall find the amount by which the
64 rent shall be abated; and

65 (e) Grant any other relief the court deems just and proper.

566*#28S

66 566.28 EVICTION PROCEEDINGS BY OWNER LIMITED.

67 A tenant may not be evicted, nor may ~~his~~ the tenant's *
68 obligations under ~~his~~ a rental agreement be increased nor the *
69 services decreased, if the eviction or increase of obligations
70 or decrease of services is intended as a penalty for the
71 tenant's complaint of a violation. The burden of proving

1 otherwise shall be on the owner if said eviction or increase of
 2 obligations or decrease of services occurs within 90 days after
 3 the filing of the complaint, unless it is found that the
 4 complaint was not made in good faith. After 90 days the burden
 5 of proof shall be on the tenant.

566*#29S

6 566.29 ADMINISTRATOR.

7 No change for subd 1 to 3

8 Subd. 4. POWERS. The administrator shall be
 9 empowered to:

10 (a) Collect rents from tenants and commercial tenants,
 11 evict tenants and commercial tenants for nonpayment of rent or
 12 other cause, rent vacant dwelling units on a month to month
 13 basis, rent vacant commercial units with the consent of the
 14 owner and exercise all other powers necessary and appropriate to
 15 carry out the purposes of Laws 1973, Chapter 611;

16 (b) Contract for the reasonable cost of materials, labor
 17 and services necessary to remedy the violation or violations
 18 found by the court to exist, and make disbursements for payment
 19 therefor from funds available for the purpose;

20 (c) Provide any services to the tenants which the owner is
 21 obligated to provide but ~~which he~~ refuses or fails to provide,
 22 and pay for them from funds available for the purpose; *

23 (d) Petition the court, after notice to the parties, for an
 24 order allowing the administrator to encumber the premise to
 25 secure funds to the extent necessary to cover the cost of
 26 materials, labor, and services necessary to remedy the violation
 27 or violations found by the court to exist, and to pay for them
 28 from funds derived from the encumbrance; and

29 (e) Petition the court, after notice to the parties, for an
 30 order allowing the administrator to receive funds made available
 31 for this purpose by the municipality to the extent necessary to
 32 cover the cost of materials, labor, and services necessary to
 33 remedy the violation or violations found by the court to exist,
 34 and pay for them from funds derived from the municipal sources.
 35 The municipality shall recover disbursements by special
 36 assessment on the real estate affected, bearing interest at the
 37 rate determined by the municipality, not exceeding the rate
 38 established for finance charges for open-end credit sales under
 39 section 334.16, subdivision 1, clause (b), with the assessment,
 40 interest and any penalties to be collected the same as special
 41 assessments made for other purposes under state statute or
 42 municipal charter.

43 No change for subd 5

566*#30S

44 566.30 REMOVAL OF ADMINISTRATOR.

45 Subdivision 1. The administrator may, upon notice to all
 46 parties, petition the court to be relieved of ~~his~~ duties,
 47 setting forth ~~his~~ reasons therefor. The court may, in its
 48 discretion, grant such petition and discharge the administrator
 49 upon approval of ~~his~~ the accounts. *

50 Subd. 2. Any party may, upon notice to the administrator
 51 and all other parties, petition the court to remove the
 52 administrator. Upon good cause shown, the court shall order the
 53 administrator removed and direct ~~him~~ the administrator to
 54 deliver to the court forthwith an accounting of ~~his~~ *
 55 administration. The court may make any other order necessary
 56 and appropriate under the circumstances. *

57 No change for subd 3

566*#31S

58 566.31 TERMINATION OF ADMINISTRATION.

59 No change for subd 1

60 Subd. 2. Upon the occurrence of any of the conditions for
 61 termination in subdivision 1, the administrator shall:

62 (a) Submit to the court an accounting of receipts and
 63 disbursements of ~~his~~ the administration together with copies of
 64 all bills, receipts and other memoranda pertaining to all
 65 transactions reflected therein, and, where appropriate, a
 66 certification, by an appropriate governmental agency, that the
 67 violations found by the court to exist at the time of judgment
 68 have been remedied; and *

69 (b) Comply with any other order the court shall make as a
 70 condition of discharge.

71 No change for subd 3

571*#41S

72 571.41 GARNISHEE SUMMONS; EXCEPTIONS.

1 No change for subd 1

2 Subd. 2. Notwithstanding anything to the contrary herein
3 contained, a plaintiff in any action in a court of record for
4 the recovery of money may issue a garnishee summons before
5 judgment therein in the following instances only:

6 (a) Following by at least 40 days service of the summons
7 and complaint upon the debtor in the main action where judgment
8 by default could be entered pursuant to Rule 55.01(1) of the
9 Minnesota Rules of Civil Procedure; or

10 (b) If the court shall order the issuance of such summons,
11 if a summons and complaint is filed with the appropriate court
12 and either served on the defendant or delivered to a sheriff for
13 service on the defendant not more than 30 days after the order
14 is signed, and if, upon application to the court it shall appear
15 that:

16 (1) Defendant is about to take property out of the state
17 which might be necessary to satisfy any judgment awarded
18 plaintiff, or

19 (2) The purpose of the garnishment is to establish quasi in
20 rem jurisdiction and that

21 (a) defendant is a resident individual having departed from
22 the state with intent to defraud ~~his~~ creditors, or to avoid
23 service; or

24 (b) defendant is a nonresident individual, or a foreign
25 corporation, partnership or association.

26 (3) The garnishee and the debtor are parties to a contract
27 of suretyship, guarantee, or insurance, because of which the
28 garnishee may be held to respond to any person for the claim
29 asserted against the debtor in the main action.

30 (4) The creditor has been unable to serve upon the debtor
31 the summons and complaint in the main action because the debtor
32 has been inaccessible due to residence and employment in
33 buildings where access is restricted.

34 No change for subd 3

35 Subd. 4. If the court shall order the issuance of a
36 garnishee summons before entry of judgment, such summons and
37 attendant documents shall designate the parties plaintiff and
38 defendant. To obtain such an order, the creditor shall file an
39 affidavit stating that a cause of action exists, specifying the
40 amount of the claim and the ground thereof, and setting forth in
41 detail the specific facts upon which the creditor bases ~~his~~ the
42 claim of entitlement to garnishment before entry of judgment.
43 Such an order shall provide that a hearing shall be held no
44 later than seven days from the date of service of the garnishee
45 summons for the purpose of determining whether probable cause
46 exists for the continuation of the garnishment, unless the
47 debtor knowingly waives in writing said hearing. Notice of said
48 hearing shall be given to the debtor by such method as shall be
49 prescribed by the court. At said hearing the burden of proving
50 probable cause shall rest upon the creditor.

51 Subd. 5. PRIOR NOTICE REQUIRED. If the garnishee
52 summons is to be used to garnish the earnings of an individual
53 to enforce a judgment, or to garnish earnings prior to entry of
54 judgment pursuant to subdivision 2, clause (a), prior to the
55 first garnishment on any debt, the creditor shall serve upon the
56 debtor, no less than ten days prior to the service of the
57 garnishee summons, a notice that a summons may be issued. If
58 the garnishee summons has not been served within one year after
59 service of the notice, the judgment creditor shall serve another
60 notice upon the judgment debtor prior to serving the garnishee
61 summons on ~~his~~ the judgment debtor's employer. If more than one
62 year has passed since service of the judgment creditor's most
63 recent garnishee summons, the judgment creditor shall no less
64 than ten days prior to service of a subsequent garnishee summons
65 serve notice that another garnishee summons may be served. The
66 notice shall (1) be substantially in the form set out in this
67 chapter; (2) be served personally, in the manner of a summons
68 and complaint, or by first class mail to the last known address
69 of the debtor; (3) inform the debtor that a garnishee summons
70 may be served on the debtor's employer in ten days, and that the
71 debtor may, within that time, cause to be served on the creditor
72 a signed statement under penalties of perjury asserting an
73 entitlement to an exemption from garnishment; (4) inform the
74 debtor of the wage garnishment exemptions contained in section
75 550.37, subdivision 14; and (5) advise the debtor of the relief
76 set forth in this chapter to which ~~he~~ the debtor may be entitled

1 if a creditor in bad faith disregards a valid claim and the fee,
2 costs, and penalty which may be assessed against a debtor who in
3 bad faith falsely claims an exemption or in bad faith takes
4 action to frustrate the garnishment process. If no statement of
5 exemption is received by the creditor within ten days from the
6 service of the notice, ~~he~~ the creditor may proceed with the *
7 garnishment. Failure of the debtor to serve a statement does *
8 not constitute a waiver of any right ~~he~~ the debtor may have to *
9 an exemption. If the statement of exemption is received by the *
10 creditor, ~~he~~ the creditor may still cause a garnishee summons to *
11 be issued. If the debtor subsequently asserts ~~his~~ a claim of *
12 exemption successfully to the court having jurisdiction over the *
13 action, and the court finds that the creditor disregarded the
14 claim of exemption in bad faith, the debtor shall be entitled to
15 costs, reasonable attorney fees, actual damages, and an amount
16 not to exceed \$100. If in subsequent proceedings which may be
17 brought by the debtor or creditor, the claim is not upheld, and
18 the court finds that it was asserted in bad faith, or if the
19 court finds that the debtor has in bad faith taken action to
20 frustrate the garnishment process, the debtor shall be assessed
21 costs and reasonable attorney fees resulting from the additional
22 proceedings, and an amount not to exceed \$100.

23 No change for subd 5a

24 Subd. 5b. DUTY OF FINANCIAL INSTITUTION; EXEMPTION;
25 OBJECTION. Upon receipt of the garnishee summons and
26 exemption notices, the financial institution shall attach and
27 bind as much of the amount due under section 571.471 as the
28 financial institution has on deposit owing to the judgment
29 debtor. Within two business days after receipt of the garnishee
30 summons and exemption notices, the financial institution shall
31 serve upon the judgment debtor two copies of the exemption
32 notice. The financial institution shall serve the notice by
33 first class mail to the last known address of the judgment
34 debtor. If no claim of exemption is received by the financial
35 institution within 14 days after the exemption notices are
36 mailed to the judgment debtor, the funds shall remain subject to
37 the garnishment summons. ~~if-the-judgment-debtor-elects~~ On
38 electing to claim an exemption, ~~he~~ the judgment debtor shall *
39 complete the exemption notice, ~~affix-his-signature~~ sign it under *
40 penalty of perjury, and deliver one copy to the financial *
41 institution and one copy to the judgment creditor within 14 days
42 of the date postmarked on the correspondence mailed to the
43 judgment debtor containing the exemption notices. Failure of
44 the judgment debtor to serve the executed exemption notice does
45 not constitute a waiver of any right ~~he-may-have~~ to an *
46 exemption. Upon timely receipt of a claim of exemption, funds
47 not claimed to be exempt by the judgment debtor shall remain
48 subject to the garnishment summons. All money claimed to be
49 exempt shall be released to the judgment debtor upon the
50 expiration of seven days after the date postmarked on the
51 correspondence containing the executed exemption notice mailed
52 to the judgment creditor, or the date of personal delivery of
53 the executed exemption notice to the judgment creditor, unless
54 within that time the judgment creditor interposes an objection
55 to the exemption. Objection shall be interposed by mailing or
56 delivering one copy of the written objection to the financial
57 institution and one copy of the written objection to the
58 judgment debtor. Upon receipt of a written objection from the
59 judgment creditor within the specified seven-day period, the
60 financial institution shall retain the funds claimed to be
61 exempt. Unless the financial institution receives a notice of
62 motion and motion from the judgment debtor asserting exemption
63 rights within ten days after receipt of the written objection to
64 the exemption, the funds shall remain subject to the garnishment
65 summons as if no claim of exemption has been made. Either the
66 judgment creditor or the judgment debtor may bring a motion to
67 determine the validity of an exemption claim by following the
68 procedure set out in subdivision 7. If a notice of motion and
69 motion to determine the validity of a claim of exemption is
70 received by the financial institution within the period
71 provided, the financial institution shall retain the funds
72 claimed to be exempt until otherwise ordered by the court, or
73 until the garnishment lapses pursuant to section 571.69.
74 However, at any time during the procedure specified in this
75 subdivision, the judgment debtor or the judgment creditor may,
76 by a writing dated subsequent to the service of the execution,

1 direct the financial institution to release the funds in
2 question to the other party. Upon receipt of a release, the
3 financial institution shall release the funds as directed.

4 Subd. 5c. SUBSEQUENT PROCEEDINGS; BAD FAITH CLAIMS.

5 If in subsequent proceedings brought by the judgment debtor or
6 the judgment creditor, the claim of exemption is not upheld, and
7 the court finds that it was asserted in bad faith, the judgment
8 creditor shall be awarded actual damages, costs, and reasonable
9 attorney fees resulting from the additional proceedings and an
10 amount not to exceed \$100. If the claim of exemption is upheld,
11 and the court finds that the judgment creditor disregarded the
12 claim of exemption in bad faith, the judgment debtor shall be
13 awarded costs, reasonable attorney fees, actual damages, and an
14 amount not to exceed \$100. The underlying judgment shall be
15 modified to reflect assessment of damages, costs, and attorney
16 fees. However, if the party in whose favor a penalty assessment
17 is made is not actually indebted to ~~his~~ the party's attorney for
18 fees, the attorney's fee award shall be made directly to the
19 attorney and an appropriate judgment in favor of the attorney
20 shall be entered. Upon motion of any party in interest, on
21 notice, the court shall determine the validity of any claim of
22 exemption and may make any order necessary to protect the rights
23 of those interested. No garnishee shall be liable for damages
24 for complying with this section. Both copies of an exemption
25 claim or an objection to an exemption claim shall be mailed or
26 delivered on the same date. The financial institution may rely
27 on the date of mailing or delivery of a notice to it in
28 computing any time periods in this section.

29 Subd. 6. FORM OF NOTICE. The ten-day notice
30 informing a judgment debtor that a garnishee summons may be used
31 to garnish the earnings of an individual to enforce a judgment,
32 shall be substantially in the following form:

33 STATE OF MINNESOTA)
34) ss
35 County of) Court
36 (Judgment Creditor)
37 (Judgment Debtor)

38 Garnishment Exemption Notice
39 The State of Minnesota

40 To the above named Judgment Debtor:

41 Please take notice that a Garnishment Summons may be served
42 upon your employer or other third parties, without any further
43 court proceedings or notice to you, ten days or more from the
44 date hereof. Your earnings are completely exempt from
45 garnishment if you are now a recipient of relief based on need,
46 if you have been a recipient of relief within the last six
47 months, or if you have been an inmate of a correctional
48 institution in the last six months. Relief based on need
49 includes, only AFDC, general assistance medical care,
50 supplemental security income, medical assistance, Minnesota
51 supplemental assistance, and general assistance.

52 If you wish to claim an exemption, you should fill out the
53 appropriate form below, sign it, and send it to the judgment
54 creditor's attorney and the garnishee.

55 You may wish to contact the attorney for the Judgment
56 Creditor in order to arrange for a settlement of the debt.

57 PENALTIES

58 1. Be advised that even if you claim an exemption, a
59 Garnishment Summons may still be served on your employer. If
60 your earnings are garnished after you claim an exemption, you
61 may petition the court for a determination of your exemption.
62 If the court finds that the creditor disregarded your claim of
63 exemption in bad faith, you will be entitled to costs,
64 reasonable attorney fees, actual damages, and an amount not to
65 exceed \$100.

66 2. HOWEVER, BE WARNED if you claim an exemption, the
67 creditor can also petition the court for a determination of your
68 exemption, and if the court finds that you claimed an exemption
69 in bad faith, you will be assessed costs and reasonable
70 attorney's fees plus an amount not to exceed \$100.

71 3. If after receipt of this notice, you in bad faith take
72 action to frustrate the garnishment, thus requiring the creditor
73 to petition the court to resolve the problem, you will be liable
74 to the creditor for costs and reasonable attorney fees plus an
75 amount not to exceed \$100.

76 Dated:

1 (Attorney for) Judgment Creditor
 2 Address
 3 Telephone

4 I hereby claim under penalty of perjury that my earnings
 5 are exempt from garnishment because:

6 (1) I am presently a recipient of relief based on
 7 need. (Specify the program, case number, and the county from
 8 which relief is being received.)

9
 10 Program Case Number (if known) County

11 (2) I am not now receiving relief based on need, but
 12 I have received relief based on need within the last six
 13 months. (Specify the program, case number, and the county from
 14 which relief has been received.)

15
 16 Program Case Number (if known) County

17 (3) I have been an inmate of a correctional
 18 institution within the last six months. (Specify the
 19 correctional institution and location.)

20
 21 Correctional Institution Location

22 I hereby authorize any agency that has distributed relief
 23 to me or any correctional institution in which I was an inmate
 24 to disclose to the above-named creditor or his the creditor's
 25 attorney whether or not I was a recipient of relief based on
 26 need or an inmate of a correctional institution within the last
 27 six months.

28
 29 Judgment Debtor
 30 Address

31 No change for subd 7 to 8

571*#42S

32 571.42 EFFECT OF SERVICE OF SUMMONS.

33 Subdivision 1. ATTACH FOR JUDGMENT. Except as
 34 provided in sections 571.43 and 571.50, service of the garnishee
 35 summons upon the garnishee shall attach and bind, to respond to
 36 final judgment in the action, all personal property of the
 37 judgment debtor in his the possession of or under his the
 38 control of the garnishee and all indebtedness owing by him the
 39 garnishee to the judgment debtor at the time of service and all
 40 nonexempt disposable earnings earned or to be earned within that
 41 pay period and within 60 days thereafter.

42 No change for subd 2

571*#43S

43 571.43 GARNISHMENT PROHIBITED.

44 No person or corporation shall be adjudged a garnishee by
 45 reason of:

46 (1) Any money or other thing due to the judgment debtor,
 47 unless at the time of the service of the summons the same is due
 48 absolutely, and without depending on any contingency;

49 (2) Any debt due from such garnishee on a judgment, so long
 50 as he the garnishee is liable to an execution thereon;

51 (3) Any liability incurred upon any negotiable instrument;

52 (4) Any money or other thing due to the judgment debtor
 53 where the judgment debtor is a bank, savings bank, trust
 54 company, credit union, or savings and loan association.

571*#45S

55 571.45 SALARY OF PUBLIC SERVANTS.

56 The salary or wages of any official or employee of a
 57 county, town, city, or school district, or any department
 58 thereof, is subject to garnishment. In the case of such
 59 officer, the garnishee summons shall be served upon the auditor,
 60 treasurer, or clerk of such body, or department thereof of which
 61 he the person subject to garnishment is an officer; and in other
 62 cases, shall be served upon the officer in whose office, or the
 63 head of the department in which, or the presiding officer of the
 64 body by which, such person is employed; and the disclosure shall
 65 be made by the officer or person so served, or by some person
 66 designated by him the person so served having knowledge of the
 67 facts. If payment is made by such county, town, city, or school
 68 district, or any department thereof pursuant to a judgment
 69 against it as garnishee, a certified copy of the judgment with a
 70 certificate of satisfaction to the extent of such payment
 71 endorsed thereon shall be delivered to the treasurer as his a
 72 voucher for such payment.

571*#46S

571.46 MONEY DUE FROM STATE DEPARTMENTS.

Money due or owing to any corporation or person by the state on account of any employment, work, or contract with any state department or agency is liable to garnishment. The garnishee summons may be served upon the head of the department or agency by certified mail; and the disclosure shall be made by the head of the department or agency, or by some person designated by him the head having knowledge of the facts. If payment is made pursuant to judgment against the state as garnishee a certified copy of the judgment, with a certificate of satisfaction to the extent of such payment endorsed thereon; shall be delivered to the head of the department or agency as his a voucher for such payment.

571*#471S

571.471 COURT OF RECORD.

Subdivision 1. PROCEDURE. To enforce a judgment arising from an action in a court of record, or, before entry of judgment in those instances permitted, a garnishee summons may be issued by a judgment creditor or his judgment creditor's attorney and shall be served upon the garnishee in the same manner as other summons in that court of record except that service must be personal. The judgment creditor shall serve with the garnishee summons a garnishment disclosure form, which shall be substantially in the form set out in this chapter. The judgment creditor may also serve written interrogatories with the garnishee summons. The garnishee summons shall state that the garnishee shall serve upon the judgment creditor or his judgment creditor's attorney within 20 days after service of the garnishee summons, a written disclosure, under oath, of his the garnishee's indebtedness to the judgment debtor and answers to all written interrogatories which are served with the garnishee summons. The judgment creditor shall not require disclosure of an indebtedness to him the judgment creditor or property of judgment debtor in the garnishee's possession or under the garnishee's control in excess of 110 percent of the amount of the judgment which remains unpaid. The garnishee summons shall include the full name of the judgment debtor and his the judgment debtor's place of residence, the amount of the judgment which remains unpaid. The garnishee summons shall also state that the garnishee shall retain property or money in his possession pursuant to this chapter until the judgment creditor causes a writ of execution to be served upon the garnishee or until the judgment debtor authorizes release to the judgment creditor, and shall state that after the expiration of the period of time specified in section 571.69 from the date of service of the garnishee summons, the garnishee shall release all such retained property and money to the judgment debtor and shall be discharged and relieved of all liability thereon. The garnishee summons shall also state that no employer may discharge any employee because the employee's earnings have been subject to garnishment. The garnishee summons shall further state that any assignment of wages made by the debtor or indebtedness to the garnishee incurred by the debtor within 10 days prior to the receipt of the first garnishment on a debt is void. The garnishee summons shall further state the date of the entry of judgment against the judgment debtor, or in those instances in which there is garnishment before judgment, the garnishee summons shall include for service a copy of the court order permitting said garnishment. A copy of the garnishee summons and copies of all other papers served on the garnishee shall be served by mail upon the judgment debtor not later than five days after service is made upon the garnishee. A single garnishee summons may be addressed to two or more garnishees but shall state whether each is summoned separately or jointly.

Subd. 2. FORMS, SUMMONS NOTICE, AND AFFIDAVIT. The garnishee summons and notice to judgment debtor, together with the affidavit of service, shall be substantially in the following form:

STATE OF MINNESOTA)
) ss
County of) Court
..... (Judgment Creditor)
..... (Judgment Debtor)
..... (Garnishee)
Garnishment Summons

1 The State of Minnesota
 2 To the above named Garnishee:
 3 You are hereby summoned and required to serve upon the
 4 judgment creditor or ~~his~~ judgment creditor's attorney, within 20 *
 5 days after service of this summons upon you, written disclosure,
 6 under oath, setting forth your indebtedness to the judgment
 7 debtor above named, (Give full name and
 8 residence of judgment debtor) and any property, money or effects
 9 of said judgment debtor which are in your possession. Your
 10 disclosure need not exceed 110 percent of the amount of the
 11 judgment creditor's judgment which remains unpaid. Judgment was
 12 entered against the judgment debtor on, in the
 13 amount of \$....., and the amount of said judgment which
 14 remains unpaid is \$....., you are further hereby required to
 15 retain in your possession such property, money and effects in an
 16 amount not exceeding 110 percent of the amount of the judgment
 17 which remains unpaid. You may not, however, pursuant to this
 18 summons, withhold from the debtor any earnings due to the debtor
 19 that are exempt from garnishment pursuant to Minnesota Statutes,
 20 Section 571.55.

21 Failure to disclose and withhold in accordance with this
 22 summons may render you liable to the judgment creditor for an
 23 amount not exceeding the judgment creditor's judgment against
 24 the judgment debtor or 110 percent of the amount claimed in the
 25 garnishee summons, whichever is smaller.

26 You shall retain such property, money and effects in your
 27 possession until such time as the judgment creditor causes a
 28 writ of execution to be served upon you, until the judgment
 29 debtor authorizes release to the judgment creditor, or until the
 30 expiration of days from the date of service of this
 31 summons upon you, when you shall return such property, money and
 32 effects to the judgment debtor.

33 Any assignment of wages made by the judgment debtor or
 34 indebtedness to you incurred by the judgment debtor within ten
 35 days prior to the receipt of the first garnishment on a debt is
 36 void and should be disregarded.

37 You are prohibited by law from discharging said judgment
 38 debtor because ~~his~~ the judgment debtor's earnings have been *
 39 subjected to garnishment.

40
 41
 42 Attorney for Judgment Creditor
 43
 44 Address

45 Dated:, 19.. .
 46 NOTICE TO JUDGMENT DEBTOR

47
 48 To: Judgment Debtor:
 49 Sir

50 Take notice that a garnishee summons, garnishment
 51 disclosure form and written interrogatories (strike out if not
 52 applicable), which are herewith served upon you, were personally
 53 served upon the garnishee
 54 named therein, by delivering copies
 55 thereof to, the said garnishee, and the said
 56 garnishee was paid in advance the sum of \$2
 57 fees.

58
 59
 60 Attorney for Judgment Creditor
 61
 62 Address

63 AFFIDAVIT OF SERVICE

64
 65 STATE OF MINNESOTA)
 66) ss
 67 County of)
 68, being duly sworn upon oath, says
 69 that on the day of, 19., at of
 70 in said county ..he served upon the within-named
 71 judgment debtor copies of the within garnishee summons,
 72 garnishment disclosure form, written interrogatories (strike out
 73 if not applicable), and order, together with a notice to said
 74 judgment debtor, of which the foregoing is a copy,
 75 stating that the above-described documents were personally
 76 served upon said garnishee, signed by

1 Said service was made by
2 depositing in the United States mail at said City of
3, said documents properly enveloped, with
4 postage prepaid, and addressed to:

5
6
7 Subscribed and sworn to before me
8 This day of, 19.. .
9
10 Notary Public
11, County, Minnesota.

571*#495S

12 571.495 DISCLOSURE.

13 Subdivision 1. GARNISHEE TO DISCLOSE. Within the
14 time herein limited, the garnishee shall serve upon the judgment
15 creditor or ~~his~~ the judgment creditor's attorney written *
16 answers, under oath, to the questions in the garnishment
17 disclosure form and to any written interrogatories which are
18 served upon the garnishee. The amount of the garnishee's
19 disclosure need not exceed 110 percent of the amount of the
20 judgment creditor's judgment which remains unpaid, after
21 subtracting the total of set-offs, defenses, exemptions,
22 ownerships, or other interest. The garnishment disclosure form
23 and all written interrogatories may be served personally or by
24 mail. If such disclosure is by a corporation, it shall be
25 verified by some officer or agent having knowledge of the facts.

26 Subd. 2. CONTENTS OF DISCLOSURE. Such disclosure
27 shall state:

28 (1) The amount of disposable earnings earned or to be
29 earned within the judgment debtor's pay periods which may be
30 subject to garnishment and all of the garnishee's indebtedness
31 to the judgment debtor.

32 (2) Whether the judgment creditor held at the time
33 aforesaid the title or possession of or any interest in any
34 personal property or any instruments or papers relating to any
35 such property belonging to the judgment debtor or in which ~~he~~ *
36 the judgment debtor is interested. ~~If he admits~~ On admitting *
37 any such interest or any doubt respecting the same, ~~he~~ the *
38 garnishee shall set forth a description of such property and the *
39 facts concerning the same, and the title, interest or claim of
40 the judgment debtor in or to the same.

41 (3) If the garnishee claims any set-off or defense or claim
42 or lien to such disposable earnings, indebtedness or property,
43 ~~he~~ the garnishee shall disclose the amount and the facts. *

44 (4) Whether the judgment debtor claims any exemption from
45 execution, or any other objection, known to the garnishee or the
46 judgment debtor, against the right of the judgment creditor to
47 apply upon ~~his~~ the judgment creditor's demand the debt or *
48 property disclosed.

49 (5) If other persons make claims to any disposable
50 earnings, debt or property of the judgment debtor, the garnishee
51 shall disclose the names and addresses of such other claimants
52 and, so far as known, the nature of their claims.

53 No change for subd 3

571*#50S

54 571.50 EFFECT OF DISCLOSURE.

55 Subject to the provisions of sections 571.51 and 571.52,
56 the disclosure shall be conclusive against the judgment creditor
57 as to all property of the judgment debtor. If the garnishee *
58 ~~denies that he is indebted~~ indebtedness to the judgment debtor *
59 or has possession of any property of the judgment debtor ~~in his~~ *
60 possession, the filing in court of a copy of the denial shall
61 operate as a full discharge of the garnishee at the end of 20
62 days from the date of service of the disclosure, in the absence
63 of further proceedings as provided for in sections 571.51 and
64 571.52. The filing of objections to the disclosure or the
65 filing of any motion or other proceedings shall operate as a
66 stay of the discharge. The court may, upon proper showing,
67 relieve the judgment creditor from the operation of the
68 discharge after the expiration of 20 days. The garnishee may
69 apply to the court to be discharged as to any property or
70 indebtedness in excess of the amount which may be required to
71 satisfy judgment creditor's judgment.

571*#51S

72 571.51 ORAL DISCLOSURE; SUPPLEMENTAL COMPLAINT.

73 Either before or after such written disclosure any party to

1 the garnishment proceedings may obtain an ex parte order
 2 requiring oral disclosure. Such order may be obtained upon
 3 affidavit showing upon information and belief facts justifying
 4 the said order, and the court shall require the garnishee to
 5 appear for oral examination before the court. If the garnishee
 6 hold the garnished property by a title that is void as to
 7 judgment debtor's creditors, he the garnishee may be charged *
 8 therefor although the judgment debtor could not have maintained *
 9 an action against him the garnishee therefor; but in this, and *
 10 in all other cases where the garnishee denies liability, the
 11 judgment creditor may move the court at any time before the
 12 garnishee is discharged, on notice to both the judgment debtor
 13 and the garnishee, for leave to file a supplemental complaint
 14 making the latter a party to the action, and setting forth the
 15 facts upon which he the judgment creditor claims to charge him *
 16 the garnishee; and, if probable cause is shown, such motion *
 17 shall be granted. The supplemental complaint shall be served
 18 upon both judgment debtor and garnishee, either or both of whom
 19 may answer, and the judgment creditor may reply. Such issues
 20 shall be brought to trial and tried as in other actions.

571*#52S

21 571.52 THIRD PARTY MAY INTERVENE.

22 If it appears that any person not a party to the action has
 23 or claims an interest in any of the garnished property
 24 antedating the garnishment, the court may permit such person to
 25 appear and maintain his the person's rights; and if he the *
 26 person does not so appear, may direct that he the person be *
 27 notified to appear or be barred of his the claim. The notice in *
 28 such case may be served in such manner as the court directs, and
 29 the person so appearing or notified shall be joined as a party
 30 and be bound by judgment against the garnishee.

571*#53S

31 571.53 DEFAULT.

32 If any garnishee who is duly summoned fails to serve his a *
 33 disclosure as required in this chapter, upon proof by affidavit
 34 of such facts, the court may render judgment against him the *
 35 garnishee for an amount not exceeding judgment creditor's *
 36 judgment against judgment debtor or 110 percent of the amount
 37 claimed in the garnishee summons, whichever is the smaller but
 38 the court upon good cause shown may remove such default and
 39 permit the garnishee to disclose on such terms as may be just.

571*#54S

40 571.54 JUDGMENT AGAINST GARNISHEE.

41 Judgment against a garnishee shall be rendered, if at all,
 42 for the amount due the judgment debtor, or so much thereof as
 43 may be necessary to satisfy the judgment creditor's judgment
 44 against such judgment debtor, with costs taxed and allowed in
 45 the proceeding against the garnishee but not to exceed 110
 46 percent of the amount claimed in the garnishee summons. Such
 47 judgment shall acquit and discharge the garnishee from all
 48 claims of all the parties named in the process in and to the
 49 property or money paid, delivered, or accounted for by such
 50 garnishee by force of such judgment.

51 When any person is charged as garnishee by reason of any
 52 property in his the person's possession other than an *
 53 indebtedness payable in money, he the person shall deliver the *
 54 same, or so much thereof as may be necessary, to the officer
 55 holding execution, and such property shall be sold and the
 56 proceeds accounted for in the same manner as if it had been
 57 taken on execution against the judgment debtor; but the
 58 garnishee shall not be compelled to deliver any specific
 59 articles at any time or place other than as stipulated in the
 60 contract between him the garnishee and the judgment debtor. *

571*#55S

61 571.55 LIMITATION ON GARNISHMENT.

62 No change for subd 1

63 Subd. 2. The maximum part of the aggregate disposable
 64 earnings of an individual for any pay period which may be
 65 subjected to garnishment may not exceed the lesser of

66 (a) 25 percent of his the disposable earnings or *

67 (b) the amount by which his the disposable earnings exceeds *
 68 the following product: forty times the federal minimum hourly
 69 wage prescribed by Section 6(a) (1) of the Fair Labor Standards
 70 Act of 1938, Title 29, United States Code, Section 206(a) (1),
 71 in effect at the time the earnings are payable times the number
 72 of work weeks in such pay period. When a pay period consists of

1 other than a whole number of work weeks, each day of that pay
2 period in excess of the number of completed work weeks shall be
3 counted as a fraction of a work week equal to the number of
4 excess work days divided by the number of days in the normal
5 work week.

6 No change for subd 3

571*#56S

7 571.56 VALUE.

8 Subdivision 1. COURT MAY DETERMINE. Upon
9 application of any party in interest, on notice, the court may
10 determine the value of any property of judgment debtor in the
11 hands of the garnishee and may make any order relative to the
12 keeping, delivery or sale thereof, or touching any of the
13 property, that is necessary to protect the rights of those
14 interested, and may require the property to be brought into
15 court or delivered to a receiver by it appointed. If the
16 garnishee refuses or neglects to comply with any order of the
17 court hereunder, he the garnishee may be punished for contempt,
18 and also shall be liable to the judgment creditor for the value
19 of such property, less the amount of any lien. *

20 Subd. 2. LIEN OF GARNISHEE. If it appears that the
21 garnishee has a lien on the property, or that it is in any way
22 liable for the payment of a debt due to him the garnishee, the
23 judgment creditor, on motion, may be permitted to pay the amount
24 thereof, and the amount so paid shall be repaid to judgment
25 creditor, with interest, out of the proceeds of the sale of such
26 property. The garnishee may sell the property to satisfy the
27 lien, if a sale be authorized by his the garnishee's contract,
28 at anytime before such payment or tender. *

29 No change for subd 3

571*#57S

30 571.57 GARNISHEE FEES.

31 Subdivision 1. WITNESS FEES. A garnishee other than
32 an employer whose employee is the judgment debtor shall be paid
33 \$2 fees at the time of service of garnishee summons. If
34 required to appear and submit to oral examination a garnishee
35 shall be tendered his fees and mileage for attendance at the
36 rate allowed by law to a witness, and in extraordinary cases,
37 may be allowed such further sum as the court shall deem
38 reasonable for his counsel fees and other necessary expenses. *
39 If he the garnishee be charged as a garnishee, the amount of
40 such fees and allowances may be recovered by judgment creditor
41 out of the property in his-hands the garnishee's possession. If
42 charged as garnishee on account of specific articles of personal
43 property, the garnishee shall not be required to deliver the
44 same to an officer until payment of his the garnishee's
45 reasonable charges for storage. *

46 No change for subd 2

571*#59S

47 571.59 DISCHARGE NOT A BAR.

48 If any person summoned as a garnishee is discharged, the
49 judgment shall be no bar to an action brought against him the
50 person by the judgment debtor or other claimants for the same
51 demand. *

571*#60S

52 571.60 GARNISHMENT BY DEFENDANT.

53 If the defendant recovers judgment against the plaintiff he
54 the defendant may institute and prosecute garnishment under this
55 chapter as if he the defendant were judgment creditor. For the
56 purposes of such proceedings he the defendant is to be
57 considered as judgment debtor, and his the defendant's answer is
58 deemed a complaint. *

571*#61S

59 571.61 NO DISCHARGE FROM EMPLOYMENT FOR GARNISHMENT OR
60 EXECUTION.

61 Subdivision 1. PROHIBITION. No employer may
62 discharge any employee by reason of the fact that his the
63 employee's earnings have been subjected to garnishment or
64 execution. *

65 Subd. 2. REMEDY. If an employer discharges an
66 employee in violation of this section, the employee may within
67 90 days of such discharge bring a civil action for recovery of
68 twice his the wages lost as a result of the violation and for an
69 order requiring his reinstatement. *

571*#64S

70 571.64 APPEAL.

1 Any party to a garnishment proceeding ~~deeming-himself~~ *

2 aggrieved by any order or final judgment may appeal as in other

3 civil cases.

572*#10S

4 572.10 APPOINTMENT OF ARBITRATORS BY COURT.

5 If the arbitration agreement provides a method of

6 appointment of arbitrators, this method shall be followed. In

7 the absence thereof, or if the agreed method fails or for any

8 reason cannot be followed, or when an arbitrator appointed fails

9 or is unable to act and ~~his~~ a successor has not been duly *

10 appointed, the court on application of a party shall appoint one

11 or more arbitrators. An arbitrator so appointed has all the

12 powers of one specifically named in the agreement.

572*#15S

13 572.15 AWARD.

14 (a) The award shall be in writing and signed by the

15 arbitrators joining in the award. The arbitrators shall deliver

16 a copy to each party personally or by certified mail, or as

17 provided in the agreement.

18 (b) An award shall be made within the time fixed therefor

19 by the agreement or, if not so fixed, within such time as the

20 court orders on application of a party. The parties may extend

21 the time in writing either before or after the expiration

22 thereof. A party waives the objection that an award was not

23 made within the time required unless ~~he~~ the party notifies the *

24 arbitrators of ~~his~~ an objection prior to the delivery of the *

25 award to ~~him~~ the party. *

572*#16S

26 572.16 CHANGE OF AWARD BY ARBITRATORS.

27 On application of a party or, if an application to the

28 court is pending under sections 572.18, 572.19, or 572.20, on

29 submission to the arbitrators by the court under such conditions

30 as the court may order, the arbitrators may modify or correct

31 the award upon the grounds stated in clauses (1) and (3) of

32 subdivision 1, section 572.20, or for the purpose of clarifying

33 the award. The application shall be made within 20 days after

34 delivery of the award to the applicant. Written notice thereof

35 shall be given forthwith to the opposing party, stating ~~he~~ that

36 the opposing party must serve ~~his~~ objections thereto, if any, *

37 within ten days from the notice. The award so modified or *

38 corrected is subject to the provisions of sections 572.18,

39 572.19 and 572.20.

572*#25S

40 572.25 VENUE.

41 An initial application shall be made to the court of the

42 county in which the agreement provides the arbitration hearing

43 shall be held or, if the hearing has been held, in the county in

44 which it was held. Otherwise the application shall be made in

45 the county where the adverse party resides or has a place of

46 business ~~or, if he has no residence or place of business there~~ *

47 is one or the other in this state; if not, then to the court of *

48 any county. All subsequent applications shall be made to the

49 court hearing the initial application unless the court otherwise

50 directs.

572*#37S

51 572.37 PRESENTATION OF MEDIATOR TO PUBLIC.

52 No individual may act as a mediator pursuant to the

53 Minnesota Civil Mediation Act for compensation without providing

54 the individuals to the conflict with a written statement of ~~his~~ *

55 qualifications prior to beginning mediation. The statement

56 shall describe ~~his~~ educational background and relevant training *

57 and experience in the field.

58 Nothing in this section shall limit the pursuits of

59 professionals consistent with their training and code of ethics;

60 nor shall this section apply to service provided through a

61 governmental agency. The requirement of this section may be

62 satisfied by a nonprofit corporation on behalf of its service

63 providers by providing a statement of the education, training,

64 and experience requirements for eligibility on its mediation

65 panel.

66 A person who violates this section is guilty of a petty

67 misdemeanor.

573*#02S

68 573.02 ACTION FOR DEATH BY WRONGFUL ACT.

69 Subdivision 1. When death is caused by the wrongful act or

70 omission of any person or corporation, the trustee appointed as

1 provided in subdivision 3 may maintain an action therefor if the
 2 decedent might have maintained an action, had he the decedent *
 3 lived, for an injury caused by the wrongful act or omission. An
 4 action to recover damages for a death caused by the alleged
 5 professional negligence of a physician, surgeon, dentist,
 6 hospital or sanatorium, or an employee of a physician, surgeon,
 7 dentist, hospital or sanatorium shall be commenced within the
 8 time set forth in section 541.07, subdivision 1. An action to
 9 recover damages for a death caused by an intentional act
 10 constituting murder may be commenced at any time after the death
 11 of the decedent. Any other action under this section may be
 12 commenced within three years after the date of death provided
 13 that the action must be commenced within six years after the act
 14 or omission. The recovery in the action is the amount the jury
 15 deems fair and just in reference to the pecuniary loss resulting
 16 from the death, and shall be for the exclusive benefit of the
 17 surviving spouse and next of kin, proportionate to the pecuniary
 18 loss severally suffered by the death. The court then determines
 19 the proportionate pecuniary loss of the persons entitled to the
 20 recovery and orders distribution accordingly. Funeral expenses
 21 and any demand for the support of the decedent allowed by the
 22 court having jurisdiction of the action, are first deducted and
 23 paid. Punitive damages may be awarded as provided in section
 24 549.20.

25 If an action for the injury was commenced by the decedent
 26 and not finally determined during-his-life while living, it may *
 27 be continued by the trustee for recovery of damages for the
 28 exclusive benefit of the surviving spouse and next of kin,
 29 proportionate to the pecuniary loss severally suffered by the
 30 death. The court on motion shall make an order allowing the
 31 continuance and directing pleadings to be made and issues framed
 32 as in actions begun under this section.

33 Subd. 2. When injury is caused to a person by the wrongful
 34 act or omission of any person or corporation and the person
 35 thereafter dies from a cause unrelated to those injuries, the
 36 trustee appointed in subdivision 3 may maintain an action for
 37 special damages arising out of such injury if the decedent might
 38 have maintained an action therefor had he the decedent lived. *

39 Subd. 3. Upon written petition by the surviving spouse or
 40 one of the next of kin, the court having jurisdiction of an
 41 action falling within the provisions of subdivisions 1 or 2,
 42 shall appoint a suitable and competent person as trustee to
 43 commence or continue such action and obtain recovery of damages
 44 therein. The trustee, before commencing his duties shall file *
 45 his a consent and oath. Before ~~the-trustee-shall-receive~~ *
 46 receiving any money, he the trustee shall file a bond as *
 47 security therefor in such form and with such sureties as the
 48 court may require.

49 No change for subd 4

573*#03S

50 573.03 DEFAULT JUDGMENT; JUDGMENT NOT LIEN UPON REAL
 51 ESTATE.

52 When a judgment is taken against an executor or
 53 administrator upon failure to answer it shall not be deemed
 54 evidence of assets in his-hands hand unless the complaint *
 55 alleged assets and was personally served on him the executor or *
 56 administrator. No judgment against any executor or *
 57 administrator shall bind, or in any way affect, the real
 58 property which belonged to the decedent, nor shall the same be
 59 liable upon execution issued upon such judgment.

573*#04S

60 573.04 ~~EXECUTOR-BE-SON-TORT~~ EXECUTOR'S WRONG, TO WHOM *
 61 LIABLE.

62 No person shall be liable to an action, as executor of his *
 63 own a wrong committed by that person, for having taken, *
 64 received, or interfered with the property of a deceased person,
 65 but shall be responsible to the executor, or general or special
 66 administrator, of such decedent for the value of all property so
 67 taken or received and for all damages caused by his the person's *
 68 acts to the estate.

573*#05S

69 573.05 ACTION BY FOREIGN EXECUTOR.

70 Any foreign executor or administrator may commence and
 71 prosecute an action in this state, in his a representative *
 72 capacity, in the same manner and under the same restrictions as
 73 in case of a resident. Before commencing such action he the *

1 foreigner shall file an authenticated copy of ~~his~~ appointment as *
2 executor or administrator with the probate court of the county
3 in which such action is to be commenced.

573*#06S

4 573.06 NEXT OF KIN; LIABILITY FOR DEBTS; CONTRIBUTION.

5 The next of kin of a deceased person are liable to an
6 action by a creditor of the estate, to recover the distributive
7 shares received by them out of such estate, or so much thereof
8 as shall be necessary to satisfy ~~his~~ the deceased person's debt, *
9 which action may be against all or against any one or more of
10 them. The plaintiff may recover the value of all assets
11 received by all the defendants, if necessary to satisfy ~~his~~ the *
12 plaintiff's demand, and ~~his~~ the plaintiff's recovery shall be *
13 apportioned among the defendants in proportion to the value of
14 the assets received by each without deduction on account of
15 there being other relatives who have received assets. Any one
16 against whom such recovery has been had may maintain an action
17 for contribution against all or any other relatives of the
18 decedent to whom assets have been paid, and may recover of each
19 defendant such proportionate share of the amount paid by
20 plaintiff as the value of assets received by each bears to the
21 value of all the assets distributed to all the relatives.

573*#07S

22 573.07 LEGATEES; WHEN LIABLE.

23 Legatees are liable to an action by a creditor of the
24 testator to recover the value of legacies received by them.
25 Such action may be brought against all or any one or more of the
26 legatees. The plaintiff cannot recover ~~unless-he-shows~~ without *
27 showing: *

28 (1) That no assets were delivered by the executor or
29 administrator to the heirs or next of kin; or

30 (2) That the value of the assets so delivered has been
31 recovered by another creditor; or

32 (3) That such assets are not sufficient to satisfy the
33 demands of the plaintiff, in which case ~~he~~ the plaintiff can *
34 recover only the deficiency.

35 The whole amount which the plaintiff can recover shall be
36 apportioned among all the legatees, in proportion to the amount
37 of their legacies, respectively, and ~~his~~ each legatee's *
38 proportion only can be recovered of each legatee.

573*#08S

39 573.08 COSTS; JUDGMENT, WHEN DISCHARGED.

40 If an action be brought against several next of kin
41 jointly, or several legatees jointly, for assets delivered to
42 them, and a recovery be had against them, the costs shall be
43 apportioned among the several defendants in proportion to the
44 amount of the damages recovered against each. In either case,
45 the payment or satisfaction of the judgment recovered against
46 any one of the defendants shall discharge ~~him~~ that defendant and *
47 ~~his~~ that defendant's property from such judgment. *

573*#09S

48 573.09 HEIRS AND DEVISEES; WHEN LIABLE.

49 Heirs and devisees are liable to an action by a creditor of
50 a deceased person to recover a debt, to the extent of the value
51 of any real property inherited by or devised to them. If such
52 action be against the heirs, all heirs who are liable shall be
53 made parties thereto. The heirs shall not be liable for the
54 debt unless it shall appear that the personal assets were not
55 sufficient to discharge it, or that, after due proceedings
56 before the probate court, the creditor is unable to collect the
57 debt from the personal representatives of the decedent, or from
58 ~~his~~ the next of kin or a legatee; and if the personal assets *
59 were sufficient to pay a part of the debt, or in case a part
60 thereof has been collected, as hereinbefore mentioned, the heirs
61 of such deceased person are liable for the residue. Nothing in
62 this section shall affect the liability of heirs for a debt of
63 their ancestors, where, by ~~his~~ will, such debt was expressly *
64 charged exclusively on the real property descended to such
65 heirs, or directed to be paid out of the real property so
66 descended, before resorting to the personal property.

573*#10S

67 573.10 APPORTIONMENT OF LIABILITY; CONTRIBUTION.

68 When the heirs, devisees, or legatees have received real or
69 personal estate, and are liable by law for any debts, such
70 liability shall be in proportion to the estate they have,
71 respectively, received, and a creditor may recover ~~his~~ the *

1 creditor's claim against a part or all of them to the amount of *
 2 such liability. If, by the testator's will, any part of ~~his~~ the *
 3 testator's estate, or any devisees or legatees, are made *
 4 exclusively liable for the debt, the devisees or legatees shall
 5 contribute among themselves accordingly.

573*#12S

6 573.12 ESTATE OF DECEASED HEIRS, WHEN LIABLE.
 7 If any of the heirs, devisees, or legatees die without
 8 having paid ~~his~~ a just share of the debts, ~~his~~ the estate shall *
 9 be liable therefor as for ~~his-own~~ a personal debt, to the extent *
 10 ~~to-which-he-would-have-been-liable~~ of liability if living. *

573*#13S

11 573.13 CONTRIBUTION AMONG HEIRS.
 12 When any heir, devisee, or legatee pays more than ~~his~~ a *
 13 proportional share of such debt, the other persons liable shall *
 14 be holden and compelled to contribute their just proportion of
 15 the same.

573*#17S

16 573.17 REAL PROPERTY DESCENDED; LIEN OF JUDGMENT.
 17 If it appears that the real property so descended was not
 18 alienated by the heir at the time of the commencement of the
 19 action, the court shall order that plaintiff's debt, or the
 20 proportion thereof which ~~he~~ the plaintiff is entitled to *
 21 recover, be levied upon such real estate, and not otherwise; and
 22 every judgment rendered in such action has preference as a lien
 23 on such real estate, to any judgment obtained against such heir
 24 for a personal debt ~~of-his-own~~. *

573*#18S

25 573.18 PERSONAL LIABILITY; ALIENATION BEFORE SUIT.
 26 If it appears in the action that before the commencement
 27 thereof the heir has alienated the real property descended to ~~him~~ *
 28 that heir, or any part thereof, ~~he~~ that heir shall be personally *
 29 liable for the value of that aliened; and judgment may be *
 30 rendered therefor, and execution awarded, as in actions for ~~his~~ *
 31 own personal debts. No real property aliened in good faith by *
 32 an heir, before action commenced against ~~him~~ the heir, shall be *
 33 liable to execution or in any manner affected by a judgment *
 34 against ~~him~~ the heir. *

573*#20S

35 573.20 DEVISEES, WHEN LIABLE; LIMITATIONS.
 36 Devisees made liable to creditors of their testator by the
 37 provisions of this chapter shall not be held liable unless it
 38 shall appear that ~~his~~ the testator's personal assets and the *
 39 real property descended to ~~his~~ the testator's heirs were *
 40 insufficient to discharge the debt, or that after due
 41 proceedings before the probate court the creditor has been
 42 unable to recover the debt, or any part thereof, from the
 43 personal representative of the testator, or ~~his~~ next of kin, *
 44 legatees, or heirs. In either of these cases, the amount of the
 45 deficiency of the personal assets, and of the real property
 46 descended to satisfy the debt of the plaintiff, and the amount *
 47 which ~~he~~ the plaintiff may have failed to recover from the *
 48 personal representative, next of kin, legatees, and heirs of the
 49 testator, may be recovered of the devisees, to the extent of the
 50 real property devised to them, respectively. Nothing in this
 51 section shall affect the liability of the devisees for a debt of
 52 their testator which was charged by will exclusively upon the
 53 real property devised, or made payable exclusively by such
 54 devisees, or out of the real property devised before resorting
 55 to the personal property or to any other real property descended
 56 or devised.

574*#02S

57 574.02 STATE MAY TAKE FIDELITY INSURANCE.
 58 The legislative auditor, from time to time, shall make
 59 surveys of each department or agency of the state government to
 60 determine the employees in the department or agency whose
 61 fidelity should be assured by individual bond or fidelity
 62 insurance policy, and the amount of such bond or insurance
 63 necessary for each such employee, and shall submit a list
 64 thereof to the commissioner of administration for ~~his~~ action *
 65 thereon. The commissioner may approve in whole or in part and *
 66 shall certify ~~his~~ the action taken thereon to the directing head *
 67 of each such department or agency, who shall require each of the
 68 employees so listed to give bond to the state in the amount
 69 indicated in such certificate. The commissioner in such
 70 certificate may direct that, in lieu of individual bonds so

1 required, the directing head of any such department or agency
2 shall procure and keep in effect a schedule or position
3 insurance policy, in such aggregate amount as the commissioner
4 shall direct, insuring the fidelity of such department employees
5 in the respective amounts so required, upon a form to be
6 prescribed by the legislative auditor. Such policy may cover
7 also the subordinate officers of such department required by law
8 to give bond to the state, and in the amount which the
9 commissioner shall require. The surety upon the bonds of all
10 state officers and state employees required under any law of the
11 state shall be a corporation authorized to act as sole surety
12 upon such official bonds, and all such bonds shall be approved
13 by the attorney general as to form and generally by the
14 legislative auditor, who shall keep an appropriate record of
15 such approval and cause such bond or policy to be filed in the
16 office of the secretary of state.

574*#04S

17 574.04 SURETY BONDS TO FEDERAL GOVERNMENT.

18 When the laws of the United States, or the regulations or
19 orders of any department of the federal government, require the
20 delivery of a properly executed surety bond, conditioned in a
21 specified manner, as a condition precedent to receiving military
22 property, or equipment, or property of the federal government,
23 from the federal government, or as a prerequisite to doing any
24 specified act, then, and in such case, the chief executive
25 officer of any institution under the financial control of the
26 commissioner of administration may execute and deliver such bond
27 and, if corporate sureties join in the execution of the same,
28 then the cost thereof may be paid by such executive officer out
29 of the funds at ~~his~~ the officer's disposal. *

574*#08S

30 574.08 PROTECTION OF PLEDGE ON COMMENCING ACTION.

31 Any person entitled to the protection of such pledge,
32 wishing to ~~avail-himself~~ take advantage of its benefits at the
33 time of commencing any action against either the contractor or
34 any subcontractor engaged in such work, shall notify, in
35 writing, the state or corporation or department with which such
36 pledge is made, of the commencement of such suit, giving the
37 names of the parties and the amount and nature of ~~his~~ the
38 claim. No judgment shall be entered within 30 days after the
39 giving of such notice and the state or other corporation or
40 department with which such bonds are pledged and any other
41 person entitled to the protection of such pledge may be admitted
42 on its ~~or-his~~ motion as a party to the action, and the court
43 shall determine the rights of all parties in the premises. In
44 such suit or other appropriate action in which the corporation
45 or department holding the bonds is a party, the court may order
46 the bonds, or a part of them sufficient to pay the unpaid
47 claims, sold at public auction or private sale or on the New
48 York stock exchange and from the proceeds, after deducting the
49 costs of sale, make payments among the parties to the suit
50 entitled thereto; if the proceeds are insufficient to pay the
51 claims in full, they may be paid pro rata. If the state or
52 other corporation or department does not appear and defend, it
53 may, after entry of judgment in favor of such claimants, enforce
54 the pledge and sell the securities at public or private sale or
55 upon the New York stock exchange, and it shall have in addition
56 any and all rights and remedies given pledgees by law for the
57 enforcement of their securities, but it shall not be required to
58 sell such security until 90 days after completion of contract
59 and acceptance of the work done, as provided in section 574.09,
60 or until the work is completed at the instance of the
61 corporation if abandoned by the contractor. *

574*#10S

62 574.10 NOTICE OF CLAIM.

63 No action shall be maintained by any person seeking to
64 ~~avail-himself~~ take advantage of the benefit of such pledge,
65 unless within 90 days after the completion of the contract and
66 acceptance by the proper public authorities of the work done,
67 the plaintiff shall serve upon the contractor and upon the state
68 or such corporation or department a written notice specifying
69 the nature and amount of ~~his~~ the claim and the date of
70 furnishing the last item thereof, nor unless the action is begun
71 within one year after the service of such notice. *

574*#11S

72 574.11 RECEIVERS' BONDS TO RUN TO STATE.

1 Bonds given by receivers and trustees appointed by the
 2 district court in any action or proceedings shall run to the
 3 state of Minnesota for the benefit of all persons in interest.
 4 Any person interested may maintain an action in ~~his~~ the person's
 5 own name upon any such bond.

574*#12S

6 574.12 MODES OF JUSTIFICATION.
 7 The justification of sureties mentioned in section 574.01
 8 shall be by affidavit, annexed to the bond or other security,
 9 wherein each surety shall state, under oath, that ~~he~~ it is worth
 10 a certain definite amount above ~~his~~ its debts and liabilities
 11 and exclusive of ~~his~~ its property exempt from execution, but the
 12 aggregate of the amount sworn to as aforesaid by all the
 13 sureties shall be not less than double the amount of the penalty
 14 of such bond or other security. Where in the cases provided by
 15 law exception is taken to sureties, they shall be examined by
 16 the judge or officer before whom they are required to attend for
 17 purposes of justification, in such manner as ~~he~~ the judge or
 18 officer shall deem proper. The examination shall be reduced to
 19 writing and filed in the cause and, ~~if the judge or officer~~
 20 deems on deeming the sureties sufficient, ~~he~~ the judge or
 21 officer shall endorse ~~his~~ approval upon the instrument, and
 22 return the same to the proper custodian thereof.

574*#13S

23 574.13 STATE AND COUNTY OFFICERS; UNIFORM BOND.
 24 When, by law, an official bond is required of any state or
 25 county officer, it shall be sufficient for all purposes if the
 26 same be substantially in the following form:
 27 "Know All Men by These Presents, that,
 28 as principal, and, as surety, are jointly
 29 and severally held and firmly bound to the State of Minnesota in
 30 the sum of dollars, lawful money of the
 31 United States, to the payment of which, well and truly to be
 32 made, we hereby bind ourselves, and each of us, our, and each of
 33 our, heirs, executors, administrators, successors, and assigns,
 34 firmly by these presents.
 35 Sealed with our seals and dated this day of
 36, A.D. 19
 37 The condition of the above obligation is such that,
 38 whereas, the above bounden was heretofore duly elected (or
 39 appointed) to the office of
 40 Now, therefore, if the said shall
 41 faithfully and impartially, in all things, during ~~his~~
 42 continuance in office, perform the duties thereof without fraud,
 43 deceit or oppression, and pay over without delay to the officer
 44 entitled by law thereto all moneys which shall come into ~~his~~ the
 45 hands of by virtue thereof, then this obligation shall
 46 be void; otherwise to remain in full force and effect.
 47 Signed, sealed and delivered (Seal)
 48 in presence of
 49
 50"

574*#19S

51 574.19 COST OF SURETY BONDS; PROPER EXPENSE ITEMS.
 52 Any receiver, assignee, trustee, committee, guardian,
 53 executor, administrator, or other fiduciary, required by law to
 54 give bond as such, may include as a part of ~~his~~ lawful expenses
 55 such actual sum paid for such suretyship, not exceeding \$10 per
 56 annum when the amount of the bond is not more than \$1,000, and
 57 not more than one percent per annum on the excess when over
 58 \$1,000, as the head of the department, court, judge, or officer
 59 by whom, or the court or body by which, ~~he~~ the fiduciary is
 60 appointed allows; and in all actions or proceedings the party
 61 entitled to recover costs may include therein the reasonable
 62 fees of such company for executing or guaranteeing any bond or
 63 undertaking therein. The several county and town boards, and
 64 the governing body of any city, or school district, may allow
 65 the treasurer of the municipality such reasonable sum, not
 66 exceeding the amount herein specified, as may have been paid
 67 by ~~him~~ the treasurer for such suretyship, to be paid out of the
 68 general revenue fund of the municipality. The officers required
 69 by law to approve such bill may first designate the surety
 70 company to be employed, if its charges be as low as those
 71 offered by any other responsible company.

574*#20S

72 574.20 BONDS, BY WHOM APPROVED.

1 Except as otherwise provided by law in particular cases,
2 bonds shall be approved as follows:

3 (1) The official bonds of all state officers, including
4 those of the treasurers, superintendents, and other officials,
5 and employees of the several public educational, charitable,
6 penal, and reformatory institutions belonging to the state,
7 shall be approved, as to form, by the attorney general, and in
8 all other respects by the governor and the legislative auditor,
9 or one of them;

10 (2) The official bonds of county, town, city, and school
11 district officers and employees by the governing body of the
12 political subdivision for whose security they are, respectively,
13 given; and

14 (3) Those required or permitted by law to be given in any
15 court, by the judge or justice of the court in which the
16 proceeding is begun or pending.

17 No officer, official, or employee required to give bond
18 shall enter upon ~~his~~ duties until ~~his~~ the bond is duly approved
19 and filed. *

574*#23S

574.23 EXAMINATION OF ACCOUNTS OF PUBLIC OFFICERS.

20 In case of the filing of a new official bond or other
21 security, the expiration of the term of office, or the death,
22 resignation, or removal of the officer, the officer, board,
23 committee, or body required or permitted to accept or approve
24 such bond or other security, having jurisdiction or being
25 authorized or required to examine the accounts of such officer,
26 shall make or cause to be made a thorough examination of ~~his~~ the
27 bonded officer's accounts and, if any shortage or irregularity
28 is discovered, shall at once notify such officer and ~~his~~ *
29 sureties of the amount claimed to be due, or the nature of the *
30 irregularity. Such statement shall be in writing, and be served *
31 upon such officer and ~~his~~ sureties, or their agents or *
32 attorneys, by mail, addressed to their residences, if known; but
33 failure to make the examination or give such notice shall not
34 discharge the sureties.

574*#24S

574.24 OFFICIAL BONDS, SECURITY TO WHOM; ACTIONS.

36 The official bond or other security of a public officer,
37 whether with or without sureties, shall be security to all
38 persons severally for the official delinquencies against which
39 it is intended to provide, as well as to the obligee designated
40 therein, and when no other provision is made by law it shall run
41 to the state. When a public officer, by official misconduct or
42 neglect, forfeits ~~his~~ the bond or renders ~~his~~ the officer's *
43 sureties liable thereon, any person injured thereby, or who is
44 by law entitled to the benefit of the security, may bring an
45 action thereon, in ~~his~~ the person's own name, against the *
46 officer and ~~his~~ the sureties, to recover the amount to which he *
47 the person is entitled by reason of the delinquency; and a *
48 judgment in favor of a party for one delinquency does not *
49 preclude the same or another party from an action on the same
50 security for another delinquency.

574*#25S

574.25 LEAVE TO BRING ACTION; ENDORSEMENT ON EXECUTION.

52 Before an action shall be brought by a plaintiff other than
53 the state or body politic named in the bond, leave shall be
54 obtained of the district court of the county in which the action
55 is triable, or a judge thereof, by the production of a copy of
56 the bond and an affidavit showing the delinquency; and, if the
57 delinquency be such that, if established on the trial, it would
58 entitle the applicant to recover, leave shall be granted. Upon
59 the execution issued on a judgment recovered upon the official
60 security of a public officer, against ~~him~~ the officer and a *
61 surety, there shall be endorsed a direction to the officer to
62 whom the same is delivered to collect the same out of the
63 property of the principal, if sufficient can be found, and, if
64 not, out of the property of the surety.

574*#26S

574.26 CONTRACTORS' BONDS.

66 Except as provided in sections 574.263 and 574.264, a
67 contract with the state, or with any municipal corporation or
68 other public board or body thereof, for the doing of any public
69 work, is not valid unless the contractor shall give bond to the
70 state or other body contracted with, for the use of the obligee,
71 the state and of all persons doing work or furnishing skill,
72

1 tools, machinery, or materials or insurance premiums or
 2 equipment or supplies for any camp maintained for the feeding or
 3 keeping of ~~men workers~~ and animals engaged under, or for the
 4 purpose of, such contract, conditioned for the payment, as they
 5 become due, of all just claims for such work, tools, machinery,
 6 skill, materials, insurance premiums, equipment, taxes incurred
 7 under section 290.92 or chapter 297A, and supplies for the
 8 completion of the contract in accordance with its terms, for
 9 saving the obligee harmless from all costs and charges that may
 10 accrue on account of the doing of the work specified, and for
 11 the enforcing of the terms of the bond if action is brought on
 12 the bond, including reasonable attorney's fees, in any case
 13 where such action is successfully maintained and for the
 14 compliance with the laws appertaining thereto. The penalty of
 15 such bond shall be not less than the contract price, and if
 16 after the giving of the bond the contract price should for any
 17 reason be increased, the obligee may require an additional bond,
 18 the penalty of which shall be not less than the amount of such
 19 increase, and if such additional bond be not furnished within
 20 ten days after such demand, the work on the contract shall cease
 21 until such additional bond shall have been furnished. In
 22 contracts made by the commissioner of administration or the
 23 department of transportation of the state, the penalty of the
 24 bond shall be in such amount as the commissioner of
 25 administration or the commissioner of transportation may fix,
 26 but not less than three-quarters of the contract price.

574*#261S

27 574.261 SECURITY IN LIEU OF BOND.

28 No change for subd 1

29 Subd. 2. A person entitled to the protection of such
 30 deposit and wishing to ~~avail-himself~~ take advantage of its
 31 benefits shall, at the time of commencing any action against
 32 either the contractor or any subcontractor engaged in such work,
 33 notify in writing the commissioner of administration and the
 34 state treasurer of the commencement of such suit, giving the
 35 names of the parties and the amount and nature of ~~his~~ the
 36 claim. No judgment shall be entered within 30 days after the
 37 giving of such notice and the state and any person entitled to
 38 the protection of such deposit may be admitted on its ~~or-his~~
 39 motion as a party to the action and the court shall determine
 40 the rights of all parties in the premises. In such suit in
 41 which the state treasurer is a party, the court may order the
 42 treasurer to make payment among the parties to the suit entitled
 43 thereto. If the amount of the deposit is insufficient to pay
 44 the claims in full the court may direct that they be paid on a
 45 pro rata basis. The deposit made with the treasurer pursuant to
 46 the terms of this section shall be held by ~~him~~ the treasurer for
 47 90 days after the contract with the state has been completed.
 48 If no suit is commenced within said period of 90 days the
 49 deposit shall be returned to the person making it. If suit is
 50 commenced within said 90 day period the deposit shall be
 51 disbursed by the state treasurer pursuant to the order of the
 52 court. Such moneys as are deposited with the state treasurer
 53 pursuant to the terms of this section are hereby annually
 54 appropriated to the state treasurer for the purpose of carrying
 55 out the terms and provisions hereof.

574*#27S

56 574.27 BIDDERS TO HAVE RIGHT OF ACTION IN CERTAIN CASES.

57 Any bidder upon any public work or public improvement of
 58 any kind in this state where bids therefor are received and
 59 where, in connection with such bids, a deposit of money, or a
 60 certified check, or bond or other security is required to be
 61 given for the performance of the bid if accepted, the political
 62 subdivision of the state causing such public work or other
 63 public improvement to be made or done shall be liable to such
 64 bidder for a return ~~to-him~~ of the money, certified check, or
 65 other thing of value so deposited ~~by-him~~ in the event of the
 66 nonacceptance of ~~his~~ the bidder's bid on such public work or
 67 improvement, or, in the event of the acceptance of ~~his~~ the
 68 bidder's bid, during the interval between such acceptance and
 69 the entering into of a contract for such work and the giving of
 70 security in connection therewith by ~~him~~ the bidder, and this
 71 liability shall exist even though the failure to return such
 72 money, certified check, or other thing of value be occasioned by
 73 the defalcation or unlawful conversion thereof by the officer of
 74 such political subdivision clothed with the custody thereof.

574*#29S

1 574.29 ACTION ON BOND.

2 Any person entitled to the protection of such bond may
3 maintain an action thereon for the amount due ~~him~~. He The *
4 person shall notify the obligee named in the bond of the *
5 beginning of such action, giving the names of the parties,
6 describing the bond sued upon, and stating the amount and nature
7 of ~~his~~ the claim. No judgment shall be entered in such action *
8 within 30 days after the giving of such notice. The obligee, or
9 any other person having a cause of action on such bond, may be
10 admitted, on ~~his~~ motion, as a party to such action, and the *
11 court shall determine the rights of all parties thereto. If the
12 amount realized on the bond be insufficient to discharge all
13 such claims in full, such amount shall be distributed among the
14 parties pro rata.

574*#30S

15 574.30 INSOLVENT OR INSUFFICIENT SURETIES.

16 When, in its judgment, any of the sureties on such bond
17 have become insolvent, or for any cause are no longer proper or
18 sufficient sureties, the obligee may require the contractor to
19 furnish a new or additional bond within ten days; and thereupon,
20 if so ordered by such obligee, all work on such contract shall
21 cease until such new or additional bond is furnished. If such
22 bond be not furnished within such time, the obligee may, at its
23 option, determine the contract and complete the same as the
24 agent, and at the expense of such contractor and ~~his~~ its *
25 sureties.

574*#31S

26 574.31 LIMIT OF TIME TO BRING ACTION.

27 No action shall be maintained on any such bond unless
28 within 90 days after the completion of the contract and
29 acceptance thereof by the proper public authorities, the
30 claimant shall file a written notice specifying the nature and
31 amount of ~~his~~ the claim and the date of furnishing the last item *
32 thereof, in the office of the commissioner of commerce, in case
33 the contract is for the performance of work for the state or any
34 department thereof, and, in case the contract is let by any
35 county, municipal corporation, or other public board or body,
36 then such notice shall be filed in the office of the auditor of
37 the county letting the contract or the county in which such
38 municipal corporation, public board or body is situate, and if
39 situate in two or more counties, then such notice shall be filed
40 in the office of the auditor of each county; nor unless the
41 action is begun within one year after the filing of such
42 notice. The county auditor shall enter the time of filing every
43 such notice in a book kept for that purpose, which shall be
44 properly indexed.

574*#32S

45 574.32 NOTICE.

46 The commissioner of commerce or the county auditor in whose
47 office the written notice is filed shall, upon receipt of such
48 written notice, mail one copy of the same, by certified mail, to
49 the principal contractor, at ~~his~~ its last known address, and to *
50 each of the sureties on ~~his~~ the contractor's bond, at their last *
51 known addresses, and the claimant shall, at the time ~~he files~~ of *
52 filing the written notice, furnish the commissioner of commerce *
53 or the county auditor in whose office the notice is filed, at
54 least three copies of the notice. The commissioner of commerce
55 or county auditor with whom the notice is filed shall be
56 entitled to charge a fee of \$15 for filing the notice and may
57 also charge a fee to cover the cost of mailing the copies as
58 herein provided. The failure of the commissioner of commerce or
59 the county auditor with whom the notice is filed to mail these
60 copies as herein provided, shall in no way affect the validity
61 of the claim or the right of the claimant to maintain an action
62 thereon.

574*#35S

63 574.35 PROSECUTION FOR FINES; COURT; COMMITMENT.

64 All fines and forfeitures imposed as a punishment for any
65 offense or for the violation of any duty imposed by statute may
66 be prosecuted for and recovered by indictment in the district
67 court, or, when the amount or value does not exceed \$100, before
68 a judge of county or municipal court, who shall have
69 jurisdiction concurrently with the district court. In all cases
70 of the imposition of a fine pursuant to statute, as punishment
71 for any offense, the offender may be committed until it is paid

1 or ~~he~~ the offender is otherwise discharged according to law. *

575*#01S

2 575.01 PERSON INDEBTED MAY PAY SHERIFF.

3 After the issuing of an execution against property, any
4 person indebted to the judgment debtor may pay to the sheriff
5 the amount of ~~his~~ the debt, or so much thereof as may be *
6 necessary to satisfy the execution, and the sheriff's receipt
7 shall be a sufficient discharge for the amount so paid.

575*#02S

8 575.02 ORDER FOR EXAMINATION OF DEBTOR.

9 When an execution against property of the judgment debtor,
10 or of any one of several debtors in the same judgment, is issued
11 to the sheriff of the county where ~~he~~ the debtor resides, or, if *
12 ~~he~~ the debtor does not reside in the state, to the sheriff of a *
13 county where the judgment roll, or a transcript of a judgment,
14 is filed, is returned unsatisfied, in whole or in part, the
15 judgment creditor is entitled to an order from the judge of the
16 district court of the district where the judgment was originally
17 docketed or is subsequently filed, requiring the judgment
18 debtor, or, if a corporation, any officer thereof, to appear and
19 answer concerning ~~his-or-its~~ the property, at a time and place *
20 specified in the order, before a judge or a referee therein
21 named. If the person required to answer is, at the time of the
22 service of the order, a resident of the state, or has an office
23 in the state for the regular transaction of ~~his~~ business in *
24 person, ~~he~~ that person cannot be compelled to attend, pursuant *
25 to the order or to any adjournment, at a place without the
26 county ~~where-his~~ of residence or of the place of business ~~is~~ *
27 situated. *

575*#03S

28 575.03 WARRANT AGAINST DEBTOR.

29 Instead of the order provided for in section 575.02, upon
30 proof by affidavit that there is danger that the debtor will
31 leave the state or ~~conceal-himself~~ hide, the judge may issue a *
32 warrant requiring the sheriff of any county where the debtor is
33 to arrest ~~him~~ and bring ~~him~~ the debtor before such judge to *
34 answer concerning ~~his~~ the debtor's property. Upon being brought *
35 before the judge, ~~he~~ the debtor may be examined on oath, and *
36 ordered to give bond that ~~he~~ the debtor will attend, from time *
37 to time, before the judge or referee, as ~~he-shall-direct~~ *
38 directed, during the pendency of the proceeding, and will not in *
39 the meantime dispose of any portion of ~~his~~ property not exempt *
40 from execution; and, in default of giving such bond, ~~he~~ the *
41 debtor may be committed to jail as for a contempt. *

575*#04S

42 575.04 EXAMINATION.

43 Upon appearing or being brought before the judge or
44 referee, the judgment debtor, or officer required to answer for
45 a corporation, may be examined under oath, and witnesses may be
46 required to appear and testify on behalf of either party, and
47 the debtor may be represented by counsel; and no person, on such
48 examination, shall be excused from answering any question on the
49 ground that ~~his~~ the examination will tend to convict ~~him~~ the *
50 person of the commission of a fraud, but ~~his~~ an answer shall not *
51 be used as evidence against ~~him~~ the person in any criminal *
52 proceeding. If the examination is before a referee, ~~he~~ the *
53 referee shall certify the testimony and proceedings to the judge. *

575*#05S

54 575.05 PROPERTY APPLIED TO JUDGMENT; RECEIVER.

55 The judge may order any property of the judgment debtor *
56 debtor's property in the hands of ~~himself~~ the judgment debtor or *
57 of any other person, or due to ~~him~~ the judgment debtor, not *
58 exempt from execution, to be applied toward the satisfaction of
59 the judgment. ~~His~~ The judgment debtor's earnings for ~~his~~ *
60 personal services within 30 days preceding the order cannot be
61 so applied, when it appears by ~~his~~ the judgment debtor's *
62 affidavit that they are necessary for the use of a family
63 supported, wholly or partly, by ~~his~~ the judgment debtor's labor. *
64 The judge may appoint a receiver of the debtor's unexempt
65 property, or forbid a transfer or other disposition thereof, or
66 any interference therewith, until ~~his~~ further order therein. *

575*#06S

67 575.06 ADVERSE CLAIMANTS.

68 If it appears that any person alleged to have property of,
69 or to be indebted to, the judgment debtor, claims an adverse
70 interest therein, or denies the debt, such interest or debt may

1 be recovered only in an action against such person by the
 2 receiver; but the judge may by order forbid a transfer or other
 3 disposition of such property or interest until a sufficient
 4 opportunity is given to the receiver to prosecute the action to
 5 judgment and execution, and may vacate or modify such order at
 6 any time on such security as he the judge may direct. *

575*#07S

7 575.07 PERSON INDEBTED MAY BE EXAMINED.
 8 After the issuing or return of an execution against
 9 property of the judgment debtor, or of any one of several
 10 debtors in the same judgment, upon proof, by affidavit or
 11 otherwise, to the satisfaction of the judge, that any person has
 12 property of the judgment debtor, or is indebted to him the
 13 judgment debtor in an amount exceeding \$10, the judge may *
 14 require such person, or any officer thereof if a corporation, *
 15 upon such notice to any party as may seem proper, to appear and
 16 answer concerning the same.

576*#01S

17 576.01 RECEIVERS, WHEN AUTHORIZED.
 18 Subdivision 1. A receiver may be appointed in the
 19 following cases:
 20 (1) Before judgment, on the application of any party to the
 21 action who shall show an apparent right to property which is the
 22 subject of such action and is in the possession of an adverse
 23 party, and the property, or its rents and profits, are in danger
 24 of loss or material impairment, except in cases wherein judgment
 25 upon failure to answer may be had without application to the
 26 district court;
 27 (2) By the judgment, or after judgment, to carry the same
 28 into effect, or to preserve the property pending an appeal, or
 29 when an execution has been returned unsatisfied and the judgment
 30 debtor refuses to apply his property in satisfaction of the *
 31 judgment;
 32 (3) In the cases provided by law, when a corporation is
 33 dissolved, or is insolvent or in imminent danger of insolvency,
 34 or has forfeited its corporate rights; and, in like cases, of
 35 the property within this state of foreign corporations;
 36 (4) In such other cases as are now provided by law, or are
 37 in accordance with the existing practice, except as otherwise
 38 prescribed in this section.
 39 Subd. 2. A receiver shall be appointed in the following
 40 case:
 41 After the first publication of notice of sale for the
 42 foreclosure of a mortgage pursuant to chapter 580, or with the
 43 commencement of an action to foreclose a mortgage pursuant to
 44 chapter 581, and during the period of redemption, if the
 45 mortgage being foreclosed secured an original principal amount
 46 of \$500,000 or more and was not a lien upon property which was
 47 entirely homesteaded or agricultural property, the foreclosing
 48 mortgagee or the purchaser at foreclosure sale may at any time
 49 bring an action in the district court of the county in which the
 50 mortgaged premises or any part thereof is located for the
 51 appointment of a receiver; provided, however, if the foreclosure
 52 is by action under chapter 581, a separate action need not be
 53 filed. Pending trial of the action on the merits, the court may
 54 make a temporary appointment of a receiver following the
 55 procedures applicable to temporary injunctions under the rules
 56 of civil procedure. If the motion for temporary appointment of
 57 a receiver is denied, the trial of the action on the merits
 58 shall be held as early as practicable, but not to exceed 30 days
 59 after the motion for temporary appointment of a receiver is
 60 heard. The court shall appoint a receiver upon a showing that
 61 the mortgagor has breached a covenant contained in the mortgage
 62 relating to any of the following:
 63 (1) Application of tenant security deposits as required by
 64 section 504.20;
 65 (2) Payment when due of prior or current real estate taxes
 66 or special assessments with respect to the mortgaged premises,
 67 or the periodic escrow for the payment of the taxes or special
 68 assessments;
 69 (3) Payment when due of premiums for insurance of the type
 70 required by the mortgage, or the periodic escrow for the payment
 71 of the premiums;
 72 (4) Keeping of the covenants required of a lessor or
 73 licensor pursuant to section 504.18, subdivision 1.
 74 The receiver shall be an experienced property manager. The

1 court shall determine the amount of the bond to be posted by the
2 receiver.

3 The receiver shall collect the rents, profits and all other
4 income of any kind, manage the mortgaged premises so to prevent
5 waste, execute leases within or beyond the period of the
6 receivership if approved by the court, pay the expenses listed
7 in clauses (1), (2), and (3) in the priority as numbered, pay
8 all expenses for normal maintenance of the mortgaged premises
9 and perform the terms of any assignment of rents which complies
10 with section 559.17, subdivision 2. Reasonable fees to the
11 receiver shall be paid prior thereto. The receiver shall file
12 periodic accountings as the court determines are necessary and a
13 final accounting at the time of his discharge. *

14 The purchaser at foreclosure sale shall have the right, at
15 any time and without limitation as provided in section 582.03,
16 to advance money to the receiver to pay any or all of the
17 expenses which the receiver should otherwise pay if cash were
18 available from the mortgaged premises. Sums so advanced, with
19 interest, shall be a part of the sum required to be paid to
20 redeem from the sale. The sums shall be proved by the affidavit
21 of the purchaser, his an agent or attorney, stating the expenses *
22 and describing the mortgaged premises. The affidavit must be
23 filed for record with the county recorder or the registrar of
24 titles, and a copy thereof shall be furnished to the sheriff and
25 the receiver at least ten days before the expiration of the
26 period of redemption.

27 Any sums collected which remain in the possession of the
28 receiver at termination of the receivership shall, in the event
29 the termination of the receivership is due to the reinstatement
30 of the mortgage debt or redemption of the mortgaged premises by
31 the mortgagor, be paid to the mortgagor; and in the event
32 termination of the receivership occurs at the end of the period
33 of redemption without redemption by the mortgagor or any other
34 party entitled to redeem, interest accrued upon the sale price
35 pursuant to section 580.23 or section 581.10 shall be paid to
36 the purchaser at foreclosure sale. Any net sum remaining shall
37 be paid to the mortgagor, except if the receiver was enforcing
38 an assignment of rents which complies with section 559.17,
39 subdivision 2, in which case any net sum remaining shall be paid
40 pursuant to the terms of the assignment.

41 This subdivision shall apply to all mortgages executed on
42 or after August 1, 1977, and to amendments or modifications of
43 such mortgages, and to amendments or modifications made on or
44 after August 1, 1977, to mortgages executed before August 1,
45 1977, if the amendment or modification is duly recorded and is
46 for the principal purpose of curing a default.

576*#011S

47 576.011 DEFINITIONS.

48 No change for subd 1 to 2

49 Subd. 3. "Person in interest" means the absentee, heirs,
50 any person who would have an interest in the absentee's estate
51 had the absentee died intestate at any time between the
52 commencement of his the absence and the date set for any *
53 proceeding prescribed by section 576.142, any person who would
54 have an interest under the absentee's will or purported will, an
55 insuror or surety of the absentee, an owner of any reversionary,
56 remainder, joint or contractual interest which might be affected
57 by the death of the absentee, creditor of the absentee, and any
58 other person whom the court finds is properly in interest.

576*#04S

59 576.04 ABSENTEES; POSSESSION, MANAGEMENT, AND
60 DISPOSITION OF PROPERTY.

61 If a person entitled to or having an interest in property
62 within or without the jurisdiction of the state has disappeared
63 or absconded from the place within or without the state where he *
64 was last known to be, and has no agent in the state, and it is *
65 not known where he the person is, or if such person, having a *
66 spouse or minor child or children dependent to any extent
67 upon him the person for support, has thus disappeared, or *
68 absconded without making sufficient provision for such support,
69 and it is not known where he the person is, or, if it is known *
70 that he the person is without the state, any one who would under *
71 the law of the state be entitled to administer upon the estate
72 of such absentee if he were deceased, or if no one is known to *
73 be so entitled, some person deemed suitable by the court, or
74 such spouse, or some one in such spouse's or minors' behalf, may

1 file a petition, under oath, in the probate or county court for
 2 the county where any such property is situated or found, stating
 3 the name, age, occupation, and last known residence or address
 4 of such absentee, the date and circumstances of the
 5 disappearance or absconding, and the names and residences of
 6 other persons, whether members of such absentee's family or
 7 otherwise, of whom inquiry may be made, whether or not such
 8 absentee is a citizen of the United States, and if not, of what
 9 country ~~he~~ the absentee is a citizen or native, and containing a
 10 schedule of the property, real and personal, so far as known,
 11 and its location within or without the state, and a schedule of
 12 contractual or property rights contingent upon the absentee's
 13 death, and praying that real and personal property may be taken
 14 possession of and a receiver thereof appointed under this
 15 chapter. No proceedings shall be commenced under the provisions
 16 of sections 576.04 to 576.16, except upon good cause shown until
 17 at least three months after the date on which it is alleged in
 18 such petition that such person so disappeared or absconded.

576*#05S

19 576.05 WARRANT; SHERIFF TO TAKE POSSESSION OF PROPERTY;
 20 FEES AND COSTS.

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

576*#08S

38 576.08 HEARING BY COURT; DISMISSAL OF PROCEEDING;
 39 APPOINTMENT AND BOND OF RECEIVER.

40 The absentee, or any person who claims an interest in any
 41 of the property, may appear and show cause why the prayer of the
 42 petition should not be granted. The court may, after hearing,
 43 dismiss the petition and order the property in possession of the
 44 officer to be returned to the person entitled thereto, or it may
 45 appoint a receiver of the property which is in the possession of
 46 the officer and named in ~~his~~ the schedule. If a receiver is
 47 appointed, the court shall find and record the date of the
 48 disappearance or absconding of the absentee; and the receiver
 49 shall give a bond to the state in the sum and with the
 50 conditions the court orders, to be approved by the court. In
 51 the appointment of the receiver the court shall give preference
 52 to the spouse of the absentee, if the spouse is competent and
 53 suitable.

576*#09S

54 576.09 POSSESSION OF PROPERTY BY RECEIVER.

55 After the approval of the bond the court may order the
 56 sheriff or ~~his~~ a deputy to transfer and deliver to such receiver
 57 the possession of the property under the warrant, and the
 58 receiver shall file in the office of the clerk of court a
 59 schedule of the property received ~~by-him~~.

576*#10S

60 576.10 ADDITIONAL PROPERTY; RECEIVER TO TAKE POSSESSION.

61 The receiver, upon after filing a petition filed-by-him,
 62 may be authorized and directed to take possession of any
 63 additional property, including a business concern, within or
 64 without the state which belongs to such absentee and to demand
 65 and collect all debts due the absentee from any person within or
 66 without the state and hold the same as if it had been
 67 transferred and delivered to ~~him~~ the receiver by the officer.
 68 The receiver, upon after filing a petition filed-by-him, may
 69 also be authorized and directed to exercise any rights under a
 70 life insurance policy or an annuity contract which the absentee
 71 could have exercised, including, but not limited to, the right
 72 to borrow against it, surrender it for its cash surrender value,

1 or continue it in force by payment of premiums.

576*#11S

2 576.11 WHERE NO CORPOREAL PROPERTY; RECEIVER; BOND.

3 If the absentee has left no corporeal property within or
4 without the state, but there are debts and obligations due or
5 owing to him the absentee from persons within or without the
6 state, a petition may be filed, as provided in section 576.04,
7 stating the nature and amount of such debts and obligations, so
8 far as known, and praying that a receiver thereof may be
9 appointed. The court may thereupon issue a notice, as above
10 provided, without issuing a warrant, and may, upon the return of
11 the notice and after a hearing, dismiss the petition or appoint
12 a receiver and authorize and direct him the receiver to demand
13 and collect the debts and obligations specified in the
14 petition. The receiver shall give bond, as provided in section
15 576.08, and hold the proceeds of such debts and obligations and
16 all property received ~~by him~~, and distribute the same as
17 provided in sections 576.12 to 576.16. He The receiver may be
18 further authorized and directed as provided in section 576.10.

576*#12S

19 576.12 CARE OF PROPERTY; LEASE; SALE; CONTROL OF
20 BUSINESS.

21 Subdivision 1. The court may make orders for the care,
22 custody, leasing, and investing of all property and its proceeds
23 in the possession of the receiver. If any of the property
24 consists of assets subject to likely rapid decline in value or
25 live animals or is perishable or cannot be kept without a great
26 or disproportionate expense, the court may, after the return of
27 the warrant, order such property to be sold at public or private
28 sale. After the appointment of a receiver, upon ~~his~~ the
29 receiver's petition and after notice, the court may order all or
30 part of the property, including the rights of the absentee in
31 land, to be sold at public or private sale to supply money for
32 payments authorized by sections 576.04 to 576.16, to preserve
33 value, or for reinvestment approved by the court.

34 No change for subd 2

576*#121S

35 576.121 ADVANCE LIFE INSURANCE PAYMENTS TO ABSENTEE'S
36 BENEFICIARY.

37 If the beneficiary under an insurance policy on the life of
38 an absentee is the absentee's spouse, child, or other person
39 dependent upon the absentee for support and advance payments
40 under the policy are necessary to support and maintain the
41 beneficiary, the beneficiary shall be entitled to advance
42 payments as the court determines under section 576.122.
43 "Beneficiary" under this section includes an heir at law of the
44 person whose life is insured if the policy is payable to ~~his~~ the
45 insured's estate.

576*#122S

46 576.122 HEARING BY COURT; DETERMINATION OF RIGHT TO
47 ADVANCE LIFE INSURANCE PAYMENTS.

48 No change for subd 1 to 2

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

51 (a) The absentee is missing, and there is reason to believe
52 ~~he is~~, dead;

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

55 (c) The beneficiary has no source of income sufficient for
56 support and maintenance at an adequate level.

57 No change for subd 4

576*#14S

58 576.14 CLAIMS; ADJUSTMENT BY RECEIVER.

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

576*#141S

64 576.141 PRESUMPTION OF DEATH FROM ABSENCE.

65 An absentee who is missing for a continuous period of four
66 years, during which, after diligent search, ~~he~~ the absentee has
67 not been seen or heard of or from, and whose absence is not
68 satisfactorily explained, shall be presumed, in any action or
69 proceeding involving the property of the person, contractual or
70 property rights contingent upon ~~his~~ the absentee's death or the

1 administration of his the absentee's estate, to have died four *
 2 years after the date the unexplained absence commenced. If the
 3 person was exposed to a specific peril of death, that fact may
 4 be a sufficient basis for determining that he the absentee died *
 5 less than four years after the date his the absence commenced. *

576*#142S

6 576.142 HEARING BY COURT; DETERMINATION OF DEATH OF AN
 7 ABSENTEE.

8 Subdivision 1. A person in interest may request a hearing
 9 in the following circumstances:

10 (a) If an absentee is absent from his the domicile without *
 11 being in communication after being exposed to a specific peril
 12 and a diligent search has been made; or

13 (b) If an absentee has been absent from his the domicile *
 14 for a period of four consecutive years or more without being in
 15 communication and a diligent search has been made; or

16 (c) If unforeseeable or changing circumstances necessitate
 17 court authorization for action in respect to the management or
 18 disposition of the absentee's business or property.

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

22 No change for subd 3 to 6

576*#143S

23 576.143 DEGREE OF BURDEN OF PROOF.

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

576*#144S

31 576.144 DISSOLUTION OF MARRIAGE.

32 If the court finds the absentee dead in accordance with *
 33 section 576.142, the absentee's marriage ~~between-the-absentee~~ *
 34 ~~and-his-spouse~~ is dissolved. The court shall enter the *
 35 conclusion of law dissolving the marriage on the order which
 36 establishes the death of the absentee as a matter of law.

576*#15S

37 576.15 COMPENSATION OF RECEIVER; TITLE OF ABSENTEE LOST
 38 AFTER FOUR YEARS.

39 The receiver shall be allowed such compensation and
 40 disbursements as the court orders, to be paid out of the
 41 property or proceeds. If, within four years after the date of
 42 the disappearance or absconding, as found and recorded by the
 43 court, the absentee appears, and has not been declared dead
 44 under section 576.142, or an administrator, executor, assignee
 45 in insolvency, or trustee in bankruptcy of the absentee is
 46 appointed, the receiver shall account for, deliver, and pay over
 47 to him the absentee the remainder of the property. If the *
 48 absentee does not appear and claim the property within four
 49 years, all his the absentee's right, title, and interest in the *
 50 property, real or personal, or the proceeds thereof, shall
 51 cease, and no action shall be brought by him the absentee on *
 52 account thereof. *

53 If the absentee is declared dead pursuant to section
 54 576.142 and appears before the expiration of four years, he the *
 55 absentee shall have no right, title and interest in the *
 56 property, real or personal, or the proceeds thereof.

577*#01S

57 577.01 REQUISITES.

58 Every assignment made by a debtor of the whole or any part *
 59 of his the debtor's estate, real or personal, in trust for the
 60 benefit of creditors, shall be void unless the assignee be a
 61 resident freeholder of the state, and unless the assignment be
 62 in writing, subscribed and acknowledged by the assignor, and be
 63 filed with the clerk of the district court of the county wherein
 64 the assignor, or one of the assignors if there be more than one,
 65 resides, or wherein the business in reference to which the same
 66 is made has been principally carried on.

577*#03S

67 577.03 DUTY OF CLERK.

68 The clerk shall endorse upon the assignment the day, hour,
 69 and minute of filing the same. The proceeding shall be entered
 70 in his the clerk's register, and all papers filed and orders *

1 made in the matter of the assignment shall be noted therein as
2 in the case of a civil action.

577*#04S

3 577.04 SCHEDULE OF DEBTS AND ESTATE.

4 Within ten days of making any such assignment, the debtor
5 shall file with such clerk a schedule, under ~~his~~ the debtor's
6 oath, containing:

7 (1) A list of the names of all ~~his~~ creditors, and the place
8 of residence of each, if known ~~to him~~, and, if not, a statement
9 to that effect;

10 (2) A statement of the sum owing to each creditor, the
11 nature of the debt, the cause and consideration thereof, and the
12 place where it arose, and, if secured by judgment, mortgage,
13 collateral, or otherwise, the nature of the security;

14 (3) An inventory of ~~his~~ the estate, real and personal, in
15 law or in equity, showing the nature and value of each item
16 thereof, and all encumbrances thereon, to the best of ~~his~~ the
17 debtor's knowledge, information, and belief.

577*#05S

18 577.05 ASSIGNEE'S BOND.

19 Before entering upon the trust ~~of his trust~~, and not
20 later than five days after the filing of such schedule, the
21 assignee shall file with the clerk a bond to the state, to be
22 approved by a judge of such court, in an amount at least double
23 the value of the estate assigned, as shown by the inventory, if
24 filed, and, if not, by affidavit of the debtor, conditioned for
25 the faithful performance of ~~his~~ the duties. At any time
26 thereafter, in its discretion, the court may require the
27 assignee to give a new or an additional bond. When the assignee
28 fails to perform any of ~~his~~ the duties as such, or to comply
29 with any order of the court, upon leave of the court first
30 obtained, any creditor may bring an action upon such bond to
31 obtain satisfaction of ~~his~~ the creditor's claim.

577*#06S

32 577.06 NOTICE TO CREDITORS.

33 Upon taking possession of the estate assigned, the assignee
34 shall forthwith give at least one week's published notice of the
35 assignment, and ~~he~~ shall also forthwith mail such notice to each
36 creditor who is named in the schedule, or of whom ~~he~~ the
37 assignee may receive information.

577*#07S

38 577.07 FRAUDULENT CONVEYANCES.

39 In all cases of general assignments for the benefit of
40 creditors, the assignee shall represent the creditors of the
41 assignor as against all transfers and conveyances of ~~his~~ the
42 assignor's property which were fraudulent as to them, and shall
43 have all the rights of such creditors in their avoidance.

577*#08S

44 577.08 PROOF OF CLAIMS; ORDER OF PAYMENT.

45 No claims or demands, except debts owing to the United
46 States or to the state, or taxes or assessments against the
47 debtor or the property assigned, shall be paid, unless proofs
48 thereof, verified by the creditors, be presented to the
49 assignee. After payment of the charges and expenses of making
50 the assignment and executing the trust, ~~he~~ the assignee shall
51 pay the debts of the assignor in the order following:

52 (1) Debts owing to the United States and to the state, and
53 all taxes and assessments against the debtor or the property
54 assigned, shall first be paid in full;

55 (2) The claims of employees sustaining injury in the course
56 of their employment and entitled to the compensation under the
57 provisions of chapter 176, shall next be paid in full if there
58 be sufficient wherewith to do so, and, if not, they shall be
59 paid pro rata; provided, that claims under this clause shall not
60 be allowed if the assignor carried workers' compensation
61 insurance as provided by law at the time the injury was
62 sustained;

63 (3) Wages, except cash value of all compensation paid in
64 any medium other than cash, of servants, laborers, mechanics,
65 and clerks for services performed for the debtor within three
66 months next preceding the assignment shall next be paid in full
67 if there be sufficient wherewith to do so, and, if not, they
68 shall be paid pro rata; but, to entitle any creditor to payment
69 under this clause, ~~his~~ the creditor's proof of claim must set
70 forth facts showing ~~that he is entitled~~ entitlement hereunder;

71 (4) The cash value of all compensation paid in any medium

1 other than cash, including but not limited to credits for
2 vacation pay, sick leave and other fringe benefits past earned
3 with a cash value;

4 (5) All other debts shall be paid in full if there be
5 sufficient left wherewith to do so, and, if not, they shall be
6 paid pro rata; provided, that no debt for which the creditor
7 holds a mortgage, pledge, or other security shall be paid until
8 he the creditor has exhausted his the security, or has
9 surrendered it to the assignee. *

577*#09S

10 577.09 PAYMENT OF DIVIDENDS; LIST OF CREDITORS.

11 At least 20 days before paying any dividend or distributing
12 any of the trust estate, the assignee shall file with such clerk
13 a verified statement containing a list of all the creditors who
14 have presented ~~to him~~ proofs of claim, as hereinbefore provided, *
15 and showing the nature and amount of each such claim; and, when
16 any creditor thereafter shall present proof of claim to the
17 assignee, ~~he the assignee~~ shall file a similar statement *
18 thereof, and pay nothing thereon until the expiration of 20 days
19 thereafter.

577*#10S

20 577.10 POWERS OF COURT; REMOVAL AND DISCHARGE.

21 The district court shall have supervision of all
22 proceedings under this chapter. On petition of a creditor, the
23 court, in its discretion, may, from time to time, require the
24 assignee to render an account, and to file a report of his the *
25 assignee's proceedings and of the condition of the trust estate, *
26 and may order distribution thereof. For cause shown, it may, in
27 its discretion, remove the assignee, and appoint another
28 instead, who shall give bond as the court may direct; and the
29 order of removal and appointment shall, in terms, transfer all
30 the trust estate to the new assignee, and may be filed for
31 record with the county recorder of any county wherein any land
32 affected by the assignment is situated. Upon removal of an
33 assignee, the court may require ~~him the removed assignee~~ to *
34 deliver to the new assignee all property, books of account, and
35 vouchers belonging to the trust estate, to execute all necessary
36 transfers, and to render an account and report of all matters
37 connected therewith. When the assignee has complied with all
38 the orders of the court, and when any assignee has completed his *
39 the trust, ~~he the assignee~~ may apply to the court for his *
40 discharge, first giving three weeks' published notice of such
41 application; the last publication to be not more than three
42 weeks prior to the hearing thereon. If upon the hearing the
43 court is satisfied that the assignee is entitled to such
44 discharge, it shall so order; but, if in its opinion anything
45 remains to be done by him the assignee, it shall require the *
46 performance thereof before making such order. A discharge shall
47 not be refused because of any failure of the assignee to comply
48 with the forms of law, if no damage has thereby resulted to any
49 person. The order shall have the effect of discharging the
50 assignee and his the assignee's sureties from all further *
51 responsibilities in respect to the trust. When the trust estate
52 is taken out of the hands of the assignee by proceedings in
53 bankruptcy in the federal court, the assignee may be discharged
54 upon showing that he the assignee has fully accounted with the *
55 trustee in bankruptcy, and turned over ~~to him~~ the whole trust *
56 estate to the trustee in bankruptcy. When the trust estate is *
57 taken out of the hands of the assignee by legal proceedings in
58 any court, or the assignment is declared void as to creditors,
59 or for any reason the further administration of the trust is
60 rendered impracticable, inadvisable, or nugatory, the assignee
61 shall in like manner be discharged.

579*#01S

62 579.01 LIABILITY OF BOAT OR VESSEL.

63 Every boat or vessel used in navigating the waters of this
64 state shall be liable for the claims or demands hereinafter
65 mentioned, and which shall constitute liens thereon:

66 (1) For all debts contracted by the master, owner, agent,
67 or consignee thereof on account of supplies furnished for its
68 use, or on account of work done or services rendered on board
69 for its benefit, or on account of labor done or materials
70 furnished by mechanics, tradesmen members of trades, or others *
71 in and for building, repairing, fitting out, furnishing, or
72 equipping the same;

73 (2) For all sums due for wharfage or anchorage of such boat

1 or vessel within the state;

2 (3) For all demands or damages accruing from the
3 non-performance or malperformance of any contract of
4 affreightment, or any contract touching the transportation of
5 persons or property entered into by the master, owner, agent, or
6 consignee of the boat or vessel on which such contract is to be
7 performed; and

8 (4) For all injuries done to persons or property by such
9 boat or vessel.

10 No boat or vessel shall be so liable for any debt
11 contracted on account of work done or services rendered on board
12 of or for the benefit of such boat or vessel until the contract
13 is fully performed.

579*#02S

14 579.02 ACTION; WARRANT; PROCEDURE.

15 An action against a boat or vessel may be instituted by the
16 filing in the district court of the county where it may be of a
17 complaint against it by name, or, if it have no name, by
18 description, verified by the plaintiff or some person having
19 knowledge of the facts, and setting forth the demand, and on
20 whose account it accrued. Thereupon the clerk shall issue a
21 warrant, returnable in 20 days, directing the sheriff to seize
22 such boat or vessel and detain it in custody, with its tackle,
23 apparel, and furniture, until discharged by due course of law.
24 Such warrant shall be served and returned as in the case of a
25 writ of attachment. Upon the return of the warrant, proceedings
26 shall be had against the boat or vessel seized in the same
27 manner as if the action had been instituted against the person
28 on whose account the demand accrued. The master, owner, agent,
29 or consignee of the boat or vessel may appear on its behalf and
30 answer the complaint. For sufficient cause shown, he the
31 answerer shall be entitled to a continuance, but such
32 continuance shall not operate as a discharge of the boat or
33 vessel from custody, and no continuance shall be granted to the
34 plaintiff.

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579*#05S

35 579.05 OWNER SUMMONED TO SHOW CAUSE.

36 When judgment is rendered in favor of the plaintiff against
37 a boat or vessel, and prior thereto it has been discharged from
38 custody by the giving of bond or otherwise, or when for any
39 reason the judgment or any part thereof remains unpaid for 60
40 days, the master and owner, or either, may be summoned to show
41 cause why they should not be personally bound by the judgment.
42 Such summons shall be subscribed by the judgment creditor, his
43 an agent or attorney, and shall describe the judgment, specify
44 the amount due thereon, and require the party summoned to show
45 cause within 20 days after the service thereof, and may be
46 served in the same manner as a summons in a civil action. It
47 shall be accompanied by an affidavit of the person subscribing
48 it, to the effect that the judgment has not been paid or
49 satisfied, except as specified in the summons, to his the
50 affiant's knowledge, information, or belief.

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579*#06S

51 579.06 PLEADINGS; TRIAL; JUDGMENT.

52 The party summoned may by answer deny that the judgment was
53 duly rendered, or that he the answerer was master, owner, or
54 part owner of the boat or vessel when the cause of action
55 against it arose, and he may set up any defense which has arisen
56 since the rendition of the judgment, but no other defense. The
57 party issuing the summons may demur or reply to the answer, and
58 the party summoned may demur to the reply. The issues shall be
59 tried, and judgment, with costs, shall be rendered and enforced
60 in the same manner as in a civil action.

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580*#04S

61 580.04 REQUISITES OF NOTICE.

62 Each notice shall specify:

63 (1) The name of the mortgagor and of the mortgagee, and of
64 the assignee of the mortgage, if any, and the original principal
65 amount secured by said mortgage;

66 (2) The date of the mortgage, and when and where recorded,
67 except where the mortgage is upon registered land, in which case
68 the notice shall state that fact, and when and where registered;

69 (3) The amount claimed to be due thereon, and taxes, if
70 any, paid by the mortgagee at the date of the notice;

71 (4) A description of the mortgaged premises, conforming
72 substantially to that contained in the mortgage;

1 (5) The time and place of sale; and
2 (6) The time allowed by law for redemption by the
3 mortgagor, ~~his~~ the mortgagor's personal representatives or
4 assigns. *

580*#05S

5 580.05 ATTORNEY TO FORECLOSE; RECORD OF POWER.

6 When an attorney at law is employed to conduct such
7 foreclosure, ~~his~~ the authority of the attorney at law shall
8 appear by power of attorney executed and acknowledged by the
9 mortgagee or assignee of the mortgage in the same manner as a
10 conveyance, and recorded prior to the sale in the county where
11 the foreclosure proceedings are had. If such attorney be
12 employed on behalf of such mortgagee or assignee by an attorney
13 in fact, ~~his~~ the attorney's authority shall likewise be
14 evidenced by recorded power. *

580*#06S

15 580.06 SALE, HOW AND BY WHOM MADE.

16 The sale shall be made by the sheriff or ~~his~~ the sheriff's
17 deputy at public vendue to the highest bidder, in the county in
18 which the premises to be sold, or some part thereof, are
19 situated, between nine o'clock a.m. and the setting of the sun. *

580*#09S

20 580.09 FORECLOSURE FOR INSTALMENTS; SALES; DISPOSITION
21 OF PROCEEDS; REDEMPTION.

22 Where a mortgage is given to secure the payment of money by
23 instalments, each instalment, either for principal or interest,
24 or both, as is due at any time, may be taken and deemed to be a
25 separate and independent mortgage, and such mortgage for each
26 such instalment may be foreclosed by advertisement or by action,
27 in the same manner and with like effect as if a separate
28 mortgage were given for each of such instalments, and such
29 foreclosure may be made and sale had subject to the instalments
30 yet to become due upon the mortgage; and a redemption from any
31 such sale shall have the like effect as if the sale for such
32 instalment had been made upon an independent subsequent mortgage;
33 provided in such cases the attorney's fee on the foreclosure so
34 made shall not exceed the amount permitted by law in case of a
35 mortgage securing the amount of the debt then due on such
36 foreclosure. The proceeds of the sale shall be applied first in
37 payment of the costs of the foreclosure sale, and of the
38 instalment due, with interest thereon, taxes and insurance
39 premiums paid, if any, and then towards the payment of the
40 residue of the sum secured by such mortgage, and not due and
41 payable at the time of such sale; and, if such residue does not
42 bear interest, such application shall be made with rebate of the
43 legal interest for the time during which the residue shall not
44 be due and payable; and the surplus, if any, shall be paid to
45 the subsequent lienors, if any, in the order of their priority,
46 and then to the owner of the equity of redemption, ~~his~~ the
47 owner's legal representatives or assigns. In case of redemption
48 from any sale herein authorized, at the option of the
49 redeptioner, the whole amount remaining unpaid on the mortgage,
50 with interest and other items, if any, which have become part of
51 the amount secured by the lien of the mortgage, may be included
52 in the amount paid on redemption and, in such event, the
53 redemption so made shall have like effect as if the foreclosure
54 sale had been made for the entire amount secured by the
55 mortgage, including such additional items. *

56 Before any sale herein authorized, the holder of the
57 mortgage shall file with the sheriff a verified itemized
58 statement in writing showing the entire amount remaining unpaid
59 on the mortgage, including taxes and insurance premiums paid and
60 other items which have become part of the amount secured, and
61 the rate of interest to accrue on same, which statement shall be
62 subject to public inspection and shall be read by the sheriff at
63 the sale, immediately after reading the notice of sale. The
64 certificate of sale shall set forth correctly, in addition to
65 the amount of sale, the remaining amount still unpaid on and
66 secured by the mortgage, subject to which the sale is made, and
67 the rate of interest to accrue on same. If, during the time to
68 redeem from the sale, any additional or other item, other than
69 interest at the rate so stated in the certificate, shall attach
70 to such amount subject to which the sale was made, or any change
71 shall occur in such amount or the rate of interest thereon, the
72 facts with respect thereto shall be set forth by affidavit, made
73 and filed for record, and a copy furnished the sheriff, in *

1 accordance with the provisions of section 582.03, and the
2 provisions of that section shall apply thereto.

580*#10S

3 580.10 SURPLUS.

4 In all cases not provided for in section 580.09, if, after
5 sale of any real estate, made as herein prescribed, there
6 remains in the hands of the officer making the sale any surplus
7 money, after satisfying the mortgage, with interest, taxes paid,
8 and costs of sale, the surplus shall be paid over by such
9 officer, on demand, to the mortgagor, ~~his~~ the mortgagor's legal
10 representatives or assigns. *

580*#11S

11 580.11 MORTGAGEE OR ASSIGNEES MAY PURCHASE.

12 The mortgagee, ~~his-assignees~~ the mortgagee's assignee,
13 ~~or his-or-their~~ the legal representatives representative of
14 either or both, may fairly and in good faith purchase the
15 premises so advertised, or any part thereof, at such sale. *

580*#12S

16 580.12 CERTIFICATE OF SALE; RECORD; EFFECT.

17 When any sale of real property is made under a power of
18 sale contained in any mortgage, the officer shall make and
19 deliver to the purchaser a certificate, executed in the same
20 manner as a conveyance, containing:

- 21 (1) A description of the mortgage;
- 22 (2) A description of the property sold;
- 23 (3) The price paid for each parcel sold;
- 24 (4) The time and place of the sale, and the name of the
25 purchaser;
- 26 (5) The time allowed by law for redemption.

27 The certificate shall be recorded within 20 days after such
28 sale, and when so recorded, upon expiration of the time for
29 redemption, shall operate as a conveyance to the purchaser or
30 ~~his~~ the purchaser's assignee of all the right, title, and
31 interest of the mortgagor in and to the premises named therein
32 at the date of such mortgage, without any other conveyance. *

580*#14S

33 580.14 EXECUTION AFTER EXPIRATION OF TERM.

34 Where the term of office of the sheriff or deputy who made
35 the sale expires within 20 days thereafter, and before ~~he-has~~
36 ~~executed~~ executing the certificate required by law, ~~he~~ that
37 sheriff or deputy may execute and acknowledge the same in like
38 manner and with like effect as if ~~his~~ the term had not expired. *

580*#15S

39 580.15 PERPETUATING EVIDENCE OF SALE.

40 Any party desiring to perpetuate the evidence of any sale
41 made in pursuance of this chapter may procure:

- 42 (1) An affidavit of the publication of the notice of sale
43 and of any notice of postponement to be made by the printer of
44 the newspaper in which the same was inserted or by some person
45 in ~~his~~ the printer's employ knowing the facts; *
- 46 (2) An affidavit or return of service of such notice upon
47 the occupant of the mortgaged premises to be made by the officer
48 or person making such service or, in case the premises were
49 vacant or unoccupied at the time the service must be made, an
50 affidavit or return showing that fact, to be made by the officer
51 or person attempting to make such service;
- 52 (3) An affidavit by the person foreclosing the mortgage, or
53 ~~his~~ that person's attorney, or someone knowing the facts, *
- 54 setting forth the facts relating to the military service status
55 of the owner of the mortgaged premises at the time of sale.
- 56 (4) An affidavit by the person foreclosing the mortgage, or
57 ~~his~~ that person's attorney, or someone having knowledge of the *
- 58 facts, setting forth the fact of service of notice of sale upon
59 the secretary of the treasury of the United States or ~~his~~ the
60 secretary's delegate in accordance with the provisions of *
- 61 Section 7425 of the Internal Revenue Code of 1954 as amended by
62 Section 109 of the Federal Tax Lien Act of 1966, and also
63 setting forth the fact of service of notice of sale upon the
64 commissioner of revenue of the state of Minnesota in accordance
65 with the provisions of section 270.69, subdivision 7. Any such
66 affidavit recorded prior to May 16, 1967 shall be effective as
67 prima facie evidence of the facts therein contained as though
68 recorded subsequent to May 16, 1967.

69 Such affidavits and returns shall be recorded by the county
70 recorder and they and the records thereof, and certified copies
71 of such records, shall be prima facie evidence of the facts

1 therein contained.

2 The affidavit provided for in clause (3) hereof may be made
3 and filed for record for the purpose of complying with the
4 provisions of the Soldiers' and Sailors' Civil Relief Act of
5 1940, passed by the Congress of the United States and approved
6 on October 17, 1940, and may be made and filed for record at any
7 time subsequent to the date of the mortgage foreclosure sale.

580*#17S

8 580.17 AFFIDAVIT OF COSTS.

9 Within ten days after the filing for record of the
10 certificate of sale, the party foreclosing, or his the party's *
11 attorney, shall make and file for record with the county
12 recorder an affidavit containing a detailed bill of the costs
13 and disbursements of the foreclosure, including attorney's fees,
14 and setting forth that the same have been absolutely and
15 unconditionally paid or incurred. Costs and disbursements shall
16 be allowed as provided in section 549.04.

580*#18S

17 580.18 EXCESSIVE COSTS OR INTEREST.

18 At any time within one year after the sale, the mortgagor,
19 his the mortgagor's heirs or assigns, may recover from the owner *
20 of the mortgage at the time of foreclosure three times the
21 amount of any sums charged as costs or disbursements on such
22 foreclosure but not absolutely paid, unless such amounts have
23 been paid to the mortgagor or his the mortgagor's assigns. *

580*#19S

24 580.19 CERTIFICATE AS EVIDENCE.

25 Every sheriff's certificate of sale made under a power to
26 sell contained in a mortgage shall be prima facie evidence that
27 all the requirements of law in that behalf have been complied
28 with, and prima facie evidence of title in fee thereunder in the
29 purchaser at such sale, his the purchaser's heirs or assigns, *
30 after the time for redemption therefrom has expired.

580*#23S

31 580.23 REDEMPTION BY MORTGAGOR.

32 Subdivision 1. When lands have been sold in conformity
33 with the preceding sections of this chapter the mortgagor, his *
34 the mortgagor's personal representatives or assigns, within six *
35 months after such sale, except as otherwise provided in
36 subdivision 2, may redeem such lands, as hereinafter provided,
37 by paying the sum of money for which the same were sold, with
38 interest from the time of sale at the rate provided to be paid
39 on the mortgage debt and, if no rate be provided in the mortgage
40 note, at the rate of six percent per annum, together with any
41 further sums which may be payable pursuant to section 582.03.
42 Where the redemption period is as provided in this subdivision
43 the mortgagee, or his the mortgagee's successors, assigns, or *
44 personal representative, or any other purchaser so purchasing at
45 the sheriff's sale shall by purchasing the property at the
46 sheriff's sale thereby waive his the right to a deficiency *
47 judgment against the mortgagor.

48 Subd. 2. Notwithstanding the provisions of subdivision 1
49 hereof, when lands have been sold in conformity with the
50 preceding sections of this chapter the mortgagor, his the *
51 mortgagor's personal representatives or assigns, within 12 *
52 months after such sale, may redeem such lands in accordance with
53 the provisions of payment of subdivision 1 thereof, if:

54 (a) The mortgage was executed prior to July 1, 1967, or;
55 (b) The amount claimed to be due and owing as of the date
56 of the notice of foreclosure sale is less than 66 2/3 percent of
57 the original principal amount secured by the mortgage; or,
58 (c) The mortgaged premises, as of the date of the execution
59 of the mortgage, exceeded ten acres in size.

580*#24S

60 580.24 REDEMPTION BY CREDITOR.

61 If no such redemption be made by the mortgagor, his the *
62 mortgagor's personal representatives or assigns, the senior *
63 creditor having a lien, legal or equitable, upon the mortgaged
64 premises, or some part thereof, subsequent to the mortgage, may
65 redeem within five days after the expiration of the redemption
66 period specified in section 580.23; and each subsequent creditor
67 having a lien in succession, according to priority of liens,
68 within five days after the time allowed the prior lienholder,
69 respectively, may redeem by paying the amount aforesaid and all
70 liens prior to his the lienholder's own held by the person from *
71 whom redemption is made; provided that no creditor shall be

1 entitled to redeem unless within the period allowed for
 2 redemption ~~he~~ the creditor file for record notice of ~~his~~ *
 3 intention to redeem with the county recorder or registrar of
 4 titles of each county where the mortgage is recorded.

580*#25S

5 580.25 REDEMPTION, HOW MADE.

6 Redemption shall be made as follows.

7 The person desiring to redeem shall pay to the person
 8 holding the right acquired under such sale, or for ~~him~~ that *
 9 person to the sheriff who made the sale, or ~~his~~ a successor in *
 10 office, the amount required by law for such redemption, and
 11 shall produce to such person or officer:

12 (1) A copy of the docket of the judgment, or of the deed or
 13 mortgage, or of the record or files evidencing any other lien
 14 under which ~~he~~ the person claims a right to redeem, certified by *
 15 the officer in whose custody such docket, record, or files shall
 16 be, or the original deed or mortgage, with the certificate of
 17 record endorsed thereon;

18 (2) Any assignment necessary to establish ~~his~~ the person's *
 19 claim, verified by the affidavit of ~~himself~~ that person or a *
 20 subscribing witness thereto, or some person acquainted with the
 21 signature of the assignor. If the redemption is under an
 22 assignment of a judgment, the assignment shall be filed in the
 23 court rendering the judgment, as provided by law, and the person
 24 so redeeming shall produce a certified copy thereof and of the
 25 record of its filing, and the copy of the docket shall show that
 26 the proper entry was made upon the docket;

27 (3) An affidavit of ~~himself~~ the person or ~~his~~ the person's *
 28 agent, showing the amount then actually due on ~~his~~ the person's *
 29 lien.

30 Within 24 hours after such redemption is made, the person
 31 redeeming shall cause the documents so required to be produced
 32 to be filed with the county recorder, or registrar of titles,
 33 who shall be entitled to receive fees as prescribed in section
 34 357.18 or section 508.82. If such redemption shall be made at
 35 any place other than the county seat, it shall be sufficient
 36 forthwith to deposit such documents in the nearest post office,
 37 addressed to such recorder or registrar of titles, with the
 38 postage prepaid.

580*#26S

39 580.26 CERTIFICATE OF REDEMPTION; RECORD.

40 The person or officer from whom such redemption is made
 41 shall make and deliver to the person redeeming a certificate
 42 executed and acknowledged in the same manner as a conveyance,
 43 containing:

44 (1) The name of the person redeeming, and the amount paid
 45 by ~~him~~ the person on such redemption; *

46 (2) A description of the sale for which such redemption is
 47 made, and of the property redeemed;

48 (3) A statement of the claim upon which such redemption is
 49 made and, if upon a lien, the amount claimed to be due thereon
 50 at the date of redemption.

51 If redemption is made by the owner of the property sold,
 52 ~~his~~ the owner's heirs, personal representatives, or assigns, *
 53 such certificate shall be recorded within four days after the
 54 expiration of the year allowed ~~him~~ the owner for redemption and, *
 55 if made by a creditor holding a lien, the certificate shall be
 56 recorded within four days after such redemption. Unless so
 57 recorded, the certificate shall be void as against any person in
 58 good faith redeeming from the same person or lien.

580*#27S

59 580.27 EFFECT OF REDEMPTION.

60 If redemption is made by the owner of the property sold,
 61 ~~his~~ the owner's heirs, personal representatives or assigns, such *
 62 redemption annuls the sale; if by a creditor holding a lien on
 63 the property, or some part thereof, the certificate of
 64 redemption, executed, acknowledged, and recorded as provided in
 65 section 580.26, operates as an assignment to ~~him~~ the creditor of *
 66 the right acquired under such sale, subject to such right of any
 67 other person to redeem as provided by law.

580*#28S

68 580.28 FORECLOSURE PENDING ACTION TO SET ASIDE MORTGAGE;
 69 REDEMPTION.

70 When an action is brought wherein it is claimed that any
 71 mortgage as to the plaintiff or person for whose benefit the
 72 action is brought is fraudulent or void, or has been paid or

1 discharged, in whole or in part, if such mortgage has been
 2 foreclosed by advertisement, and the time for redemption from
 3 the foreclosure sale will expire before final judgment in such
 4 action, the plaintiff or beneficiary having the right to redeem,
 5 for the purpose of saving such right in case the action fails,
 6 may deposit with the sheriff before the time of redemption
 7 expires the amount for which the mortgaged premises were sold,
 8 with interest thereon to the time of deposit, together with a
 9 bond to the holder of the sheriff's certificate of sale, in an
 10 amount and with sureties to be approved by the sheriff,
 11 conditioned to pay all interest that may accrue or be allowed on
 12 such deposit if the action fail. He The person shall, in *
 13 writing, notify such sheriff that he the person claims the *
 14 mortgage to be fraudulent or void, or to have been paid or
 15 discharged, in whole or in part, as the case may be, and that *
 16 such action is pending, and direct ~~him~~ the sheriff to retain *
 17 such money and bond until final judgment. In case such action
 18 fails, such deposit shall operate as a redemption of the
 19 premises from such foreclosure sale, and entitle the plaintiff
 20 to a certificate thereof. Such foreclosure, deposit, bond, and
 21 notice shall be brought to the attention of the court by
 22 supplemental complaint in the action, and the judgment shall
 23 determine the validity of the foreclosure sale, and the rights
 24 of the parties to the moneys and bond so deposited, which shall
 25 be paid and delivered by the sheriff as directed by such
 26 judgment upon delivery to ~~him~~ the sheriff of a certified copy *
 27 thereof. The remedy herein provided shall be in addition to
 28 other remedies now existing.

580*#29S

29 580.29 HOLDER OF JUNIOR MORTGAGE MAY PAY DEFAULT IN
 30 PRIOR MORTGAGE.

31 Any person who has a mortgage lien upon any land against
 32 which there exists a prior mortgage may pay any taxes or
 33 assessments on which any penalty would otherwise accrue, and may
 34 pay the premium upon any policy of insurance procured in renewal
 35 of any expiring policy upon mortgaged premises, and may, in case
 36 any interest upon any prior or superior lien is in default, or
 37 any part of the principal shall become due, or amortized
 38 instalment which may be in default upon any such prior lien, pay
 39 the same, and all such sums so paid shall become due upon such
 40 payment and be a part of the debt secured by such junior
 41 mortgage, shall bear interest from date of payment at the same
 42 rate as the indebtedness secured by such prior lien, and shall
 43 be collectible with, as a part of, and in the same manner as,
 44 the amount secured by such junior mortgage. Such payments shall
 45 be proved by the affidavit of the junior mortgagee, ~~his~~ the *
 46 junior mortgagee's agent or attorney, stating the items and *
 47 describing the premises, and a copy must be filed for record
 48 with the county recorder.

581*#03S

49 581.03 JUDGMENT, TRANSCRIPT.

50 Judgment shall be entered, under the direction of the
 51 court, adjudging the amount due, with costs and disbursements,
 52 and the sale of the mortgaged premises, or some part thereof, to
 53 satisfy such amount, and directing the sheriff to proceed to
 54 sell the same according to the provisions of law relating to the
 55 sale of real estate on execution, and to make report to the
 56 court. A certified transcript of the judgment shall be
 57 delivered to the sheriff, and shall be ~~his~~ the sheriff's *
 58 authority for making the sale.

581*#05S

59 581.05 PURCHASE BY MORTGAGEE.

60 The mortgagee, or any one claiming under ~~him~~ the mortgagee, *
 61 may fairly and in good faith bid off the premises at such sale;
 62 and in such case the statement of such fact in the report of
 63 sale shall have the same effect as a receipt for money paid upon
 64 a sale for cash.

581*#10S

65 581.10 REDEMPTION BY MORTGAGOR, CREDITOR.

66 The mortgagor, or those claiming under ~~him~~ the mortgagor, *
 67 within the time specified in section 580.23 after the date of
 68 the order of confirmation, may redeem the premises sold, or any
 69 separate portion thereof, by paying the amount bid therefor,
 70 with interest thereon from the time of sale at the rate provided
 71 to be paid on the mortgage debt, not to exceed eight percent per
 72 annum, and, if no rate to be provided in the mortgage, at the

1 rate of six percent, together with any further sum which may be
 2 payable pursuant to section 582.03. Creditors having a lien may
 3 redeem in the order and manner specified in section 580.24, but
 4 no creditor shall be entitled to redeem unless within such
 5 specified redemption period ~~he~~ the creditor files with the clerk
 6 notice of ~~his~~ intention to redeem. *

582*#02S

7 582.02 ATTORNEY'S FEES, COLLECTION.

8 When the mortgage provides for an attorney's fee in case of
 9 foreclosure, and an attorney at law of the state is employed to
 10 conduct the same, the mortgagee, ~~his~~ or the mortgagee's heirs,
 11 personal representatives or assigns, may, upon foreclosure,
 12 collect or retain such fee, but not in excess of the sum
 13 provided by section 582.01. When no such attorney is employed,
 14 if any sum as or for such fee be included in the amount for
 15 which the premises are sold, such sum shall be paid in money by
 16 the purchaser to the sheriff before the execution of the
 17 certificate of sale, and shall be paid by the sheriff to the
 18 mortgagor, or those having ~~his~~ the mortgagor's estate in the
 19 mortgaged premises. *

582*#03S

20 582.03 PURCHASER AT FORECLOSURE, EXECUTION, OR JUDICIAL
 21 SALE MAY PAY TAXES, ASSESSMENTS, INSURANCE PREMIUMS, OR INTEREST.

22 The purchaser at any sale, upon foreclosure of mortgage or
 23 execution or at any judicial sale during the year of redemption,
 24 may pay any taxes or assessments on which any penalty would
 25 otherwise accrue, and may pay the premium upon any policy of
 26 insurance procured in renewal of any expiring policy upon
 27 mortgaged premises, and may, in case any interest or installment
 28 of principal upon any prior or superior mortgage is in default
 29 or shall become due during such year of redemption, pay the
 30 same, and, in all such cases, the sum so paid, with interest,
 31 shall be a part of the sum required to be paid to redeem from
 32 such sale. Such payments shall be proved by the affidavit of
 33 the purchaser, ~~his~~ or the purchaser's agent or attorney, stating
 34 the items and describing the premises, which must be filed for
 35 record with the county recorder or registrar of titles, and a
 36 copy thereof shall be furnished to the sheriff at least ten days
 37 before the expiration of the year of redemption. *

582*#04S

38 582.04 HOMESTEAD INCLUDED IN MORTGAGE; SEPARATE SALE.

39 In all proceedings to foreclose any mortgage upon real
 40 property in this state, if the whole or any part of the
 41 homestead of the mortgagor, or of any one claiming under ~~him~~ the
 42 mortgagor, as such homestead is defined by the laws of this
 43 state, shall be included in the real estate described in such
 44 mortgage, the person claiming such homestead may, at any time
 45 prior to the foreclosure sale, serve or cause to be served upon
 46 the sheriff making such sale a notice of such claim which shall
 47 designate and describe with reasonable certainty the real estate
 48 so claimed and selected as such homestead, which selection shall
 49 include the site of the dwelling and its appurtenances, shall be
 50 compact in form and shall be so made as not unreasonably to
 51 affect the value of the remaining part, which notice, together
 52 with the proof of service thereof, shall be filed for record and
 53 recorded in the office of the county recorder or registrar of
 54 titles. Upon the service and filing of such notice it shall be
 55 the duty of the sheriff, at the time of the sale, to first offer
 56 for sale and sell that part of the mortgaged real estate, or so
 57 much thereof as is necessary, which is not included in such
 58 selected homestead, and thereupon, if the proper purposes of the
 59 foreclosure require, ~~he~~ the sheriff shall offer for sale and
 60 shall sell separately that part of the mortgaged real estate
 61 included in the selected homestead; provided, that if such
 62 homestead claimant shall have, prior to such foreclosure, made a
 63 property homestead selection from ~~his~~ the real estate, ~~he~~ the
 64 claimant shall be bound thereby, and cannot change the same for
 65 the purposes of such foreclosure. *

582*#07S

66 582.07 RECEIVER TO FURNISH BOND.

67 Before ~~entering-upon-his~~ undertaking duties, the receiver
 68 so appointed shall file in court a bond for the faithful
 69 performance of such duties ~~on-his-part~~. The bond shall run to
 70 the owner of the mortgaged leasehold and shall be in such sum as
 71 the court shall determine and with such surety or sureties as
 72 shall be approved by the court. *

582*#08S

1 582.08 POSSESSION, ENTRY AFTER FILING OF BOND.
2 After filing the bond mentioned in section 582.07, the
3 receiver shall enter into possession of the mortgaged premises
4 and collect all the rents and income therefrom, and shall apply
5 the same to the payment of the expenses of the receivership and
6 to the payment of all sums of money necessary or proper to
7 preserve and protect the leasehold estate, and to maintain and
8 operate the mortgaged premises, and shall pay the surplus, if
9 any, to the owner of the mortgaged leasehold at the termination
10 of the receivership. The receiver may make any or all such
11 payments on his the receiver's own motion or may make the same *
12 in pursuance of an order of the court. Such expenses shall
13 include reasonable attorneys' fees and receiver's fees to be
14 fixed by the court.

582*#09S

15 582.09 RECEIVER TO FILE ACCOUNT FOR APPROVAL.
16 At the termination of the receivership for any cause, the
17 receiver shall file his an account in such court. On the *
18 approval and confirmation of the account the receiver shall
19 dispose of the funds in-his-hands on hand in accordance with the *
20 order of the court, and shall thereupon be entitled to a
21 discharge by order of court, freeing and releasing him the *
22 receiver from all further liability on account of such *
23 receivership.

582*#11S

24 582.11 POWERS AND DUTIES OF TRUSTEES IN CERTAIN CASES.
25 When a mortgage made or assigned to a trustee or trust deed
26 on any real property or any real and personal property located
27 in this state has been heretofore or shall hereafter be
28 foreclosed and bid in on the foreclosure by a trustee for the
29 holders of the bonds or notes secured by the mortgage or trust
30 deed, or for the holders of certificates or other evidences of
31 equitable interest, in the mortgage or trust deed, or when a
32 mortgagor after the mortgage has been executed and delivered,
33 but not before nor as a part of the mortgage transaction,
34 conveys directly to the mortgage trustee, thereby eliminating
35 his the mortgagor's title, the trustee may at any time petition *
36 the district court of the county in which the property, or any
37 portion of it, is situated for instructions in the
38 administration of the trust. Upon the filing of the petition,
39 the court shall make an order fixing a time and place for
40 hearing it, unless hearing has been waived, in writing, by the
41 beneficiaries of the trust. Notice of the hearing shall be
42 given by publishing a copy of the order one time in a legal
43 newspaper of the county at least 20 days before the date of the
44 hearing, and by mailing a copy of it to each known party in
45 interest then in being whose address is known, at his the *
46 party's last known address, at least ten days before the date of *
47 the hearing, or in any other manner the court orders. If the
48 court deems further notice necessary, it shall be given as
49 specified in the order. Upon the hearing the court shall make
50 such order as it deems appropriate, including an order to sell,
51 mortgage, or lease the property, or any part of it, in the
52 manner and upon the terms as the court prescribes. In the case
53 of a sale, the court, in its discretion, may authorize the
54 trustee to sell at private sale or may direct the sheriff of the
55 county to offer the property for sale at public auction and sell
56 it to the highest bidder for cash. Any sale of property made at
57 public auction shall be reported to the court for confirmation
58 and be confirmed by the court before it is effective and valid.
59 Notice of hearing on the confirmation shall be given to all
60 parties in interest who have appeared in the proceedings. Upon
61 confirmation, the sheriff shall make, execute, and deliver,
62 subject to the terms and conditions the court imposes, a good
63 and sufficient instrument of conveyance, assignment, and
64 transfer. No confirmation of a private sale, mortgage, or lease
65 shall be required. The order of confirmation in the case of a
66 sale at public auction, and the order authorizing a private
67 sale, mortgage, or lease, shall be final and conclusive as to
68 all matters determined in it. It shall be binding in rem upon
69 the trust estate and upon the interests of all beneficiaries,
70 vested or contingent, except that appeal may be taken from the
71 order by any party in interest within 30 days from its entry, by
72 filing notice of appeal with the clerk of the district court,
73 who shall mail a copy of the notice to each adverse party who

1 has appeared of record.

582*#25S

2 582.25 MORTGAGES; VALIDATING FORECLOSURE SALES.

3 Every mortgage foreclosure sale by advertisement in this
4 state before the date specified in clause (A) of section 582.27,
5 under power of sale in the usual form contained in any mortgage
6 duly executed and recorded in the office of the county recorder
7 or registered with the registrar of titles of the proper county
8 of this state, together with the record of such foreclosure
9 sale, is hereby legalized and made valid and effective to all
10 intents and purposes, as against any or all of the following
11 objections:

12 (1) That the power of attorney, recorded or filed in the
13 proper office prior to the date specified in section 582.27 to
14 foreclose the mortgage, provided for by section 580.05:

15 (a) Did not definitely describe and identify the mortgage,

16 (b) Did not definitely describe and identify the mortgage,
17 but instead described another mortgage between the same parties,

18 (c) Did not have the corporate seal affixed thereto, if
19 executed by a corporation,

20 (d) Had not been executed and recorded or filed prior to
21 sale, or had been executed prior to, but not recorded or filed
22 until after such sale,

23 (e) Was executed subsequent to the date of the printed
24 notice of sale or subsequent to the date of the first
25 publication of such notice;

26 (2) That no power of attorney to foreclose such mortgage as
27 provided in section 580.05, was ever given, or recorded, or
28 registered, when sale was made in this state prior to the date
29 specified in section 582.27;

30 (3) That the notice of sale:

31 (a) Was published only three, four or five times, or that
32 it was published six times but not for six weeks prior to the
33 date of sale,

34 (b) Properly described the property to be sold in one or
35 more of the publications thereof but failed to do so in the
36 other publications thereof, the correct description having been
37 contained in the copy of said notice served on the occupant of
38 the premises,

39 (c) Correctly stated the date of the month and hour and
40 place of sale but named a day of the week which did not fall on
41 the date given for such sale, or failed to state or state
42 correctly the year of such sale,

43 (d) Correctly described the real estate but omitted the
44 county and state in which said real estate is located,

45 (e) Correctly described the land by government subdivision,
46 township and range, but described it as being in a county other
47 than that in which said mortgage foreclosure proceedings were
48 pending, and other than that in which said government
49 subdivision was actually located,

50 (f) Did not state the amount due or failed to state the
51 correct amount due or claimed to be due,

52 (g) Incorrectly stated the municipal status of the place
53 where the sale was to occur,

54 (h) In one or more of the publications thereof, or in the
55 notice served on the occupant or occupants designated either a
56 place or a time of sale other than that stated in the
57 certificate of sale,

58 (i) Failed to state the names of one or more of the
59 assignees of the mortgage and described the subscriber thereof
60 as mortgagee instead of assignee,

61 (j) Failed to state or incorrectly stated the name of the
62 mortgagor, the mortgagee, or assignee of mortgagee,

63 (k) Was not served upon persons whose possession of the
64 mortgaged premises was otherwise than by their personal presence
65 thereon, if a return or affidavit was recorded or filed as a
66 part of the foreclosure record that at a date at least four
67 weeks prior to the sale the mortgaged premises were vacant and
68 unoccupied,

69 (l) Was not served upon all of the parties in possession of
70 the mortgaged premises, provided it was served upon one or more
71 of such parties,

72 (m) Was not served upon the persons in possession of the
73 mortgaged premises, if, at least two weeks before the sale was
74 actually made, a copy of the notice was served upon the owner in
75 the manner provided by law for service upon the occupants, or

1 the owner received actual notice of the proposed sale,
2 (n) Gave the correct description at length, and an
3 incorrect description by abbreviation or figures set off by the
4 parentheses, or vice versa,
5 (o) Was served personally upon the occupants of the
6 premises as such, but said service was less than four weeks
7 prior to the appointed time of sale,
8 (p) Did not state the original principal amount secured, or
9 failed to state the correct original principal amount secured;
10 (4) That distinct and separate parcels of land were sold
11 together as one parcel and to one bidder for one bid for the
12 whole as one parcel;
13 (5) That no authenticated copy of the order appointing, or
14 letters issued to a foreign representative of the estate of the
15 mortgagee or assignee, was properly filed or recorded, provided
16 such order or letters have been filed or recorded in the proper
17 office prior to the date specified in section 582.27;
18 (6) That every mortgage foreclosure sale by advertisement
19 by a representative appointed by a court of competent
20 jurisdiction in another state or county in which before sale an
21 authenticated copy of ~~his~~ the representative's letters or other *
22 record of ~~his~~ authority has been filed for record in the office *
23 of the county recorder of the proper county but no certificate
24 was filed and recorded therewith showing that said letters or
25 other record of ~~his~~ authority were still in force, is hereby *
26 legalized and made valid and effective to all intents and
27 purposes notwithstanding such omission;
28 (7) (a) That said mortgage was assigned by a decree of a
29 probate court in which decree the mortgage was not specifically
30 or sufficiently described,
31 (b) That the mortgage foreclosed had been assigned by the
32 final decree of the probate court to the heirs, devisees, or
33 legatees of the deceased mortgagee, or ~~his~~ the mortgagee's *
34 assigns, and subsequent thereto and before the representative of
35 the estate had been discharged by order of the probate court,
36 the representative had assigned the mortgage to one of the
37 heirs, devisees, or legatees named in such final decree, and
38 such assignment placed on record and the foreclosure proceedings
39 conducted in the name of such assignee and without any
40 assignment of the mortgage from the heirs, devisees, or legatees
41 named in such final decree, and the mortgaged premises bid in at
42 the sale by such assignee, and the sheriff's certificate of
43 sale, with accompanying affidavits recorded in the office of the
44 county recorder of the proper county,
45 (c) That a mortgage owned by joint tenants or tenants in
46 common was foreclosed by only one tenant;
47 (8) That the sheriff's certificate of sale or the
48 accompanying affidavits and return of service were not executed,
49 filed or recorded within 20 days after the date of sale, but
50 have been executed and filed or recorded prior to the date
51 specified in section 582.27;
52 (9) That the year, or the month, or the day, or the hour of
53 the sale is omitted or incorrectly or insufficiently stated in
54 the notice of sale or the sheriff's certificate of sale;
55 (10) (a) That prior to the foreclosure no registration tax
56 was paid on the mortgage, provided such tax had been paid prior
57 to the date specified in section 582.27;
58 (b) That an insufficient registration tax has been paid on
59 the mortgage;
60 (11) That the date of the mortgage or any assignment
61 thereof or the date, the month, the day, hour, book, and page,
62 or document number of the record or filing of the mortgage or
63 any assignment thereof, in the office of the county recorder or
64 registrar of titles is omitted or incorrectly or insufficiently
65 stated in the notice of sale or in any of the foreclosure
66 papers, affidavits or instruments;
67 (12) That the notice of mortgage foreclosure sale or
68 sheriff's certificate of sale designated the place of sale as
69 the office of a county official located in the court house of
70 the county when such office was not located in such court house;
71 (13) That no notice of the pendency of the proceedings to
72 enforce or foreclose the mortgage as provided in section 508.57,
73 was filed with the registrar of titles or no memorial thereof
74 was entered on the register at the time of or prior to the
75 commencement of such proceedings; or that when required by
76 section 508.57, the notice of mortgage foreclosure sale failed

1 to state the fact of registration;
 2 (14) That the power of attorney to foreclose or the notice
 3 of sale was signed by the person who was the representative of
 4 an estate, but failed to state or correctly state ~~his~~ the
 5 person's representative capacity; *

6 (15) That the complete description of the property
 7 foreclosed was not set forth in the sheriff's certificate of
 8 sale, if said certificate correctly refers to the mortgage by
 9 book and page numbers or document number and date of filing and
 10 the premises are accurately described in the printed notice of
 11 sale annexed to said foreclosure sale record containing said
 12 sheriff's certificate of sale;

13 (16) That the date of recording of the mortgage was
 14 improperly stated in the sheriff's certificate of mortgage
 15 foreclosure sale, the mortgage being otherwise properly
 16 described in said sheriff's certificate of mortgage foreclosure
 17 sale and said certificate of mortgage foreclosure sale further
 18 referring to the printed notice of mortgage foreclosure sale
 19 attached to said sheriff's certificate of mortgage foreclosure
 20 sale in which printed notice the mortgage and its recording was
 21 properly described;

22 (17) That prior to the first publication of the notice of
 23 sale in foreclosure of a mortgage by advertisement, an action or
 24 proceeding had been instituted for the foreclosure of said
 25 mortgage or the recovery of the debt secured thereby and such
 26 action or proceeding had not been discontinued;

27 (18) That at the time and place of sale the sheriff
 28 considered and accepted a bid submitted ~~to him~~ prior to the date
 29 of the sale by the owner of the mortgage and sold the mortgaged
 30 premises for the amount of such bid, no other bid having been
 31 submitted, and no one representing the owner of the mortgage
 32 being present at the time and place of sale; *

33 (19) That such sale was postponed by the sheriff to a date
 34 or time subsequent to the one specified in the notice of sale
 35 but there was no publication or posting of a notice of such
 36 postponement;

37 (20) That there was not recorded with letters or other
 38 record of authority issued to a representative appointed by a
 39 court of competent jurisdiction in another state or county, a
 40 certificate that said letters or other record of authority were
 41 still in force and effect;

42 (21) That the sheriff's affidavit of sale correctly stated
 43 in words the sum for which said premises were bid in and
 44 purchased by the mortgagee, but incorrectly stated the same in
 45 figures immediately following the correct amount in words.

586*#03S

586.03 ALTERNATIVE OR PEREMPTORY WRIT, CONTENTS.

47 The writ of mandamus is either alternative or peremptory.
 48 The alternative writ shall state concisely the facts showing the
 49 obligation of the defendant to perform the act, and ~~his~~ the
 50 defendant's omission so to do, and command ~~him~~ the defendant
 51 that immediately after the receipt of a copy of the writ, or at
 52 some other specified time, ~~he~~ the defendant do the required act,
 53 or show cause before the court out of which the writ issued, at
 54 a specified time and place, why ~~he~~ the defendant has not done
 55 so, and that ~~he~~ the defendant then and there make ~~his~~ a return
 56 to the writ, with ~~his~~ a certificate thereon of having done as
 57 commanded. The peremptory writ shall be in similar form, except
 58 that the words requiring defendant to show cause shall be
 59 omitted. *

586*#07S

586.07 DEFAULT; NEW MATTER IN ANSWER; DEMURRER.

60 If no answer is made, a peremptory mandamus shall be
 61 allowed against the defendant. If an answer is made, containing
 62 new matter, the plaintiff may demur thereto, or, on the trial or
 63 other proceedings, may ~~avail himself of~~ make any valid objection
 64 to its sufficiency, or may rebut it by evidence either in direct
 65 denial or by way of avoidance. *

586*#09S

586.09 JUDGMENT FOR PLAINTIFF; APPEAL.

67 If ~~judgment is given for the~~ A plaintiff who is given
 68 judgment, he shall recover the damage ~~which he has~~ sustained,
 69 together with costs and disbursements, and a peremptory mandamus
 70 shall be awarded without delay. An appeal from the district
 71 court shall lie to the court of appeals in mandamus as in other
 72 civil cases.
 73

586*#10S

1 586.10 FINES FOR NEGLECT OF DUTY.

2 When a peremptory mandamus is directed to a public officer,
3 body, or board, commanding the performance of any public duty
4 specially enjoined by law, if it shall appear to the court that
5 such officer, or any member of such body or board, without just
6 excuse, has refused or neglected to perform the duty so
7 enjoined, it may impose upon-him a fine of not more than \$250,
8 which fine, when collected, shall be paid into the state
9 treasury; and the payment thereof shall be a bar to an action
10 for any penalty incurred by such officer or member, by reason of
11 his the refusal or neglect.

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586*#11S

12 586.11 JURISDICTION OF DISTRICT AND APPELLATE COURTS.

13 The district court has exclusive original jurisdiction in
14 all cases of mandamus, except where the writ is to be directed
15 to a district court or a judge thereof in his the judge's
16 official capacity, in which case the court of appeals has
17 exclusive original jurisdiction, or except where the writ is to
18 be directed to the court of appeals or a judge thereof in his
19 the judge's official capacity. If the writ is to be directed to
20 the court of appeals or a judge thereof in his the judge's
21 official capacity, the supreme court or a judge thereof has
22 original jurisdiction. The rules of civil appellate procedure
23 shall apply in all proceedings on the writ.

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588*#03S

24 588.03 SUMMARY PUNISHMENT.

25 A direct contempt may be punished summarily, for which an
26 order shall be made reciting the facts as occurring in the
27 immediate view and presence of the court or officer, and
28 adjudging the person proceeded against to be guilty of a
29 contempt, and that he the person be punished as therein
30 specified.

*

588*#04S

31 588.04 ARREST; ORDER TO SHOW CAUSE.

32 In cases of constructive contempt, an affidavit of the
33 facts constituting the contempt shall be presented to the court
34 or officer, who may either issue a warrant of arrest to bring
35 the person charged to answer or, without a previous arrest, upon
36 notice, or upon an order to show cause, which may be served by a
37 sheriff or other officer in the same manner as a summons in an
38 action, may commit him the person to jail, impose a fine, or
39 both, and make such order thereupon as the case may require.

*

588*#05S

40 588.05 PERSONS IN CUSTODY.

41 If the party charged is in the custody of an officer by
42 virtue of a legal order or process, civil or criminal, except
43 upon a sentence for felony, an order may be made for his
44 production of the party by the officer having him-in custody,
45 that he the party may answer; and he the party shall thereupon
46 be produced and held until an order is made for his-disposal
47 disposition.

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588*#06S

48 588.06 ADMISSION TO BAIL.

49 When a warrant of arrest is issued pursuant to sections
50 588.01 to 588.15, the court or officer shall direct whether the
51 person charged may be admitted to bail for his appearance, or
52 detained in custody without bail, and, if admitted to bail, the
53 amount thereof. Such direction shall be specified in the
54 warrant.

*

588*#07S

55 588.07 WARRANT, HOW EXECUTED.

56 Upon executing the warrant of arrest, the sheriff shall
57 keep the person in actual custody; bring him the person before
58 the court or officer, and detain him the person until an order
59 shall be made in the premises, unless the warrant shall contain
60 a direction to admit him the person to bail, in which case he
61 the person shall be discharged from the arrest, upon executing
62 and delivering to the officer, at any time before the return day
63 of the warrant, a recognizance, with two sufficient sureties, to
64 the effect that he the person will appear on the return of the
65 warrant and abide the order of the court or officer thereupon,
66 or pay as may be directed the sum therein specified.

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588*#08S

67 588.08 RETURN OF WARRANT; PENALTY FOR FAILURE.

68 The officer shall return the warrant and the recognizance,

1 if any, received from the person so arrested, by the return day
 2 specified therein. If ~~he~~ the person fails to make the return, a
 3 warrant of arrest, not bailable, may be issued against ~~him~~ the
 4 person, specifying therein the cause of issuing it. The officer
 5 to whom the last-mentioned warrant is delivered shall execute it
 6 by arresting the person proceeded against, bringing ~~him~~ the
 7 person personally before the court or officer, and detaining ~~him~~
 8 the person in custody until otherwise ordered.

588*#09S

9 588.09 HEARING.
 10 When the person arrested has been brought into court, or
 11 has appeared, the court or officer shall investigate the charge
 12 by examining ~~him~~ the person and the witnesses for and against
 13 ~~him~~ the person, for which an adjournment may be had from time to
 14 time, if necessary.

588*#10S

15 588.10 PENALTIES FOR CONTEMPT OF COURT.
 16 Upon the evidence so taken, the court or officer shall
 17 determine the guilt or innocence of the person proceeded against
 18 and, if ~~he~~ the person is adjudged guilty of the contempt
 19 charged, ~~he~~ the person shall be punished by a fine of not more
 20 than \$250, or by imprisonment in the county jail, workhouse, or
 21 work farm for not more than six months, or by both. In case
 22 of ~~his~~ the person's inability to pay the fine or endure the
 23 imprisonment, ~~he~~ the person may be relieved by the court or
 24 officer in such manner and upon such terms as may be just.

588*#11S

25 588.11 INDEMNITY TO INJURED PARTY.
 26 If any actual loss or injury to a party in an action or
 27 special proceeding, prejudicial to ~~his~~ the person's right
 28 therein, is caused by such contempt, the court or officer, in
 29 addition to the fine or imprisonment imposed therefor, may order
 30 the person guilty of the contempt to pay the party aggrieved a
 31 sum of money sufficient to indemnify ~~him~~ the party and satisfy
 32 ~~his~~ the party's costs and expenses, including a reasonable
 33 attorney's fee incurred in the prosecution of such contempt,
 34 which order, and the acceptance of money thereunder, shall be a
 35 bar to an action for such loss and injury.

588*#12S

36 588.12 IMPRISONMENT UNTIL PERFORMANCE.
 37 When the contempt consists in the omission to perform an
 38 act which is yet in the power of the person to perform, ~~he~~ the
 39 person may be imprisoned until ~~he~~ the person performs it, and in
 40 such case the act shall be specified in the warrant of
 41 commitment.

588*#15S

42 588.15 ILLNESS MAY EXCUSE OFFICER FROM PRODUCING PERSON.
 43 When, under sections 588.01 to 588.15, an officer is
 44 required to keep a person arrested in actual custody and to
 45 bring ~~him~~ the person before a court or officer, the inability,
 46 from illness or other cause, of the person to attend, shall be a
 47 sufficient excuse for not producing ~~him~~ the person in court.

589*#06S

48 589.06 CONTENTS OF WRIT; WHEN SUFFICIENT.
 49 The writ may not be disobeyed because of any defect of
 50 form. A writ is sufficient if the petitioner and the person to
 51 whom the writ is directed are designated in it with reasonable
 52 certainty, by name, description, or otherwise. Either the
 53 petitioner or the person to whom the writ is directed may be
 54 designated by an assumed name if ~~his-or-her~~ the true name is
 55 unknown or uncertain. The person served with the writ is
 56 considered to be the person to whom it is directed, although the
 57 name or description is wrong, or is that of another person.

589*#08S

58 589.08 RETURN TO WRIT; CONTENT REQUIREMENTS.
 59 The detaining authority upon whom a writ of habeas corpus
 60 is duly served shall state in the return, plainly and
 61 unequivocally, the information specified in paragraphs (a) to
 62 (c):
 63 (a) The return shall state whether the detaining authority
 64 is detaining or has at any time in the past detained the
 65 petitioner. If the petitioner was detained before or after the
 66 writ was issued, the detaining authority shall indicate the date
 67 and time of detention.
 68 (b) If the petitioner is being detained, the detaining
 69 authority shall state the reason for detention and authority

1 under which the person is being detained.

2 (c) If the detaining authority has detained the petitioner
3 at any time before or after the date of the writ, but has
4 transferred custody to another, the return must state
5 particularly to whom, at what time, for what cause, and by what
6 authority, the transfer took place.

7 If the petitioner is detained under writ, warrant, or other
8 written authority, a copy of the document authorizing detention
9 must be attached to the return. On the return of the writ to
10 the judge before whom the writ is returnable, a copy of the
11 original document authorizing detention must be produced and
12 exhibited.

13 The person making the return must sign it and except where
14 the person is a sworn public officer, and makes ~~his-or-her~~ the
15 return in an official capacity, verify it by oath. *

589*#11S

16 589.11 PETITIONER HELD IN CUSTODY BY SHERIFF.

17 The judge who issues an attachment under section 589.10 may
18 also, at the same time or afterward, issue an order to the
19 sheriff or other person to whom the attachment was directed,
20 commanding ~~him-or-her-to-bring~~ the bringing of the petitioner
21 before that judge immediately. After that, the petitioner must
22 remain in the custody of the sheriff or other person until
23 discharged, bailed, or remanded, as the judge may direct. *

589*#17S

24 589.17 REQUIRING PETITIONER TO BE HELD IN CUSTODY UNTIL
25 JUDGMENT.

26 Until judgment is given upon the return, the judge before
27 whom the petitioner is brought may either commit the petitioner
28 to the custody of the sheriff of the county, or place the
29 petitioner in other custody as ~~his-or-her~~ the petitioner's age
30 and other circumstances require. *

589*#19S

31 589.19 DENIAL OF RETURN; NEW MATTER.

32 At the hearing on the return of the writ, the petitioner
33 may, on oath, deny any of the material facts alleged in the
34 return, or allege any fact to show either that ~~his-or-her~~ the
35 imprisonment or detention is unlawful, or that ~~he-or-she~~ the
36 petitioner is entitled to discharge. The judge shall proceed,
37 in a summary way, to hear allegations and admit relevant
38 evidence in support or against imprisonment or detention and, at
39 the conclusion of the hearing, dispose of the petitioner in
40 accordance with law. *

589*#20S

41 589.20 PROCEEDINGS IN CASE OF SICKNESS OF PETITIONER.

42 When the petitioner is so sick or infirm that ~~he-or-she~~ the
43 petitioner would be endangered if brought before the judge
44 before whom the writ is returnable, the person having the
45 petitioner in custody may state that fact in the return. If the
46 judge finds that the statement is true, and the return is
47 otherwise sufficient, the judge shall decide upon the return and
48 dispose of the matter in accordance with law. The petitioner
49 under this section may appear by attorney and plead to the
50 return as if present. If the petitioner is illegally imprisoned
51 or restrained of liberty, the judge shall order those having the
52 petitioner-in custody to immediately discharge ~~him-or-her~~ the
53 petitioner. If the petitioner is legally imprisoned or
54 restrained and is not entitled to be released on bail, the judge
55 shall dismiss the proceedings. *

589*#23S

56 589.23 TRANSFERRING OR CONCEALING PERSON; FORFEITURE.

57 A person who has custody of a petitioner entitled to a writ
58 of habeas corpus and who, with intent to elude the service of
59 the writ or to avoid its effect, (1) transfers the petitioner to
60 the custody or places ~~him-or-her~~ the petitioner under the power
61 or control of another person, (2) conceals the petitioner, or
62 (3) changes the place of confinement, shall forfeit \$400 to the
63 petitioner, recoverable in a civil action. *

589*#24S

64 589.24 REFUSING TO FURNISH COPY OF DOCUMENT AUTHORIZING
65 DETENTION.

66 An officer or ~~other-person~~ another who detains a person and
67 refuses to deliver a copy of an order, warrant, process, or
68 other authority by which ~~he-or-she-detains-a~~ the person is
69 detained to any one who requests the copy and who offers to pay
70 the reproduction costs, shall forfeit \$200 to the person *

1 detained.

589*#25S

2 589.25 PERSON SERVING WRIT; BOND.

3 The writ can be served only by a legal voter of the state.
4 The judge granting it may require a bond to the state in a sum
5 not more than \$1,000, conditioned for the payment of all costs
6 and expenses of the proceeding, and the reasonable charges of
7 restoring the petitioner, if sent back to custody, to the person
8 from whose custody ~~he-or-she~~ the petitioner was taken, ~~if-he-or~~
9 ~~she-is-sent-back-to-custody~~. The bond must be approved by the
10 judge issuing the writ, and be filed with the clerk.

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589*#26S

11 589.26 MANNER OF SERVICE OF WRIT.

12 The writ of habeas corpus may be served by delivering it to
13 the person to whom it is directed, or, if that person cannot be
14 found, by leaving it at the jail or other place in which the
15 petitioner is confined, with any correctional officer or other
16 person of proper age having charge of the petitioner. If the
17 person upon whom the writ should be served ~~conceals-himself-or~~
18 ~~herself~~ hides, or refuses admittance to the party attempting to
19 serve the writ, it may be served by affixing the writ in some
20 conspicuous place on the outside either of ~~his-or-her~~ the
21 dwelling house, or of the place where the party is confined.

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590*#01S

22 590.01 AVAILABILITY, CONDITIONS.

23 Subdivision 1. PETITION. Except at a time when
24 direct appellate relief is available, a person convicted of a
25 crime, who claims that the conviction was obtained, or that the
26 sentence or other disposition made violated ~~his~~ the person's
27 rights under the constitution or laws of the United States or of
28 the state, may commence a proceeding to secure relief by filing
29 a petition in the district court in the county in which the
30 conviction was had to vacate and set aside the judgment and to
31 discharge the petitioner or to resentence ~~him~~ the petitioner or
32 grant a new trial or correct the sentence or make other
33 disposition as may be appropriate. Nothing contained herein
34 shall prevent the supreme court or the court of appeals, upon
35 application by a party, from granting a stay of a case on appeal
36 for the purpose of allowing an appellant to apply to the
37 district court for an evidentiary hearing under the provisions
38 of this chapter. The proceeding shall conform with sections
39 590.01 to 590.06.

*

*

40 No change for subd 2

41 Subd. 3. A person who has been convicted and sentenced for
42 a crime committed before May 1, 1980 may institute a proceeding
43 applying for relief under this chapter upon the ground that a
44 significant change in substantive or procedural law has occurred
45 which, in the interest of justice, should be applied
46 retrospectively, including re-sentencing under subsequently
47 enacted law.

48 No petition seeking re-sentencing shall be granted unless
49 the court makes specific findings of fact that release of the
50 petitioner prior to the time ~~he-or-she~~ the petitioner would be
51 released under the sentence currently being served does not
52 present a danger to the public and is not incompatible with the
53 welfare of society.

*

590*#02S

54 590.02 PETITION; FILING; SERVICE; COSTS.

55 Subdivision 1. The petition filed in the district court
56 pursuant to section 590.01 shall be entitled in the name of the
57 petitioner versus the state of Minnesota and shall contain:

58 (1) A statement of the facts and the grounds upon which the
59 petition is based and the relief desired. All grounds for
60 relief must be stated in the petition or any amendment thereof
61 unless they could not reasonably have been set forth therein.
62 It shall not contain argument or citation of authorities;

63 (2) An identification of the proceedings in which the
64 petitioner was convicted including the date of the entry of
65 judgment and sentence or other disposition complained of;

66 (3) An identification of any previous proceeding, together
67 with the grounds therein asserted taken on behalf of the
68 petitioner to secure relief from ~~his~~ the conviction and sentence
69 or other disposition;

*

70 (4) The name and address of any attorney representing the
71 petitioner. In the event the petitioner is without counsel, the
72 clerk of court shall forthwith transmit a copy of the petition

1 to the state public defender and shall advise the petitioner of
2 such referral.

3 No change for subd 2

4 Subd. 3. When a petition is filed pursuant to section
5 590.01 it shall be filed with an original and three copies, each
6 verified by the petitioner or signed by ~~his~~ the petitioner's *
7 attorney. It shall be addressed to the district court of the
8 judicial district in the county where the conviction took place.

9 In those cases in which the petitioner is represented by
10 counsel or in which the petitioner has filed a written waiver of
11 ~~his~~ right to counsel, the clerk of the district court shall *
12 deliver a copy of the petition to the county attorney and to the
13 attorney general and shall immediately direct attention of the
14 filing thereof to the chief judge or judge acting in ~~his~~ the *
15 chief judge's behalf who shall promptly assign the matter to a *
16 judge in said district.

590*#06S

17 590.06 APPEALS.

18 An appeal may be taken to the court of appeals or, in a
19 case involving a conviction for first degree murder, to the
20 supreme court from the order granting relief or denying the
21 petition within 60 days after the entry of the order.

22 The appealing party shall, within the 60 days, serve a
23 notice of appeal from the final order upon the clerk of district
24 court and the opposing party. If the appeal is by the
25 petitioner, the service shall be on the county attorney and the
26 attorney general. If the appeal is by the state, the service
27 shall be on the petitioner or ~~his~~ the petitioner's attorney. No *
28 fees or bond for costs shall be required for the appeal.

593*#16S

29 593.16 JURY OF SIX; DRAWING; CHALLENGES.

30 When a jury of six is to be drawn the clerk shall, unless a
31 majority of the judges of the judicial district in which the
32 county is situated shall otherwise provide by rule, draw ten
33 names from the jury box, in the first instance, who shall then
34 be examined as to their qualifications to sit as jurors in the
35 action, and if any one of the ten is excused for any reason,
36 then another may be called in ~~his~~ the excused person's place *
37 until there are ten jurors in the box qualified to sit in the
38 action. The parties shall have the right to exercise their
39 peremptory challenges as to those ten. When the peremptory
40 challenges have been exhausted, of the remaining persons the six
41 first called shall constitute a jury.

593*#35S

42 593.35 JURY COMMISSIONER.

43 A jury commissioner is established in each county to manage
44 the juror selection process under the supervision and control of
45 the district court. The jury commissioner shall be a fulltime
46 employee of the court and shall normally be the judicial
47 district administrator, or, if none, the court administrator,
48 or, if none, the clerk of the district court. If another person
49 is designated jury commissioner, ~~he~~ the other person shall be *
50 responsible to the judicial administrator, or, if none, court
51 administrator, or, if none, the clerk of the district court, in
52 the performance of ~~his~~ the jury commissioner's tasks. *

593*#40S

53 593.40 QUALIFICATION QUESTIONNAIRE.

54 No change for subd 1 to 2

55 Subd. 3. If it appears there is an omission, ambiguity, or
56 error in a returned form, the jury commissioner shall again send
57 the form with instructions to the prospective juror to make the
58 necessary addition, clarification, or correction and to return
59 the form to the jury commissioner within ten days after its
60 second receipt. However, the jury commissioner may ~~at his~~ *
61 ~~discretion,~~ contact the prospective juror by telephone to obtain *
62 the additional information, clarification, or correction.

63 Subd. 4. A prospective juror who fails to return a
64 completed juror qualification form as instructed may be ordered
65 by the court to appear and show cause for ~~his~~ failure to *
66 complete and submit the questionnaire. A prospective juror who
67 fails to appear pursuant to the court's order or to show good
68 cause for the failure to appear or who fails to show good cause
69 for ~~his~~ failure to complete and submit the questionnaire is *
70 guilty of a misdemeanor.

71 No change for subd 5

593*#41S

1 593.41 QUALIFICATIONS FOR JURY SERVICE.

2 No change for subd 1

3 Subd. 2. A prospective juror is disqualified to serve as a
4 juror if ~~he~~ the prospective juror:

5 (1) Is not a citizen of the United States;

6 (2) Is not at least 18 years old;

7 (3) Is not a resident of the county;

8 (4) Is unable to read and speak the English language;

9 (5) Is incapable, by reason of ~~his~~ physical or mental
10 disability, of rendering satisfactory jury service; but a person
11 claiming this disqualification may be required to submit a
12 physician's certificate as to the disability, and the certifying
13 physician is subject to inquiry by the court at its discretion;

14 (6) Is a judge, court commissioner, referee or hearing
15 officer or an attorney;

16 (7) Has been convicted of a felony and has not yet
17 completed ~~his~~ the sentence or parole;

18 (8) Has served as a county, municipal, district or federal
19 court grand or petit juror within the past four years; or

20 (9) Is a member of the legislature.

593*#42S

21 593.42 QUALIFIED JUROR LIST; SELECTING AND SUMMONING THE
22 VENIRE.

23 No change for subd 1

24 Subd. 2. From time to time, as specified in the district's
25 juror selection plan, the jury commissioner shall draw or cause
26 to be drawn from the qualified list sufficient names as in ~~his~~
27 the commissioner's judgment are necessary to supply a petit jury
28 venire or a grand jury list, or both, for the district court or
29 municipal, or probate courts in that judicial district.

30 Subd. 3. Thereafter the jury commissioner shall cause each
31 prospective juror drawn in accordance with subdivision 2 of this
32 section to be served with a summons requiring ~~him~~ the
33 prospective juror to report for jury service at a specified time
34 and place.

35 Subd. 4. Any person summoned for jury service who fails to
36 appear as directed shall be ordered by the court to appear and
37 show cause for ~~his~~ failure to comply with the summons. Absent a
38 showing of good cause for noncompliance with the summons, the
39 juror is guilty of a misdemeanor.

40 No change for subd 5

593*#48S

41 593.48 COMPENSATION OF JURORS AND TRAVEL REIMBURSEMENT.

42 A juror shall be reimbursed for ~~his~~ roundtrip travel
43 between ~~his~~ the juror's residence and the place of holding court
44 at a rate of 15 to 24 cents per mile and shall be compensated at
45 a rate of \$15 for each day of required attendance at sessions of
46 the court. The compensation and reimbursement shall be paid out
47 of the county treasury upon receipt of authorization to pay from
48 the jury commissioner. A monthly report of payments to jurors
49 shall be sent to the jury commissioner within two weeks of the
50 end of the month in the form required by the jury commissioner.

593*#50S

51 593.50 PROTECTION OF JURORS' EMPLOYMENT.

52 Subdivision 1. An employer shall not deprive an employee
53 of ~~his~~ employment, or threaten or otherwise coerce ~~him~~ the
54 employee with respect thereto, because the employee receives a
55 summons, responds thereto, serves as a juror, or attends court
56 for prospective jury service.

57 No change for subd 2

58 Subd. 3. If an employer discharges an employee in
59 violation of subdivision 1 the employee within 30 days may bring
60 a civil action for recovery of wages lost as a result of the
61 violation and for an order requiring the reinstatement of the
62 employee. Damages recoverable shall not exceed lost wages for
63 six weeks. ~~if-he~~ An employee who prevails, ~~the-employee~~ shall
64 be allowed a reasonable attorney's fee fixed by the court.

595*#02S

65 595.02 TESTIMONY OF WITNESSES.

66 Subdivision 1. COMPETENCY OF WITNESSES. Every person
67 of sufficient understanding, including a party, may testify in
68 any action or proceeding, civil or criminal, in court or before
69 any person who has authority to receive evidence, except as
70 provided in this subdivision:

71 (a) A husband cannot be examined for or against his wife
72 without her consent, nor a wife for or against her husband

1 without his consent, nor can either, during the marriage or
 2 afterwards, without the consent of the other, be examined as to
 3 any communication made by one to the other during the marriage.
 4 This exception does not apply to a civil action or proceeding by
 5 one against the other, nor to a criminal action or proceeding
 6 for a crime committed by one against the other or against a
 7 child of either, nor to a criminal action or proceeding in which
 8 one is charged with homicide or an attempt to commit homicide
 9 and the date of the marriage of the defendant is subsequent to
 10 the date of the offense, nor to an action or proceeding for
 11 non-support, neglect, dependency, or termination of parental
 12 rights.

13 (b) An attorney cannot, without the consent of ~~his~~ the
 14 attorney's client, be examined as to any communication made by
 15 the client to ~~him~~ the attorney or ~~his~~ the attorney's advice
 16 given thereon in the course of professional duty; nor can any
 17 employee of the attorney be examined as to the communication or
 18 advice, without the client's consent.

19 (c) A ~~clergyman~~ member of the clergy or other minister of
 20 any religion shall not, without the consent of the party making
 21 the confession, be allowed to disclose a confession made to ~~him~~
 22 the member of the clergy or other minister in ~~his~~ a professional
 23 character, in the course of discipline enjoined by the rules or
 24 practice of the religious body to which ~~he~~ the member of the
 25 clergy or other minister belongs; nor shall a ~~clergyman~~ member
 26 of the clergy or other minister of any religion be examined as
 27 to any communication made to ~~him~~ the member of the clergy or
 28 other minister by any person seeking religious or spiritual
 29 advice, aid, or comfort or ~~his~~ advice given thereon in the
 30 course of ~~his~~ the member of the clergy's or other minister's
 31 professional character, without the consent of the person.

32 (d) A licensed physician or surgeon, dentist, or
 33 chiropractor shall not, without the consent of ~~his~~ the patient,
 34 be allowed to disclose any information or any opinion based
 35 thereon which ~~he~~ the professional acquired in attending the
 36 patient in a professional capacity, and which was necessary to
 37 enable ~~him~~ the professional to act in that capacity; after the
 38 decease of the patient, in an action to recover insurance
 39 benefits, where the insurance has been in existence two years or
 40 more, the beneficiaries shall be deemed to be the personal
 41 representatives of the deceased person for the purpose of
 42 waiving this privilege, and no oral or written waiver of the
 43 privilege shall have any binding force or effect except when
 44 made upon the trial or examination where the evidence is offered
 45 or received.

46 (e) A public officer shall not be allowed to disclose
 47 communications made to ~~him~~ the officer in official confidence
 48 when the public interest would suffer by the disclosure.

49 (f) Persons of unsound mind, persons intoxicated at the
 50 time of their production for examination, and children under ten
 51 years of age, if any of them lack capacity to remember or to
 52 relate truthfully facts respecting which they are examined, are
 53 not competent witnesses. A child describing any act of sexual
 54 contact or penetration performed on or with the child by another
 55 may use language appropriate for a child of that age.

56 (g) A registered nurse, psychologist or consulting
 57 psychologist shall not, without the consent of ~~his~~ the
 58 professional's client, be allowed to disclose any information or
 59 opinion based thereon which ~~he~~ the professional has acquired in
 60 attending the client in a professional capacity, and which was
 61 necessary to enable ~~him~~ the professional to act in that capacity.

62 (h) An interpreter for a person handicapped in
 63 communication shall not, without the consent of the person, be
 64 allowed to disclose any communication if the communication
 65 would, if the interpreter were not present, be privileged. For
 66 purposes of this section, a "person handicapped in
 67 communication" means a person who, because of a hearing, speech
 68 or other communication disorder, or because of the inability to
 69 speak or comprehend the English language, is unable to
 70 understand the proceedings in which ~~he~~ the person is required to
 71 participate. The presence of an interpreter as an aid to
 72 communication does not destroy an otherwise existing privilege.

73 (i) A parent or ~~his~~ the parent's minor child may not be
 74 examined as to any communication made in confidence by the minor
 75 to ~~his~~ the minor's parent. A communication is confidential if
 76 made out of the presence of persons not members of the child's

1 immediate family living in the same household. This exception
 2 may be waived by express consent to disclosure by a parent
 3 entitled to claim the privilege or by the child who made the
 4 communication, or by failure of the child or parent to object
 5 when the contents of a communication are demanded. This
 6 exception does not apply to a civil action or proceeding by one
 7 spouse against the other or by a parent or child against the
 8 other, nor to a proceeding to commit either the child or parent
 9 to whom the communication was made or to place the person or
 10 property or either under the control of another because of ~~his~~ *
 11 an alleged mental or physical condition, nor to a criminal *
 12 action or proceeding in which the parent is charged with a crime
 13 committed against the person or property of the communicating
 14 child, the parent's spouse, or a child of either the parent or
 15 the parent's spouse, or in which a child is charged with a crime
 16 or act of delinquency committed against the person or property
 17 of a parent or a child of a parent, nor to an action or
 18 proceeding for termination of parental rights, nor any other
 19 action or proceeding on a petition alleging child abuse, child
 20 neglect, abandonment or nonsupport by a parent.

21 (j) Sexual assault counselors may not be compelled to
 22 testify about any opinion or information received from or about
 23 the victim without the consent of the victim. However, a
 24 counselor may be compelled to identify or disclose information
 25 in investigations or proceedings related to neglect or
 26 termination of parental rights if the court determines good
 27 cause exists. In determining whether to compel disclosure, the
 28 court shall weigh the public interest and need for disclosure
 29 against the effect on the victim, the treatment relationship,
 30 and the treatment services if disclosure occurs. Nothing in
 31 this clause exempts sexual assault counselors from compliance
 32 with the provisions of sections 626.556 and 626.557.

33 "Sexual assault counselor" for the purpose of this section
 34 means a person who has undergone at least 40 hours of crisis
 35 counseling training and works under the direction of a
 36 supervisor in a crisis center, whose primary purpose is to
 37 render advice, counseling or assistance to victims of sexual
 38 assault.

39 (k) A person cannot be examined as to any communication or
 40 document, including worknotes, made or used in the course of or
 41 because of mediation pursuant to an agreement to mediate. This
 42 does not apply to the parties in the dispute in an application
 43 to a court by a party to have a mediated settlement agreement
 44 set aside or reformed. A communication or document otherwise
 45 not privileged does not become privileged because of this
 46 paragraph. This paragraph is not intended to limit the
 47 privilege accorded to communication during mediation by the
 48 common law.

49 No change for subd 2

50 Subd. 3. CERTAIN OUT-OF-COURT STATEMENTS ADMISSIBLE.

51 An out-of-court statement made by a child under the age of ten
 52 years or a person who is mentally impaired as defined in section
 53 609.341, subdivision 6, alleging, explaining, denying, or
 54 describing any act of sexual contact or penetration performed
 55 with or on the child or any act of physical abuse of the child
 56 or the person who is mentally impaired by another, not otherwise
 57 admissible by statute or rule of evidence, is admissible in
 58 evidence if:

59 (a) the court or person authorized to receive evidence
 60 finds, in a hearing conducted outside of the presence of the
 61 jury, that the time, content, and circumstances of the statement
 62 and the reliability of the person to whom the statement is made
 63 provide sufficient indicia of reliability; and

64 (b) the child or person mentally impaired as defined in
 65 section 609.341, subdivision 6, either:

66 (i) testifies at the proceedings; or

67 (ii) is unavailable as a witness and there is corroborative
 68 evidence of the act; and

69 (c) the proponent of the statement notifies the adverse
 70 party of ~~his~~ the proponent's intention to offer the statement *
 71 and the particulars of the statement sufficiently in advance of *
 72 the proceeding at which ~~he~~ the proponent intends to offer the
 73 statement into evidence to provide the adverse party with a fair
 74 opportunity to prepare to meet the statement.

595*#023S

75 595.023 DISCLOSURE PROHIBITED.

1 No person who is or has been directly engaged in the
 2 gathering, procuring, compiling, editing, or publishing of
 3 information for the purpose of transmission, dissemination or
 4 publication to the public shall be required by any court, grand
 5 jury, agency, department or branch of the state, or any of its
 6 political subdivisions or other public body, or by either house
 7 of the legislature or any committee, officer, member, or
 8 employee thereof, to disclose in any proceeding the person or
 9 means from or through which information was obtained, or to
 10 disclose any unpublished information procured by ~~him~~ the person
 11 in the course of ~~his~~ work or any of ~~his~~ the person's notes,
 12 memoranda, recording tapes, film or other reportorial data which
 13 would tend to identify the person or means through which the
 14 information was obtained.

*
*

595*#024S

15 595.024 EXCEPTION AND PROCEDURE.

16 Subdivision 1. A person seeking disclosure may apply to
 17 the district court of the county where the person employed by or
 18 associated with a news media resides, has ~~his~~ a principal place
 19 of business or where the proceeding in which the information
 20 sought is pending.

*

21 No change for subd 2 to 3

595*#04S

22 595.04 CONVERSATION WITH DECEASED OR INSANE PERSON.

23 It shall not be competent for any party to an action, or
 24 any person interested in the event thereof, to give evidence
 25 therein of or concerning any conversation with, or admission of,
 26 a deceased or insane party or person relative to any matter at
 27 issue between the parties, unless the testimony of such deceased
 28 or insane person concerning such conversation or admission,
 29 given before ~~his~~ death or insanity, has been preserved and can
 30 be produced in evidence by the opposite party, and then only in
 31 respect to the conversation or admission to which such testimony
 32 relates.

*

595*#06S

33 595.06 CAPACITY OF WITNESS.

34 When an infant, or a person apparently of weak intellect,
 35 is produced as a witness, the court may examine ~~him~~ the infant
 36 or witness to ascertain ~~his~~ capacity, and whether ~~he~~ the person
 37 understands the nature and obligations of an oath, and the court
 38 may inquire of any person what peculiar ceremonies ~~he~~ the person
 39 deems most obligatory in taking an oath.

*
*
*

595*#07S

40 595.07 CONVICT AS WITNESS.

41 Every person convicted of crime shall be a competent
 42 witness in any civil or criminal proceeding, but ~~his~~ the
 43 conviction may be proved for the purpose of affecting the weight
 44 of ~~his~~ the testimony, either by the record or by ~~his~~ the
 45 convicted person's cross-examination, upon which ~~he~~ the
 46 convicted person shall answer any proper question relevant to
 47 that inquiry; and the party cross-examining shall not be
 48 concluded by ~~his~~ the convicted person's answer thereto.

*
*
*
*

595*#08S

49 595.08 COMMITMENT OF WITNESS; DETENTION OF DOCUMENTS.

50 When it shall appear probable to a court of record, having
 51 general jurisdiction, that a person who has testified in an
 52 action or proceeding before it has committed perjury in any
 53 testimony so given, it may, by order or process for that
 54 purpose, immediately commit ~~him~~ the person to prison, or take a
 55 recognizance for ~~his~~ the person's appearance to answer to an
 56 indictment for perjury. In such case, if the court shall deem
 57 that any paper or document produced by either party is necessary
 58 to be used in the prosecution for perjury, it may detain the
 59 same, and direct it to be delivered to the county attorney.

*
*

599*#13S

60 599.13 MUNICIPAL AND COUNTY ORDINANCES.

61 Copies of the ordinances, bylaws, resolutions, and
 62 regulations of any city or county, certified by the mayor or
 63 president of the council, and the clerk thereof, under its seal
 64 or by the county auditor or ~~chairman~~ chair of the county board,
 65 and copies of the same printed in any newspaper, book, pamphlet,
 66 or other form, and which purport to be published by authority of
 67 the council of such city or county board, shall be prima facie
 68 evidence thereof and, after three years from the compilation and
 69 publication of any such book or pamphlet, shall be conclusive
 70 proof of the regularity of their adoption and publication.

*

599*#18S

1 599.18 CERTIFICATE OF DEPARTMENT OFFICER.
 2 The certificate of any officer of any department of the
 3 United States government to any fact appearing of record in his *
 4 the officer's department, authenticated by his an official seal, *
 5 if ~~he~~ the officer has one, shall be prima facie evidence of such *
 6 fact.

599*#20S

7 599.20 PLATS OF SURVEYS FROM LAND OFFICE; CERTIFICATE OF
 8 COUNTY SURVEYOR.
 9 Any plat of a survey of public lands, certified by the
 10 register of the United States land office of the district in
 11 which such land is situated to be a true copy of the certified
 12 copy of the original on file in his the register's office, and *
 13 any certificate by such register of the surveys or entry and
 14 location of, or other facts in relation to, such lands, taken
 15 from the books of such land office, or from the certificate
 16 endorsed on the copy of the original plat on file therein, are
 17 prima facie evidence of the facts therein stated. The
 18 certificate of any county surveyor or deputy shall be evidence
 19 of the facts therein stated, but may be explained or rebutted by
 20 other testimony.

599*#24S

21 599.24 EXEMPLIFICATION OF JUDGMENT IN ANOTHER STATE.
 22 An exemplification of a judgment rendered by any justice of
 23 the peace in any state, certified by such justice or his the *
 24 justice's successor in office to be a full and correct copy from *
 25 his the justice's docket of all the proceedings in that case, *
 26 with a certificate of magistracy thereon, signed by a clerk of a
 27 court of record in the county where such judgment was rendered,
 28 and authenticated by the seal of such court, shall be evidence
 29 in any court of this state of the facts contained in such
 30 exemplification.

600*#05S

31 600.05 ACCOUNT BOOKS; LOOSE-LEAF SYSTEM.
 32 When a party in any cause or proceeding shall produce at
 33 the trial his the party's account books, and prove that the same *
 34 are his the party's account books kept for that purpose, that *
 35 they contain the original entries for moneys paid, goods or
 36 other articles delivered, services performed or material
 37 furnished; that such entries were made at the time of the
 38 transactions therein entered; that they are in his the party's *
 39 handwriting or that of a person authorized to make charges in
 40 such books, and are just and true to the best knowledge and
 41 belief of the person making the proof, such books, subject to
 42 all just exceptions as to their credibility, shall be received
 43 as prima facie evidence of the charges therein contained. If
 44 any book has marks which show that the items have been
 45 transferred to a ledger, it shall not be received unless the
 46 ledger is produced. The entry of charges or credits, involving
 47 money, goods, chattels, or services furnished or received, when
 48 the furnishing or receipt thereof constitutes a part of the
 49 usual course of business of the person on whose behalf such
 50 entry is made, shall be received as evidence tending to prove
 51 the fact of the furnishing or receiving of such moneys, goods,
 52 chattels, or services, whether the same be contained in an
 53 account book, or in a so-called loose-leaf, card, or similar
 54 system of keeping accounts, and whether the same be made by
 55 handwriting, typewriting, or other similar means, if it shall
 56 appear that such entry was made by a duly authorized person
 57 contemporaneously with the transaction therein referred to, as a
 58 part of the general system of accounts of the person on whose
 59 behalf the entry is made, and that the same is made in the usual
 60 and ordinary course of such business.

600*#06S

61 600.06 BOOK ENTRIES BY A PERSON DECEASED.
 62 Entries made in any book by a person now dead authorized to *
 63 make the same, ~~he-being-dead~~, may be received as evidence in a *
 64 case proper for the admission of such book as evidence on proof *
 65 that the same are in his the deceased person's handwriting and *
 66 in a book kept for such entries, without further verification.

600*#10S

67 600.10 AFFIDAVIT OF PUBLICATION.
 68 When notice of any application to a court or judicial
 69 officer is required by law to be published in a newspaper, an
 70 affidavit by the printer of such newspaper, or ~~his-foreman~~ the *

1 printer's lead supervisor or clerk, annexed to a printed copy of *
 2 such notice taken from the newspaper in which it was published,
 3 specifying the times when, and the newspaper in which, such
 4 notice was published, may be filed with the proper officer of
 5 the court, or with the judicial officer before whom such
 6 proceeding is pending, at any time within six months after the
 7 last day of the publication of such notice, unless sooner
 8 specially required. A like affidavit of such printer, ~~foreman~~ *
 9 lead supervisor, or clerk may within the same time be filed for *
 10 record with the county recorder of the county where any real
 11 estate affected by such notice is situated.

600*#11S

12 600.11 PRINTER'S AFFIDAVIT.

13 The original affidavit of the printer of any newspaper, or
 14 of ~~his-foreman~~ the printer's lead supervisor or clerk, of the *
 15 publication of any summons, notice, order, resolution, or other
 16 advertisement which by law is required or authorized to be
 17 published in such newspaper, and copies of the same, or of the
 18 record thereof, certified by the officer in whose custody the
 19 same may be, shall be prima facie evidence of such publication
 20 and of the facts stated therein. If any such publication
 21 relates to the sale of real estate, such affidavit may be filed
 22 for record with the county recorder of the county in which the
 23 real estate lies.

600*#13S

24 600.13 OFFICIAL RECORDS PRIMA FACIE EVIDENCE; CERTIFIED
 25 COPIES; CERTIFIED COPIES OF DECREES OF PROBATE COURTS; WHEN SEAL
 26 NOT NECESSARY.

27 The original record made by any public officer in the
 28 performance of ~~his~~ official duty shall be prima facie evidence *
 29 of the facts required or permitted by law to be ~~by-him~~ *
 30 recorded by the officer. A copy of such record, or of any *
 31 document which is made evidence by law and is preserved in the
 32 office or place where the same was required or is permitted to
 33 be filed or kept, or a copy of any authorized record of such
 34 document so preserved, when certified by the person entitled to
 35 the official custody thereof to have been compared by ~~him~~ that *
 36 person with the original and to be a correct transcript *
 37 therefrom, shall be received in evidence in all cases, with the
 38 same force and effect given to such original document or record;
 39 but if such officer have, by law, an official seal, ~~his~~ the *
 40 certificate shall be authenticated thereby. No part of this
 41 section relating to the form of certification shall apply to
 42 documents or records kept in the departments or offices of the
 43 United States government.

44 In all cases where a decree of probate court, assigning or
 45 distributing property of a decedent, embraces real estate or
 46 other property situated in more than one county, the probate
 47 court shall furnish, upon request therefor, certified copies of
 48 parts of such decrees, excluding from such certified copy all
 49 descriptions of real or other property included in such decree
 50 excepting description of such real estate and other property as
 51 appears from the face of the decree to be situated in any one or
 52 more counties designated by the applicant for such certified
 53 copy. The probate court shall indicate the omission hereby
 54 permitted, in the certified copy, by the words "and other
 55 property situated in county, or counties,
 56 Minnesota" inserted in the certified copy at the points where
 57 the omissions occur. Such certified copy shall be entitled to
 58 record in the office of the county recorder and in the office of
 59 the registrar of titles of the county, or counties, in which the
 60 real estate or other property in the certified copy described,
 61 or any part thereof, is situated. Such certified copy, or a
 62 copy of any authorized record of such certified copy, certified
 63 by the person entitled to the official custody thereof to have
 64 been compared by ~~him~~ that person with the original or the record *
 65 thereof and to be a correct transcription therefrom, shall be
 66 received in evidence in all cases with the same force and effect
 67 given to such original decree relative to the matter in the
 68 certified copy or the record thereof contained. If such officer
 69 have by law an official seal, ~~his~~ the certificate shall be *
 70 authenticated thereby.

71 This section shall not be construed to require the affixing
 72 of the seal of the court to any certified copy of a rule or
 73 order made by such court, or to any paper filed therein, when
 74 such copy is used in the same court or before any officer

1 thereof.

600*#21S

2 600.21 COPIES OF RECORD OF DEATH; RECORDATION.

3 In all cases of joint tenancy in lands, and in all cases
 4 where any estate, title interest in, or lien upon, lands, has
 5 been or may be created, which estate, title interest, or lien
 6 was, or is, to continue only during the life of any person named
 7 or described in the instrument by which such estate, title,
 8 interest, or lien was created, a copy of the record of the death
 9 of any such joint tenant, or of the person upon whose life such
 10 estate, title, interest, or lien was, or is, limited, duly
 11 certified by any officer who is required by the law of the state
 12 or country in which such record is made, to keep a record of the
 13 death of persons occurring within the jurisdiction of such
 14 officer, may be recorded in the office of the county recorder of
 15 the county in which such lands are situated, and such certified
 16 copy or such record thereof in such office, or a duly certified
 17 copy of such last mentioned record, shall be prima facie
 18 evidence of the death of such person and the termination of such
 19 joint tenancy and of all such estate, title, interest, and lien
 20 as was, or is, limited upon the life of such person. When a
 21 certified copy of such death certificate is attached to an
 22 affidavit of survivorship the same shall, prior to recordation
 23 in the office of the county recorder or registrar of titles, be
 24 presented to the county auditor of the county wherein such
 25 estate, title, interest, or lien is situated and ~~such~~ the county
 26 auditor shall note the transfer on ~~his~~ the books and shall
 27 inscribe upon the instrument over ~~his~~ the auditor's official
 28 signature the words "Transfer entered." Until so presented and
 29 indication made thereon, said instrument shall not be entitled
 30 to record in the office of the county recorder or registrar of
 31 titles of said county.

600*#23S

32 600.23 RECORDERS AND CLERKS.

33 Subdivision 1. DEPOSIT OF PAPERS. Every county
 34 recorder, and every clerk of a court of record, upon being paid
 35 the legal fees therefor, shall receive and deposit in ~~his~~ the
 36 office any instruments or papers which shall be offered ~~him~~ for
 37 that purpose and, if required, shall give to the person
 38 depositing the same a receipt therefor.

39 Subd. 2. ENDORSED AND FILED. Such instruments or
 40 papers shall be filed by the officer receiving the same, and so
 41 endorsed as to indicate their general nature, the names of the
 42 parties thereto, and time when received, and shall be deposited
 43 and kept by ~~him~~ the officer and ~~his~~ successors in office in the
 44 same manner as ~~his~~ the officer's official papers, but in a place
 45 separate therefrom.

46 Subd. 3. WITHDRAWAL. Papers and instruments so
 47 deposited shall not be made public or withdrawn from the office
 48 except upon the written order of the person depositing the same,
 49 or ~~his~~ the person's executors or administrators, or on the order
 50 of some court for the purpose of being read in the court, and
 51 then to be returned to the office.

52 Subd. 4. CERTIFICATE THAT INSTRUMENT CANNOT BE FOUND.
 53 The certificate of any officer to whom the legal custody of
 54 any instrument belongs, stating that ~~he~~ the officer has made
 55 diligent search for such instrument and that it cannot be found,
 56 shall be prima facie evidence of the fact so certified to in all
 57 cases, matters, and proceedings.

600*#24S

58 600.24 FINDING OF PRESUMED DEATH UNDER FEDERAL MISSING
59 PERSONS ACT.

60 A written finding of presumed death, made by the Secretary
 61 of War, the Secretary of the Navy, or other officer or employee
 62 of the United States authorized to make such finding, pursuant
 63 to the Federal Missing Persons Act (56 Stat. 143, 1092, and 58
 64 Stat. 679; 50 U.S.C. Ann. Supp. 1001-17), as now or hereafter
 65 amended, or a duly certified copy of such finding, shall be
 66 received in any court, office or other place in this state as
 67 prima facie evidence of the death of the person therein found to
 68 be dead, and the date, circumstances and place of ~~his~~
 69 disappearance.

600*#26S

70 600.26 AUTHORITY PRESUMED.

71 For the purposes of section 600.24 and section 600.25 any
 72 finding, report or record, or duly certified copy thereof,

1 purporting to have been signed by such an officer or employee of
 2 the United States as is described in said sections, shall prima
 3 facie be deemed to have been signed and issued by such an
 4 officer or employee pursuant to law, and the person signing same
 5 shall prima facie be deemed to have acted within the scope of
 6 ~~his~~ authority. If a copy purports to have been certified by a *
 7 person authorized by law to certify the same, such certified *
 8 copy shall be prima facie evidence of ~~his~~ authority so to
 9 certify.

601*#01S

10 601.01 PROOF OF LOSS.

11 When a party to an action is permitted to prove by ~~his~~ the *
 12 party's own oath the loss of any instrument, in order to admit *
 13 other proof of the contents thereof, the adverse party, before
 14 the admission of such proof, may also be examined on oath to
 15 disprove such loss and to account for such instrument.

601*#04S

16 601.04 DEED OR COURT RECORDS DESTROYED; ABSTRACT OF
 17 TITLE AS EVIDENCE.

18 When, upon the trial of any action or proceeding which is
 19 now, or hereafter may be, pending in any court in this state,
 20 any party to such action or proceeding, or ~~his~~ the party's agent *
 21 or attorney, shall make and file an affidavit in such cause,
 22 stating that the original of any deed or other instrument in
 23 writing or the records of any court relating to any lands, the
 24 title or any interest therein being in controversy or question
 25 in such action or proceeding, are lost or destroyed, and not
 26 within the power of such party to produce the same; and the
 27 record of such deed, instrument, or other writing has been
 28 destroyed by fire or otherwise, it shall be lawful for the court
 29 to receive as evidence in such action or proceeding, any
 30 abstract of title to such lands made in the ordinary course of
 31 business before such loss or destruction. It shall also be
 32 lawful for the court to receive as evidence any copy, extract,
 33 or minutes from such destroyed records or from the original
 34 thereof, which were, at the date of such destruction or loss, in
 35 the possession of any person then engaged in the business of
 36 making abstracts of title for others for hire.

604*#01S

37 604.01 COMPARATIVE FAULT; EFFECT.

38 Subdivision 1. SCOPE OF APPLICATION. Contributory
 39 fault shall not bar recovery in an action by any person or ~~his~~ *
 40 the person's legal representative to recover damages for fault *
 41 resulting in death or in injury to person or property, if the
 42 contributory fault was not greater than the fault of the person
 43 against whom recovery is sought, but any damages allowed shall
 44 be diminished in proportion to the amount of fault attributable
 45 to the person recovering. The court may, and when requested by
 46 any party shall, direct the jury to find separate special
 47 verdicts determining the amount of damages and the percentage of
 48 fault attributable to each party; and the court shall then
 49 reduce the amount of damages in proportion to the amount of
 50 fault attributable to the person recovering.

51 No change for subd 1a to 2

52 Subd. 3. PROPERTY DAMAGE; SETTLEMENT OR PAYMENT.

53 Settlement with or any payment made to a person or on ~~his~~ the *
 54 person's behalf to others for damage to or destruction of *
 55 property shall not constitute an admission of liability by the
 56 person making the payment or on whose behalf the payment was
 57 made.

58 No change for subd 4 to 5

604*#02S

59 604.02 APPORTIONMENT OF DAMAGES.

60 No change for subd 1 to 2

61 Subd. 3. In the case of a claim arising from the
 62 manufacture, sale, use or consumption of a product, an amount
 63 uncollectible from any person in the chain of manufacture and
 64 distribution shall be reallocated among all other persons in the
 65 chain of manufacture and distribution but not among the claimant
 66 or others at fault who are not in the chain of manufacture or
 67 distribution of the product. Provided, however, that a person
 68 whose fault is less than that of a claimant is liable to the
 69 claimant only for that portion of the judgment which represents
 70 the percentage of fault attributable to ~~him~~ the person whose *
 71 fault is less. *

604*#04S

1 604.04 NOTICE OF POSSIBLE CLAIM REQUIRED.

2 Subdivision 1. The attorney for a person who intends to
 3 claim damage for or on account of personal injury, death or
 4 property damage arising out of the manufacture, sale, use or
 5 consumption of a product shall cause to be presented a notice of
 6 possible claim stating the time, place and circumstances of
 7 events giving rise to the claim and an estimate of compensation
 8 or other relief to be sought. This notice shall be given within
 9 six months of the date of entering into an attorney-client
 10 relation with the claimant in regard to the claim. Notice shall
 11 be given to all persons against whom the claim is likely to be
 12 made. Any person in the chain of manufacture and distribution
 13 shall promptly furnish to the claimant's attorney the names and
 14 addresses of all persons he the person knows to be in the chain *
 15 of manufacture and distribution if requested to do so by the
 16 attorney at the time the notice is given. Failure to furnish
 17 this information shall subject the person to the liability
 18 provided for in subdivision 3.

19 Actual notice of sufficient facts to reasonably put a
 20 person against whom the claim is to be made or ~~his~~ the person's *
 21 insurer on notice of a possible claim satisfies the notice
 22 requirements of this section. Failure to state an estimate of
 23 the amount of compensation or other relief demanded does not
 24 invalidate the notice, but the claimant shall furnish full
 25 information regarding the nature and extent of the injuries and
 26 damages within 15 days after demand by a person to whom the
 27 notice was given or by ~~his~~ the person's insurer. *

28 No change for subd 2

29 Subd. 3. Any person injured by the failure of a claimant
 30 or ~~his~~ the claimant's attorney or of a person in the chain of *
 31 manufacture and distribution to comply with the requirements of
 32 this section may recover damages, costs and reasonable attorney
 33 fees from a person who violated this section, but failure to
 34 give notice does not affect the validity of a claim against a
 35 party who did not receive notice.

604*#05S

36 604.05 GOOD SAMARITAN LAW.

37 Subdivision 1. DUTY TO ASSIST. Any person at the
 38 scene of an emergency who knows that another person is exposed
 39 to or has suffered grave physical harm shall, to the extent that
 40 he the person can do so without danger or peril to himself self *
 41 or others, give reasonable assistance to the exposed person.
 42 Reasonable assistance may include obtaining or attempting to
 43 obtain aid from law enforcement or medical personnel. Any
 44 person who violates this section is guilty of a petty
 45 misdemeanor.

46 No change for subd 2

606*#04S

47 606.04 COSTS.

48 The party prevailing on a writ of certiorari in any
 49 proceeding of a civil nature shall be entitled to ~~his~~ costs *
 50 against the adverse party. If the writ appears to have been
 51 brought for the purpose of delay or vexation, the court of
 52 appeals may award double costs to the prevailing party.

606*#05S

53 606.05 DISMISSAL, COSTS.

54 If any writ of certiorari shall hereafter be issued
 55 contrary to any provision of this chapter, or shall not be
 56 served upon the adverse party within such period of 60 days, the
 57 party against which the same is so issued may have the same
 58 dismissed on motion and affidavit showing the facts and shall be
 59 entitled to ~~his~~ costs and disbursements the same as in other *
 60 civil actions.

609*#02S

61 609.02 DEFINITIONS.

62 No change for subd 1 to 8

63 Subd. 9. MENTAL STATE. (1) When criminal intent is
 64 an element of a crime in this chapter, such intent is indicated
 65 by the term "intentionally," the phrase "with intent to," the
 66 phrase "with intent that," or some form of the verbs "know" or
 67 "believe."

68 (2) "Know" requires only that the actor believes that the
 69 specified fact exists.

70 (3) "Intentionally" means that the actor either has a
 71 purpose to do the thing or cause the result specified or
 72 believes that ~~his~~ the act performed by the actor, if successful, *

1 will cause that result. In addition, except as provided in
2 clause (6), the actor must have knowledge of those facts which
3 are necessary to make ~~his~~ the actor's conduct criminal and which *
4 are set forth after the word "intentionally."

5 (4) "With intent to" or "with intent that" means that the
6 actor either has a purpose to do the thing or cause the result
7 specified or believes that ~~his~~ the act, if successful, will *
8 cause that result.

9 (5) Criminal intent does not require proof of knowledge of
10 the existence or constitutionality of the statute under which ~~he~~ *
11 the actor is prosecuted or the scope or meaning of the terms *
12 used in that statute.

13 (6) Criminal intent does not require proof of knowledge of
14 the age of a minor even though age is a material element in the
15 crime in question.

16 No change for subd 10 to 11

609*#025S

17 609.025 JURISDICTION OF STATE.

18 A person may be convicted and sentenced under the law of
19 this state if the person:

20 (1) He Commits an offense in whole or in part within this *
21 state; or

22 (2) Being without the state, he causes, aids or abets *
23 another to commit a crime within the state; or

24 (3) Being without the state, he intentionally causes a *
25 result within the state prohibited by the criminal laws of this
26 state.

27 It is not a defense that the defendant's conduct is also a
28 criminal offense under the laws of another state or of the
29 United States or of another country.

609*#03S

30 609.03 PUNISHMENT WHEN NOT OTHERWISE FIXED.

31 If a person is convicted of a crime for which no punishment
32 is otherwise provided he the person may be sentenced as follows: *

33 (1) If the crime is a felony, to imprisonment for not more
34 than five years or to payment of a fine of not more than
35 \$10,000, or both; or

36 (2) If the crime is a gross misdemeanor, to imprisonment
37 for not more than one year or to payment of a fine of not more
38 than \$3,000, or both; or

39 (3) If the crime is a misdemeanor, to imprisonment for not
40 more than 90 days or to payment of a fine of not more than \$700,
41 or both; or

42 (4) If the crime is other than a misdemeanor and a fine is
43 imposed but the amount is not specified, to payment of a fine of
44 not more than \$1,000, or to imprisonment for a specified term of
45 not more than six months if the fine is not paid.

609*#035S

46 609.035 CRIME PUNISHABLE UNDER DIFFERENT PROVISIONS.

47 Except as provided in section 609.251 and 609.585, if a
48 person's conduct constitutes more than one offense under the
49 laws of this state, he the person may be punished for only one *
50 of the offenses and a conviction or acquittal of any one of them
51 is a bar to prosecution for any other of them. All the
52 offenses, if prosecuted, shall be included in one prosecution
53 which shall be stated in separate counts.

609*#05S

54 609.05 LIABILITY FOR CRIMES OF ANOTHER.

55 Subdivision 1. A person is criminally liable for a crime
56 committed by another if he the person intentionally aids, *
57 advises, hires, counsels, or conspires with or otherwise
58 procures the other to commit the crime.

59 Subd. 2. A person liable under subdivision 1 is also
60 liable for any other crime committed in pursuance of the
61 intended crime if reasonably foreseeable by him the person as a *
62 probable consequence of committing or attempting to commit the
63 crime intended.

64 Subd. 3. A person who intentionally aids, advises, hires,
65 counsels, or conspires with or otherwise procures another to
66 commit a crime and thereafter abandons ~~his~~ that purpose and *
67 makes a reasonable effort to prevent the commission of the crime
68 prior to its commission is not liable if the crime is thereafter
69 committed.

70 No change for subd 4

609*#06S

71 609.06 AUTHORIZED USE OF FORCE.

1 Reasonable force may be used upon or toward the person of
2 another without ~~his~~ the other's consent when the following *
3 circumstances exist or the actor reasonably believes them to
4 exist:

5 (1) When used by a public officer or one assisting ~~him~~ a *
6 public officer under ~~his~~ the public officer's direction: *

7 (a) In effecting a lawful arrest; or

8 (b) In the execution of legal process; or

9 (c) In enforcing an order of the court; or

10 (d) In executing any other duty imposed upon ~~him~~ the public *
11 officer by law; or *

12 (2) When used by a person not a public officer in arresting
13 another in the cases and in the manner provided by law and
14 delivering ~~him~~ the other to an officer competent to receive ~~him~~ *
15 the other into custody; or *

16 (3) When used by any person in resisting or aiding another
17 to resist an offense against the person; or

18 (4) When used by any person in lawful possession of real or
19 personal property, or by another assisting ~~him~~ the person in *
20 lawful possession, in resisting a trespass upon or other *
21 unlawful interference with such property; or

22 (5) When used by any person to prevent the escape, or to
23 retake following the escape, of a person lawfully held on a
24 charge or conviction of a crime; or

25 (6) When used by a parent, guardian, teacher or other
26 lawful custodian of a child or pupil, in the exercise of lawful
27 authority, to restrain or correct such child or pupil; or

28 (7) When used by a common carrier in expelling a passenger
29 who refuses to obey a lawful requirement for the conduct of
30 passengers and reasonable care is exercised with regard to ~~his~~ *
31 the passenger's personal safety; or *

32 (8) When used to restrain a mentally ill or mentally
33 defective person from ~~injuring-himself~~ self-injury or injury to *
34 another or when used by one with authority to do so to compel
35 compliance with reasonable requirements for ~~his~~ the person's *
36 control, conduct or treatment; or

37 (9) When used by a public or private institution providing
38 custody or treatment against one lawfully committed to it to
39 compel compliance with reasonable requirements for ~~his~~ the *
40 control, conduct or treatment of the committed person. *

609*#065S

41 609.065 JUSTIFIABLE TAKING OF LIFE.
42 The intentional taking of the life of another is not
43 authorized by section 609.06, except when necessary in resisting
44 or preventing an offense which the actor reasonably believes
45 exposes ~~him~~ the actor or another to great bodily harm or death, *
46 or preventing the commission of a felony in ~~his~~ the actor's *
47 place of abode.

609*#066S

48 609.066 AUTHORIZED USE OF DEADLY FORCE BY PEACE OFFICERS.
49 No change for subd 1
50 Subd. 2. USE OF DEADLY FORCE. Notwithstanding the
51 provisions of section 609.06 or 609.065, the use of deadly force
52 by a peace officer in the line of duty is justified only when
53 necessary:

54 (1) To protect ~~himself~~ the peace officer or another from *
55 apparent death or great bodily harm;

56 (2) To effect the arrest or capture, or prevent the escape,
57 of a person whom the peace officer knows or has reasonable
58 grounds to believe has committed or attempted to commit a felony
59 involving the use or threatened use of deadly force; or

60 (3) To effect the arrest or capture, or prevent the escape,
61 of a person whom the officer knows or has reasonable grounds to
62 believe has committed or attempted to commit a felony if the
63 officer reasonably believes that the person will cause death or
64 great bodily harm if ~~his~~ the person's apprehension is delayed. *

65 No change for subd 3

609*#08S

66 609.08 DURESS.
67 Except as provided in section 609.20, clause (3), when any
68 crime is committed or participated in by two or more persons,
69 any one of whom participates only under compulsion by another
70 engaged therein, who by threats creates a reasonable
71 apprehension in the mind of such participator that in case of
72 refusal ~~he~~ that participator is liable to instant death, such *
73 threats and apprehension constitute duress which will excuse

1 such participator from criminal liability.

609*#09S

2 609.09 COMPELLING TESTIMONY; IMMUNITY FROM PROSECUTION.

3 Subdivision 1. In any criminal proceeding, including a
4 grand jury proceeding, paternity proceeding, or proceeding in
5 juvenile court, if it appears a person may be entitled to refuse
6 to answer a question or produce evidence of any other kind on
7 the ground that he the person may be incriminated thereby, and *
8 if the prosecuting attorney, in writing, requests the chief
9 judge of the district or a judge of the court in which the
10 proceeding is pending to order that person to answer the
11 question or produce the evidence, the judge, after notice to the
12 witness and hearing, shall so order if he the judge finds that *
13 to do so would not be contrary to the public interest and would
14 not be likely to expose the witness to prosecution in another
15 state or in the federal courts.

16 After complying, and if, but for this section, he the *
17 witness would have been privileged to withhold the answer given *
18 or the evidence produced by him the witness, no testimony or *
19 other information compelled under the order, or any information
20 directly or indirectly derived from such testimony or other
21 information may be used against the witness in any criminal
22 case, but he the witness may be prosecuted or subjected to *
23 penalty or forfeiture for any perjury, false swearing or
24 contempt committed in answering, or in failing to answer, or in
25 producing, or failing to produce, evidence in accordance with
26 the order.

27 Subd. 2. In every case not provided for in subdivision 1
28 and in which it is provided by law that a witness shall not be
29 excused from giving testimony tending to ~~erminate-himself~~ be
30 self-incriminating, no person shall be excused from testifying
31 or producing any papers or documents on the ground that his
32 testimony doing so may tend to criminate him the person or *
33 subject him the person to a penalty or forfeiture; but no *
34 testimony or other information directly or indirectly derived
35 from such testimony or other information may be used against the
36 witness in any criminal case, except for perjury committed in
37 such testimony. *

609*#101S

38 609.101 SURCHARGE ON FINES, ASSESSMENTS.

39 When a court sentences a person convicted of a felony,
40 gross misdemeanor, or misdemeanor, other than a petty
41 misdemeanor such as a traffic or parking violation, and if the
42 sentence does not include payment of a fine, the court shall
43 impose an assessment of not less than \$20 nor more than \$40. If
44 the sentence for the felony, gross misdemeanor, or misdemeanor
45 includes payment of a fine of any amount, including a fine of
46 less than \$100, the court shall impose a surcharge on the fine
47 of ten percent of the fine. This section applies whether or not
48 the person is sentenced to imprisonment and when the sentence is
49 suspended. The court may, upon a showing of indigency or undue
50 hardship upon the convicted person or his the person's immediate *
51 family, waive payment or authorize payment of the assessment or
52 surcharge in installments.

53 The court shall collect and forward to the commissioner of
54 finance the total amount of the assessment or surcharge and the
55 commissioner shall credit all money so forwarded to the general
56 fund for the purposes of providing services, assistance, or
57 reparations or a combination, to victims of crimes through
58 programs established under sections 611A.21 to 611A.36, under
59 chapters 256D and 299B. If the convicted person is sentenced to
60 imprisonment, the chief executive officer of the correctional
61 facility in which the convicted person is incarcerated may
62 collect the assessment or surcharge from any earnings the inmate
63 accrues for work performed in the correctional facility and
64 forward the amount to the commissioner of finance.

609*#115S

65 609.115 PRESENTENCE INVESTIGATION.

66 No change for subd 1 to 1a

67 Subd. 1b. ADDITIONAL CONTENTS. The presentence
68 investigation report shall also include the following
69 information relating to victims:

70 (a) a summary of the damages or harm and any other problems
71 generated by the criminal occurrence;

72 (b) a concise statement of what disposition the victim
73 deems appropriate for the defendant or juvenile court

1 respondent, including reasons given, if any, by the victim in
2 support of ~~his~~ the victim's opinion; and *

3 (c) an attachment to the report, consisting of the victim's
4 written objections, if any, to the proposed disposition if the
5 victim provides the officer conducting the presentence
6 investigation with this written material within a reasonable
7 time prior to the disposition.

8 For the purposes of this section, "victim" has the meaning
9 given to it in section 611A.01.

10 Subd. 1c. NOTICE TO VICTIM. The officer conducting
11 the presentence or predispositional report shall make reasonable
12 and good faith efforts to contact the victim of that crime and
13 to provide that victim with the following information: (i) the
14 charge or juvenile court petition to which the defendant has
15 been convicted or pleaded guilty, or the juvenile respondent has
16 admitted in court or has been found to have committed by the
17 juvenile court, and of any plea agreement between the
18 prosecution and the defense counsel; (ii) ~~his~~ the victim's right *
19 to request restitution pursuant to section 611A.04; (iii) the
20 time and place of the sentencing or juvenile court disposition
21 and ~~his~~ the victim's right to be present; and (iv) ~~his~~ the *
22 victim's right to object in writing to the court, prior to the *
23 time of sentencing or juvenile court disposition, to the
24 proposed sentence or juvenile dispositional alternative, or to
25 the terms of the proposed plea agreement. To assist the victim
26 in making a recommendation under clause (iv), the officer shall
27 provide the victim with information about the court's options
28 for sentencing and other dispositions. Failure of the officer
29 to comply with this subdivision does not give any rights or
30 grounds for post-conviction or post-juvenile disposition relief
31 to the defendant or juvenile court respondent, nor does it
32 entitle a defendant or a juvenile court respondent to withdraw a
33 plea of guilty.

34 No change for subd 2 to 3

35 Subd. 4. Any report made pursuant to subdivision 1 shall
36 be, if written, provided to counsel for all parties before
37 sentence. The written report shall not disclose confidential
38 sources of information unless the court otherwise directs. On
39 the request of the prosecuting attorney or the defendant's
40 attorney a summary hearing in chambers shall be held on any
41 matter brought in issue, but confidential sources of information
42 shall not be disclosed unless the court otherwise directs. If
43 the presentence report is given orally the defendant or ~~his~~ the *
44 defendant's attorney shall be permitted to hear the report. *

45 No change for subd 5 to 7

609*#12S

46 609.12 PAROLE OR DISCHARGE.

47 Subdivision 1. A person sentenced to the commissioner of
48 corrections for imprisonment for a period less than life may be
49 paroled or discharged at any time without regard to length of
50 the term of imprisonment which the sentence imposes when in the
51 judgment of the commissioner of corrections, and under the
52 conditions ~~he~~ the commissioner imposes, the granting of parole *
53 or discharge would be most conducive to ~~his~~ rehabilitation and *
54 would be in the public interest.

55 Subd. 2. If a sentence of more than five years has been
56 imposed on a defendant for a crime authorizing a sentence of not
57 more than ten years, the commissioner of corrections shall
58 grant ~~him~~ the defendant parole no later than the expiration of *
59 five years of imprisonment, less time granted for good behavior,
60 unless the commissioner with or without hearing that ~~his~~ the *
61 defendant's parole would not be conducive to ~~his~~ rehabilitation *
62 or would not be in the public interest.

63 No change for subd 3

609*#13S

64 609.13 CONVICTIONS OF FELONY OR GROSS MISDEMEANOR; WHEN
65 DEEMED MISDEMEANOR OR GROSS MISDEMEANOR.

66 Subdivision 1. Notwithstanding a conviction is for a
67 felony:

68 (1) The conviction is deemed to be for a misdemeanor or a
69 gross misdemeanor if the sentence imposed is within the limits
70 provided by law for a misdemeanor or gross misdemeanor as
71 defined in section 609.02; or

72 (2) The conviction is deemed to be for a misdemeanor if the
73 imposition of the sentence is stayed, the defendant is placed on
74 probation, and ~~he~~ the defendant is thereafter discharged without *

1 sentence.

2 Subd. 2. Notwithstanding that a conviction is for a gross
3 misdemeanor, the conviction is deemed to be for a misdemeanor if:

4 (1) The sentence imposed is within the limits provided by
5 law for a misdemeanor as defined in section 609.02; or

6 (2) If the imposition of the sentence is stayed, the
7 defendant is placed on probation, and he the defendant is
8 thereafter discharged without sentence. *

609*#135S

9 609.135 STAY OF IMPOSITION OR EXECUTION OF SENTENCE.

10 No change for subd 1 to 4

11 Subd. 5. If a person is convicted of assaulting his a *
12 spouse or other person with whom he the person resides, and the *
13 court stays imposition or execution of sentence and places the
14 defendant on probation, the court may condition the stay upon
15 the defendant's participation in counseling or other appropriate
16 programs selected by the court.

17 No change for subd 6

609*#14S

18 609.14 REVOCATION OF STAY.

19 Subdivision 1. GROUNDS. When it appears that the *
20 defendant has violated any of the conditions of his probation or *
21 noninstitutional sanction, or has otherwise been guilty of
22 misconduct which warrants the imposing or execution of sentence,
23 the court may without notice revoke the stay thereof and
24 probation and direct that the defendant be taken into immediate
25 custody.

26 Subd. 2. The defendant shall thereupon be notified in
27 writing and in such manner as the court directs of the grounds
28 alleged to exist for revocation of the stay of imposition or
29 execution of sentence. If such grounds are brought in issue by
30 the defendant, a summary hearing shall be held thereon at which
31 he the defendant is entitled to be heard and to be represented *
32 by counsel.

33 No change for subd 3

34 Subd. 4. If none of such grounds are found to exist, the *
35 defendant shall be restored to his liberty under the previous *
36 order of the court.

609*#145S

37 609.145 CREDIT FOR PRIOR IMPRISONMENT.

38 Subdivision 1. When a person has been imprisoned pursuant
39 to a conviction which is set aside and is thereafter convicted
40 of a crime growing out of the same act or omission, the period
41 of imprisonment to which he the person is sentenced is reduced *
42 by the period of the prior imprisonment and the time earned
43 thereby in diminution of sentence.

44 Subd. 2. A sentence of imprisonment upon conviction of a
45 felony is reduced by the period of confinement of the defendant
46 following his the conviction and before his the defendant's *
47 commitment to the commissioner of corrections for execution of
48 sentence unless the court otherwise directs.

609*#165S

49 609.165 RESTORATION OF CIVIL RIGHTS.

50 Subdivision 1. When a person has been deprived of his *
51 civil rights by reason of conviction of a crime and is *
52 thereafter discharged, such discharge shall restore him the *
53 person to all his civil rights and to full citizenship, with *
54 full right to vote and hold office, the same as if such
55 conviction had not taken place, and the order of discharge shall
56 so provide.

57 No change for subd 2 to 3

609*#166S

58 609.166 CONVICTIONS, SETTING ASIDE IN CERTAIN INSTANCES.

59 Any person who is convicted of or pleads guilty to a
60 felony, gross misdemeanor or misdemeanor may move the convicting
61 court for the entry of an order setting aside the conviction
62 where:

63 (a) the offense was committed before he the person was 21 *
64 years of age;

65 (b) five years have lapsed since the person has served the *
66 sentence imposed upon-him or has been discharged from probation, *
67 and during the five year period the person has not been
68 convicted of a felony or gross misdemeanor; and

69 (c) the offense is not one for which a sentence of life
70 imprisonment may be imposed.

609*#167S

1 609.167 PROCEDURE IN ENTERING ORDER.
 2 No change for subd 1 to 2
 3 Subd. 3. Where the court determines that the circumstances
 4 and behavior of the person from the date of ~~his~~ conviction *
 5 warrant setting aside the conviction, it may enter such an order.

609*#17S

6 609.17 ATTEMPTS.
 7 No change for subd 1 to 2
 8 Subd. 3. It is a defense to a charge of attempt that the
 9 crime was not committed because the accused desisted voluntarily *
 10 and in good faith and abandoned ~~his~~ the intention to commit the *
 11 crime.
 12 No change for subd 4

609*#185S

13 609.185 MURDER IN THE FIRST DEGREE.
 14 Whoever does any of the following is guilty of murder in
 15 the first degree and shall be sentenced to imprisonment for life:
 16 (1) Causes the death of a human being with premeditation
 17 and with intent to effect the death of the person or of another;
 18 (2) Causes the death of a human being while committing or
 19 attempting to commit criminal sexual conduct in the first or
 20 second degree with force or violence, either upon or affecting
 21 the person or another;
 22 (3) Causes the death of a human being with intent to effect
 23 the death of the person or another, while committing or
 24 attempting to commit burglary, aggravated robbery, kidnapping,
 25 arson in the first or second degree, tampering with a witness in
 26 the first degree, or escape from custody; or
 27 (4) Causes the death of a peace officer or a guard employed
 28 at a Minnesota state correctional facility, with intent to
 29 effect the death of that person or another, while the peace
 30 officer or guard is engaged in the performance of ~~his~~ official *
 31 duties.

609*#20S

32 609.20 MANSLAUGHTER IN THE FIRST DEGREE.
 33 Whoever does any of the following is guilty of manslaughter
 34 in the first degree and may be sentenced to imprisonment for not
 35 more than 15 years or to payment of a fine of not more than
 36 \$30,000, or both:
 37 (1) Intentionally causes the death of another person in the
 38 heat of passion provoked by such words or acts of another as
 39 would provoke a person of ordinary self-control under like
 40 circumstances; or
 41 (2) Causes the death of another in committing or attempting
 42 to commit a misdemeanor or gross misdemeanor offense with such
 43 force and violence that death of or great bodily harm to any
 44 person was reasonably foreseeable, and murder in the first or
 45 second degree was not committed thereby; or
 46 (3) Intentionally causes the death of another person
 47 because the actor is coerced by threats made by someone other
 48 than ~~his~~ the actor's co-conspirator and which cause ~~him~~ the *
 49 actor reasonably to believe that ~~his~~ act performed by the actor *
 50 is the only means of preventing imminent death to ~~himself~~ the *
 51 actor or another. *

609*#205S

52 609.205 MANSLAUGHTER IN THE SECOND DEGREE.
 53 A person who causes the death of another by any of the
 54 following means is guilty of manslaughter in the second degree
 55 and may be sentenced to imprisonment for not more than seven
 56 years or to payment of a fine of not more than \$14,000, or both:
 57 (1) by ~~his~~ the person's culpable negligence whereby ~~he~~ the *
 58 person creates an unreasonable risk, and consciously takes *
 59 chances of causing death or great bodily harm to another; or
 60 (2) by shooting another with a firearm or other dangerous *
 61 weapon as a result of negligently believing ~~him~~ the other to be *
 62 a deer or other animal; or
 63 (3) by setting a spring gun, pit fall, deadfall, snare, or
 64 other like dangerous weapon or device; or
 65 (4) by negligently or intentionally permitting any animal,
 66 known by the person to have vicious propensities or to have
 67 caused great or substantial bodily harm in the past, to run
 68 uncontrolled off the owner's premises, or negligently failing to
 69 keep it properly confined.
 70 If proven by a preponderance of the evidence, it shall be
 71 an affirmative defense to criminal liability under clause (4)
 72 that the victim provoked the animal to cause the victim's death.

609*#215S

1 609.215 SUICIDE.
 2 Subdivision 1. AIDING SUICIDE. Whoever
 3 intentionally advises, encourages, or assists another in taking
 4 ~~his~~ the other's own life may be sentenced to imprisonment for *
 5 not more than 15 years or to payment of a fine of not more than
 6 \$30,000, or both.

7 Subd. 2. AIDING ATTEMPTED SUICIDE. Whoever
 8 intentionally advises, encourages, or assists another who
 9 attempts but fails to take ~~his~~ the other's own life may be *
 10 sentenced to imprisonment for not more than seven years or to
 11 payment of a fine of not more than \$14,000, or both.

609*#2231S

12 609.2231 ASSAULT IN THE FOURTH DEGREE.
 13 No change for subd 1
 14 Subd. 2. FIREFIGHTERS AND EMERGENCY MEDICAL PERSONNEL.
 15 Whoever assaults a member of a municipal or volunteer fire
 16 department or emergency medical services personnel unit in the
 17 performance of ~~his-or-her~~ the member's duties, or assaults an *
 18 employee of the department of natural resources who is engaged
 19 in forest fire activities, and inflicts demonstrable bodily harm
 20 is guilty of a gross misdemeanor.

609*#231S

21 609.231 MISTREATMENT OF RESIDENTS OR PATIENTS.
 22 Whoever, being in charge of or employed in any facility
 23 required to be licensed under the provisions of sections 144.50
 24 to 144.58, or 144A.02, intentionally abuses, ill-treats, or
 25 culpably neglects any patient or resident therein to ~~his~~ the *
 26 patient's or resident's physical detriment may be sentenced to *
 27 imprisonment for not more than one year or to payment of a fine
 28 of not more than \$3,000, or both.

609*#24S

29 609.24 SIMPLE ROBBERY.
 30 Whoever, ~~knowing-he-is~~ having knowledge of not being *
 31 entitled thereto, takes personal property from the person or in
 32 the presence of another and uses or threatens the imminent use
 33 of force against any person to overcome ~~his~~ the person's *
 34 resistance or powers of resistance to, or to compel acquiescence
 35 in, the taking or carrying away of the property is guilty of
 36 robbery and may be sentenced to imprisonment for not more than
 37 ten years or to payment of a fine of not more than \$20,000, or
 38 both.

609*#25S

39 609.25 KIDNAPPING.
 40 Subdivision 1. ACTS CONSTITUTING. Whoever, for any
 41 of the following purposes, confines or removes from one place to
 42 another, any person without ~~his~~ the person's consent or, if he *
 43 the person is under the age of 16 years, without the consent *
 44 of ~~his~~ the person's parents or other legal custodian, is guilty *
 45 of kidnapping and may be sentenced as provided in subdivision 2:
 46 (1) To hold for ransom or reward for release, or as shield
 47 or hostage; or
 48 (2) To facilitate commission of any felony or flight
 49 thereafter; or
 50 (3) To commit great bodily harm or to terrorize the victim
 51 or another; or
 52 (4) To hold in involuntary servitude.

53 No change for subd 2

609*#255S

54 609.255 FALSE IMPRISONMENT.
 55 No change for subd 1
 56 Subd. 2. INTENTIONAL RESTRAINT. Whoever, ~~knowing-he~~ *
 57 ~~has-no knowingly lacking~~ lawful authority to do so, *
 58 intentionally confines or restrains a someone else's child not *
 59 ~~his-own~~ under the age of 18 years without ~~his-parent's-or-legal~~ *
 60 ~~custodian's~~ consent of the child's parent or legal custodian, or *
 61 any other person without ~~his~~ the person's consent, is guilty of *
 62 false imprisonment and may be sentenced to imprisonment for not
 63 more than three years or to payment of a fine of not more than
 64 \$5,000, or both.

65 No change for subd 3

609*#26S

66 609.26 DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS.
 67 No change for subd 1 to 4
 68 Subd. 5. DISMISSAL OF CHARGE. A felony charge
 69 brought under this section shall be dismissed if:

1 (a) the person voluntarily returns the child within 14 days
2 after he ~~takes, detains, or fails~~ taking, detaining, or failing
3 to return the child in violation of this section; or *

4 (b)(1) the person taking the action and the child have not
5 left the state of Minnesota; and (2) within a period of 14 days
6 after taking the action, (i) a motion or proceeding under
7 chapters 518, 518A, 518B, or 518C is commenced by the person
8 taking the action, or (ii) the attorney representing the person
9 taking the action has consented to service of process by the
10 party whose rights are being deprived, for any motion or action
11 pursuant to chapters 518, 518A, 518B, or 518C.

12 No change for subd 6 to 7

609*#27S

13 609.27 COERCION.

14 Subdivision 1. ACTS CONSTITUTING. Whoever orally or
15 in writing makes any of the following threats and thereby causes
16 another against ~~his~~ the other's will to do any act or forebear
17 doing a lawful act is guilty of coercion and may be sentenced as
18 provided in subdivision 2: *

19 (1) A threat to unlawfully inflict bodily harm upon, or
20 hold in confinement, the person threatened or another, when
21 robbery or attempt to rob is not committed thereby; or

22 (2) A threat to unlawfully inflict damage to the property
23 of the person threatened or another; or

24 (3) A threat to unlawfully injure a trade, business,
25 profession, or calling; or

26 (4) A threat to expose a secret or deformity, publish a
27 defamatory statement, or otherwise to expose any person to
28 disgrace or ridicule; or

29 (5) A threat to make or cause to be made a criminal charge,
30 whether true or false; provided, that a warning of the
31 consequences of a future violation of law given in good faith by
32 a peace officer or prosecuting attorney to any person shall not
33 be deemed a threat for the purposes of this section.

34 No change for subd 2

609*#28S

35 609.28 INTERFERING WITH RELIGIOUS OBSERVANCE.

36 Whoever, by threats or violence, intentionally prevents
37 another person from performing any lawful act enjoined upon or
38 recommended to ~~him~~ the person by the religion which ~~he~~ the
39 person professes is guilty of a misdemeanor. *

609*#294S

40 609.294 BESTIALITY.

41 Whoever carnally knows a dead body or an animal or bird is
42 guilty of bestiality, which is a misdemeanor. If knowingly done
43 in the presence of another ~~he~~ the person may be sentenced to
44 imprisonment for not more than one year or to payment of a fine
45 of not more than \$3,000 or both. *

609*#321S

46 609.321 PROSTITUTION; DEFINITIONS.

47 No change for subd 1 to 6

48 Subd. 7. "Promotes the prostitution of an individual"
49 means any of the following wherein the person knowingly:

50 (1) Solicits or procures patrons for a prostitute; or

51 (2) Provides, leases or otherwise permits premises or
52 facilities owned or controlled by ~~him~~ the person to aid the
53 prostitution of an individual; or *

54 (3) Owns, manages, supervises, controls, keeps or operates,
55 either alone or with others, a place of prostitution to aid the
56 prostitution of an individual; or

57 (4) Owns, manages, supervises, controls, operates,
58 institutes, aids or facilitates, either alone or with others, a
59 business of prostitution to aid the prostitution of an
60 individual; or

61 (5) Admits a patron to a place of prostitution to aid the
62 prostitution of an individual; or

63 (6) Transports an individual from one point within this
64 state to another point either within or without this state, or
65 brings an individual into this state to aid the prostitution of
66 the individual.

67 No change for subd 8 to 12

609*#341S

68 609.341 DEFINITIONS.

69 No change for subd 1 to 6

70 Subd. 7. "Mentally incapacitated" means that a person is
71 rendered temporarily incapable of appraising or controlling ~~his~~ *

1 that person's conduct due to the influence of alcohol, a *
 2 narcotic, anesthetic, or any other substance administered to
 3 that person without his the person's agreement, or due to any *
 4 other act committed upon that person without his the person's *
 5 agreement.

6 No change for subd 8 to 20

609*#342S

7 609.342 CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE.
 8 Subdivision 1. CRIME DEFINED. A person who engages *
 9 in sexual penetration with another person is guilty of criminal *
 10 sexual conduct in the first degree if-he-engages-in-sexual *
 11 penetration-with-another-person-and if any of the following *
 12 circumstances exists:

13 (a) the complainant is under 13 years of age and the actor
 14 is more than 36 months older than the complainant. Neither
 15 mistake as to the complainant's age nor consent to the act by
 16 the complainant is a defense;

17 (b) the complainant is at least 13 but less than 16 years
 18 of age and the actor is more than 48 months older than the
 19 complainant and in a position of authority over the complainant,
 20 and uses this authority to cause the complainant to submit.
 21 Neither mistake as to the complainant's age nor consent to the
 22 act by the complainant is a defense;

23 (c) circumstances existing at the time of the act cause the
 24 complainant to have a reasonable fear of imminent great bodily
 25 harm to the complainant or another;

26 (d) the actor is armed with a dangerous weapon or any
 27 article used or fashioned in a manner to lead the complainant to
 28 reasonably believe it to be a dangerous weapon and uses or
 29 threatens to use the weapon or article to cause the complainant
 30 to submit;

31 (e) the actor causes personal injury to the complainant,
 32 and either of the following circumstances exist:

33 (i) the actor uses force or coercion to accomplish sexual
 34 penetration; or

35 (ii) the actor knows or has reason to know that the
 36 complainant is mentally impaired, mentally incapacitated, or
 37 physically helpless;

38 (f) the actor is aided or abetted by one or more
 39 accomplices within the meaning of section 609.05, and either of
 40 the following circumstances exists:

41 (i) an accomplice uses force or coercion to cause the
 42 complainant to submit; or

43 (ii) an accomplice is armed with a dangerous weapon or any
 44 article used or fashioned in a manner to lead the complainant
 45 reasonably to believe it to be a dangerous weapon and uses or
 46 threatens to use the weapon or article to cause the complainant
 47 to submit;

48 (g) the actor has a significant relationship to the
 49 complainant and the complainant was under 16 years of age at the
 50 time of the sexual penetration. Neither mistake as to the
 51 complainant's age nor consent to the act by the complainant is a
 52 defense; or

53 (h) the actor has a significant relationship to the
 54 complainant, the complainant was under 16 years of age at the
 55 time of the sexual penetration, and:

56 (i) the actor or an accomplice used force or coercion to
 57 accomplish the penetration;

58 (ii) the actor or an accomplice was armed with a dangerous
 59 weapon or any article used or fashioned in a manner to lead the
 60 complainant to reasonably believe it could be a dangerous weapon
 61 and used or threatened to use the dangerous weapon;

62 (iii) circumstances existed at the time of the act to cause
 63 the complainant to have a reasonable fear of imminent great
 64 bodily harm to the complainant or another;

65 (iv) the complainant suffered personal injury; or

66 (v) the sexual abuse involved multiple acts committed over
 67 an extended period of time.

68 Neither mistake as to the complainant's age nor consent to
 69 the act by the complainant is a defense.

70 No change for subd 2 to 3

609*#343S

71 609.343 CRIMINAL SEXUAL CONDUCT IN THE SECOND DEGREE.
 72 Subdivision 1. CRIME DEFINED. A person who engages *
 73 in sexual contact with another person is guilty of criminal *
 74 sexual conduct in the second degree if-he-engages-in-sexual *

1 ~~contact-with-another-person-and~~ if any of the following *
2 circumstances exists:
3 (a) the complainant is under 13 years of age and the actor
4 is more than 36 months older than the complainant. Neither
5 mistake as to the complainant's age nor consent to the act by
6 the complainant is a defense. In a prosecution under this
7 clause, the state is not required to prove that the sexual
8 contact was coerced;
9 (b) the complainant is at least 13 but less than 16 years
10 of age and the actor is more than 48 months older than the
11 complainant and in a position of authority over the complainant,
12 and uses this authority to cause the complainant to submit.
13 Neither mistake as to the complainant's age nor consent to the
14 act by the complainant is a defense;
15 (c) circumstances existing at the time of the act cause the
16 complainant to have a reasonable fear of imminent great bodily
17 harm to the complainant or another;
18 (d) the actor is armed with a dangerous weapon or any
19 article used or fashioned in a manner to lead the complainant to
20 reasonably believe it to be a dangerous weapon and uses or
21 threatens to use the dangerous weapon to cause the complainant
22 to submit;
23 (e) the actor causes personal injury to the complainant,
24 and either of the following circumstances exist:
25 (i) the actor uses force or coercion to accomplish the
26 sexual contact; or
27 (ii) the actor knows or has reason to know that the
28 complainant is mentally impaired, mentally incapacitated, or
29 physically helpless;
30 (f) the actor is aided or abetted by one or more
31 accomplices within the meaning of section 609.05, and either of
32 the following circumstances exists:
33 (i) an accomplice uses force or coercion to cause the
34 complainant to submit; or
35 (ii) an accomplice is armed with a dangerous weapon or any
36 article used or fashioned in a manner to lead the complainant to
37 reasonably believe it to be a dangerous weapon and uses or
38 threatens to use the weapon or article to cause the complainant
39 to submit;
40 (g) the actor has a significant relationship to the
41 complainant and the complainant was under 16 years of age at the
42 time of the sexual contact. Neither mistake as to the
43 complainant's age nor consent to the act by the complainant is a
44 defense; or
45 (h) the actor has a significant relationship to the
46 complainant, the complainant was under 16 years of age at the
47 time of the sexual contact, and:
48 (i) the actor or an accomplice used force or coercion to
49 accomplish the contact;
50 (ii) the actor or an accomplice was armed with a dangerous
51 weapon or any article used or fashioned in a manner to lead the
52 complainant to reasonably believe it could be a dangerous weapon
53 and used or threatened to use the dangerous weapon;
54 (iii) circumstances existed at the time of the act to cause
55 the complainant to have a reasonable fear of imminent great
56 bodily harm to the complainant or another;
57 (iv) the complainant suffered personal injury; or
58 (v) the sexual abuse involved multiple acts committed over
59 an extended period of time.
60 Neither mistake as to the complainant's age nor consent to
61 the act by the complainant is a defense.
62 No change for subd 2 to 3

609*#344S

63 609.344 CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE.
64 Subdivision 1. CRIME DEFINED. A person who engages *
65 in sexual penetration with another person is guilty of criminal *
66 sexual conduct in the third degree if ~~he engages in sexual~~ *
67 ~~penetration-with-another-person-and~~ any of the following *
68 circumstances exists:
69 (a) the complainant is under 13 years of age and the actor
70 is no more than 36 months older than the complainant. Neither
71 mistake as to the complainant's age nor consent to the act by
72 the complainant shall be a defense;
73 (b) the complainant is at least 13 but less than 16 years
74 of age and the actor is more than 24 months older than the
75 complainant. In any such case it shall be an affirmative

1 defense, which must be proved by a preponderance of the
 2 evidence, that the actor believes the complainant to be 16 years
 3 of age or older. If the actor in such a case is no more than 48
 4 months but more than 24 months older than the complainant, ~~he~~ *
 5 the actor may be sentenced to imprisonment for not more than *
 6 five years. Consent by the complainant is not a defense;

7 (c) the actor uses force or coercion to accomplish the
 8 penetration;

9 (d) the actor knows or has reason to know that the
 10 complainant is mentally impaired, mentally incapacitated, or
 11 physically helpless;

12 (e) the complainant is at least 16 but less than 18 years
 13 of age and the actor is more than 48 months older than the
 14 complainant and in a position of authority over the complainant,
 15 and uses this authority to cause the complainant to submit.
 16 Neither mistake as to the complainant's age nor consent to the
 17 act by the complainant is a defense;

18 (f) the actor has a significant relationship to the
 19 complainant and the complainant was at least 16 but under 18
 20 years of age at the time of the sexual penetration. Neither
 21 mistake as to the complainant's age nor consent to the act by
 22 the complainant is a defense; or

23 (g) the actor has a significant relationship to the
 24 complainant, the complainant was at least 16 but under 18 years
 25 of age at the time of the sexual penetration, and:

26 (i) the actor or an accomplice used force or coercion to
 27 accomplish the penetration;

28 (ii) the actor or an accomplice was armed with a dangerous
 29 weapon or any article used or fashioned in a manner to lead the
 30 complainant to reasonably believe it could be a dangerous weapon
 31 and used or threatened to use the dangerous weapon;

32 (iii) circumstances existed at the time of the act to cause
 33 the complainant to have a reasonable fear of imminent great
 34 bodily harm to the complainant or another;

35 (iv) the complainant suffered personal injury; or

36 (v) the sexual abuse involved multiple acts committed over
 37 an extended period of time.

38 (h) the actor is a psychotherapist and the complainant is a
 39 patient of the psychotherapist and the sexual penetration
 40 occurred during the psychotherapy session. Consent by the
 41 complainant is not a defense;

42 (i) the actor is a psychotherapist and the complainant is a
 43 patient or former patient of the psychotherapist and the patient
 44 or former patient is emotionally dependent upon the
 45 psychotherapist; or

46 (j) the actor is a psychotherapist and the complainant is a
 47 patient or former patient and the sexual penetration occurred by
 48 means of therapeutic deception. Consent by the complainant is
 49 not a defense.

50 Neither mistake as to the complainant's age nor consent to
 51 the act by the complainant is a defense.

52 No change for subd 2 to 3

609*#345S

53 609.345 CRIMINAL SEXUAL CONDUCT IN THE FOURTH DEGREE.

54 Subdivision 1. CRIME DEFINED. A person who engages *
 55 in sexual contact with another person is guilty of criminal *
 56 sexual conduct in the fourth degree ~~if he engages in sexual~~ *
 57 ~~contact with another person and~~ if any of the following *
 58 circumstances exists:

59 (a) the complainant is under 13 years of age and the actor
 60 is no more than 36 months older than the complainant. Neither
 61 mistake as to the complainant's age or consent to the act by the
 62 complainant is a defense. In a prosecution under this clause,
 63 the state is not required to prove that the sexual contact was
 64 coerced;

65 (b) the complainant is at least 13 but less than 16 years
 66 of age and the actor is more than 48 months older than the
 67 complainant or in a position of authority over the complainant
 68 and uses this authority to cause the complainant to submit. In
 69 any such case, it shall be an affirmative defense which must be
 70 proved by a preponderance of the evidence that the actor
 71 believes the complainant to be 16 years of age or older;

72 (c) the actor uses force or coercion to accomplish the
 73 sexual contact;

74 (d) the actor knows or has reason to know that the
 75 complainant is mentally impaired, mentally incapacitated, or

1 physically helpless;

2 (e) the complainant is at least 16 but less than 18 years
3 of age and the actor is more than 48 months older than the
4 complainant and in a position of authority over the complainant,
5 and uses this authority to cause the complainant to submit.

6 Neither mistake as to the complainant's age nor consent to the
7 act by the complainant is a defense;

8 (f) the actor has a significant relationship to the
9 complainant and the complainant was at least 16 but under 18
10 years of age at the time of the sexual contact. Neither mistake
11 as to the complainant's age nor consent to the act by the
12 complainant is a defense; or

13 (g) the actor has a significant relationship to the
14 complainant, the complainant was at least 16 but under 18 years
15 of age at the time of the sexual contact, and:

16 (i) the actor or an accomplice used force or coercion to
17 accomplish the contact;

18 (ii) the actor or an accomplice was armed with a dangerous
19 weapon or any article used or fashioned in a manner to lead the
20 complainant to reasonably believe it could be a dangerous weapon
21 and used or threatened to use the dangerous weapon;

22 (iii) circumstances existed at the time of the act to cause
23 the complainant to have a reasonable fear of imminent great
24 bodily harm to the complainant or another;

25 (iv) the complainant suffered personal injury; or

26 (v) the sexual abuse involved multiple acts committed over
27 an extended period of time.

28 (h) the actor is a psychotherapist and the complainant is a
29 patient of the psychotherapist and the sexual contact occurred
30 during the psychotherapy session. Consent by the complainant is
31 not a defense;

32 (i) the actor is a psychotherapist and the complainant is a
33 patient or former patient of the psychotherapist and the patient
34 or former patient is emotionally dependent upon the
35 psychotherapist; or

36 (j) the actor is a psychotherapist and the complainant is a
37 patient or former patient and the sexual contact occurred by
38 means of therapeutic deception. Consent by the complainant is
39 not a defense.

40 Neither mistake as to the complainant's age nor consent to
41 the act by the complainant is a defense.

42 No change for subd 2 to 3

609*#347S

43 609.347 EVIDENCE.

44 No change for subd 1 to 3

45 Subd. 4. The defendant may not offer evidence described in
46 subdivision 3 except pursuant to the following procedure:

47 (a) A motion shall be made by the defendant prior to trial,
48 unless later for good cause shown, stating to the court and
49 prosecutor that the defendant has an offer of proof of the
50 relevancy of the evidence of the sexual conduct of the
51 complainant which is proposed to be presented;

52 (b) If the court finds that the offer of proof is
53 sufficient, the court shall order a hearing out of the presence
54 of the jury, if any, and in such hearing shall allow the
55 defendant to make a full presentation of ~~his~~ the offer of proof; *

56 (c) At the conclusion of the hearing, if the court finds
57 that the evidence proposed to be offered by the defendant
58 regarding the sexual conduct of the complainant is relevant and
59 material to the fact of consent, and is not so prejudicial as to
60 be inadmissible, the court shall make an order stating the
61 extent to which evidence is admissible under subdivision 3 and
62 prescribing the nature of questions to be permitted at trial.
63 The defendant may then offer evidence pursuant to the order of
64 the court;

65 (d) If new information is discovered after the date of the
66 hearing or during the course of trial, which may make evidence
67 described in subdivision 3 admissible, the defendant shall make
68 the disclosures under clause (a) of this subdivision and the
69 court shall order an in camera hearing to determine whether the
70 proposed evidence is admissible by the standards herein.

71 No change for subd 5 to 6

609*#349S

72 609.349 VOLUNTARY RELATIONSHIPS.

73 A person does not commit criminal sexual conduct under
74 sections 609.342, clauses (a) and (b), 609.343, clauses (a) and

1 (b), 609.344, clauses (a), (b) and (d), and 609.345, clauses
 2 (a), (b) and (d), if the actor and complainant were adults
 3 cohabiting in an ongoing voluntary sexual relationship at the
 4 time of the alleged offense, or if the complainant is the
 5 actor's legal spouse, unless the couple is living apart and one
 6 of them has filed for legal separation or dissolution of the
 7 marriage. Nothing in this section shall be construed to
 8 prohibit or restrain the prosecution for any other offense
 9 committed by any-person one legal spouse against his the
 10 other legal-spouse. *

609*#355S

11 609.355 BIGAMY.

12 No change for subd 1

13 Subd. 2. ACTS CONSTITUTING. Whoever does any of the
 14 following is guilty of bigamy and may be sentenced to
 15 imprisonment for not more than five years or to payment of a
 16 fine of not more than \$10,000, or both:

17 (1) Knowingly having a prior marriage that is not
 18 dissolved, contracts a marriage in this state with-knowledge
 19 that-his-prior-marriage-is-not-dissolved; or *

20 (2) Contracts a marriage with another in this state with
 21 knowledge that the prior marriage of the person-he-marries other
 22 is not dissolved; or *

23 (3) Cohabits-in-this-state-with-a-person-whom-he-married
 24 outside-this-state-with-knowledge-that-his-own-prior-marriage
 25 has-not-been-dissolved-or-with-knowledge-that-the-prior-marriage
 26 of-the-person-he-married-had-not-been-dissolved Marries another
 27 outside this state with knowledge that either of them has a
 28 prior marriage that has not been dissolved, and then cohabits
 29 with the other in this state. *

609*#365S

30 609.365 INCEST.

31 Whoever has sexual intercourse with another nearer of kin
 32 to him the actor than first cousin, computed by rules of the
 33 civil law, whether of the half or the whole blood, with
 34 knowledge of the relationship, is guilty of incest and may be
 35 sentenced to imprisonment for not more than ten years. *

609*#379S

36 609.379 PERMITTED ACTIONS.

37 Subdivision 1. REASONABLE FORCE. Reasonable force
 38 may be used upon or toward the person of a child without the
 39 child's consent when the following circumstance exists or the
 40 actor reasonably believes it to exist:

41 (a) when used by a parent, legal guardian, teacher, or
 42 other caretaker of a child or pupil, in the exercise of lawful
 43 authority, to restrain or correct the child or pupil; or

44 (b) when used by a teacher or other member of the
 45 instructional, support, or supervisory staff of a public or
 46 nonpublic school upon or toward a child when necessary to
 47 restrain the child from hurting-himself self-injury or injury to
 48 any other person or property. *

49 No change for subd 2

609*#385S

50 609.385 TREASON.

51 No change for subd 1 to 2

52 Subd. 3. TESTIMONY REQUIRED. No person shall be
 53 convicted of treason except on the testimony of two witnesses to
 54 the same overt act, or on his the person's confession in open
 55 court. *

609*#405S

56 609.405 CRIMINAL SYNDICALISM.

57 No change for subd 1

58 Subd. 2. ACTS PROHIBITED. Whoever does any of the
 59 following may be sentenced to imprisonment for not more than
 60 five years or to payment of a fine of not more than \$5,000, or
 61 both:

62 (1) Orally or by means of writing advocates or promotes the
 63 doctrine of criminal syndicalism; or

64 (2) Intentionally organizes or becomes a member of any
 65 assembly, group, or organization which he the actor knows is
 66 advocating or promoting the doctrine of criminal syndicalism; or *

67 (3) For or on behalf of another person, distributes, sells,
 68 publishes, or publicly displays any writing, which is intended
 69 by that person to be used to, and which does, advocate or
 70 promote the doctrine of criminal syndicalism.

71 No change for subd 3

609*#41S

1 609.41 FALSE TAX STATEMENT.

2 Whoever, in making any statement, oral or written, which is
3 required or authorized by law to be made as a basis of imposing,
4 reducing, or abating any tax or assessment, intentionally makes
5 any statement as to any material matter which he the maker of
6 the statement knows is false may be sentenced, unless otherwise
7 provided by law, to imprisonment for not more than one year or
8 to payment of a fine of not more than \$3,000, or both.

*
*

609*#415S

9 609.415 DEFINITIONS.

10 No change for subd 1

11 Subd. 2. A person who has been elected, appointed, or
12 otherwise designated as a public officer or public employee is
13 deemed such officer or employee although he the person has not
14 yet qualified therefor or entered upon the duties thereof.

*

609*#42S

15 609.42 BRIBERY.

16 Subdivision 1. ACTS CONSTITUTING. Whoever does any
17 of the following is guilty of bribery and may be sentenced to
18 imprisonment for not more than ten years or to payment of a fine
19 of not more than \$20,000, or both:

20 (1) Offers, gives, or promises to give, directly or
21 indirectly, to any person who is a public officer or employee
22 any benefit, reward or consideration to which he the person is
23 not legally entitled with intent thereby to influence such
24 officer-or-employee-with-respect-to the person's performance
25 of his the powers or duties as such officer or employee; or

*
*
*
*

26 (2) Being a public officer or employee, requests, receives
27 or agrees to receive, directly or indirectly, any such benefit,
28 reward or consideration upon the understanding that he it
29 will be-so-influenced have such an influence; or

*
*

30 (3) Offers, gives, or promises to give, directly or
31 indirectly any such benefit, reward, or consideration to
32 a person who is a witness or one-who-is about to become a
33 witness in a proceeding before a judicial or hearing officer,
34 with intent that his the person's testimony be influenced
35 thereby, or that he the person will absent-himself-from not
36 appear at the proceeding; or

*
*
*
*

37 (4) As a person who is, or is about to become such witness
38 and requests, receives, or agrees to receive, directly or
39 indirectly, any such benefit, reward, or consideration upon the
40 understanding that his the person's testimony will be so
41 influenced, or that he the person will absent-himself-from not
42 appear at the proceeding; or

*
*
*
*

43 (5) Accepts directly or indirectly a benefit, reward or
44 consideration upon an agreement or understanding, express or
45 implied, that he the acceptor will refrain from giving
46 information that may lead to the prosecution of a crime or
47 purported crime or that he the acceptor will abstain from,
48 discontinue, or delay prosecution therefor, except in a case
49 where a compromise is allowed by law.

*
*

50 Subd. 2. FORFEITURE OF OFFICE. Any public officer
51 who is convicted of violating or attempting to violate
52 subdivision 1 shall forfeit his the public officer's office and
53 be forever disqualified from holding public office under the
54 state.

*

609*#43S

55 609.43 MISCONDUCT OF PUBLIC OFFICER OR EMPLOYEE.

56 A public officer or employee who does any of the following,
57 for which no other sentence is specifically provided by law, may
58 be sentenced to imprisonment for not more than one year or to
59 payment of a fine of not more than \$3,000, or both:

60 (1) Intentionally fails or refuses to perform a known
61 mandatory, nondiscretionary, ministerial duty of his the office
62 or employment within the time or in the manner required by law;
63 or

*

64 (2) In his the capacity as of such officer or employee,
65 does an act which-he-knows knowing it is in excess of his lawful
66 authority or which-he-knows-he knowing it is forbidden by law to
67 do be done in his-official that capacity; or

*
*
*

68 (3) Under pretense or color of official authority
69 intentionally and unlawfully injures another in his the other's
70 person, property, or rights; or

*

71 (4) In his the capacity as of such officer or employee,
72 makes a return, certificate, official report, or other like .

*

1 document ~~which-to-his~~ having knowledge it is false in any *
2 material respect. *

609*#44S
3 609.44 PUBLIC OFFICE; ILLEGALLY ASSUMING; NON-SURRENDER.
4 Whoever intentionally and without lawful right thereto,
5 exercises a function of a public office or, having held such
6 office and ~~his~~ the right thereto having ceased, refuses to *
7 surrender the office or its seal, books, papers, or other *
8 incidents to ~~his~~ a successor or other authority entitled thereto *
9 may be sentenced to imprisonment for not more than one year or
10 to payment of a fine of not more than \$3,000, or both.

609*#45S
11 609.45 PUBLIC OFFICER; UNAUTHORIZED COMPENSATION.
12 Whoever is a public officer or public employee and under
13 color of ~~his~~ office or employment intentionally asks, receives *
14 or agrees to receive a fee or other compensation in excess of *
15 that allowed by law or where no such fee or compensation is
16 allowed, is guilty of a misdemeanor.

609*#455S
17 609.455 PERMITTING FALSE CLAIMS AGAINST GOVERNMENT.
18 A public officer or employee who audits, allows, or pays
19 any claim or demand made upon the state or subdivision thereof
20 or other governmental instrumentality within the state which ~~he~~ *
21 the public officer or employee knows is false or fraudulent in *
22 whole or in part, may be sentenced to imprisonment for not more
23 than five years or to payment of a fine of not more than
24 \$10,000, or both.

609*#465S
25 609.465 PRESENTING FALSE CLAIMS TO PUBLIC OFFICER OR
26 BODY.
27 Whoever, with intent to defraud, presents a claim or
28 demand, ~~which-to-his~~ with knowledge that it is false in whole or *
29 in part, for audit, allowance or payment to a public officer or *
30 body authorized to make such audit, allowance or payment is
31 guilty of an attempt to commit theft of public funds and may be
32 sentenced accordingly.

609*#475S
33 609.475 IMPERSONATING OFFICER.
34 Whoever falsely impersonates a police or military officer
35 or public official with intent to mislead another into believing
36 that ~~he~~ the impersonator is actually such officer or official is *
37 guilty of a misdemeanor.

609*#48S
38 609.48 PERJURY.
39 Subdivision 1. ACTS CONSTITUTING. Whoever makes a
40 false material statement ~~which-he-does~~ not ~~believe~~ believing it *
41 to be true in any of the following cases is guilty of perjury *
42 and may be sentenced as provided in subdivision 4:
43 (1) In or for an action, hearing or proceeding of any kind
44 in which the statement is required or authorized by law to be
45 made under oath or affirmation; or
46 (2) In any writing which is required or authorized by law
47 to be under oath or affirmation; or
48 (3) In any other case in which the penalties for perjury
49 are imposed by law and no specific sentence is otherwise
50 provided.
51 Subd. 2. DEFENSES NOT AVAILABLE. It is not a
52 defense to a violation of this section that:
53 (1) The oath or affirmation was taken or administered in an
54 irregular manner; or
55 (2) The declarant was not competent to give the statement;
56 or
57 (3) The declarant did not know that ~~his~~ the statement was *
58 material or believed it to be immaterial; or
59 (4) The statement was not used or, if used, did not affect
60 the proceeding for which it was made; or
61 (5) The statement was inadmissible under the law of
62 evidence.
63 Subd. 3. INCONSISTENT STATEMENTS. When the
64 declarant has made two inconsistent statements under such
65 circumstances that one or the other must be false and not
66 believed by ~~him~~ the declarant when made, it shall be sufficient *
67 for conviction under this section to charge and the jury to find *
68 that, without determining which, one or the other of such
69 statements was false and not believed by the declarant. The
70 period of limitations for prosecution under this subdivision

1 runs from the first such statement.

2 No change for subd 4

609*#485S

3 609.485 ESCAPE FROM CUSTODY.

4 No change for subd 1

5 Subd. 2. ACTS PROHIBITED. Whoever does any of the
6 following may be sentenced as provided in subdivision 4:

7 (1) Escapes while held in lawful custody on a charge or
8 conviction of a crime; or

9 (2) Transfers to another, who is in lawful custody on a
10 charge or conviction of a crime, or introduces into an
11 institution in which the latter is confined, anything useable in
12 making such escape, with intent that it shall be so used; or

13 (3) Having another in ~~his~~ lawful custody on a charge or
14 conviction of a crime, intentionally permits ~~him~~ the other to
15 escape. *

16 Subd. 3. EXCEPTIONS. This section does not apply to
17 a person who is free on bail or who is on parole or probation,
18 or subject to a stayed sentence or stayed execution of sentence,
19 unless ~~he~~ the person (1) has been taken into actual custody upon
20 revocation of the parole, probation, or stay of the sentence or
21 execution of sentence, or (2) is in custody in a county jail or
22 workhouse as a condition of a stayed sentence. *

23 Subd. 4. SENTENCE. Whoever violates this section
24 may be sentenced as follows:

25 (1) If the person who escapes is in lawful custody on a
26 charge or conviction of a felony, to imprisonment for not more
27 than five years or to payment of a fine of not more than \$5,000,
28 or both.

29 (2) If such charge or conviction is for a gross
30 misdemeanor, to imprisonment for not more than one year or to
31 payment of a fine of not more than \$3,000, or both.

32 (3) If such charge or conviction is for a misdemeanor, to
33 imprisonment for not more than 90 days or to payment of a fine
34 of not more than \$700, or both.

35 (4) If the escape was effected by violence or threat of
36 violence against a person, the sentence may be increased to not
37 more than twice those permitted in clauses (1), (2), and (3).

38 (5) Unless a concurrent term is specified by the court, a
39 sentence under this section shall be consecutive to any sentence
40 previously imposed or which may be imposed for any crime or
41 offense for which the person was in custody when ~~he~~ the person
42 escaped. *

609*#487S

43 609.487 FLEEING A PEACE OFFICER IN A MOTOR VEHICLE.

44 No change for subd 1 to 3

45 Subd. 4. FLEEING AN OFFICER; DEATH; BODILY INJURY.

46 Whoever flees or attempts to flee by means of a motor vehicle a
47 peace officer who is acting in the lawful discharge of an
48 official duty, and the perpetrator knows or should reasonably
49 know the same to be a peace officer, and who in the course of
50 fleeing causes the death of a human being not constituting
51 murder or manslaughter or any bodily injury to any person other
52 than ~~himself~~ the perpetrator may be sentenced to imprisonment as
53 follows. *

54 (a) If the course of fleeing results in death, to
55 imprisonment for not more than ten years or to payment of a fine
56 of not more than \$20,000, or both; or

57 (b) If the course of fleeing results in great bodily harm,
58 to imprisonment for not more than five years or to payment of a
59 fine of not more than \$10,000, or both; or

60 (c) If the course of fleeing results in substantial bodily
61 harm, to imprisonment for not more than three years or to
62 payment of a fine of not more than \$5,000, or both.

609*#49S

63 609.49 RELEASE, FAILURE TO APPEAR.

64 Whoever, being charged with or convicted of a felony and
65 held in lawful custody therefor, is released from custody, with
66 or without bail or recognizance, on condition that ~~he~~ the
67 releasee personally appear when required with respect to such
68 charge or conviction, and intentionally fails, without lawful
69 excuse, to so appear when required or surrender ~~himself~~ within
70 three days thereafter, may be sentenced to imprisonment for not
71 more than one year or to payment of a fine of not more than
72 \$3,000, or both. *

609*#495S

1 609.495 AIDING AN OFFENDER TO AVOID ARREST.

2 Subdivision 1. Whoever harbors, conceals or aids another
3 known by ~~him~~ the actor to have committed a felony under the laws *
4 of this or another state or of the United States with intent
5 that such offender shall avoid or escape from arrest, trial,
6 conviction, or punishment, may be sentenced to imprisonment for
7 not more than three years or to payment of a fine of not more
8 than \$5,000, or both.

9 Subd. 2. This section does not apply if the actor at the
10 time of harboring, concealing, or aiding is related to the
11 offender as ~~husband~~-wife spouse, parent, or child. *

609*#50S

12 609.50 OBSTRUCTING LEGAL PROCESS OR ARREST.

13 Whoever intentionally obstructs, hinders or prevents the
14 lawful execution of any legal process, civil or criminal, or
15 apprehension of another on a charge or conviction of a criminal
16 offense or interferes with a peace officer while the officer is
17 engaged in the performance of ~~his~~ official duties may be *
18 sentenced as follows:

19 (1) If the act was accompanied by force or violence or the
20 threat thereof, to imprisonment for not more than one year or to
21 payment of a fine of not more than \$3,000, or both; or

22 (2) In other cases to imprisonment for not more than 90
23 days or to payment of a fine of not more than \$700, or both.

609*#515S

24 609.515 MISCONDUCT OF JUDICIAL OR HEARING OFFICER.

25 Whoever does any of the following, when the act is not in
26 violation of section 609.42, is guilty of a misdemeanor:

27 (1) Being a judicial or hearing officer, does either of the
28 following:

29 (a) Agrees with or promises another to determine a cause or
30 controversy or issue pending or to be brought before ~~him~~ the *
31 officer for or against any party; or *

32 (b) Intentionally obtains or receives and uses information
33 relating thereto contrary to the regular course of the
34 proceeding.

35 (2) Induces a judicial or hearing officer to act contrary
36 to the provisions of this section.

609*#52S

37 609.52 THEFT.

38 Subdivision 1. DEFINITIONS. In this section:

39 (1) "Property" means all forms of tangible property,
40 whether real or personal, without limitation including documents
41 of value, electricity, gas, water, corpses, domestic animals,
42 dogs, pets, fowl, and heat supplied by pipe or conduit by
43 municipalities or public utility companies and articles, as
44 defined in clause (4), representing trade secrets, which
45 articles shall be deemed for the purposes of Extra Session Laws
46 1967, chapter 15 to include any trade secret represented by the
47 article.

48 (2) "Movable property" is property whose physical location
49 can be changed, including without limitation things growing on,
50 affixed to or found in land.

51 (3) "Value" means the retail market value at the time of
52 the theft, or if the retail market value cannot be ascertained,
53 the cost of replacement of the property within a reasonable time
54 after the theft, or in the case of a theft or the making of a
55 copy of an article representing a trade secret, where the retail
56 market value or replacement cost cannot be ascertained, any
57 reasonable value representing the damage to the owner which ~~he~~ *
58 the owner has suffered by reason of losing an advantage over *
59 those who do not know of or use the trade secret. For a theft
60 committed within the meaning of subdivision 2, clause (5), (a)
61 and (b), if the property has been restored to the owner, "value"
62 means the value of the use of the property or the damage which
63 it sustained, whichever is greater, while the owner was deprived
64 of its possession, but not exceeding the value otherwise
65 provided herein.

66 (4) "Article" means any object, material, device or
67 substance, including any writing, record, recording, drawing,
68 sample specimen, prototype, model, photograph, micro-organism,
69 blueprint or map, or any copy of any of the foregoing.

70 (5) "Representing" means describing, depicting, containing,
71 constituting, reflecting or recording.

72 (6) "Trade secret" means information, including a formula,
73 pattern, compilation, program, device, method, technique, or

1 process, that:

2 (i) derives independent economic value, actual or
3 potential, from not being generally known to, and not being
4 readily ascertainable by proper means by, other persons who can
5 obtain economic value from its disclosure or use, and

6 (ii) is the subject of efforts that are reasonable under
7 the circumstances to maintain its secrecy.

8 (7) "Copy" means any facsimile, replica, photograph or
9 other reproduction of an article, and any note, drawing or
10 sketch made of or from an article while in the presence of the
11 article.

12 (8) "Property of another" includes property in which the
13 actor is co-owner or has a lien, pledge, bailment, or lease or
14 other subordinate interest, and property of a partnership of
15 which the actor is a member, unless the actor and the victim are
16 husband and wife. It does not include property in which the
17 actor asserts in good faith a claim as a collection fee or
18 commission out of property or funds recovered, or by virtue of a
19 lien, set-off, or counterclaim.

20 (9) "Services" include but are not limited to labor,
21 professional services, transportation services, electronic
22 computer services, the supplying of hotel accommodations,
23 restaurant services, entertainment services, advertising
24 services, telecommunication services, and the supplying of
25 equipment for use.

26 (10) "Financial transaction card" means any instrument or
27 device, whether known as a credit card, credit plate, charge
28 plate, courtesy card, bank services card, banking card, check
29 guarantee card, debit card, or by any other name, issued with or
30 without fee by an issuer for the use of the cardholder in
31 obtaining credit, money, goods, services, or anything else of
32 value.

33 Subd. 2. ACTS CONSTITUTING THEFT. Whoever does any
34 of the following commits theft and may be sentenced as provided
35 in subdivision 3:

36 (1) intentionally and without claim of right takes, uses,
37 transfers, conceals or retains possession of movable property of
38 another without ~~his~~ the other's consent and with intent to *
39 deprive the owner permanently of possession of the property; or

40 (2) having a legal interest in movable property,
41 intentionally and without consent, takes the property out of the
42 possession of a pledgee or other person having a superior right
43 of possession, with intent thereby to deprive the pledgee or
44 other person permanently of the possession of the property; or

45 (3) obtains for ~~himself~~ the actor or another the *
46 possession, custody or title to property of or performance of *
47 services by a third person by intentionally deceiving ~~him~~ the *
48 third person with a false representation which is known to be *
49 false, made with intent to defraud, and which does defraud the
50 person to whom it is made. "False representation" includes
51 without limitation:

52 (a) the issuance of a check, draft, or order for the
53 payment of money or the delivery of property knowing that ~~he~~ the *
54 actor is not entitled to draw upon the drawee therefor or to *
55 order the payment or delivery thereof; or

56 (b) a promise made with intent not to perform. Failure to
57 perform is not evidence of intent not to perform unless
58 corroborated by other substantial evidence; or

59 (c) the unauthorized use of a financial transaction card,
60 or the number thereof, or other identification device issued by
61 an organization to a person for use in purchasing goods or
62 services on credit; or

63 (d) the preparation or filing of a claim for reimbursement,
64 a rate application, or a cost report used to establish a rate or
65 claim for payment for medical care provided to a recipient of
66 medical assistance under chapter 256B, which intentionally and
67 falsely states the costs of or actual services provided by a
68 vendor of medical care; or

69 (4) by swindling, whether by artifice, trick, device, or
70 any other means, obtains property or services from another
71 person; or

72 (5) intentionally commits any of the acts listed in this
73 subdivision but with intent to exercise temporary control only
74 and;

75 (a) the control exercised manifests an indifference to the
76 rights of the owner or the restoration of the property to ~~him~~ *

1 the owner; or *

2 (b) ~~he~~ the actor pledges or otherwise attempts to subject *

3 the property to an adverse claim; or

4 (c) ~~he~~ the actor intends to restore the property only on *

5 condition that the owner pay a reward or buy back or make other

6 compensation; or

7 (6) finds lost property and, knowing or having reasonable

8 means of ascertaining the true owner, appropriates it to ~~his~~ the *

9 finder's own use or to that of another not entitled thereto *

10 without first having made reasonable effort to find the owner

11 and offer and surrender the property to ~~him~~ the owner; or *

12 (7) intentionally obtains property or services, offered

13 upon the deposit of a sum of money or tokens in a coin or token

14 operated machine or other receptacle, without making the

15 required deposit or otherwise obtaining the consent of the

16 owner; or

17 (8) intentionally and without claim of right converts any

18 article representing a trade secret, knowing it to be such, to

19 ~~his~~ the actor's own use or that of another person or makes a *

20 copy of an article representing a trade secret, knowing it to be

21 such, and intentionally and without claim of right converts the

22 same to ~~his~~ the actor's own use or that of another person. It *

23 shall be a complete defense to any prosecution under this clause

24 for the defendant to show that information comprising the trade

25 secret was rightfully known or available to ~~him~~ the defendant *

26 from a source other than the owner of the trade secret; or

27 (9) leases or rents personal property under a written

28 instrument and who with intent to place the property beyond the

29 control of the lessor conceals or aids or abets the concealment

30 of the property or any part thereof, or any lessee of the

31 property who sells, conveys or encumbers the property or any

32 part thereof without the written consent of the lessor, without

33 informing the person to whom ~~he~~ the lessee sells, conveys, or *

34 encumbers that the same is subject to such lease and with intent

35 to deprive the lessor of possession thereof. Evidence that a

36 lessee used a false or fictitious name or address in obtaining

37 the property or fails or refuses to return the property to

38 lessor within five days after written demand for the return has

39 been served personally in the manner provided for service of

40 process of a civil action or sent by certified mail to the last

41 known address of the lessee, whichever shall occur later, shall

42 be evidence of intent to violate this clause. Service by

43 certified mail shall be deemed to be complete upon deposit in

44 the United States mail of such demand, postpaid and addressed to

45 the person at the address for the person set forth in the lease

46 or rental agreement, or, in the absence of the address, to the

47 person's last known place of residence; or

48 (10) alters, removes or obliterates numbers or symbols

49 placed on movable property for purpose of identification by the

50 owner or person who has legal custody or right to possession

51 thereof with the intent to prevent identification, if the person

52 who alters, removes or obliterates the numbers or symbols is not

53 the owner and does not have the permission of the owner to make

54 the alteration, removal or obliteration; or

55 (11) with the intent to prevent the identification of

56 property involved, so as to deprive the rightful owner of

57 possession thereof, alters or removes any permanent serial

58 number, permanent distinguishing number or manufacturer's

59 identification number on personal property or possesses, sells

60 or buys any personal property with knowledge that the permanent

61 serial number, permanent distinguishing number or manufacturer's

62 identification number has been removed or altered; or

63 (12) intentionally deprives another of a lawful charge for

64 cable television service by

65 (i) making or using or attempting to make or use an

66 unauthorized external connection outside the individual dwelling

67 unit whether physical, electrical, acoustical, inductive or

68 other connection, or by

69 (ii) attaching any unauthorized device to any cable, wire,

70 microwave, or other component of a licensed cable communications

71 system as defined in chapter 238. Nothing herein shall be

72 construed to prohibit the electronic video rerecording of

73 program material transmitted on the cable communications system

74 by a subscriber for fair use as defined by Public Law Number

75 94-553, section 107; or

76 (13) except as provided in paragraphs (12) and (14),

1 obtains the services of another with the intention of receiving
2 those services without making the agreed or reasonably expected
3 payment of money or other consideration; or

4 (14) intentionally deprives another of a lawful charge for
5 telecommunications service by:

6 (i) making, using, or attempting to make or use an
7 unauthorized connection whether physical, electrical, by wire,
8 microwave, radio or other means to a component of a local
9 telecommunication system as provided in chapter 237; or

10 (ii) attaching an unauthorized device to a cable, wire,
11 microwave, radio or other component of a local telecommunication
12 system as provided in chapter 237.

13 The existence of an unauthorized connection is prima facie
14 evidence that the occupier of the premises:

15 (i) made or was aware of the connection; and

16 (ii) was aware that the connection was unauthorized.

17 No change for subd 3

609*#521S

18 609.521 POSSESSION OF SHOPLIFTING GEAR.

19 Whoever has in his possession any device, gear, or *
20 instrument specially designed to assist in shoplifting with
21 intent to use the same to shoplift and thereby commit theft may
22 be sentenced to imprisonment for not more than three years or to
23 payment of a fine of not more than \$5,000, or both.

609*#525S

24 609.525 BRINGING STOLEN GOODS INTO STATE.

25 Subdivision 1. Whoever brings property into the state *
26 which he the actor has stolen outside the state, or received *
27 outside of the state knowing it to have been stolen, may be *
28 sentenced in accordance with the provisions of section 609.52, *
29 subdivision 3. He The actor may be charged, indicted, and tried *
30 in any county, but not more than one county, into or through *
31 which he the actor has brought such property. *

32 Subd. 2. Property is stolen within the meaning of this *
33 section if the act by which the owner was deprived of his *
34 property was a criminal offense under the laws of the state in *
35 which the act was committed and would constitute a theft under
36 this chapter if the act had been committed in this state.

609*#531S

37 609.531 FORFEITURES.

38 No change for subd 1

39 Subd. 2. FORFEITURES OF CONVEYANCE DEVICES;
40 COMMUNICATIONS DEVICES; PRIMARY CONTAINERS; WEAPONS USED; AND
41 CONTRABAND PROPERTY. Proceeds that are derived from or traced
42 to the commission of a designated offense, conveyance devices,
43 communications devices or components, primary containers, and
44 weapons associated with the commission or utilized in the
45 commission of a designated offense, and all contraband property
46 shall be subject to forfeiture with the following limitations:

47 (a) No conveyance device, communications device or
48 component or primary container used by any person as a common
49 carrier in the transaction of business as a common carrier is
50 subject to forfeiture under this section unless the owner or
51 other person in charge of the conveyance, container, or
52 communications device or component is a consenting party or
53 privy to commission of a designated offense.

54 (b) No conveyance device, communications device or
55 component, primary container, or weapon used is subject to
56 forfeiture under this section unless the owner of it is privy to
57 a violation of a designated offense or unless the use of the
58 conveyance device, communications device or component, primary
59 container, or weapon in a violation occurred with his the *
60 owner's knowledge or consent. *

61 (c) A forfeiture of a conveyance device, communications
62 device or component, primary container, or weapon used
63 encumbered by a bona fide security interest is subject to the
64 interest of the secured party unless he that party had knowledge *
65 of or consented to the act or omission upon which the forfeiture
66 is based.

67 (d) Proceeds which are derived from or traced to the
68 commission of a designated offense are subject to forfeiture
69 under this section only to the extent that the owner of the
70 proceeds was privy to the violation upon which the forfeiture
71 action is based.

72 No change for subd 3 to 6

609*#535S

1 609.535 ISSUANCE OF DISHONORED CHECKS.

2 No change for subd 1

3 Subd. 2. ACTS CONSTITUTING. Whoever issues a check
4 which, at the time of issuance, ~~he~~ the issuer intends shall not *
5 be paid, is guilty of a misdemeanor. In addition, restitution
6 may be ordered by the court.

7 Subd. 3. PROOF OF INTENT. Any of the following is
8 evidence sufficient to sustain a finding that the person at the
9 time ~~he~~ the person issued the check intended it should not be *
10 paid:

11 (1) proof that, at the time of issuance, ~~he~~ the issuer did *
12 not have an account with the drawee;

13 (2) proof that, at the time of issuance, ~~he~~ the issuer did *
14 not have sufficient funds or credit with the drawee and that ~~he~~ *
15 the issuer failed to pay the check within five business days *
16 after mailing of notice of nonpayment or dishonor as provided in *
17 this subdivision; or

18 (3) proof that, when presentment was made within a
19 reasonable time, the issuer did not have sufficient funds or
20 credit with the drawee and that ~~he~~ the issuer failed to pay the *
21 check within five business days after mailing of notice of
22 nonpayment or dishonor as provided in this subdivision.

23 Notice of nonpayment or dishonor that includes a citation
24 to and a description of the penalties in this section shall be
25 sent by the payee or holder of the check to the maker or drawer
26 by certified mail, return receipt requested, or by regular mail,
27 supported by an affidavit of service by mailing, to the address
28 printed on the check. Refusal by the maker or drawer of the
29 check to accept certified mail notice or failure to claim
30 certified or regular mail notice is not a defense that notice
31 was not received.

32 The notice may state that unless the check is paid in full
33 within five business days after mailing of the notice of
34 nonpayment or dishonor, the payee or holder of the check will or
35 may refer the matter to proper authorities for prosecution under
36 this section.

37 An affidavit of service by mailing shall be retained by the
38 payee or holder of the check.

39 No change for subd 4 to 8

609*#55S

40 609.55 UNAUTHORIZED USE OF MOTOR VEHICLE.

41 No change for subd 1

42 Subd. 2. ACTS CONSTITUTING. Whoever intentionally
43 takes or drives a motor vehicle without the consent of the owner
44 or ~~his~~ an authorized agent of the owner may be sentenced to *
45 imprisonment for not more than three years or to payment of a
46 fine of not more than \$5,000, or both.

609*#551S

47 609.551 RUSTLING AND LIVESTOCK THEFT; PENALTIES.

48 Subdivision 1. Whoever intentionally and without claim of
49 right shoots, kills, takes, uses, transfers, conceals or retains
50 possession of live cattle, swine or sheep or the carcasses
51 thereof belonging to another without ~~his~~ the other's consent and *
52 with the intent to permanently deprive the owner thereof may be
53 sentenced as follows:

54 (a) If the value of the animals which are shot, killed,
55 taken, used, transferred, concealed or retained exceeds \$2,500,
56 the defendant may be sentenced to imprisonment for not more than
57 ten years, and may be fined up to \$20,000;

58 (b) If the value of the animals which are shot, killed,
59 taken, used, transferred, concealed or retained exceeds \$300 but
60 is less than \$2,500, the defendant may be sentenced to
61 imprisonment for not more than five years, and may be fined up
62 to \$10,000;

63 (c) If the value of the animals which are shot, killed,
64 taken, used, transferred, concealed, or retained is \$300 or
65 less, the defendant may be sentenced to imprisonment for not
66 more than 90 days or to payment of a fine of not more than \$300
67 or both.

68 No change for subd 2 to 4

609*#561S

69 609.561 ARSON IN THE FIRST DEGREE.

70 Subdivision 1. Whoever unlawfully by means of fire or
71 explosives, intentionally destroys or damages any building that
72 is used as a dwelling at the time the act is committed, whether
73 the inhabitant is present therein at the time of the act or not,

1 or any building appurtenant to or connected with a dwelling
 2 whether the property of himself the actor or of another, commits
 3 arson in the first degree and may be sentenced to imprisonment
 4 for not more than 20 years or to a fine of not more than
 5 \$20,000, or both.

6 Subd. 2. Whoever unlawfully by means of fire or
 7 explosives, intentionally destroys or damages any building not
 8 included in subdivision 1, whether the property of himself the
 9 actor or another commits arson in the first degree and may be
 10 sentenced to imprisonment for not more than 20 years or to a
 11 fine of not more than \$35,000, or both if:

12 (a) Another person who is not a participant in the crime is
 13 present in the building at the time and the defendant knows
 14 that; or

15 (b) The circumstances are such as to render the presence of
 16 such a person therein a reasonable possibility.

609*#562S

17 609.562 ARSON IN THE SECOND DEGREE.

18 Whoever unlawfully by means of fire or explosives,
 19 intentionally destroys or damages any building not covered by
 20 section 609.561, no matter what its value, or any other real or
 21 personal property valued at more than \$2,500, whether the
 22 property of himself the actor or another, may be sentenced to
 23 imprisonment for not more than ten years or to a fine of not
 24 more than \$20,000 or both.

609*#59S

25 609.59 POSSESSION OF BURGLARY TOOLS.

26 Whoever has in his possession any device, explosive, or
 27 other instrumentality with intent to use or permit the use of
 28 the same to commit burglary may be sentenced to imprisonment for
 29 not more than three years or to payment of a fine of not more
 30 than \$5,000, or both.

609*#60S

31 609.60 DANGEROUS TRESPASSES AND OTHER ACTS.

32 Whoever intentionally does any of the following is guilty
 33 of a misdemeanor; except, if to his the actor's knowledge a risk
 34 of death or bodily harm or serious property damage is thereby
 35 created, he the actor may be sentenced to imprisonment for not
 36 more than five years or to payment of a fine of not more than
 37 \$10,000, or both:

38 (1) Smokes in the presence of explosives or inflammable
 39 materials; or

40 (2) Interferes with or obstructs the prevention or
 41 extinguishing of any fire, or disobeys the lawful orders of a
 42 law enforcement officer or firefighter present at the fire; or

43 (3) Shows a false light or signal or interferes with any
 44 light, signal, or sign controlling or guiding traffic upon a
 45 highway, railway track, navigable waters, or in the air; or

46 (4) Places an obstruction upon a railroad track; or

47 (5) Exposes another or his the other's property to an
 48 obnoxious or harmful gas, fluid or substance, with intent to
 49 injure, molest, or coerce; or

50 (6) Without authorization of the adjutant general enters or
 51 is present upon the Camp Ripley military reservation in an area
 52 posted by order of the adjutant general as restricted for weapon
 53 firing or other hazardous military activity.

609*#605S

54 609.605 TRESPASSES AND OTHER ACTS.

55 Subdivision 1. MISDEMEANOR. Whoever intentionally
 56 does any of the following is guilty of a misdemeanor:

57 (1) smokes in a building, area, or common carrier in which
 58 "no smoking" notices have been prominently posted, or when
 59 requested not to by the operator of the common carrier; or

60 (2) trespasses or permits animals under his the actor's
 61 control to trespass upon a railroad track; or

62 (3) permits domestic animals or fowls under his the actor's
 63 control to go upon the lands of another within a city; or

64 (4) interferes unlawfully with any monument, sign, or
 65 pointer erected or marked to designate a point of a boundary,
 66 line or a political subdivision, or of a tract of land; or

67 (5) trespasses upon the premises of another and, without
 68 claim of right, refuses to depart therefrom on demand of the
 69 lawful possessor thereof; or

70 (6) occupies or enters the dwelling of another, without
 71 claim of right or consent of the owner or the consent of one who
 72 has the right to give consent, except in an emergency

1 situation. As used in this clause, "dwelling" means the
 2 building or part of the building used by an individual as a
 3 place of residence on either a full-time or a part-time basis.
 4 The dwelling may be part of a multidwelling or multipurpose
 5 building, or a manufactured home as defined in section 168.011,
 6 subdivision 8; or
 7 (7) enters the premises of another with intent to take or
 8 injure any fruit, fruit trees, or vegetables growing thereon
 9 without the permission of the owner or occupant; or
 10 (8) refuses the request of the operator of a public
 11 conveyance to either pay the required fare or leave the
 12 conveyance; or
 13 (9) takes any animal on a public conveyance without the
 14 consent of the operator; or
 15 (10) without the permission of the owner, tampers with or
 16 gets into or upon a motor vehicle as defined in section 609.55,
 17 subdivision 1, or rides in or upon such motor vehicle knowing it
 18 was taken and is being driven by another without the permission
 19 of the owner; or
 20 (11) enters or is found upon the premises of a public or
 21 private cemetery without authorization during hours the cemetery
 22 is posted as closed to the public; or
 23 (12) without authorization of the adjutant general enters
 24 or is present upon the Camp Ripley military reservation.
 25 No change for subd 2

609*#611S

26 609.611 DEFRAUDING INSURER.

27 Whoever with intent to injure or defraud an insurer,
 28 damages any property real or personal, whether ~~his~~ the actor's
 29 own or that of another, which is at the time insured by any
 30 person, firm or corporation against loss or damage; *

31 (a) May be sentenced to imprisonment for not more than
 32 three years or to payment of fine of not more than \$5,000, or
 33 both if the value insured for is less than \$20,000; or

34 (b) May be sentenced to imprisonment for not more than five
 35 years or to payment of fine of not more than \$10,000, or both if
 36 the value insured for is \$20,000 or greater;

37 (c) Proof that the actor recovered or attempted to recover
 38 on a policy of insurance by reason of the fire is relevant but
 39 not essential to establish ~~his~~ the actor's intent to defraud the
 40 insurer. *

609*#62S

41 609.62 DEFEATING SECURITY ON PERSONALTY.

42 No change for subd 1

43 Subd. 2. ACTS CONSTITUTING. Whoever, with intent to
 44 defraud, does any of the following may be sentenced to
 45 imprisonment for not more than two years or to payment of a fine
 46 of not more than \$4,000, or both:

47 (1) Conceals, removes, or transfers any personal property
 48 in which ~~he~~ the actor knows that another has a security
 49 interest; or *

50 (2) Being an obligor and knowing the location of the
 51 property refuses to disclose the same to an obligee entitled to
 52 possession thereof.

609*#625S

53 609.625 AGGRAVATED FORGERY.

54 Subdivision 1. MAKING OR ALTERING WRITING OR OBJECT.

55 Whoever, with intent to defraud, falsely makes or alters a
 56 writing or object of any of the following kinds so that it
 57 purports to have been made by another or by ~~himself~~ the maker or
 58 alterer under an assumed or fictitious name, or at another time,
 59 or with different provisions, or by authority of one who did not
 60 give such authority, is guilty of aggravated forgery and may be
 61 sentenced to imprisonment for not more than ten years or to
 62 payment of a fine of not more than \$20,000, or both; *

63 (1) a writing or object whereby, when genuine, legal
 64 rights, privileges, or obligations are created, terminated,
 65 transferred, or evidenced, or any writing normally relied upon
 66 as evidence of debt or property rights; or

67 (2) an official seal or the seal of a corporation; or

68 (3) a public record or an official authentication or
 69 certification of a copy thereof; or

70 (4) an official return or certificate entitled to be
 71 received as evidence of its contents; or

72 (5) a court order, judgment, decree, or process; or

73 (6) the records or accounts of a public body, office, or

1 officer; or
 2 (7) the records or accounts of a bank or person, with whom
 3 funds of the state or any of its agencies or subdivisions are
 4 deposited or entrusted, relating to such funds; or
 5 (8) a financial transaction card as defined in section
 6 609.52.
 7 No change for subd 2 to 3

609*#63S

8 609.63 FORGERY.
 9 Subdivision 1. Whoever, with intent to injure or defraud,
 10 does any of the following is guilty of forgery and may be
 11 sentenced to imprisonment for not more than three years or to
 12 payment of a fine of not more than \$5,000, or both:
 13 (1) Uses a false writing, knowing it to be false, for the
 14 purpose of identification or recommendation; or
 15 (2) Without consent, places, or possesses with intent to
 16 place, upon any merchandise an identifying label or stamp which
 17 is or purports to be that of another ~~craftsman, tradesman~~
 18 craftsperson, tradesperson, packer, or manufacturer, or disposes *
 19 or possesses with intent to dispose of any merchandise so *
 20 labeled or stamped; or
 21 (3) Falsely makes or alters a membership card purporting to
 22 be that of a fraternal, business, professional, or other
 23 association, or of any labor union, or possesses any such card
 24 knowing it to have been thus falsely made or altered; or
 25 (4) Falsely makes or alters a writing, or possesses a
 26 falsely made or altered writing, evidencing a right to
 27 transportation on a common carrier; or
 28 (5) Destroys, mutilates, or by alteration, false entry or
 29 omission, falsifies any record, account, or other document
 30 relating to a private business; or
 31 (6) Without authority of law, destroys, mutilates, or by
 32 alteration, false entry, or omission, falsifies any record,
 33 account, or other document relating to a person, corporation, or
 34 business, or filed in the office of, or deposited with, any
 35 public office or officer; or
 36 (7) Destroys a writing or object to prevent it from being
 37 produced at a trial, hearing, or other proceeding authorized by
 38 law.
 39 No change for subd 2

609*#65S

40 609.65 FALSE CERTIFICATION BY NOTARY PUBLIC.
 41 Whoever, when acting or purporting to act as a notary
 42 public or other public officer, certifies falsely that an
 43 instrument has been acknowledged or that any other act was
 44 performed by a party appearing before him the actor or that as *
 45 such notary public or other public officer he the actor *
 46 performed any other official act may be sentenced as follows: *
 47 (1) If he the actor so certifies with intent to injure or
 48 defraud, to imprisonment for not more than three years or to
 49 payment of a fine of not more than \$5,000, or both; or
 50 (2) In any other case, to imprisonment for not more than 90
 51 days or to payment of a fine of not more than \$700, or both.

609*#66S

52 609.66 DANGEROUS WEAPONS.
 53 Subdivision 1. ACTS PROHIBITED. Whoever does any of
 54 the following is guilty of a misdemeanor:
 55 (1) recklessly handles or uses a gun or other dangerous
 56 weapon or explosive so as to endanger the safety of another; or
 57 (2) intentionally points a gun of any kind, capable of
 58 injuring or killing a human being and whether loaded or
 59 unloaded, at or toward another; or
 60 (3) manufactures or sells for any unlawful purpose any
 61 weapon known as a slung-shot or sand club; or
 62 (4) manufactures, transfers, or possesses metal knuckles or
 63 a switch blade knife opening automatically; or
 64 (5) possesses any other dangerous article or substance for
 65 the purpose of being used unlawfully as a weapon against
 66 another; or
 67 (6) sells or has in his possession any device designed to *
 68 silence or muffle the discharge of a firearm; or
 69 (7) without the parent's or guardian's consent, furnishes a
 70 child under 14 years of age, or as a parent or guardian permits
 71 the child to handle or use, outside of the parent's or
 72 guardian's presence, a firearm or airgun of any kind, or any
 73 ammunition or explosive; or

1 (8) in any municipality of this state, furnishes a minor
2 under 18 years of age with a firearm, airgun, ammunition, or
3 explosive without the written consent of ~~his~~ the minor's parent *
4 or guardian or of the police department of the municipality.
5 No change for subd 2

609*#67S

6 609.67 MACHINE GUNS AND SHORT-BARRELED SHOTGUNS.
7 No change for subd 1 to 2
8 Subd. 3. USES PERMITTED. The following persons may
9 own or possess a machine gun or short-barreled shotgun provided
10 the provisions of subdivision 4 are complied with:
11 (1) Law enforcement officers for use in the course of their
12 duties;
13 (2) Chief executive officers of correctional facilities and
14 other personnel thereof authorized by them and persons in charge
15 of other institutions for the retention of persons convicted or
16 accused of crime, for use in the course of their duties; and
17 (3) Persons possessing machine guns or short-barreled
18 shotguns which, although designed as weapons, have been
19 determined by the superintendent of the bureau of criminal
20 apprehension or ~~his~~ the superintendent's delegate by reason of *
21 the date of manufacture, value, design or other characteristics
22 to be primarily collector's items, relics, museum pieces or
23 objects of curiosity, ornaments or keepsakes, and are not likely
24 to be used as weapons.
25 Subd. 4. REPORT REQUIRED. A person owning or
26 possessing a machine gun or short-barreled shotgun as authorized
27 by subdivision 3 shall, within ten days after acquiring such
28 ownership or possession, file a written report with the bureau
29 of criminal apprehension, showing ~~his~~ the person's name and *
30 address; ~~his~~ the person's official title and position, if any; *
31 a description of the machine gun or short-barreled shotgun
32 sufficient to enable identification thereof; the purpose for
33 which it is owned or possessed; and such further information as
34 the bureau may reasonably require.
35 No change for subd 5 to 6

609*#71S

36 609.71 RIOT.
37 When three or more persons assembled disturb the public
38 peace by an intentional act or threat of unlawful force or
39 violence to person or property, each participant therein is
40 guilty of riot and may be sentenced to imprisonment for not more
41 than one year or to payment of a fine of not more than \$1,000,
42 or both, or, if the offender, or to ~~his~~ the offender's knowledge *
43 any other participant, is armed with a dangerous weapon or is
44 disguised, to imprisonment for not more than five years or to
45 payment of a fine of not more than \$10,000, or both.

609*#725S

46 609.725 VAGRANCY.
47 Any of the following are vagrants and are guilty of a
48 misdemeanor:
49 (1) A person, with ability to work, who is without lawful
50 means of support, does not seek employment, and is not under 18
51 years of age; or
52 (2) A person found in or loitering near any structure,
53 vehicle, or private grounds who is there without the consent of
54 the owner and is unable to account for ~~his-presence~~ being there; *
55 or
56 (3) A prostitute who loiters on the streets or in a public
57 place or in a place open to the public with intent to solicit
58 for immoral purposes; or
59 (4) A person who derives ~~his~~ support in whole or in part *
60 from begging or as a fortune teller or similar impostor.

609*#735S

61 609.735 CONCEALING IDENTITY.
62 ~~Whoever-conceals-his~~ A person whose identity is concealed *
63 by the person in a public place by means of a robe, mask, or *
64 other disguise, unless incidental to amusement or entertainment,
65 is guilty of a misdemeanor.

609*#74S

66 609.74 PUBLIC NUISANCE.
67 Whoever by ~~his~~ an act or failure to perform a legal duty *
68 intentionally does any of the following is guilty of maintaining
69 a public nuisance, which is a misdemeanor:
70 (1) Maintains or permits a condition which unreasonably
71 annoys, injures or endangers the safety, health, morals,

1 comfort, or repose of any considerable number of members of the
2 public; or

3 (2) Interferes with, obstructs, or renders dangerous for
4 passage, any public highway or right-of-way, or waters used by
5 the public; or

6 (3) Is guilty of any other act or omission declared by law
7 to be a public nuisance and for which no sentence is
8 specifically provided.

609*#745S

9 609.745 PERMITTING PUBLIC NUISANCE.

10 Whoever having control of real property permits ~~real~~ *
11 ~~property-under-his-control~~ it to be used to maintain a public *
12 nuisance or lets the same knowing it will be so used is guilty
13 of a misdemeanor.

609*#755S

14 609.755 ACTS OF OR RELATING TO GAMBLING.

15 Whoever does any of the following is guilty of a
16 misdemeanor:

17 (1) Makes a bet; or

18 (2) Sells or transfers a chance to participate in a
19 lottery; or

20 (3) Disseminates information about a lottery with intent to
21 encourage participation therein; or

22 (4) Permits a structure or location owned or occupied by
23 ~~him~~ the actor or under ~~his~~ the actor's control to be used as a *
24 gambling place.

609*#762S

25 609.762 FORFEITURE OF GAMBLING DEVICES, PRIZES AND
26 PROCEEDS.

27 No change for subd 1 to 4

28 Subd. 5. EXCEPTION. Property may not be seized or
29 forfeited under this section if the owner shows to the
30 satisfaction of the court that ~~he~~ the owner had no notice or *
31 knowledge or reason to believe that the property was used or
32 intended to be used in violation of this section.

609*#765S

33 609.765 CRIMINAL DEFAMATION.

34 Subdivision 1. DEFINITION. Defamatory matter is
35 anything which exposes a person or a group, class or association
36 to hatred, contempt, ridicule, degradation or disgrace in
37 society, or injury to ~~his-or-its~~ business or occupation. *

38 No change for subd 2 to 4

609*#775S

39 609.775 DIVULGING TELEPHONE OR TELEGRAPH MESSAGE;
40 NON-DELIVERY.

41 Whoever does any of the following is guilty of a
42 misdemeanor:

43 (1) Being entrusted as an employee of a telephone or
44 telegraph company with the transmission or delivery of a
45 telephonic or telegraphic message, intentionally or through
46 culpable negligence discloses the contents or meaning thereof to
47 a person other than the intended receiver; or

48 (2) ~~Knowing-he-is~~ Having knowledge of not being the *
49 intended receiver, obtains such disclosure from such employee;
50 or

51 (3) Being such employee, intentionally or negligently fails
52 duly to deliver such message.

609*#785S

53 609.785 FRAUDULENT LONG DISTANCE TELEPHONE CALLS.

54 Subdivision 1. Whoever obtains long distance telephone
55 service by intentionally charging the cost thereof to a false or
56 non-existent telephone or credit card number or to the telephone
57 or credit card number of another without ~~his~~ the other's *
58 authority may be sentenced to imprisonment for not more than 90
59 days or to payment of a fine of not more than \$700, or both,
60 when the value of the telephone service obtained is not more
61 than \$300; and by imprisonment for not more than five years or
62 to payment of a fine of not more than \$10,000, or both, if the
63 value of the telephone service obtained in a single transaction,
64 or in separate transactions within any six month period, is more
65 than \$300.

66 No change for subd 2

609*#79S

67 609.79 OBSCENE OR HARASSING TELEPHONE CALLS.

68 Subdivision 1. Whoever,

69 (1) By means of a telephone,

- 1 (a) Makes any comment, request, suggestion or proposal
 2 which is obscene, lewd, lascivious, filthy or indecent,
 3 (b) Makes a telephone call, whether or not conversation
 4 ensues, without disclosing ~~his~~ the caller's identity and with *
 5 intent to annoy, abuse, threaten, or harass any person at the
 6 called number,
 7 (c) Makes or causes the telephone of another repeatedly or
 8 continuously to ring, with intent to harass any person at the
 9 called number, or
 10 (2) Having control of a telephone, knowingly permits ~~any~~ *
 11 ~~telephone-under-his-control~~ it to be used for any purpose *
 12 prohibited by this section, shall be guilty of a misdemeanor.
 13 No change for subd 2
 609*#795S
 14 609.795 OPENING SEALED LETTER, TELEGRAM, OR PACKAGE.
 15 Whoever does either of the following is guilty of a
 16 misdemeanor:
 17 (1) Knowing that ~~he~~ the actor does not have the consent of *
 18 either the sender or the addressee, intentionally opens any
 19 sealed letter, telegram, or package addressed to another; or
 20 (2) Knowing that a sealed letter, telegram, or package has
 21 been opened without the consent of either the sender or
 22 addressee, intentionally publishes any of the contents thereof.
 609*#81S
 23 609.81 MISCONDUCT OF PAWNBROKERS.
 24 Whoever in ~~his~~ business as a pawnbroker does any of the *
 25 following is guilty of a misdemeanor:
 26 (1) Lends money on a pledge at a rate of interest above
 27 that allowed by law; or
 28 (2) ~~Has Possesses~~ Possesses stolen goods ~~in-his-possession~~ *
 29 refuses to permit a law enforcement officer to examine them
 30 during usual business hours; or
 31 (3) Sells pledged goods before the time to redeem has
 32 expired; or
 33 (4) Having sold pledged goods, refuses to disclose to the
 34 pledgor the name of the purchaser or the price for which sold;
 35 or
 36 (5) Makes a loan on a pledge to a person under lawful age,
 37 without the written consent of ~~his~~ the person's parent or *
 38 guardian.
 609*#815S
 39 609.815 MISCONDUCT OF JUNK OR SECOND-HAND DEALER.
 40 Whoever is a junk dealer or second-hand dealer and does any
 41 of the following is guilty of a misdemeanor:
 42 (1) Has stolen goods in ~~his~~ possession and refuses to *
 43 permit a law enforcement officer to examine them during usual
 44 business hours; or
 45 (2) Purchases property from a person under lawful age,
 46 without the written consent of ~~his~~ the person's parent or *
 47 guardian.
 609*#82S
 48 609.82 FRAUD IN OBTAINING CREDIT.
 49 ~~Whoever~~ A person who, with intent to defraud, *
 50 obtains personal credit for-himself or credit for another from a *
 51 bank, trust company, savings or building and loan association,
 52 or credit union, by means of a present or past false
 53 representation as to ~~his~~ the person's or another's financial *
 54 ability may be sentenced as follows:
 55 (1) If no money or property is obtained by the defendant by
 56 means of such credit, to imprisonment for not more than 90 days
 57 or to payment of a fine of not more than \$300, or both; or
 58 (2) If money or property is so obtained, the value thereof
 59 shall be determined as provided in section 609.52, subdivision
 60 1, clause (3) and ~~he~~ the person obtaining the credit may be *
 61 sentenced as provided in section 609.52, subdivision 3.
 609*#825S
 62 609.825 BRIBERY OF PARTICIPANT OR OFFICIAL IN CONTEST.
 63 No change for subd 1
 64 Subd. 2. ACTS PROHIBITED. Whoever does any of the
 65 following may be sentenced to imprisonment for not more than
 66 five years or to payment of a fine of not more than \$10,000, or
 67 both:
 68 (1) Offers, gives, or agrees to give, directly or
 69 indirectly, any benefit, reward or consideration to a
 70 participant, manager, director, or other official, or to one who
 71 intends to become such participant or official, in any sporting

1 event, race or other contest of any kind whatsoever with intent
 2 thereby to influence such participant not to use ~~his~~ the *
 3 participant's best effort to win or enable ~~his~~ the participant's *
 4 team to win or to attain a maximum score or margin of victory,
 5 or to influence such official in ~~his~~ decisions with respect to *
 6 such contest; or

7 (2) Requests, receives, or agrees to receive, directly or
 8 indirectly, any benefit, reward or consideration upon the
 9 understanding that ~~he~~ the actor will be so influenced as such *
 10 participant or official.

11 Subd. 3. DUTY TO REPORT. Whoever is offered or
 12 promised such benefit, reward or consideration upon the
 13 understanding ~~that he will~~ to be so influenced as such *
 14 participant or official and fails promptly to report the same to
 15 ~~his~~ the offeree's or promisee's employer, manager, coach, or *
 16 director, or to a county attorney may be punished by
 17 imprisonment for not more than one year or to payment of a fine
 18 of not more than \$3,000, or both.

609*#83S

19 609.83 FALSELY IMPERSONATING ANOTHER.

20 Whoever does either of the following may be sentenced to
 21 imprisonment for not more than five years or to payment of a
 22 fine of not more than \$10,000, or both:

23 (1) Assumes to enter into a marriage relationship with
 24 another by falsely impersonating a third person; or

25 (2) By falsely impersonating another with intent to defraud
 26 ~~him~~ the other or a third person, appears, participates, or *
 27 executes an instrument to be used in a judicial proceeding.

609*#86S

28 609.86 COMMERCIAL BRIBERY.

29 Subdivision 1. DEFINITION. "Corruptly" means that
 30 the actor intends the action to injure or defraud:

31 (1) ~~His~~ The actor's employer or principal; or *

32 (2) The employer or principal of the person to whom ~~he~~ the *
 33 actor offers, gives or agrees to give the bribe or from whom ~~he~~ *
 34 the actor requests, receives or agrees to receive the bribe. *

35 Subd. 2. ACTS CONSTITUTING. Whoever does any of the
 36 following, when not consistent with usually accepted business
 37 practices, is guilty of commercial bribery and may be sentenced
 38 as provided in subdivision 3:

39 (1) Corruptly offers, gives, or agrees to give, directly or
 40 indirectly, any benefit, consideration, compensation, or reward
 41 to any employee, agent or fiduciary of a person with the intent
 42 to influence the person's performance of ~~his~~ his duties as an *
 43 employee, agent, or fiduciary in relation to ~~his~~ the person's *
 44 employer's or principal's business; or

45 (2) Being an employee, agent or fiduciary of a person,
 46 corruptly requests, receives or agrees to receive, directly or
 47 indirectly, from another person any benefit, consideration,
 48 compensation, or reward with the understanding or agreement ~~that~~ *
 49 ~~he shall~~ to be influenced in the performance of ~~his~~ his duties as an *
 50 employee, agent, or fiduciary in relation to ~~his~~ the employer's *
 51 or principal's business.

52 No change for subd 3

609*#88S

53 609.88 COMPUTER DAMAGE.

54 No change for subd 1

55 Subd. 2. PENALTY. Whoever commits computer damage
 56 may be sentenced as follows:

57 (a) To imprisonment for not more than ten years or to
 58 payment of a fine of not more than \$50,000, or both, if the
 59 damage, destruction or alteration results in a loss in excess of
 60 \$2,500, to the owner, ~~his~~ his or the owner's agent, or lessee; *

61 (b) To imprisonment for not more than five years or to
 62 payment of a fine of not more than \$10,000, or both, if the
 63 damage, destruction or alteration results in a loss of more than
 64 \$500, but not more than \$2,500 to the owner, ~~his~~ his or the owner's *
 65 agent or lessee; or

66 (c) In all other cases to imprisonment for not more than 90
 67 days or to payment of a fine of not more than \$700, or both.

609*#89S

68 609.89 COMPUTER THEFT.

69 No change for subd 1

70 Subd. 2. PENALTY. Anyone who commits computer theft
 71 may be sentenced as follows:

72 (a) To imprisonment for not more than ten years or to

1 payment of a fine of not more than \$50,000, or both, if the loss
2 to the owner, his or the owner's agent, or lessee is in excess *
3 of \$2,500; or
4 (b) To imprisonment for not more than five years or to
5 payment of a fine of not more than \$10,000, or both, if the loss
6 to the owner, his or the owner's agent, or lessee is more than *
7 \$500 but not more than \$2,500; or
8 (c) In all other cases to imprisonment for not more than 90
9 days or to payment of a fine of not more than \$700, or both.

611*#01S
10 611.01 GROUND OF ARREST, KNOWLEDGE.
11 Every person arrested by virtue of process, or taken into
12 custody by an officer, has a right to know from such officer the
13 true ground of his arrest; and every such officer who shall *
14 refuse to answer relative thereto, or shall answer untruly, or *
15 neglect on request to exhibit to him the arrested person, or to *
16 any person acting in his the arrested person's behalf, the *
17 precept by virtue of which such arrest is made, shall be
18 punished by a fine not exceeding \$3,000, or by imprisonment in
19 the county jail not exceeding one year.

611*#02S
20 611.02 PRESUMPTION OF INNOCENCE; CONVICTION OF LOWEST
21 DEGREE, WHEN.
22 Every defendant in a criminal action is presumed innocent
23 until the contrary is proved and, in case of a reasonable doubt,
24 is entitled to acquittal; and when an offense has been proved
25 against him the defendant, and there exists a reasonable doubt *
26 as to which of two or more degrees he the defendant is guilty, *
27 he the defendant shall be convicted only of the lowest. *

611*#025S
28 611.025 PRESUMPTION OF RESPONSIBILITY.
29 Except as otherwise provided by law, in every criminal
30 proceeding, a person is presumed to be responsible for his the *
31 person's acts and bears the burden of rebutting such presumption *
32 is-upon-him. *

611*#026S
33 611.026 CRIMINAL RESPONSIBILITY OF MENTALLY ILL OR
34 DEFICIENT.
35 No person shall be tried, sentenced, or punished for any
36 crime while mentally ill or mentally deficient so as to be
37 incapable of understanding the proceedings or making a defense;
38 but he the person shall not be excused from criminal liability *
39 except upon proof that at the time of committing the alleged *
40 criminal act he the person was laboring under such a defect of *
41 reason, from one of these causes, as not to know the nature *
42 of his the act, or that it was wrong.

611*#03S
43 611.03 CONVICTION.
44 No person indicted for any offense shall be convicted
45 thereof, unless by admitting the truth of the charge in his a *
46 demurrer, or plea, by confession in open court, or by verdict of
47 a jury, accepted and recorded by the court.

611*#05S
48 611.05 CONTINUANCE; EFFECT; BAIL.
49 When the defendant is not indicted or tried as herein
50 provided, and good reasons therefor are shown, the court may
51 order the action continued from term to term, and in the
52 meantime commit the defendant, or, in case the offense is
53 bailable, admit him the defendant to bail, on his the *
54 defendant's furnishing satisfactory sureties. When the action *
55 is dismissed, the defendant shall be discharged from custody, *
56 or, if admitted to bail, his the bail shall be exonerated, and, *
57 if money has been deposited for bail, that shall be refunded.

611*#06S
58 611.06 DEFENDANT ENTITLED TO BLANK SUBPOENAS.
59 The clerk of the court in which any indictment is to be
60 tried shall at all times, upon application of a defendant not
61 represented by counsel, and without charge, issue as many blank
62 subpoenas, under the seal of the court, and subscribed by him *
63 the clerk as clerk, for witnesses in the state, as are approved *
64 by order of court as provided by Rule 22.01, Subdivision 3, of
65 the rules of criminal procedure and required by the defendant.
66 Issuance of subpoenas shall not require court approval if
67 defendant is represented by counsel.

611*#07S
68 611.07 COUNSEL FOR DEFENSE.

1 Subdivision 1. APPOINTMENT. When a defendant is
 2 charged upon indictment or information or complaint for any
 3 felony or gross misdemeanor and asks to have counsel appointed
 4 to assist in ~~his~~ the defense, counsel shall be appointed and *
 5 compensated as provided for by law and court rule.

6 Subd. 2. PAYMENT. If the counsel appointed appeals,
 7 and after the hearing of the appeal, the court of appeals or
 8 supreme court determines that defendant is unable, by reason of
 9 poverty, to pay counsel, and that review was sought in good
 10 faith and upon reasonable grounds, the counsel may be paid the
 11 sum for ~~his~~ services and expenses as the court determines, to be *
 12 certified to the county treasurer by the clerk of the appellate
 13 courts. The compensation and expense shall be paid by the
 14 county in which the defendant was accused.

15 Subd. 3. TRANSCRIPT. When a defendant convicted of a
 16 felony or a gross misdemeanor who has appealed or has procured a
 17 writ of error, or who has otherwise brought the validity of ~~his~~ *
 18 a conviction before the court of appeals or supreme court for *
 19 review, applies to the district court and makes an adequate
 20 showing that of inability because of his poverty ~~he-is-unable~~ to *
 21 pay for a transcript which ~~he-reasonably-needs~~ is reasonably *
 22 needed in presenting the alleged errors raised for appellate *
 23 review, the district court shall order a transcript in
 24 accordance with the rules of criminal procedure.

611*#071S

25 611.071 APPEALS FROM FELONY CONVICTIONS, COUNSEL FEES
 26 AND EXPENSES.

27 No change for subd 1 to 2

28 Subd. 3. A person described in subdivision 2 may file a
 29 petition in the supreme court setting forth: (1) The facts
 30 relating to the jurisdictional requirements as set forth in
 31 subdivision 2; (2) A statement of the facts of the case in which
 32 ~~he~~ the petitioner has been convicted; (3) The grounds upon which *
 33 ~~he~~ the petitioner seeks an appeal or writ of error or the *
 34 grounds upon which ~~he~~ the petitioner seeks to pursue *
 35 post-conviction proceedings, as the case may be; (4) A prayer
 36 requesting that the supreme court appoint counsel, order the
 37 payment of counsel fees and the actual necessary expenses.

38 No change for subd 4 to 5

611*#11S

39 611.11 NO PRESUMPTION FROM FAILURE TO TESTIFY.

40 The defendant in the trial of an indictment, complaint, or
 41 other criminal proceeding shall, at ~~his~~ the defendant's own *
 42 request and not otherwise, be allowed to testify; but ~~his~~ *
 43 failure to testify shall not create any presumption against ~~him~~ *
 44 the defendant, nor shall it be alluded to by the prosecuting *
 45 attorney or by the court.

611*#12S

46 611.12 PUBLIC DEFENDER.

47 No change for subd 1

48 Subd. 2. DESIGNATION; DUTIES. The attorney so
 49 appointed shall be known as the public defender of
 50 county. ~~He~~ The public defender shall appear *
 51 for and defend all persons charged with any felony or gross
 52 misdemeanor, and may appear for and represent all minors in
 53 juvenile court in such county, when it shall appear to the court
 54 that the person accused is unable, by reason of poverty, to
 55 procure counsel.

56 Subd. 3. APPEAR BEFORE BOARDS OF PARDONS AND PAROLE.

57 When the committing judge, or the judge in charge of the
 58 criminal court, shall deem it advisable ~~he~~ the judge may by *
 59 order direct the public defender to appear before the board of
 60 pardons, or the board of parole, for and on behalf of any
 61 applicant for pardon or parole who was committed from such
 62 county.

63 Subd. 4. COMPENSATION. The public defender shall
 64 receive such compensation for ~~his~~ services as the judges of the *
 65 district court shall fix, such compensation to be paid by the
 66 county in the same manner and at the same time as the salaries
 67 of other county officials.

68 Subd. 5. TERM. The term of office of the public
 69 defender shall be four years, ~~but-he-may-be-reappointed~~ subject *
 70 to reappointment as often as the majority of the judges of the *
 71 district court shall concur in such reappointment.

72 Subd. 6. ASSISTANTS. The public defender shall have
 73 the power to appoint and remove ~~his~~ assistants, the number and *

1 compensation of whom shall be fixed by the judges of the
2 district court, by an order filed with the county auditor.
3 Their compensation shall be paid by the county in the same
4 manner and at the same time as the salaries of other county
5 officials.

6 No change for subd 7

611*#15S

7 611.15 NOTIFICATION OF RIGHT TO REPRESENTATION.

8 In every criminal case or proceeding in which any person
9 entitled by law to representation by counsel shall appear
10 without counsel, the court shall advise such person ~~that he has~~ *
11 of the right to be represented by counsel and that counsel will *
12 be appointed to represent ~~him~~ the person if ~~he~~ the person is *
13 financially unable to obtain counsel.

611*#16S

14 611.16 REQUEST FOR APPOINTMENT OF PUBLIC DEFENDER.

15 Any person described in section 611.14 or any other person
16 entitled by law to representation by counsel, may at any time
17 request the court in which the matter is pending, or the court
18 in which ~~he was convicted~~ the conviction occurred, to appoint a *
19 public defender to represent ~~him~~ the person. In a proceeding *
20 defined by clause (b) of section 611.14, application for the
21 appointment of a public defender may also be made to a judge of
22 the supreme court.

611*#17S

23 611.17 FINANCIAL INQUIRY; STATEMENTS.

24 Upon a request for the appointment of counsel, the court
25 shall make appropriate inquiry into the financial circumstances
26 of the applicant, who shall submit, unless waived in whole or in
27 part by the court, a financial statement under oath or
28 affirmation setting forth ~~his~~ the applicant's assets and *
29 liabilities, source or sources of income, and any other
30 information required by the court. The state public defender
31 shall furnish appropriate forms for the financial statements.
32 The information contained in the statement shall be confidential
33 and for the exclusive use of the court, except for any
34 prosecution under section 609.48. A refusal to execute the
35 financial statement constitutes a waiver of the right to the
36 appointment of a public defender.

611*#18S

37 611.18 APPOINTMENT OF PUBLIC DEFENDER.

38 If it appears to a court that a person requesting the
39 appointment of counsel satisfies the requirements of this
40 chapter, the court shall order the appropriate public defender
41 to represent ~~him~~ the person at all further stages of the *
42 proceeding through appeal, if any. For those persons appealing
43 from a conviction or pursuing a post conviction proceeding,
44 after the time for appeal has expired, the state public defender
45 shall be appointed. For all other persons covered by section
46 611.14, a district public defender shall be appointed to
47 represent them. If (a) conflicting interests exist, (b) the
48 district public defender for any other reason is unable to act,
49 or (c) the interests of justice require, the state public
50 defender may be ordered to represent a person. If at any stage
51 of the proceedings, including an appeal, the court finds that
52 the defendant is financially unable to pay counsel whom ~~he~~ the *
53 defendant had retained, the court may appoint the appropriate *
54 public defender to represent ~~him~~ the defendant, as provided in *
55 this section. Prior to any court appearance, a public defender
56 may represent a person accused of violating the law, who appears
57 to be financially unable to obtain counsel, and shall continue
58 to represent the person unless it is subsequently determined
59 that the person is financially able to obtain counsel. The
60 representation may be made available at the discretion of the
61 public defender, upon the request of the person or someone
62 on ~~his~~ the person's behalf. Any law enforcement officer may *
63 notify the public defender of the arrest of any such person.

611*#20S

64 611.20 SUBSEQUENT ABILITY TO PAY COUNSEL.

65 If at any time after the state public defender or a
66 district public defender has been directed to act, the court
67 having jurisdiction in the matter is satisfied that the
68 defendant or other person is financially able to obtain counsel
69 or to make partial payment for the representation, the court may
70 terminate the appointment of the public defender, unless the
71 person so represented is willing to pay therefor. If a public

1 defender continues the representation, the court shall direct
 2 payment for such representation as the interests of justice may
 3 dictate. Any payments directed by the court shall be deposited
 4 with the clerk thereof and the clerk shall forthwith remit the
 5 amount thereof to the treasurer of the governmental unit
 6 chargeable with the compensation of such public defender for
 7 deposit in the treasury to the credit of the general revenue
 8 fund of such governmental unit or units.

9 If at any time after ~~his~~ appointment a public defender *
 10 should have reason to believe that a defendant is financially
 11 able to obtain counsel or to make partial payment for counsel,
 12 it shall be ~~his~~ the public defender's duty to so advise the *
 13 court so that appropriate action may be taken.

611*#21S

14 611.21 SERVICES OTHER THAN COUNSEL.

15 Counsel, whether or not appointed by the court, for a
 16 defendant who is financially unable to obtain investigative,
 17 expert, or other services necessary to an adequate defense in
 18 ~~his~~ the case may request them in an ex parte application. Upon *
 19 finding, after appropriate inquiry in an ex parte proceeding,
 20 that the services are necessary and that the defendant is
 21 financially unable to obtain them, the court shall authorize
 22 counsel to obtain the services on behalf of the defendant. The
 23 court may establish a limit on the amount which may be expended
 24 or promised for such services. The court may, in the interests
 25 of justice, and upon a finding that timely procurement of
 26 necessary services could not await prior authorization, ratify
 27 such services after they have been obtained, but such
 28 ratification shall be given only in unusual situations. The
 29 court shall determine reasonable compensation for the services
 30 and direct payment by the county in which the prosecution
 31 originated, to the organization or person who rendered them,
 32 upon the filing of a claim for compensation supported by an
 33 affidavit specifying the time expended, services rendered, and
 34 expenses incurred on behalf of the defendant, and the
 35 compensation received in the same case or for the same services
 36 from any other source. The compensation to be paid to a person
 37 for such service rendered ~~by him~~ to a defendant under this *
 38 section, or to be paid to an organization for such services
 39 rendered by an employee thereof, shall not exceed \$300,
 40 exclusive of reimbursement for expenses reasonably incurred.

611*#215S

41 611.215 STATE BOARD OF PUBLIC DEFENSE CREATED.

42 Subdivision 1. CREATION; MEMBERSHIP. There is
 43 created a state board of public defense as a part of, but not
 44 subject to the administrative control of, the judicial branch of
 45 government. The state board of public defense shall consist of
 46 seven members appointed by the supreme court including:

47 (a) a district, county or county municipal court trial
 48 judge;

49 (b) four attorneys admitted to the practice of law, well
 50 acquainted with the defense of persons accused of crime, but not
 51 publicly employed as a prosecutor or defense counsel; and

52 (c) two public members.

53 All members shall demonstrate an interest in maintaining a
 54 high quality, independent defense system for those who are
 55 unable to obtain adequate representation. In making the four
 56 appointments of attorneys at law, the supreme court shall first
 57 consider a list of at least three nominees for each position
 58 submitted to the supreme court by the state bar association.
 59 The terms, compensation and removal of members shall be as
 60 provided in section 15.0575. The ~~chairman~~ chair shall be *
 61 elected by the members from among the membership for a term of
 62 two years.

63 No change for subd 2 to 3

611*#23S

64 611.23 APPOINTMENT; SALARY.

65 The state public defender shall be appointed by the state
 66 board of public defense for a term of four years, except as
 67 otherwise provided herein, and until ~~his~~ a successor is *
 68 appointed and qualified. He The state public defender shall be *
 69 a qualified attorney, licensed to practice law in this state,
 70 serve in the unclassified service of the state, and be removed
 71 only for cause by the appointing authority. Vacancies in the
 72 office shall be filled by the appointing authority for the
 73 unexpired term. The salary of the state public defender shall

1 be fixed by law. Terms of the state public defender shall
2 commence on January 1. The state public defender shall devote
3 full time to the performance of ~~his~~ duties and shall not engage *
4 in the general practice of law.

611*#25S

5 611.25 POWERS; DUTIES; LIMITATIONS.
6 The state public defender shall represent, without charge,
7 a defendant or other person appealing from a conviction or
8 pursuing a post conviction proceeding after the time for appeal
9 has expired when the state public defender is directed to do so
10 by a judge of the district court, of the court of appeals or of
11 the supreme court. The state public defender shall represent
12 any other person, who is financially unable to obtain counsel,
13 when directed to do so by the supreme court or the court of
14 appeals, except that ~~he~~ the state public defender shall not *
15 represent a person in any action or proceeding in which a party
16 is seeking a monetary judgment, recovery or award. The state
17 public defender may assist a district public defender in the *
18 performance of ~~his~~ duties when the district public defender
19 requests. Whenever the state public defender is directed by a *
20 court to represent any defendant or other person, with the
21 approval of the court ~~he~~ the state public defender may assign *
22 the representation to any district public defender.
23 ~~He~~ The state public defender also shall supervise the *
24 training of all state and district public defenders, and may
25 establish a training course for such purpose.

611*#26S

26 611.26 DISTRICT PUBLIC DEFENDERS.
27 No change for subd 1
28 Subd. 2. Upon the filing of an order pursuant to
29 subdivision 1 the state board of public defense shall appoint a
30 district public defender after receiving recommendations from
31 the judges of the district. Each district public defender shall
32 be a qualified attorney, licensed to practice law in this
33 state. ~~He~~ The district public defender shall be appointed for a *
34 term of four years. The district public defender may be removed
35 for cause upon the order of the state board of public defense.
36 Vacancies in the office shall be filled by the appointing
37 authority for the unexpired term.
38 No change for subd 3 to 8

611*#261S

39 611.261 TRANSITION.
40 A written order filed before July 1, 1981 with the state
41 judicial council establishing a district public defender system
42 shall remain in effect. A district public defender, serving on
43 July 1, 1981, may continue in office until the expiration of the
44 term to which ~~he-has-been~~ appointed. The state public defender, *
45 serving on July 1, 1981, may continue in office until the
46 expiration of the term to which ~~he-has-been~~ appointed. *

611*#27S

47 611.27 FINANCING THE OFFICES OF DISTRICT PUBLIC DEFENDER.
48 Subdivision 1. The compensation and expenses of the
49 district public defender are to be paid by the county or
50 counties comprising the judicial district and in conformity with
51 the following:
52 (1) Within ten days after a district public defender or an
53 assistant district public defender is appointed and on or before
54 July 1 of each year thereafter, the appointing authority shall
55 certify to the district judges of the respective judicial
56 districts the compensation which has been set for each such
57 district public defender and each such assistant.
58 (2) Immediately thereafter, the judges of such district
59 shall determine and certify to the respective county boards a
60 comprehensive budget for the office of the district public
61 defender including all salaries, expenses, and office equipment
62 and supplies. Suitable office space shall be provided where
63 available in publicly owned buildings in a location within the
64 district selected by such judges. If no such space is
65 available, the judges shall include in the budget a reasonable
66 allowance for office rental which shall be in addition to ~~his~~ *
67 the district public defender's compensation. Except in the *
68 second and fourth judicial districts, the district judges of the
69 judicial district shall apportion the compensation of such
70 public defenders in their respective judicial districts among
71 the several counties and each county shall be required by such
72 order to pay the specific amounts thereof in monthly

1 installments. The specified amount of the compensation which
 2 each county shall pay shall be such proportion of the whole
 3 compensation as the population in such county bears to the total
 4 population in the district as set forth in the last federal
 5 census. If the district public defender or an assistant
 6 district public defender is temporarily transferred to some
 7 county not situated in ~~his~~ that public defender's judicial
 8 district, said county shall pay the proportionate part of ~~his~~
 9 that public defender's compensation for the services performed
 10 in said county.

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11 (3) Reimbursement for actual and necessary travel expenses
 12 in the conduct of the office of the district public defender
 13 shall be charged to either (1) the general expenses of the
 14 office, (2) the general expenses of the district for which the
 15 expenses were incurred if outside the district, or (3) the
 16 office of the state public defender if the services were
 17 rendered for that office.

18 No change for subd 2

19 Subd. 3. If the state public defender or a district public
 20 defender deems it necessary to make a motion for a new trial, to
 21 take an appeal, or other post-conviction proceedings in order to
 22 properly represent a defendant or other person whom ~~he~~ that
 23 public defender had been directed to represent, ~~he~~ that public
 24 defender may use the transcripts of the testimony and other
 25 proceedings filed with the clerk of the district court as
 26 provided by section 243.49.

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27 No change for subd 4

611*#28S

28 611.28 REPEALER AND SAVINGS CLAUSE.

29 No change for subd 1 to 2

30 Subd. 3. The repeal of the provisions of law set forth in
 31 subdivision 1 shall not affect the right of any defendant or
 32 other person to continue to be represented by counsel appointed
 33 pursuant to such repealed sections and counsel so appointed
 34 shall continue such representation until ~~his~~ counsel's duties
 35 for such defendant or other persons have been completed or ~~he~~
 36 counsel is otherwise discharged from performing such duties
 37 by ~~his~~ the appointing authority.

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611*#31S

38 611.31 HANDICAPPED PERSON.

39 For the purposes of sections 611.30 to 611.34, "person
 40 handicapped in communication" means a person who: (a) because
 41 of a hearing, speech or other communication disorder, or (b)
 42 because of difficulty in speaking or comprehending the English
 43 language, cannot fully understand the proceedings or any charges
 44 made against ~~him~~ the person, or is incapable of presenting or
 45 assisting in the presentation of ~~his~~ a defense.

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611*#32S

46 611.32 PROCEEDINGS WHERE INTERPRETER APPOINTED.

47 No change for subd 1

48 Subd. 2. PROCEEDINGS AT TIME OF APPREHENSION OR ARREST.

49 Following the apprehension or arrest of a person handicapped
 50 in communication for an alleged violation of a criminal law, the
 51 arresting officer, sheriff or other law enforcement official
 52 shall immediately make necessary contacts to obtain a qualified
 53 interpreter and shall obtain an interpreter at the earliest
 54 possible time at the place of detention. A law enforcement
 55 officer shall, with the assistance of the interpreter, explain
 56 to the person handicapped in communication, all charges filed
 57 against ~~him-or-her~~ the person, and all procedures relating
 58 to ~~his-or-her~~ the person's detainment and release. The
 59 interpreter shall also assist the person with all other
 60 communications, including communications relating to needed
 61 medical attention. Prior to interrogating or taking the
 62 statement of the person handicapped in communication, the
 63 arresting officer, sheriff, or other law enforcement official
 64 shall make available to the person a qualified interpreter to
 65 assist the person throughout the interrogation or taking of a
 66 statement.

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611*#33S

67 611.33 QUALIFIED INTERPRETER.

68 Subdivision 1. No person shall be appointed as a qualified
 69 interpreter pursuant to sections 611.30 to 611.34 unless said
 70 person is readily able to communicate with the handicapped
 71 person, translate the proceedings for ~~him~~ the handicapped
 72 person, and accurately repeat and translate the statements of

*
*

1 the handicapped person to the officials before whom the
2 proceeding is taking place.

3 Subd. 2. Every qualified interpreter appointed pursuant to
4 the provisions of sections 611.30 to 611.34, before entering
5 upon ~~his~~ duties as such, shall take an oath ~~that he will~~, to the
6 ~~best of his skill and judgment~~, make to the best of the
7 interpreter's skill and judgment a true interpretation to the
8 handicapped person being examined of all the proceedings, in a
9 language which said person understands, and ~~that he will~~ to
10 repeat the statements, in the English language, of said person
11 to the court or other officials before whom the proceeding is
12 taking place.

13 No change for subd 3

14 Subd. 4. ~~Whenever a person serves as~~ An interpreter
15 pursuant to sections 611.30 to 611.34, ~~he~~ shall not, without the
16 consent of the person handicapped in communication, be allowed
17 to disclose any privileged communication made by the person or
18 any privileged information gathered from the person which was
19 communicated or gathered during the time ~~when he was serving~~ of
20 service as an interpreter.

611*#35S

21 611.35 REIMBURSEMENT OF PUBLIC DEFENDER AND APPOINTIVE
22 COUNSEL.

23 Subdivision 1. Any person who is represented by a public
24 defender or appointive counsel shall, if ~~he is~~ financially able
25 to pay, reimburse the governmental unit chargeable with the
26 compensation of such public defender or appointive counsel for
27 the actual costs to the governmental unit in providing the
28 services of the public defender or appointive counsel. The
29 court in hearing such matter shall ascertain the amount of such
30 costs to be charged to the defendant and shall direct
31 reimbursement over a period of not to exceed six months, unless
32 the court for good cause shown shall extend the period of
33 reimbursement. If a term of probation is imposed as a part of a
34 sentence, reimbursement of costs as required by this subdivision
35 may be made a condition of probation.

36 No change for subd 2

611A#03S

37 611A.03 PLEA AGREEMENTS; NOTIFICATION.

38 Subdivision 1. PLEA AGREEMENTS; NOTIFICATION OF VICTIM.

39 Prior to the entry of the factual basis for a plea pursuant
40 to a plea agreement recommendation, a prosecuting attorney shall
41 make a reasonable and good faith effort to inform the victim of:

42 (a) The contents of the plea agreement recommendation; and

43 (b) ~~His~~ The right to be present at the sentencing hearing
44 and to express in writing any objection ~~he has~~ to the agreement
45 or to the proposed disposition. If the victim is not present
46 when the court considers the recommendation, but has
47 communicated ~~his~~ objections to the prosecuting attorney, the
48 prosecuting attorney shall make these objections known to the
49 court.

50 No change for subd 2 to 3

611A#06S

51 611A.06 RIGHT TO NOTICE OF RELEASE.

52 The commissioner of corrections or other custodial
53 authority shall make a good faith effort to notify the victim
54 that the offender is to be released from imprisonment or
55 incarceration, other than for work release, prior to the release
56 if the victim has mailed to the commissioner of corrections or
57 to the head of the facility in which the offender is confined a
58 written request for this notice. The commissioner or other
59 custodial authority complies with this section ~~if he mails~~ upon
60 mailing the notice of impending release to the victim at the
61 address which the victim has most recently provided to ~~him~~ the
62 commissioner or authority in writing.

611A#31S

63 611A.31 DEFINITIONS.

64 No change for subd 1 to 4

65 Subd. 5. "Commissioner" means the commissioner of the
66 department of corrections or ~~his~~ a designee.

611A#34S

67 611A.34 ADVISORY COUNCIL.

68 Subdivision 1. CREATION. Within 60 days after the
69 effective date of sections 611A.31 to 611A.36, the commissioner
70 shall appoint a nine member advisory council to advise ~~him~~ the
71 commissioner on the implementation of sections 611A.31 to

1 611A.36. The provisions of section 15.059 shall govern the
 2 terms and removal of members of the advisory council.
 3 Notwithstanding section 15.059, the council shall not expire.
 4 Council members shall not receive per diem, but shall receive
 5 expenses in the same manner and amount as state employees.

6 No change for subd 2

7 Subd. 3. DUTIES. The advisory council shall:

8 (a) recommend to the commissioner the names of five
 9 applicants for the position of project coordinator;

10 (b) advise the commissioner on the rules promulgated
 11 pursuant to section 611A.33;

12 (c) review and comment on applications received by the
 13 commissioner for designation as a pilot program and applications
 14 for education grants; and

15 (d) advise the project coordinator in the performance of
 16 his duties in the administration and coordination of the
 17 programs funded under section 611A.32.

611A#35S

18 611A.35 PROJECT COORDINATOR.

19 The commissioner shall appoint a project coordinator. In
 20 appointing the project coordinator the commissioner shall give
 21 due consideration to the list of applicants submitted to him the
 22 commissioner by the advisory task force pursuant to section
 23 611A.34, subdivision 3, clause (a). The project coordinator
 24 shall administer the funds appropriated for sections 611A.31 to
 25 611A.36 and 256D.05, subdivision 3, coordinate the programs
 26 funded under section 611A.32, and perform other duties as the
 27 commissioner may assign ~~to him~~. The project coordinator shall
 28 serve at the pleasure of the commissioner in the unclassified
 29 service.

611A#36S

30 611A.36 DATA COLLECTION.

31 No change for subd 1

32 Subd. 2. MANDATORY DATA COLLECTION. Every local law
 33 enforcement agency shall collect data related to battered women
 34 in the form required by the commissioner. The data shall be
 35 collected and transmitted to the commissioner at such times as
 36 he the commissioner shall, by rule, require.

37 Subd. 3. IMMUNITY FROM LIABILITY. Any person
 38 participating in good faith and exercising due care in the
 39 collection and transmission of data pursuant to this section
 40 shall have immunity from any liability, civil or criminal, that
 41 otherwise might result by reason of his the person's action.

611A#52S

42 611A.52 DEFINITIONS.

43 For the purposes of sections 611A.51 to 611A.67 the
 44 following terms shall have the meanings given them:

45 (1) "Accomplice" means any person who would be held
 46 criminally liable for the crime of another pursuant to section
 47 609.05.

48 (2) "Board" means the crime victims reparations board
 49 established by section 611A.55.

50 (3) "Claimant" means a person entitled to apply for
 51 reparations pursuant to sections 611A.51 to 611A.67.

52 (4) "Collateral source" means a source of benefits or
 53 advantages for economic loss otherwise reparable under sections
 54 611A.51 to 611A.67 which the victim or claimant has received, or
 55 which is readily available to him the victim, from:

56 (a) the offender;

57 (b) the government of the United States or any agency
 58 thereof, a state or any of its political subdivisions, or an
 59 instrumentality of two or more states, unless the law providing
 60 for the benefits or advantages makes them excess or secondary to
 61 benefits under sections 611A.51 to 611A.67;

62 (c) social security, medicare, and medicaid;

63 (d) state required temporary nonoccupational disability
 64 insurance;

65 (e) workers' compensation;

66 (f) wage continuation programs of any employer;

67 (g) proceeds of a contract of insurance payable to the
 68 victim for economic loss ~~which he~~ sustained because of the crime;

69 (h) a contract providing prepaid hospital and other health
 70 care services, or benefits for disability; or

71 (i) any private source as a voluntary donation or gift.

72 The term does not include a life insurance contract.

73 (5) (a) "Crime" means conduct that

1 (i) occurs or is attempted in this state,
 2 (ii) poses a substantial threat of personal injury or
 3 death, and
 4 (iii) is included within the definition of "crime" in
 5 Minnesota Statutes 1971, section 609.02, subdivision 1, or would
 6 be included within that definition but for the fact that the
 7 person engaging in the conduct lacked capacity to commit the
 8 crime under the laws of this state.

9 (b) A crime occurs whether or not any person is prosecuted
 10 or convicted but the conviction of a person whose acts give rise
 11 to the claim is conclusive evidence that a crime was committed
 12 unless an application for rehearing, appeal, or petition for
 13 certiorari is pending or a new trial or rehearing has been
 14 ordered.

15 (c) "Crime" does not include conduct arising out of the use
 16 of a motor vehicle, as defined in section 169.01, subdivision 2,
 17 an aircraft or watercraft unless

18 (i) the conduct was intended to cause personal injury or
 19 death, or

20 (ii) the use of the motor vehicle, aircraft or watercraft
 21 in the commission of a felony was a proximate cause of the
 22 victim's injury or death, or

23 (iii) the claim arises out of a violation of section 609.21.

24 (6) "Dependent" means any person who was dependent upon a
 25 deceased victim for support at the time of the crime.

26 (7) "Economic loss" means actual economic detriment
 27 incurred as a direct result of injury or death.

28 (a) In the case of injury the term is limited to:

29 (i) reasonable expenses incurred for necessary medical,
 30 chiropractic, hospital, rehabilitative, and dental products,
 31 services, or accommodations, including ambulance services,
 32 drugs, appliances and prosthetic devices;

33 (ii) reasonable expenses incurred for psychological or
 34 psychiatric products, services or accommodations where the
 35 nature of the injury or the circumstances of the crime are such
 36 that the treatment is necessary to the rehabilitation of the
 37 victim;

38 (iii) loss of income the victim would have earned had he
 39 the victim not been injured; and *

40 (iv) reasonable expenses incurred for substitute child care
 41 or household services to replace those the victim would have
 42 performed had he the victim not been injured. *

43 (b) In the case of death the term is limited to:

44 (i) reasonable expenses incurred for funeral, burial or
 45 cremation;

46 (ii) reasonable expenses for medical, chiropractic,
 47 hospital, rehabilitative, psychological and psychiatric
 48 services, products or accommodations which were incurred prior
 49 to the victim's death and for which the victim's survivors or
 50 estate are liable;

51 (iii) loss of support, including contributions of money,
 52 products or goods, but excluding services which the victim would
 53 have supplied to his dependents if he the victim had lived; and *

54 (iv) reasonable expenses incurred for substitute child care
 55 and household services to replace those which the victim would
 56 have performed for the benefit of his dependents if he the
 57 victim had lived. *

58 (8) "Injury" means actual bodily harm including pregnancy
 59 and mental or nervous shock.

60 (9) "Victim" means a person who suffers personal injury or
 61 death as a direct result of

62 (a) a crime;

63 (b) the good faith effort of any person to prevent a crime;
 64 or

65 (c) the good faith effort of any person to apprehend a
 66 person suspected of engaging in a crime.

611A#54S

67 611A.54 AMOUNT OF REPARATIONS.

68 Reparations shall equal economic loss except that:

69 (1) reparations shall be reduced to the extent that
 70 economic loss is recouped from a collateral source or collateral
 71 sources;

72 (2) reparations shall be reduced to the extent, if any,
 73 that the board deems reasonable because of the contributory
 74 misconduct of the claimant or of a victim through whom he the
 75 claimant claims; and *

1 (3) reparations paid to all claimants suffering economic
2 loss as the result of the injury or death of any one victim
3 shall not exceed \$50,000.

611A#55S

4 611A.55 CRIME VICTIMS REPARATIONS BOARD.

5 Subdivision 1. There is created in the department of
6 public safety, for budgetary and administrative purposes, the
7 crime victims reparations board, which shall consist of five
8 members appointed by the commissioner of public safety and
9 selected from among the membership of the crime victim and
10 witness advisory council created in section 611A.71. One of the
11 members shall be designated as chairperson chair by the
12 commissioner of public safety and serve as such at his the
13 commissioner's pleasure. At least one member shall be a medical
14 or osteopathic physician licensed to practice in this state, and
15 at least one member shall be a victim, as defined in section
16 611A.01.

*
*
*

17 No change for subd 2 to 3

611A#57S

18 611A.57 DETERMINATION OF CLAIMS.

19 Subdivision 1. A claim, when accepted for filing, shall be
20 assigned by the chairman chair to himself the chair or to
21 another member of the board.

*

22 No change for subd 2

23 Subd. 3. The board member to whom a claim is assigned may
24 decide the claim in favor of a claimant in the amount claimed on
25 the basis of the papers filed in support of it and the report of
26 the investigation of such claim. If ~~the board member is~~ unable
27 to decide such claim upon the basis of the papers and report, he
28 the board member shall order a hearing.

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*

29 No change for subd 4

30 Subd. 5. The board member making a decision shall file
31 with the board a written report setting forth such decision and
32 his reasons therefor. The board shall notify the claimant and
33 furnish him the claimant a copy of the report.

*
*

611A#59S

34 611A.59 CONSIDERATION OF DECISIONS BY FULL BOARD.

35 Subdivision 1. The claimant may, within 30 days after
36 receipt of the report of the decision of the board member to
37 whom his the claim was assigned, make an application in writing
38 to the board for consideration of the decision by the full board.

*

39 No change for subd 2 to 3

611A#68S

40 611A.68 LIMITING COMMERCIAL EXPLOITATION OF CRIMES;
41 PAYMENT OF VICTIMS.

42 No change for subd 1

43 Subd. 2. A legal entity that contracts with an individual
44 person or the representative or assignee of a person who has
45 been convicted of a crime in this state, or found not guilty by
46 reason of insanity, regarding (a) the reenactment of the crime,
47 by way of a movie, book, newspaper or magazine article, radio or
48 television presentation, or live or recorded entertainment of
49 any kind, or (b) the expression of the person's thoughts,
50 feelings, opinions or emotions about the crime, shall notify the
51 crime victims reparations board of the existence of the contract
52 and pay over to the crime victims reparations board any moneys
53 owed to that person or his the person's representatives by
54 virtue of the contract. If the crime occurred in this state,
55 the proportion payable is one hundred percent. If the crime
56 occurred in another jurisdiction having a law applicable to the
57 case which is substantially similar to this section, the
58 proportion payable is zero and this section does not apply. In
59 all other cases, the proportion payable is that which fairly can
60 be allocated to commerce in this state. This section does not
61 apply to crimes occurring outside the United States. The board
62 shall deposit the moneys pursuant to subdivision 7 and assign
63 the amount received in each case for the benefit of any victim
64 of crimes committed by the person. The moneys shall be paid by
65 the board to any victim or the legal representative of a victim
66 if (1) the person is convicted of the crime or found not guilty
67 by reason of insanity, and (2) the claimant, within five years
68 of the date of payment to the board in the case, brings a civil
69 action in a court of competent jurisdiction and recovers a money
70 judgment for damages against the person or his the person's
71 representatives. Notwithstanding any provision of law for the
72 timely bringing of an action, an action may be brought pursuant

*

*

1 to this section within a five year period which begins to run on
 2 the date payment is made to the board in a case; provided that
 3 once the person has been discharged from ~~his~~ a sentence by court *
 4 order or upon expiration of sentence, this section shall not
 5 apply.

6 No change for subd 3
 7 Subd. 4. When the board has made payments to or on behalf
 8 of a crime victim pursuant to sections 611A.51 to 611A.67, to
 9 the extent of payment made, it is subrogated to any claim or
 10 judgment of the victim or ~~his~~ a representative against the *
 11 offender.

12 Subd. 5. Upon a showing by that person convicted of a
 13 crime or found not guilty by reason of insanity, or ~~his~~ a *
 14 representative, that five years have elapsed from the date of
 15 payment to the board in the case, and further that no actions
 16 are pending against ~~him~~ the person pursuant to this section, the *
 17 board shall immediately pay over to ~~him~~ the person any moneys in *
 18 the account related to the case.

19 Subd. 6. Notwithstanding any other provision of this
 20 section, the board shall make payments to a person convicted of
 21 crime or found not guilty by reason of insanity from the account
 22 of amounts received with reference to that person upon the order
 23 of a court of competent jurisdiction after a showing by that
 24 person that the moneys shall be used for the reasonable costs of
 25 defense in the appeal of ~~his~~ a criminal conviction or in civil *
 26 proceedings pursuant to this section.

27 No change for subd 7 to 8

611A#74S

28 611A.74 CRIME VICTIM OMBUDSMAN; CREATION.

29 No change for subd 1 to 2
 30 Subd. 3. POWERS. The crime victim ombudsman has
 31 those powers necessary to carry out the duties set out in
 32 subdivision 1, including:

33 (a) The ombudsman may investigate, upon with or without a *
 34 complaint or-upon-his-or-her-own-initiative, any action of an *
 35 element of the criminal justice system or a victim assistance
 36 program included in subdivision 2.

37 (b) The ombudsman may request and shall be given access to
 38 information pertaining to a complaint, unless the information is
 39 otherwise restricted.

40 (c) After completing investigation of a complaint, the
 41 ombudsman shall inform in writing the complainant, the
 42 investigated person or entity, and other appropriate
 43 authorities, including the attorney general, of the action taken.

44 No change for subd 4

45 Subd. 5. RECOMMENDATIONS. (a) ~~if~~ On finding a *
 46 complaint valid after duly considering ~~a~~ the complaint and *
 47 whatever material ~~he-or-she~~ the ombudsman deems pertinent, ~~the~~ *
 48 ~~ombudsman-is-of-the-opinion-that-the-complaint-is-valid~~, the *
 49 ombudsman may recommend action to the appropriate authority.

50 (b) If the ombudsman makes a recommendation to an
 51 appropriate authority for action, the authority shall, within a
 52 reasonable time period, inform the ombudsman about the action
 53 taken or the reasons for not complying with the recommendation.

617*#21S

54 617.21 EVIDENCE.
 55 In any prosecution for abortion or attempting abortion, no
 56 person shall be excused from testifying as a witness on the
 57 ground that ~~his~~ the person's testimony would tend to criminate *
 58 ~~himself~~ the person. *

617*#23S

59 617.23 INDECENT EXPOSURE; PENALTIES.
 60 Every person who shall wilfully and lewdly expose ~~his~~ *
 61 person the person's body, or the private parts thereof, in any *
 62 public place, or in any place where others are present, or shall
 63 procure another to ~~so~~ expose ~~himself~~ private parts, and every *
 64 person who shall be guilty of any open or gross lewdness or
 65 lascivious behavior, or any public indecency other than
 66 hereinbefore specified, shall be guilty of a misdemeanor, and
 67 punished by a fine of not less than \$5, or by imprisonment in a
 68 county jail for not less than ten days.

69 Every person committing the offense herein set forth, after
 70 having once been convicted of such an offense in this state,
 71 shall be guilty of a gross misdemeanor.

617*#246S

72 617.246 USE OF MINORS IN SEXUAL PERFORMANCE PROHIBITED.

1 No change for subd 1 to 4
 2 Subd. 5. CONSENT; MISTAKE. Neither consent to sexual
 3 performance by a minor or ~~his~~ the minor's parent, guardian, or *
 4 custodian nor mistake as to the minor's age is a defense to a
 5 charge of violation of this section.

617*#247S

6 617.247 POSSESSION OF PICTORIAL REPRESENTATIONS OF
 7 MINORS.

8 No change for subd 1 to 5
 9 Subd. 6. CONSENT. Consent to sexual performance by a
 10 minor or ~~his~~ the minor's parent, guardian, or custodian is not a *
 11 defense to a charge of violation of this section.

12 No change for subd 7

617*#25S

13 617.25 INDECENT ARTICLES AND INFORMATION.
 14 Every person who shall sell, lend, or give away, or in any
 15 manner exhibit, or offer to sell, lend, or give away, or have in *
 16 ~~his~~ possession with intent to sell, lend, give away, or
 17 advertise or offer for sale, loan, or distribution, any
 18 instrument or article, or any drug or medicine for causing
 19 unlawful abortion; or shall write or print, or cause to be
 20 written or printed, a card, circular, pamphlet, advertisement,
 21 or notice of any kind, or shall give oral information, stating
 22 when, where, how, or whom, or by what means such article or
 23 medicine can be obtained or who manufactures it, shall be guilty
 24 of a gross misdemeanor and punished by imprisonment in the
 25 county jail for not more than one year or by a fine of not more
 26 than \$3,000 or by both.

617*#27S

27 617.27 SEARCH WARRANT; DESTRUCTION OF PROPERTY.
 28 A county or municipal court, upon complaint under oath that
 29 any person has in ~~his~~ possession or under ~~his~~ control any of the *
 30 obscene books, papers, or other matter specified in sections
 31 617.241 to 617.26, shall issue a warrant directed to the sheriff
 32 or any constable of the county, directing ~~him~~ the sheriff or *
 33 constable to search for, seize, and take possession of the *
 34 obscene matter. Upon conviction of the person in whose
 35 possession the obscene matter was found, the judge shall cause
 36 it to be destroyed, and the fact to be entered upon the records
 37 of the court.

617*#28S

38 617.28 CERTAIN MEDICAL ADVERTISEMENTS.
 39 Subdivision 1. PLACING ADVERTISEMENT; PENALTY. Any
 40 person who shall advertise, in ~~his~~ the person's own name or in *
 41 the name of another person, firm or pretended firm, association,
 42 corporation or pretended corporation, in any newspaper,
 43 pamphlet, circular, or other written or printed paper, or the
 44 owner, publisher, or manager of any newspaper or periodical who
 45 shall permit to be inserted or published in any newspaper or
 46 periodical owned or controlled by ~~him~~ the owner, publisher, or *
 47 manager, the treatment or curing of venereal diseases, the *
 48 restoration of "lost ~~manhood~~ sexual capacity" or "lost *
 49 vitality," or shall advertise in any manner that ~~he~~ the person *
 50 is a specialist in diseases of the sexual organs, or diseases
 51 caused by sexual weakness, self-abuse, or excessive sexual
 52 indulgence, or in any disease of like causes, or who shall
 53 advertise in any manner any medicine, drug compound, appliance
 54 or any means whatever whereby it is claimed that sexual diseases
 55 of men and women may be cured or relieved, or miscarriage or
 56 abortion produced, shall be guilty of a gross misdemeanor and
 57 shall be punished by a fine of not less than \$50 nor more than
 58 \$3,000 or by imprisonment in the county jail for not more than
 59 six months.

60 No change for subd 2

617*#295S

61 617.295 EXEMPTIONS.
 62 The following are exempt from criminal or other action
 63 hereunder:
 64 (a) Recognized and established schools, churches, museums,
 65 medical clinics and physicians, hospitals, public libraries,
 66 governmental agencies or quasi governmental sponsored
 67 organizations, and persons acting in their capacity as employees
 68 or agents of such organization. For the purpose of this section
 69 "recognized and established" shall mean an organization or
 70 agency having a full time faculty and diversified curriculum in
 71 the case of a school; a church affiliated with a national or

1 regional denomination; a licensed physician or psychiatrist or
2 clinic of licensed physicians or psychiatrists; and in all other
3 exempt organizations shall refer only to income tax exempted
4 organizations which are supported in whole or in part by tax
5 funds or which receive at least one-third of their support from
6 publicly donated funds.

7 (b) Individuals in a parental relationship with the minor.

8 (c) Motion picture machine operators, stagehands, or other
9 theatre employees such as cashiers, ~~doormen~~ doorkeepers, ushers, *
10 and concession employees, if such person or persons have no
11 financial interest in the entertainment presented other than the
12 salary or wage, or in any theatre or place where such employee
13 has no financial interest when ~~his~~ the employee's services are *
14 obtained solely for salary or wage; provided, that such employee
15 is under the direct supervision of a theatre manager who is a
16 resident of this state and who is not exempt from action under
17 sections 617.291 to 617.297.

617*#296S

18 617.296 PENALTIES; INJUNCTIVE REMEDIES.

19 No change for subd 1

20 Subd. 2. Whenever any county attorney, or the attorney
21 general of this state, has reasonable cause to believe that any
22 person within this state is violating sections 617.291 to
23 617.297, ~~he~~ the prosecuting attorney may by verified petition *
24 seek a temporary restraining order or temporary injunction in
25 the district court in the county in which the alleged violation
26 occurred. No temporary restraining order or preliminary
27 injunction shall be issued without a prior show cause notice of
28 hearing to the respondents named in the petition, and an
29 opportunity for the respondents to be heard. Personal service
30 of the show cause order and of the petition made as in civil
31 actions on the named respondents, or upon any of their employees
32 or agents found within the state, shall constitute sufficient
33 notice. Such show cause order for hearing may be returnable on
34 the third day from the date of service as to a respondent who is
35 present in this state, and on the fifth day as to a person not a
36 resident or not found within this state.

617*#34S

37 617.34 ACTION TO ENJOIN; RESTRAINING ORDER; ANSWER.

38 When a nuisance is kept, maintained, or exists, as defined
39 in sections 617.33 to 617.41, the county attorney or any
40 resident of the county may maintain an action in equity in the
41 name of the state of Minnesota, upon the relation of the county
42 attorney or resident, to perpetually enjoin the nuisance, the
43 person or persons conducting or maintaining the nuisance from
44 further conducting or maintaining it, and the owner or agent of
45 the building or ground upon which the nuisance exists, from
46 further permitting the building or ground, or both, to be so
47 used. The defendants shall be served in the manner provided by
48 law for service of a summons in a civil action in district
49 court. The court shall, upon the presentation of a verified
50 complaint alleging that the nuisance complained of exists, allow
51 a temporary writ of injunction without bond, if the existence of
52 the nuisance is made to appear to the satisfaction of the court
53 by evidence in the form of affidavits, depositions, oral
54 testimony, or otherwise as the complainant may elect, unless the
55 court, by previous order, has directed the form and manner in
56 which the evidence must be presented, in which case it shall be
57 so presented. Where a temporary injunction is prayed for, the
58 court, on the application of plaintiff, may issue an ex parte
59 restraining order, restraining the defendants and all other
60 persons from removing or in any manner interfering with the
61 furniture, fixtures, musical instruments, and movable property
62 used in conducting the alleged nuisance, until the decision of
63 the court granting or refusing the temporary injunction, and
64 until the further order of the court on the temporary
65 injunction. The restraining order may be served by handing to
66 and leaving a copy of the order with any person in charge of the
67 property or residing in the premises or apartment where the
68 nuisance is situated, or by posting a copy of the order in a
69 conspicuous place at or upon one or more of the principal doors
70 or entrances to the premises or apartment where the nuisance is
71 alleged to be maintained, or by both delivery and posting. The
72 officer serving the restraining order shall immediately make a
73 return into court and inventory of the personal property
74 situated in and used in conducting or maintaining the nuisance.

1 Any violation of the restraining order is a contempt of court.
 2 Mutilation or removal of a posted order, while it remains in
 3 force, is a contempt of court if the posted order contains a
 4 notice to that effect. Three days' notice, in writing, shall be
 5 given the defendants of the hearing of the application for
 6 temporary injunction and, if then continued at the instance of
 7 defendant, the temporary writ as prayed shall be granted as a
 8 matter of course. Each defendant notified shall serve upon the
 9 complainant or ~~his~~ the complainant's attorney a verified answer
 10 on or before the date fixed in the notice for the hearing. The
 11 answer shall be filed with the clerk of the district court of
 12 the county where the cause is triable, but the court may allow
 13 additional time for answering if the extension of time does not
 14 prevent the issuing of the temporary writ as prayed for. The
 15 allegations of the answer are deemed to be traversed without
 16 further pleading. When an injunction is granted, it shall be
 17 binding on the defendants throughout the judicial district in
 18 which it was issued, and any violation of the provisions of the
 19 injunction is a contempt, as hereinafter provided.

617*#35S

20 617.35 TRIAL; LIMITATION OR DISMISSAL.

21 The action when brought shall be noticed for and triable at
 22 the first term of the court the same as other actions triable in
 23 the district court of the county. Evidence of the general
 24 reputation of the place is admissible for the purpose of proving
 25 the existence of the nuisance and is prima facie evidence of the
 26 nuisance and of knowledge of it and of acquiescence and
 27 participation in it on the part of the owners, lessors, lessees,
 28 users, and all those in possession of or having charge of, as
 29 agent or otherwise, or having any interest in any form of
 30 property used in conducting or maintaining the nuisance. If the
 31 complaint is filed by a resident, it shall not be dismissed
 32 except upon a sworn statement made by the complainant and ~~his~~
 33 the complainant's attorney setting forth the reasons why the
 34 action should be dismissed, and upon approval by the county
 35 attorney in writing or in open court. If the court is of the
 36 opinion that the action should not be dismissed, ~~he~~ the court
 37 may direct the county attorney to prosecute the action to
 38 judgment at the expense of the county. If the action is
 39 continued more than one term of court, any resident of the
 40 county or the county attorney may be substituted for the
 41 complaining party and prosecute the action to judgment. If the
 42 action is brought by a resident and the court finds there was no
 43 reasonable grounds or cause for the action, the cost may be
 44 taxed to the resident.

617*#37S

45 617.37 ORDER OF ABATEMENT; PERSONAL PROPERTY; CONTEMPT;
46 FEES.

47 If the existence of the nuisance be admitted or established
 48 in an action, as provided in sections 617.33 to 617.41, or in a
 49 criminal proceeding in the district court, an order of abatement
 50 shall be entered as a part of the judgment in the case, which
 51 order shall direct the removal from the building or place of all
 52 fixtures, furniture, musical instruments, or movable property
 53 used in conducting the nuisance, and shall direct the sale of
 54 such thereof as belong to the defendants notified or appearing,
 55 in the manner provided for the sale of chattels under execution,
 56 and shall direct the effectual closing of the building or place
 57 against its use for any purpose, and so keeping it closed for a
 58 period of one year, unless sooner released. Owners of unsold
 59 personal property so seized must appear and claim the same
 60 within ten days after such order of abatement is made, and prove
 61 innocence, to the satisfaction of the court, of any knowledge of
 62 the use thereof, and that with reasonable care and diligence
 63 they could not have known thereof. Every defendant in the
 64 action shall be presumed to have had knowledge of the general
 65 reputation of the place. If such innocence be so established,
 66 such unsold personal property shall be delivered to the owner,
 67 otherwise it shall be sold as hereinbefore provided. If any
 68 person shall break and enter or use a building, erection, or
 69 place so directed to be closed, ~~he~~ the person shall be punished
 70 as for contempt, as provided in section 617.36. For removing
 71 and selling the movable property, the officer shall be entitled
 72 to charge and receive the same fees as ~~he~~ the officer would for
 73 levying upon and selling like property on execution, and for
 74 closing the premises and keeping them closed, a reasonable sum

1 shall be allowed by the court.

617*#39S

2 617.39 INTERVENTION BY OWNER.

3 If the owner of the premises in which the nuisance has been
4 maintained appears and pays all costs of the proceeding, and
5 files a bond with sureties to be approved by the court in the
6 full value of the property, to be ascertained by the court or,
7 in vacation, by the judge thereof, conditioned that he the owner
8 will immediately abate the nuisance and prevent the same from
9 being established or kept therein within a period of one year
10 thereafter, the court or, in vacation, the judge, if satisfied
11 of his the owner's good faith, may order the premises closed or
12 sought to be closed under the order of abatement, to be
13 delivered to the owner, and the order of abatement canceled so
14 far as the same may relate to the real property. The release of
15 the property under the provisions of this section shall not
16 release it from any judgment, lien, penalty, or liability to
17 which it may be subject by law.

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617*#41S

18 617.41 OWNERS AND AGENTS; PARTIES TO ACTION.

19 When such nuisance has been found to exist under any
20 proceeding in the district court, or as provided in sections
21 617.33 to 617.40, and the owner or agent of such building or
22 ground whereon the same has been found to exist was not a party
23 to such proceeding, nor appeared therein, the penalty of \$300
24 shall be imposed against the persons served or appearing and
25 against the property, as set forth in those sections. Before
26 the penalty shall be enforced against the property, the owner or
27 agent thereof shall have appeared therein or shall be served
28 with summons therein, and Rule 4.04 of the rules of civil
29 procedure shall apply to service in proceedings under sections
30 617.33 to 617.40. The person in whose name the real estate
31 affected by the action stands on the books of the county auditor
32 for purposes of taxation shall be presumed to be the owner
33 thereof and, in case of unknown persons having or claiming any
34 ownership, right, title, or interest in property affected by the
35 action, such may be made parties to the action by designating
36 them in the summons and complaint as "all other persons unknown
37 claiming any ownership, right, title or interest in the property
38 affected by the action" and service thereon may be had by
39 publishing such summons in the manner prescribed in Rule 4.04 of
40 the rules of civil procedure. Any person having or claiming
41 such ownership, right, title or interest, and any owner or agent
42 in behalf of himself such agent and such owner may make, serve,
43 and file his the answer therein within 20 days after such
44 service and have trial of his the owner's rights in the premises
45 by the court; and, if the cause has already proceeded to trial
46 or to findings and judgment, the court shall by order fix the
47 time and place of such further trial and shall modify, add to,
48 or confirm such findings and judgment as the case may require.
49 Other parties to the action shall not be affected thereby.

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624*#22S

50 624.22 PUBLIC DISPLAYS OF FIREWORKS BY MUNICIPALITIES
51 EXCEPTED.

52 Sections 624.20 to 624.25 shall not prohibit supervised
53 public displays of fireworks by cities, fair associations,
54 amusement parks, and other organizations. Except when such
55 display is given by a municipality or fair association within
56 its own limits, no display shall be given unless a permit
57 therefor has first been secured. Every application for such a
58 permit shall be made in writing to the municipal clerk at least
59 15 days in advance of the date of the display. The application
60 shall be promptly referred to the chief of the fire department
61 who shall make an investigation to determine whether the
62 operator of the display is competent and whether the display is
63 of such a character and is to be so located, discharged, or
64 fired that it will not be hazardous to property or endanger any
65 person. The fire chief shall report the results of this
66 investigation to the clerk and. If he the fire chief reports
67 that in his the chief's opinion the operator is competent and
68 that the display as planned will conform to safety requirements,
69 including the rules and regulations of the state fire marshal
70 hereinafter provided for, the clerk shall issue a permit for the
71 display when the applicant pays a permit fee of \$2. When the
72 supervised public display for which a permit is sought is to be
73 held outside the limits of an incorporated municipality, the

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1 application shall be made to the county auditor and the duties
2 imposed by such sections upon the clerk of the municipality
3 shall be performed in such case by the county auditor. The
4 duties imposed on the fire chief of the municipality by such
5 sections shall be performed in such case by the county sheriff.
6 After such permit shall have been granted, sales, possession,
7 use and distribution of fireworks for such display shall be
8 lawful for that purpose only. No permit so granted shall be
9 transferable. The state fire marshal shall adopt reasonable
10 rules and regulations not inconsistent with the provisions of
11 such sections to insure that fireworks displays are given safely.

624*#32S

12 624.32 KNOWLEDGE OF ILLEGAL USE PRESUMED.

13 In the trial of a defendant for violation of the provisions
14 of sections 624.30 to 624.33, knowledge or reason to believe,
15 within the meaning thereof, shall be deemed to exist upon the
16 presentation of proof to the court that any county attorney,
17 sheriff, or chief of police in the state, or a deputy or
18 delegate of such officer, has given written notice to the
19 defendant that tokens, checks, or slugs of the kind
20 manufactured, sold, offered for sale, advertised for sale, or
21 distributed by him the defendant are being used in substitution *
22 for lawful coin in the operation of any such coin receptacle or
23 machine; provided that such notice shall have been given prior
24 to the time of the manufacture, sale, offering for sale,
25 advertising for sale, or distribution of such tokens, checks, or
26 slugs for which the defendant is being tried.

624*#46S

27 624.46 APPLICATIONS.

28 All applications for such permits shall be made upon blanks
29 furnished by the city, or county, as the case may be, and shall
30 be accompanied by the affidavit of two residents and shall
31 affirmatively show by the application and affidavits that the
32 applicant is a person of good moral character and reputation in
33 the community in which he the applicant lives and that the *
34 applicant has not, within five years prior to the making of the
35 application, been convicted of a felony, gross misdemeanor, or
36 of any of the provisions of sections 624.42 to 624.54, and no
37 such application shall be granted to any person of bad character
38 or who has been so convicted as aforesaid, nor to any person who
39 is keeper of any disorderly house of any kind, nor for any place
40 having any so-called "private apartments" or "private rooms"
41 furnished or used for any other than legitimate business
42 purposes which adjoin such dancing place or which may be reached
43 by stairs, elevator, or passageway leading from such dancing
44 place. No permit shall be issued under the terms of sections
45 624.42 to 624.54 unless the governing body or county board is
46 satisfied that the place where the public dance is to be given
47 or held is properly ventilated and equipped with necessary
48 toilets, wash-rooms, lighting facilities, and that such place is
49 not likely to become a public nuisance or detrimental to public
50 morals.

624*#49S

51 624.49 NOT TO ADMIT CERTAIN PERSONS.

52 No person to whom a permit has been issued shall permit to
53 be or remain in any public dancing place any intoxicated person,
54 any prostitute, any person of known immorality, or any unmarried
55 person under the age of 16 years, unless such person is
56 accompanied by a parent or guardian, nor any unmarried person
57 more than 16, and under the age of 18, years unless such person
58 is accompanied by a parent or guardian or presents the written
59 consent of his a parent or guardian to the officer in charge of *
60 such dance, and every such written permit shall be retained by
61 such officer.

624*#50S

62 624.50 OFFICER MUST ATTEND ALL PUBLIC DANCES.

63 It shall be incumbent upon the person to whom such permit
64 is issued to have an officer of the law present at every public
65 dance to be given or held thereunder during all the time the
66 public dance is being held. In the case of a public dance to be
67 held or given in a city, such officer of the law shall be
68 designated by the chief peace officer thereof. In all other
69 cases such officer of the law shall be designated by the sheriff
70 of the county. In all cases the fees and expenses of such
71 officer of the law shall be paid in advance by the person to
72 whom the permit has been issued. In case any person, not a

1 public officer, shall be designated as such officer of the law,
 2 the person to whom the permit has been issued shall be
 3 responsible for ~~his~~ the person's acts and conduct and there *
 4 shall be no liability for ~~his~~ the person's acts and conduct on *
 5 the part of the officer designating ~~him~~ the person under the *
 6 provisions of sections 624.42 to 624.54.

624*#61S

7 624.61 ARMED ASSOCIATION.

8 It shall not be lawful for any body of ~~men~~ persons, other *
 9 than the national guard, troops of the United States and, with *
 10 the consent of the governor, sons and daughters of veterans and *
 11 cadets of educational institutions where military science is
 12 taught, to associate themselves together as a military company
 13 with arms, but members of social and benevolent organizations
 14 are not prohibited from wearing swords. Any violation of this
 15 section shall be a misdemeanor.

624*#62S

16 624.62 BOARDING MOVING ENGINES OR CARS.

17 It shall be unlawful for any person, other than a passenger
 18 or employee, to get on or off, or attempt to get on or off, or
 19 to swing on, or hang on from the outside of, any engine or car
 20 or any electric motor or street car upon any railway or track,
 21 while the engine, car, motor, or street car is in motion, or
 22 switching or being switched. Every person who violates this
 23 section shall be punished by a fine of not more than \$10, and
 24 any sheriff, constable, or police officer finding any person in
 25 the act of violating this section shall arrest, take before a
 26 proper court, and make a verified complaint against ~~him~~ the *
 27 person for the violation. *

624*#701S

28 624.701 LIQUORS IN CERTAIN BUILDINGS OR GROUNDS.

29 Subdivision 1. Any person who shall introduce upon, or
 30 have in ~~his~~ possession upon, or in, any school ground, or any *
 31 schoolhouse or school building, any alcoholic beverage as
 32 defined in section 340A.101, except for experiments in
 33 laboratories and except for those organizations who have been
 34 issued temporary licenses to sell nonintoxicating malt liquor
 35 pursuant to section 340A.403, subdivision 2, and any person
 36 possessing nonintoxicating malt liquor as a result of a purchase
 37 from those organizations holding temporary licenses pursuant to
 38 section 340A.403, subdivision 2, shall be guilty of a
 39 misdemeanor.

40 Subd. 2. Any person who except by prescription of a
 41 licensed physician or permission of the hospital administrator
 42 shall introduce upon, or have in ~~his~~ possession upon, or in, any *
 43 state hospital or grounds thereof under the responsibility of
 44 the commissioner of human services any alcoholic beverage as
 45 defined in section 340A.101, shall be guilty of a misdemeanor.

624*#713S

46 624.713 CERTAIN PERSONS NOT TO HAVE PISTOLS; PENALTY.

47 Subdivision 1. INELIGIBLE PERSONS. The following
 48 persons shall not be entitled to possess a pistol:

49 (a) a person under the age of 18 years except that a person
 50 under 18 may carry or possess a pistol (i) in the actual
 51 presence or under the direct supervision of ~~his~~ the person's *
 52 parent or guardian, (ii) for the purpose of military drill under
 53 the auspices of a legally recognized military organization and
 54 under competent supervision, (iii) for the purpose of
 55 instruction, competition, or target practice on a firing range
 56 approved by the chief of police or county sheriff in whose
 57 jurisdiction the range is located and under direct supervision;
 58 or (iv) if the person has successfully completed a course
 59 designed to teach marksmanship and safety with a pistol and
 60 approved by the commissioner of natural resources;

61 (b) a person who has been convicted in this state or
 62 elsewhere of a crime of violence unless ten years have elapsed
 63 since the person has been restored ~~his~~ to civil rights or the *
 64 sentence has expired, whichever occurs first, and during that
 65 time ~~he~~ the person has not been convicted of any other crime of *
 66 violence. For purposes of this section, crime of violence
 67 includes crimes in other states or jurisdictions which would
 68 have been crimes of violence as herein defined if they had been
 69 committed in this state;

70 (c) a person who is or has ever been confined or committed
 71 in Minnesota or elsewhere as a "mentally ill," "mentally
 72 retarded," or "mentally ill and dangerous to the public" person

1 as defined in section 253B.02, to a treatment facility, unless
 2 he the person possesses a certificate of a medical doctor or *
 3 psychiatrist licensed in Minnesota, or other satisfactory proof *
 4 that he the person is no longer suffering from this disability;

5 (d) a person who has been convicted in Minnesota or
 6 elsewhere for the unlawful use, possession, or sale of a
 7 controlled substance other than conviction for possession of a
 8 small amount of marijuana, as defined in section 152.01,
 9 subdivision 16, or a person who is or has ever been hospitalized
 10 or committed for treatment for the habitual use of a controlled
 11 substance or marijuana, as defined in sections 152.01 and
 12 152.02, unless he the person possesses a certificate of a *
 13 medical doctor or psychiatrist licensed in Minnesota, or other *
 14 satisfactory proof, that he the person has not abused a *
 15 controlled substance or marijuana during the previous two years;

16 (e) a person who has been confined or committed to a
 17 treatment facility in Minnesota or elsewhere as "chemically
 18 dependent" as defined in section 253B.02, unless ~~he-or-she~~ the *
 19 person has completed treatment. Property rights may not be *
 20 abated but access may be restricted by the courts; or

21 (f) a peace officer who is informally admitted to a
 22 treatment facility pursuant to section 253B.04 for chemical
 23 dependency, unless he the officer possesses a certificate from *
 24 the head of the treatment facility ~~that-he-has-been-discharged~~ *
 25 discharging or provisionally discharged discharging the officer *
 26 from the treatment facility. Property rights may not be abated
 27 but access may be restricted by the courts.

28 A person who issues a certificate pursuant to this
 29 subdivision in good faith is not liable for damages resulting or
 30 arising from the actions or misconduct with a firearm committed
 31 by the individual who is the subject of the certificate.

32 No change for subd 2

624*#7131S

33 624.7131 TRANSFEREE PERMIT; PENALTY.

34 Subdivision 1. INFORMATION. Any person may apply
 35 for a pistol transferee permit by providing the following
 36 information in writing to the chief of police of an organized
 37 full time police department of the municipality in which he the *
 38 person resides or to the county sheriff if there is no such *
 39 local chief of police:

40 (a) The name, residence, telephone number and driver's
 41 license number or nonqualification certificate number, if any,
 42 of the proposed transferee;

43 (b) The sex, date of birth, height, weight and color of
 44 eyes of the proposed transferee;

45 (c) A statement by the proposed transferee that he the *
 46 proposed transferee is not prohibited by section 624.713 from *
 47 possessing a pistol.

48 The statement shall be signed by the person applying for a
 49 permit. At the time of application, the local police authority
 50 shall provide the applicant with a dated receipt for the
 51 application.

52 No change for subd 2 to 12

624*#7132S

53 624.7132 REPORT OF TRANSFER.

54 Subdivision 1. REQUIRED INFORMATION. Except as
 55 provided in this section and section 624.7131, every person who
 56 agrees to transfer a pistol shall report the following
 57 information in writing to the chief of police of the organized
 58 full-time police department of the municipality where the
 59 agreement is made or to the appropriate county sheriff if there
 60 is no such local chief of police:

61 (a) The name, residence, telephone number and driver's
 62 license number or nonqualification certificate number, if any,
 63 of the proposed transferee;

64 (b) The sex, date of birth, height, weight and color of
 65 eyes of the proposed transferee;

66 (c) A statement by the proposed transferee that he the *
 67 transferee is not prohibited by section 624.713 from possessing *
 68 a pistol; and

69 (d) The address of the place of business of the transferor.

70 The report shall be signed by the transferor and the
 71 proposed transferee. The report shall be delivered by the
 72 transferor to the chief of police or sheriff no later than three
 73 days after the date of the agreement to transfer, excluding
 74 weekends and legal holidays.

1 No change for subd 2
2 Subd. 3. NOTIFICATION. The chief of police or
3 sheriff shall notify the transferor and proposed transferee in
4 writing as soon as possible if the chief or sheriff determines
5 that the proposed transferee is prohibited by section 624.713
6 from possessing a pistol. The notification to the transferee
7 shall specify the grounds for the disqualification of the
8 proposed transferee and shall set forth in detail ~~his~~ the *
9 transferee's right of appeal under subdivision 13. *

10 No change for subd 4 to 9
11 Subd. 10. RESTRICTION ON RECORDS. If, after a
12 determination that ~~he~~ the transferee is not a person prohibited *
13 by section 624.713 from possessing a pistol, a transferee
14 requests that no record be maintained of the fact ~~that he~~ of who *
15 is the transferee of a pistol, the chief of police or sheriff
16 shall sign the transfer report and return it to the transferee
17 as soon as possible. Thereafter, no government employee or
18 agency shall maintain a record of the transfer that identifies
19 the transferee, and the transferee shall retain the report of
20 transfer.

21 No change for subd 11
22 Subd. 12. EXCLUSIONS. This section shall not apply
23 to transfers of antique firearms as curiosities or for their
24 historical significance or value, transfers to or between
25 federally licensed firearms dealers, transfers by order of
26 court, involuntary transfers, transfers at death or the
27 following transfers:
28 (a) A transfer by a person other than a federally licensed
29 firearms dealer;
30 (b) A loan to a prospective transferee if the loan is
31 intended for a period of no more than one day;
32 (c) The delivery of a pistol to a person for the purpose of
33 repair, reconditioning or remodeling;
34 (d) A loan by a teacher to a student in a course designed
35 to teach marksmanship or safety with a pistol and approved by
36 the commissioner of natural resources;
37 (e) A loan between persons at a firearms collectors
38 exhibition;
39 (f) A loan between persons lawfully engaged in hunting or
40 target shooting if the loan is intended for a period of no more
41 than 12 hours;
42 (g) A loan between law enforcement officers who have the
43 power to make arrests other than citizen arrests; and
44 (h) A loan between employees or between the employer and an
45 employee in a business if the employee is required to carry a
46 pistol by reason of ~~his~~ employment and is the holder of a valid *
47 permit to carry a pistol. *

48 No change for subd 13
49 Subd. 14. TRANSFER TO UNKNOWN PARTY. (a) No person
50 shall transfer a pistol to another who is not personally known
51 to the transferor unless the proposed transferee presents
52 evidence of ~~his~~ identity to the transferor. A person who *
53 transfers a pistol in violation of this clause is guilty of a
54 misdemeanor.
55 (b) No person who is not personally known to the transferor
56 shall become a transferee of a pistol unless ~~he~~ the person *
57 presents evidence of ~~his~~ identity to the transferor. A person *
58 who becomes a transferee of a pistol in violation of this clause
59 is guilty of a misdemeanor.

60 No change for subd 15 to 16
61 624*#714S
62 624.714 CARRYING OF WEAPONS WITHOUT PERMIT; PENALTIES.
63 Subdivision 1. PENALTY. A person, other than a law
64 enforcement officer who has authority to make arrests other than
65 citizens arrests, who carries, holds or possesses a pistol in a
66 motor vehicle, snowmobile or boat, or on or about ~~his~~ the *
67 person's clothes or the person, or otherwise in ~~his~~ possession *
68 or control in a public place or public area without first having
69 obtained a permit to carry the pistol is guilty of a gross
70 misdemeanor. A person who has been issued a permit and who
71 engages in activities other than those for which the permit has
72 been issued, is guilty of a misdemeanor.
73 No change for subd 2 to 8
74 Subd. 9. CARRYING PISTOLS ABOUT ONE'S PREMISES OR FOR
75 PURPOSES OF REPAIR, TARGET PRACTICE. A permit to carry is
not required of a person:

1 (a) To keep or carry about ~~his~~ the person's place of *
 2 business, dwelling house, premises or on land possessed by ~~him~~ *
 3 the person a pistol; *

4 (b) To carry a pistol from a place of purchase to ~~his~~ the *
 5 person's dwelling house or place of business, or from ~~his~~ the *
 6 person's dwelling house or place of business to or from a place *
 7 where repairing is done, to have the pistol repaired; *

8 (c) To carry a pistol between ~~his~~ the person's dwelling *
 9 house and ~~his~~ place of business; *

10 (d) To carry a pistol in the woods or fields or upon the *
 11 waters of this state for the purpose of hunting or of target *
 12 shooting in a safe area; or *

13 (e) To transport a pistol in a motor vehicle, snowmobile or *
 14 boat if the pistol is unloaded, contained in a closed and *
 15 fastened case, gunbox, or securely tied package. *

16 No change for subd 10

17 Subd. 11. NO LIMIT ON NUMBER OF PISTOLS. A person *
 18 shall not be restricted as to the number of pistols ~~he~~ the *
 19 person may carry. *

20 No change for subd 12 to 13

624*#731S

21 624.731 TEAR GAS AND TEAR GAS COMPOUNDS; ELECTRONIC *
 22 INCAPACITATION DEVICES. *

23 No change for subd 1

24 Subd. 2. AUTHORIZED POSSESSION; USE. (a) A person *
 25 may possess and use an authorized tear gas compound in the *
 26 exercise of reasonable force in defense of the person or ~~his~~ the *
 27 person's property only if it is propelled from an aerosol *
 28 container, labeled with or accompanied by clearly written *
 29 instructions as to its use and the dangers involved in its use, *
 30 and dated to indicate its anticipated useful life. *

31 (b) A person may possess and use an electronic *
 32 incapacitation device in the exercise of reasonable force in *
 33 defense of the person or ~~his~~ the person's property only if the *
 34 electronic incapacitation device is labeled with or accompanied *
 35 by clearly written instructions as to its use and the dangers *
 36 involved in its use. *

37 Subd. 3. PROHIBITED POSSESSION; USE. (a) No person *
 38 under the age of 16 may possess or use an authorized tear gas *
 39 compound except by written permission of ~~his~~ a parent or *
 40 guardian, and no person under the age of 18 may possess or use *
 41 an electronic incapacitation device. *

42 (b) No person prohibited from possessing a pistol pursuant *
 43 to section 624.713, subdivision 1, clause (b), may possess or *
 44 use an authorized tear gas compound or an electronic *
 45 incapacitation device. *

46 (c) No person prohibited from possessing a pistol pursuant *
 47 to section 624.713, subdivision 1, clauses (c) to (e), may *
 48 possess or use an authorized tear gas compound or an electronic *
 49 incapacitation device, except that the certificate or other *
 50 proof required for possession of a handgun shall not apply. *

51 (d) No person shall possess or use tear gas or a tear gas *
 52 compound other than an authorized tear gas compound. *

53 Subd. 4. PROHIBITED USE. (a) No person shall *
 54 knowingly, or with reason to know, use tear gas, a tear gas *
 55 compound, an authorized tear gas compound, or an electronic *
 56 incapacitation device on or against a peace officer who is in *
 57 the performance of ~~his~~ duties. *

58 (b) No person shall use tear gas, a tear gas compound, an *
 59 authorized tear gas compound, or an electronic incapacitation *
 60 device except as authorized in subdivision 2 or 6. *

61 (c) Tear gas, a tear gas compound, or an electronic *
 62 incapacitation device shall legally constitute a weapon when it *
 63 is used in the commission of a crime. *

64 No change for subd 5 to 10

625*#03S

65 625.03 WARRANT SHALL ISSUE, WHEN.

66 If, upon examination, it appears that there is just cause *
 67 to fear that the offense may be committed, the judge shall issue *
 68 a signed warrant under-his-hand, reciting the substance of the *
 69 complaint, and requiring the officer to whom it is directed to *
 70 apprehend the person complained of and bring ~~him~~ the person *
 71 before the judge, or other court having jurisdiction of the *
 72 cause. *

625*#04S

73 625.04 EXAMINATION.

1 The judge before whom any person is brought upon charge of
2 having made threats, shall immediately examine the complainant
3 and witnesses in support of the prosecution, on oath, in the
4 presence of the party charged, in relation to any matters
5 pertinent to the charge. Witnesses for the prisoner, if he the *
6 prisoner has any, shall be subsequently sworn and examined. The *
7 prisoner may be assisted by counsel in the proceeding.

625*#05S

8 625.05 RECOGNIZANCE TO KEEP THE PEACE.
9 If, upon examination, it appears that there is just cause
10 to fear that the offense will be committed by the party
11 complained of, he the party shall be required to enter into a *
12 recognizance, with sufficient sureties, in such sum as the judge
13 directs, to keep the peace toward all the people of this state,
14 and especially toward the persons requiring the security, for
15 such term as the judge orders, not exceeding six months. He The *
16 party complained of shall not be ordered to recognize for his *
17 appearance at the district court, unless he the party is charged *
18 with some offense for which he the party ought to be held to *
19 answer to the court. Upon complying with the order of the
20 judge, the party complained of shall be discharged.

625*#06S

21 625.06 PARTY COMMITTED, WHEN.
22 If the person ordered to recognize refuses or neglects to
23 comply with the order, the judge shall commit him the person to *
24 the county jail during the period for which he the person was *
25 required to give security, or until he the person recognizes, *
26 stating in the warrant the cause of commitment, with the sum and
27 time for which security was required.

625*#07S

28 625.07 DISCHARGE; COMPLAINANT LIABLE FOR COSTS, WHEN.
29 If, upon examination, it does not appear that there is just
30 cause to fear that the offense will be committed by the party
31 complained of, he the party shall be immediately discharged. If *
32 the judge deems the complaint malicious, or without probable
33 cause, he the judge shall order the complainant to pay the costs *
34 of prosecution. The complainant shall then be answerable to the
35 judge and the officer for their fees.

625*#08S

36 625.08 COSTS.
37 When no order respecting the costs is made by the judge,
38 they shall be allowed and paid in the same manner as costs in
39 criminal prosecutions. In all cases where a person is required
40 to give security to keep the peace, or for his good behavior, *
41 the judge may further order the costs of prosecution, or any
42 part of them, to be paid by the person, who shall stand *
43 committed until the costs are paid or he the person is otherwise *
44 legally discharged.

625*#09S

45 625.09 APPEAL.
46 Any person aggrieved by the order of any county or
47 municipal judge requiring him the person to recognize may, on *
48 giving the security required, appeal to the court of appeals.

625*#10S

49 625.10 WITNESSES TO RECOGNIZE.
50 The judge from whose order an appeal is taken shall require
51 any witnesses he the judge deems necessary to support the *
52 complaint to recognize for their appearance at the court to
53 which appeal is made.

625*#12S

54 625.12 FAILURE TO PROSECUTE APPEAL.
55 If any party appealing fails to prosecute his the appeal, *
56 his the recognizance shall remain in full force and effect as to *
57 any breach of the condition, without an affirmation of the
58 judgment or order of the judge, and shall also stand as a
59 security for any costs which shall be ordered by the court
60 appealed to, to be paid by the appellant.

625*#15S

61 625.15 RECOGNIZANCE WITHOUT PROCESS, WHEN.
62 Every person who, in the presence of any court, makes an
63 affray, or threatens to kill or beat another, or to commit any
64 violence or outrage against his the other's person or property, *
65 or who, in the presence of the court, contends with hot and
66 angry words, to the disturbance of the peace, may be ordered,
67 without process or any other proof, to recognize for keeping the
68 peace, and being of good behavior for a term not exceeding six

1 months, and, in case of a refusal, may be committed as before
2 directed.

625*#16S

3 625.16 CARRYING DANGEROUS WEAPONS.
4 Whoever shall go armed with a dirk, dagger, sword, pistol,
5 or other offensive and dangerous weapon, without reasonable
6 cause to fear an assault or other injury or violence to ~~his~~ *
7 person, ~~or to his~~ family, or property, may, on complaint of any *
8 other person having reasonable cause to fear an injury or breach
9 of the peace, be required to find sureties for keeping the
10 peace, for a term not exceeding six months, with the right of
11 appealing as before provided.

625*#18S

12 625.18 SURRENDER OF PRINCIPAL; NEW RECOGNIZANCE.
13 Any surety in a recognizance to keep the peace, or for good
14 behavior, or both, shall have authority and right to take and *
15 surrender ~~his~~ the principal and, upon the surrender, shall be *
16 discharged and exempted from all liability for any act of the
17 principal, subsequent to the surrender, which would be a breach
18 of the condition of the recognizance. The person so surrendered
19 may recognize anew, with sufficient sureties, before any judge,
20 for the residue of the term, and shall then be discharged.

626*#05S

21 626.05 DEFINITIONS.
22 Subdivision 1. SEARCH WARRANT. A search warrant is
23 an order in writing, in the name of the state, signed by a court
24 other than a probate court, directed to a peace officer,
25 commanding ~~him~~ the peace officer to make a search as authorized *
26 by law and hold any item seized, subject to the order of a court.
27 Subd. 2. The term "peace officer" as used in sections *
28 626.04 to 626.17 means a sheriff, deputy sheriff, policeman *
29 police officer, constable, agent of the bureau of criminal *
30 apprehension or University of Minnesota peace officer.

626*#09S

31 626.09 EXAMINATION OF PARTIES MAKING REQUEST.
32 The court may, before issuing the warrant, examine on oath
33 the person seeking the warrant and any witnesses ~~he~~ the person *
34 may produce. It shall take the affidavits in writing, and cause
35 them to be subscribed to by the party or parties making them.

626*#11S

36 626.11 ISSUANCE OF WARRANT.
37 If the court judge is satisfied of the existence of the *
38 grounds of the application, or that there is probable cause to *
39 believe their existence, ~~he~~ the judge must issue a signed search *
40 warrant, signed-by-him-with-his-name-of naming the judge's *
41 judicial office, to a peace officer in ~~his~~ the judge's county or *
42 to an agent of the bureau of criminal apprehension. The warrant
43 shall direct the officer or agent to search the person or place
44 named for the property or things specified, and to retain the
45 property or things in ~~his~~ the officer's or agent's custody *
46 subject to order of the court issuing the warrant.

626*#13S

47 626.13 SERVICE, PERSONS MAKING.
48 A search warrant may in all cases be served by any of the
49 officers mentioned in its directions, but by no other person,
50 except in aid of the officer on ~~his~~ the officer's requiring it, *
51 ~~he~~ the officer being present and acting in its execution. If *
52 the warrant is to be served by an agent of the bureau of
53 criminal apprehension ~~he~~ the agent shall notify the chief of *
54 police of an organized fulltime police department of the
55 municipality or, if there is no such local chief of police, the
56 sheriff or a deputy sheriff of the county in which service is to
57 be made prior to execution.

626*#16S

58 626.16 DELIVERY OF COPY OF WARRANT AND RECEIPT.
59 When the officer conducts the search ~~he~~ the officer must *
60 give a copy of the warrant and, when property or things are
61 taken, a receipt therefor (specifying it in detail) to the
62 person in whose possession the premises or the property or
63 things taken were found; or, in the absence of any person, ~~he~~ *
64 the officer must leave such copy of the warrant and receipt in *
65 the place where the property or things were found. Such
66 delivery of a copy of the warrant shall constitute service.

626*#22S

67 626.22 MALICIOUSLY PROCURING SEARCH WARRANT; MISCONDUCT
68 IN USE.

1 Every person who shall maliciously and without probable
 2 cause procure a search warrant to be issued and executed, and
 3 every officer who, in executing a search warrant, shall wilfully
 4 exceed ~~his~~ the officer's authority, or exercise it with
 5 unnecessary severity, shall be guilty of a misdemeanor. *

626*#52S

6 626.52 REPORTING OF SUSPICIOUS WOUNDS BY HEALTH
 7 PROFESSIONALS.

8 No change for subd 1

9 Subd. 2. HEALTH PROFESSIONALS REQUIRED TO REPORT. A
 10 health professional shall immediately report, as provided under
 11 section 626.53, to the local police department or county sheriff
 12 all bullet wounds, gunshot wounds, powder burns, or any other
 13 injury arising from, or caused by the discharge of any gun,
 14 pistol, or any other firearm, which wound ~~he~~ the health
 15 professional is called upon to treat, dress, or bandage. *

16 A health professional shall report to the proper police
 17 authorities any wound that the reporter has reasonable cause to
 18 believe has been inflicted on a perpetrator of a crime by a
 19 dangerous weapon other than a firearm as defined under section
 20 609.02, subdivision 6.

626*#53S

21 626.53 REPORT BY TELEPHONE AND LETTER.

22 The report required by section 626.52 shall be made
 23 forthwith by telephone or in person, and shall be promptly
 24 supplemented by letter, enclosed in a securely sealed, postpaid
 25 envelope, addressed to the sheriff of the county in which the
 26 wound is examined, dressed, or otherwise treated; except that,
 27 if the place in which the patient is treated for such injury or
 28 ~~his~~ the patient's wound dressed or bandaged be in a city of the
 29 first, second, or third class, such report shall be made and
 30 transmitted as herein provided to the chief of police of such
 31 city instead of the sheriff. The office of any such sheriff and
 32 of any such chief of police shall keep such report as a
 33 confidential communication and shall not disclose the name of
 34 the person making the same, and the party making the report
 35 shall not by reason thereof be subpoenaed, examined, or forced
 36 to testify in court as a consequence of having made such a
 37 report. *

626*#55S

38 626.55 PENALTY.

39 No change for subd 1

40 Subd. 2. Any person reporting in good faith and exercising
 41 due care shall have immunity from any liability, civil or
 42 criminal, that otherwise might result by reason of ~~his~~ the
 43 person's actions pursuant to this section. No cause of action
 44 may be brought against any person for not making a report
 45 pursuant to this section. *

626*#553S

46 626.553 GUNSHOT WOUNDS; PEACE OFFICERS, DISCHARGING
 47 FIREARMS; INVESTIGATIONS, REPORTS.

48 Subdivision 1. Upon receipt of the report required in
 49 sections 626.52 and 626.53, the sheriff or chief of police
 50 receiving the report shall determine the general cause of the
 51 wound, and ~~if he determines~~ upon determining that the wound was
 52 caused by an action connected with the occupation or sport of
 53 hunting or shooting ~~he~~ the sheriff or chief of police shall
 54 immediately conduct a detailed investigation into the facts
 55 surrounding the incident or occurrence which occasioned the
 56 injury or death reported. The investigating officer shall report
 57 the findings of ~~his~~ the investigation to the commissioner of
 58 natural resources on forms provided by the commissioner for this
 59 purpose. *

60 No change for subd 2

626*#556S

61 626.556 REPORTING OF MALTREATMENT OF MINORS.

62 No change for subd 1

63 Subd. 2. DEFINITIONS. As used in this section, the
 64 following terms have the meanings given them unless the specific
 65 content indicates otherwise:

66 (a) "Sexual abuse" means the subjection by a person
 67 responsible for the child's care, or by a person in a position
 68 of authority, as defined in section 609.341, subdivision 10, to
 69 any act which constitutes a violation of section 609.342,
 70 609.343, 609.344, or 609.345, or sections 609.364 to 609.3644.
 71 Sexual abuse also includes any act which involves a minor which

1 constitutes a violation of sections 609.321 to 609.324 or
2 617.246.

3 (b) "Person responsible for the child's care" means (1) an
4 individual functioning within the family unit and having
5 responsibilities for the care of the child such as a parent,
6 guardian, or other person having similar care responsibilities,
7 or (2) an individual functioning outside the family unit and
8 having responsibilities for the care of the child such as a
9 teacher, school administrator, or other lawful custodian of a
10 child having either full-time or short-term care
11 responsibilities including, but not limited to, day care, baby
12 sitting whether paid or unpaid, counseling, teaching, and
13 coaching.

14 (c) "Neglect" means failure by a person responsible for a
15 child's care to supply a child with necessary food, clothing,
16 shelter or medical care when reasonably able to do so or failure
17 to protect a child from conditions or actions which imminently
18 and seriously endanger the child's physical or mental health
19 when reasonably able to do so. Nothing in this section shall be
20 construed to (1) mean that a child is neglected solely because
21 the child's parent, guardian or other person responsible for ~~his~~
22 the child's care in good faith selects and depends upon
23 spiritual means or prayer for treatment or care of disease or
24 remedial care of the child, or (2) impose upon persons, not
25 otherwise legally responsible for providing a child with
26 necessary food, clothing, shelter or medical care, a duty to
27 provide that care. Neglect also means "medical neglect" as
28 defined in section 260.015, subdivision 10, clause (e).

29 (d) "Physical abuse" means any physical injury inflicted by
30 a person responsible for the child's care on a child other than
31 by accidental means, or any physical injury that cannot
32 reasonably be explained by the child's history of injuries.

33 (e) "Report" means any report received by the local welfare
34 agency, police department or county sheriff pursuant to this
35 section.

36 (f) "Facility" means a day care facility, residential
37 facility, agency, hospital, sanatorium, or other facility or
38 institution required to be licensed pursuant to sections 144.50
39 to 144.58, 241.021, or 245.781 to 245.812.

40 (g) "Operator" means an operator or agency as defined in
41 section 245.782.

42 (h) "Commissioner" means the commissioner of human services.

43 (i) "Assessment" includes authority to interview the child,
44 the person or persons responsible for the child's care, the
45 alleged perpetrator, and any other person with knowledge of the
46 abuse or neglect for the purpose of gathering the facts,
47 assessing the risk to the child, and formulating a plan.

48 (j) "Practice of social services," for the purposes of
49 subdivision 3, includes but is not limited to employee
50 assistance counseling.

51 Subd. 3. PERSONS MANDATED TO REPORT. (a) A
52 professional or ~~his~~ the professional's delegate who is engaged
53 in the practice of the healing arts, social services, hospital
54 administration, psychological or psychiatric treatment, child
55 care, education, or law enforcement who knows or has reason to
56 believe a child is being neglected or physically or sexually
57 abused shall immediately report the information to the local
58 welfare agency, police department or the county sheriff. The
59 police department or the county sheriff, upon receiving a
60 report, shall immediately notify the local welfare agency orally
61 and in writing. The local welfare agency, upon receiving a
62 report, shall immediately notify the local police department or
63 the county sheriff orally and in writing. The county sheriff
64 and the head of every local welfare agency and police department
65 shall each designate a person within their agency, department,
66 or office who is responsible for ensuring that the notification
67 duties of this paragraph and paragraph (b) are carried out.
68 Nothing in this subdivision shall be construed to require more
69 than one report from any institution, facility, school or agency.

70 (b) Any person may voluntarily report to the local welfare
71 agency, police department or the county sheriff if ~~he~~ the person
72 knows, has reason to believe, or suspects a child is being
73 neglected or subjected to physical or sexual abuse. The police
74 department or the county sheriff, upon receiving a report, shall
75 immediately notify the local welfare agency orally and in
76 writing. The local welfare agency, upon receiving a report,

1 shall immediately notify the local police department or the
2 county sheriff orally and in writing.

3 (c) A person mandated to report physical or sexual child
4 abuse or neglect occurring within a licensed facility shall
5 report the information to the agency responsible for licensing
6 the facility. A health or corrections agency receiving a report
7 may request the local welfare agency to provide assistance
8 pursuant to subdivisions 10, 10a, and 10b.

9 (d) Any person mandated to report shall, upon request to
10 the local welfare agency, receive a summary of the disposition
11 of any report made by that reporter, unless release would be
12 detrimental to the best interests of the child. Any person who
13 is not mandated to report shall, upon request to the local
14 welfare agency, receive a concise summary of the disposition of
15 any report made by that reporter, unless release would be
16 detrimental to the best interests of the child.

17 (e) For purposes of this subdivision, "immediately" means
18 as soon as possible but in no event longer than 24 hours.

19 No change for subd 3a to 8

20 Subd. 9. MANDATORY REPORTING TO A MEDICAL EXAMINER OR
21 CORONER. When a person required to report under the
22 provisions of subdivision 3 knows or has reason to believe a
23 child has died as a result of neglect or physical or sexual
24 abuse, he the person shall report that information to the *
25 appropriate medical examiner or coroner instead of the local
26 welfare agency, police department or county sheriff. Medical
27 examiners or coroners shall notify the local welfare agency or
28 police department or county sheriff in instances in which they
29 believe that the child has died as a result of neglect or
30 physical or sexual abuse. The medical examiner or coroner shall
31 complete an investigation as soon as feasible and report the
32 findings to the police department or county sheriff and the
33 local welfare agency.

34 Subd. 10. DUTIES OF LOCAL WELFARE AGENCY AND LOCAL LAW
35 ENFORCEMENT AGENCY UPON RECEIPT OF A REPORT. (a) If the
36 report alleges neglect, physical abuse, or sexual abuse by a
37 parent, guardian, or individual functioning within the family
38 unit as a person responsible for the child's care, the local
39 welfare agency shall immediately conduct an assessment and offer
40 protective social services for purposes of preventing further
41 abuses, safeguarding and enhancing the welfare of the abused or
42 neglected minor, and preserving family life whenever possible.
43 When necessary the local welfare agency shall seek authority to
44 remove the child from the custody of his a parent, guardian or *
45 adult with whom he the child is living. In performing any of *
46 these duties, the local welfare agency shall maintain
47 appropriate records.

48 (b) Authority of the local welfare agency responsible for
49 assessing the child abuse report and of the local law
50 enforcement agency for investigating the alleged abuse includes,
51 but is not limited to, authority to interview, without parental
52 consent, the alleged victim and any other minors who currently
53 reside with or who have resided with the alleged perpetrator.
54 The interview may take place at school or at any facility or
55 other place where the alleged victim or other minors might be
56 found and may take place outside the presence of the perpetrator
57 or parent, legal custodian, guardian, or school official.
58 Except as provided in this clause, the parent, legal custodian,
59 or guardian shall be notified by the responsible local welfare
60 or law enforcement agency no later than the conclusion of the
61 investigation or assessment that this interview has occurred.
62 Notwithstanding rule 49.02 of the Minnesota Rules of Procedure
63 for Juvenile Courts, the juvenile court may, after hearing on an
64 ex parte motion by the local welfare agency, order that, where
65 reasonable cause exists, the agency withhold notification of
66 this interview from the parent, legal custodian, or guardian.
67 If the interview took place or is to take place on school
68 property, the order shall specify that school officials may not
69 disclose to the parent, legal custodian, or guardian the
70 contents of the notification of intent to interview the child on
71 school property, as provided under paragraph (c), and any other
72 related information regarding the interview that may be a part
73 of the child's school record. A copy of the order shall be sent
74 by the local welfare or law enforcement agency to the
75 appropriate school official.

76 (c) When the local welfare or local law enforcement agency

1 determines that an interview should take place on school
 2 property, written notification of intent to interview the child
 3 on school property must be received by school officials prior to
 4 the interview. The notification shall include the name of the
 5 child to be interviewed, the purpose of the interview, and a
 6 reference to the statutory authority to conduct an interview on
 7 school property. For interviews conducted by the local welfare
 8 agency, the notification shall be signed by the chairman chair
 9 of the county welfare board or ~~his~~ the chair's designee. The
 10 notification shall be private data on individuals subject to the
 11 provisions of this paragraph. School officials may not disclose
 12 to the parent, legal custodian, or guardian the contents of the
 13 notification or any other related information regarding the
 14 interview until notified in writing by the local welfare or law
 15 enforcement agency that the investigation or assessment has been
 16 concluded. Until that time, the local welfare or law enforcement
 17 agency shall be solely responsible for any disclosures regarding
 18 the nature of the assessment or investigation.

*
*

19 Except where the alleged perpetrator is believed to be a
 20 school official or employee, the time and place, and manner of
 21 the interview on school premises shall be within the discretion
 22 of school officials, but the local welfare or law enforcement
 23 agency shall have the exclusive authority to determine who may
 24 attend the interview. The conditions as to time, place, and
 25 manner of the interview set by the school officials shall be
 26 reasonable and the interview shall be conducted not more than 24
 27 hours after the receipt of the notification unless another time
 28 is considered necessary by agreement between the school
 29 officials and the local welfare or law enforcement agency.
 30 Where the school fails to comply with the provisions of this
 31 paragraph, the juvenile court may order the school to comply.
 32 Every effort must be made to reduce the disruption of the
 33 educational program of the child, other students, or school
 34 staff when an interview is conducted on school premises.

35 (d) Where the perpetrator or a person responsible for the
 36 care of the alleged victim or other minor prevents access to the
 37 victim or other minor by the local welfare agency, the juvenile
 38 court may order the parents, legal custodian, or guardian to
 39 produce the alleged victim or other minor for questioning by the
 40 local welfare agency or the local law enforcement agency outside
 41 the presence of the perpetrator or any person responsible for
 42 the child's care at reasonable places and times as specified by
 43 court order.

44 (e) Before making an order under paragraph (d), the court
 45 shall issue an order to show cause, either upon its own motion
 46 or upon a verified petition, specifying the basis for the
 47 requested interviews and fixing the time and place of the
 48 hearing. The order to show cause shall be served personally and
 49 shall be heard in the same manner as provided in other cases in
 50 the juvenile court. The court shall consider the need for
 51 appointment of a guardian ad litem to protect the best interests
 52 of the child. If ~~a guardian ad litem is~~ appointed, he the
 53 guardian ad litem shall be present at the hearing on the order
 54 to show cause.

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55 (f) The commissioner, the local welfare agencies
 56 responsible for investigating reports, and the local law
 57 enforcement agencies have the right to enter facilities as
 58 defined in subdivision 2 and to inspect and copy the facility's
 59 records, including medical records, as part of the investigation.
 60 Notwithstanding the provisions of chapter 13, they also have the
 61 right to inform the facility under investigation that they are
 62 conducting an investigation, to disclose to the facility the
 63 names of the individuals under investigation for abusing or
 64 neglecting a child, and to provide the facility with a copy of
 65 the report and the investigative findings.

66 No change for subd 10a

67 Subd. 10b. DUTIES OF COMMISSIONER; NEGLECT OR ABUSE IN
 68 A FACILITY. (a) If the report alleges that a child in the
 69 care of a facility as defined in subdivision 2 is neglected,
 70 physically abused, or sexually abused by an individual in that
 71 facility, the commissioner shall immediately investigate. The
 72 commissioner shall arrange for the transmittal to ~~him~~ the
 73 commissioner of reports received by local agencies and may
 74 delegate to a local welfare agency the duty to investigate
 75 reports. In conducting an investigation under this section, the
 76 commissioner has the powers and duties specified for local

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1 welfare agencies under this section. The commissioner or local
2 welfare agency may interview any children who are or have been
3 in the care of a facility under investigation and their parents,
4 guardians, or legal custodians.

5 (b) Prior to any interview, the commissioner or local
6 welfare agency shall provide the following information to the
7 parent, guardian, or legal custodian of a child who will be
8 interviewed: the name of the facility; the fact that a report
9 alleging neglect, physical abuse, or sexual abuse of a child in
10 the facility has been received; the nature of the alleged
11 neglect, physical abuse, or sexual abuse; that the agency is
12 conducting an investigation; any protective or corrective
13 measures being taken pending the outcome of the investigation;
14 and that a written memorandum will be provided when the
15 investigation is completed. If reasonable efforts to reach the
16 parent, guardian, or legal custodian of a child in an
17 out-of-home placement have failed, the child may be interviewed
18 if there is reason to believe the interview is necessary to
19 protect the child or other children in the facility. The
20 commissioner or local agency must provide the information
21 required in this subdivision to the parent, guardian, or legal
22 custodian of a child interviewed without parental notification
23 as soon as possible after the interview.

24 No change for subd 10c to 13

626*#557S

25 626.557 REPORTING OF MALTREATMENT OF VULNERABLE ADULTS.

26 No change for subd 1 to 2

27 Subd. 3. PERSONS MANDATED TO REPORT. A professional
28 or his the professional's delegate who is engaged in the care of *
29 vulnerable adults, education, social services, law enforcement,
30 or any of the regulated occupations referenced in subdivision 2,
31 clause (g)(3) and (4), or an employee of a rehabilitation
32 facility certified by the commissioner of economic security for
33 vocational rehabilitation, or an employee of or person providing
34 services in a facility who has knowledge of the abuse or neglect
35 of a vulnerable adult, has reasonable cause to believe that a
36 vulnerable adult is being or has been abused or neglected, or
37 who has knowledge that a vulnerable adult has sustained a
38 physical injury which is not reasonably explained by the history
39 of injuries provided by the caretaker or caretakers of the
40 vulnerable adult shall immediately report the information to the
41 local police department, county sheriff, local welfare agency,
42 or appropriate licensing or certifying agency. The police
43 department or the county sheriff, upon receiving a report, shall
44 immediately notify the local welfare agency. The local welfare
45 agency, upon receiving a report, shall immediately notify the
46 local police department or the county sheriff and the
47 appropriate licensing agency or agencies.

48 A person not required to report under the provisions of
49 this subdivision may voluntarily report as described above.
50 Medical examiners or coroners shall notify the police department
51 or county sheriff and the local welfare department in instances
52 in which they believe that a vulnerable adult has died as a
53 result of abuse or neglect.

54 Nothing in this subdivision shall be construed to require
55 the reporting or transmittal of information regarding an
56 incident of abuse or neglect or suspected abuse or neglect if
57 the incident has been reported or transmitted to the appropriate
58 person or entity.

59 Subd. 3a. REPORT NOT REQUIRED. (a) Where federal law
60 specifically prohibits a person from disclosing patient
61 identifying information in connection with a report of suspected
62 abuse or neglect under Laws 1983, chapter 273, section 3, that
63 person need not make a required report unless the vulnerable
64 adult, or the vulnerable adult's guardian, conservator, or legal
65 representative, has consented to disclosure in a manner which
66 conforms to federal requirements. Facilities whose patients or
67 residents are covered by such a federal law shall seek consent
68 to the disclosure of suspected abuse or neglect from each
69 patient or resident, or his a guardian, conservator, or legal *
70 representative, upon his the patient's or resident's admission *
71 to the facility. Persons who are prohibited by federal law from
72 reporting an incident of suspected abuse or neglect shall
73 promptly seek consent to make a report.

74 (b) Except as defined in subdivision 2, paragraph (d),
75 clause (1), verbal or physical aggression occurring between

1 patients, residents, or clients of a facility, or self-abusive
 2 behavior of these persons does not constitute "abuse" for the
 3 purposes of subdivision 3 unless it causes serious harm. The
 4 operator of the facility or a designee shall record incidents of
 5 aggression and self-abusive behavior in a manner that
 6 facilitates periodic review by licensing agencies and county and
 7 local welfare agencies.

8 (c) Nothing in this section shall be construed to require a
 9 report of abuse, as defined in subdivision 2, paragraph (d),
 10 clause (4), solely on the basis of the transfer of money or
 11 property by gift or as compensation for services rendered.

12 No change for subd 4 to 19

626*#558S

13 626.558 MULTIDISCIPLINARY CHILD PROTECTION TEAM.

14 Subdivision 1. ESTABLISHMENT OF THE TEAM. A county
 15 may establish a multidisciplinary child protection team
 16 comprised of the director of the local welfare agency or ~~his~~ *
 17 designees, the county attorney or ~~his~~ designees, the county *
 18 sheriff or ~~his~~ designees and representatives of health, *
 19 education, mental health or other appropriate agencies and
 20 parent groups.

21 No change for subd 2 to 3

626*#65S

22 626.65 UNIFORM LAW ON FRESH PURSUIT; RECIPROCAL.

23 Any member of a duly organized state, county, or municipal
 24 peace unit of another state of the United States who enters this
 25 state in fresh pursuit, and continues within this state in such
 26 fresh pursuit, of a person in order to arrest ~~him~~ the person on *
 27 the ground that ~~he~~ the person is believed to have committed a *
 28 felony in such other state, shall have the same authority to
 29 arrest and hold such person in custody, as has any member of any
 30 duly organized state, county, or municipal peace unit of this
 31 state, to arrest and hold in custody a person on the ground that
 32 ~~he~~ the person is believed to have committed a felony in this *
 33 state; provided, the rights extended by this section shall be
 34 extended only to those states granting these same rights to
 35 peace officers of this state who may be in fresh pursuit of
 36 suspected criminals in such reciprocating states.

626*#66S

37 626.66 ARREST; HEARING.

38 If an arrest is made in this state by an officer of another
 39 state in accordance with the provisions of section 626.65, ~~he~~ *
 40 the officer shall, without unnecessary delay, take the person *
 41 arrested before a judge of the county in which the arrest was
 42 made. The judge shall conduct a hearing for the purpose of
 43 determining the lawfulness of the arrest. If the judge
 44 determines that the arrest was lawful, ~~he~~ the judge shall commit *
 45 the person arrested to await for a reasonable time the issuance
 46 of an extradition warrant by the governor of this state, or
 47 admit ~~him~~ the person arrested to bail for such purpose. If the *
 48 judge determines that the arrest was unlawful, ~~he~~ the judge *
 49 shall discharge the person arrested.

626*#76S

50 626.76 RULES AND REGULATIONS; AIDING OTHER OFFICERS.

51 No change for subd 1

52 Subd. 2. When a peace officer gives assistance to another
 53 peace officer within the scope of the rules or regulations of
 54 ~~his~~ the peace officer's appointive or elected agency or office, *
 55 any such assistance shall be within the line of duty and course
 56 of employment of the officer rendering the assistance.

57 No change for subd 3 to 4

626*#84S

58 626.84 DEFINITIONS AND SCOPE.

59 Subdivision 1. DEFINITIONS. For the purposes of
 60 sections 626.84 to 626.855, the following terms shall have the
 61 meanings given them:

62 (a) "Board" means the Minnesota board of peace officer
 63 standards and training;

64 (b) "Director" means the executive director of the board;

65 (c) "Peace officer" means an employee of a political
 66 subdivision or state law enforcement agency who is licensed by
 67 the board, charged with the prevention and detection of crime
 68 and the enforcement of the general criminal laws of the state
 69 and who has the full power of arrest, and shall also include the
 70 Minnesota state patrol and state conservation officers.

71 (d) "Constable" shall have the meaning assigned to it in

1 section 367.40.

2 (e) "Deputy constable" shall have the meaning assigned to
3 it in section 367.40.

4 (f) "Part-time peace officer" means an individual licensed
5 by the board whose services are utilized by law enforcement
6 agencies no more than an average of 20 hours per week, not
7 including time spent on call when no call to active duty is
8 received, calculated on an annual basis, who has either full
9 powers of arrest or authorization to carry a firearm while on
10 active duty. The term shall apply even though the individual
11 receives no compensation for time spent on active duty, and
12 shall apply irrespective of the title conferred upon the
13 individual by any law enforcement agency. The limitation on the
14 average number of hours in which the services of a part-time
15 peace officer may be utilized shall not apply to a part-time
16 peace officer who has formally notified the board pursuant to
17 rules adopted by the board of ~~his~~ the part-time peace officer's *
18 intention to pursue the specialized training for part-time peace
19 officers who desire to become peace officers pursuant to
20 sections 626.843, subdivision 1, clause (g) and 626.845,
21 subdivision 1, clause (g).

22 (g) "Reserve peace officer" means an individual whose
23 services are utilized by a law enforcement agency for purposes
24 including, but not limited to, providing supplementary
25 assistance at special events, traffic or crowd control, or
26 administrative or clerical assistance; provided that the
27 individual's duties do not include enforcement of the general
28 criminal laws of the state unless accompanied by a licensed
29 peace officer; further provided that the individual does not
30 have full powers of arrest or authorization to carry a firearm
31 on duty. The term shall apply even though the individual
32 receives no compensation and irrespective of the number of hours
33 worked by, or the title conferred upon, the individual by any
34 law enforcement agency.

35 No change for subd 2

626*#841S

36 626.841 BOARD; MEMBERS.

37 The board of peace officer standards and training shall be
38 composed of the following 13 members:

39 (a) Two members to be appointed by the governor from among
40 the county sheriffs in Minnesota;

41 (b) Four members to be appointed by the governor from among
42 peace officers in Minnesota municipalities, at least two of whom
43 shall be chiefs of police;

44 (c) The superintendent of the Minnesota bureau of criminal
45 apprehension or ~~his~~ a designee; *

46 (d) Two members appointed by the governor experienced in
47 law enforcement at a local, state or federal level who are not
48 currently employed as peace officers;

49 (e) Two members to be appointed by the governor from among
50 the elected city officials in statutory or home rule charter
51 cities of under 5,000 population outside the metropolitan area,
52 as defined in section 473.121, subdivision 2;

53 (f) Two members appointed by the governor from among the
54 general public.

55 A chairman chair shall be appointed by the governor from *
56 among the members. In making appointments the governor shall
57 strive to achieve representation from among the geographic areas
58 of the state.

626*#842S

59 626.842 TERMS; MEETINGS; COMPENSATION; REMOVAL;
60 VACANCIES.

61 Subdivision 1. Meetings shall be called at the request of
62 the chairman chair or upon the written request of a majority of *
63 the members of the board.

64 Membership on the board shall not constitute the holding of
65 a public office, and members of the board shall not be required
66 to take and file oaths of office or submit a public official's
67 bond before serving on the board.

68 No member of the board shall be disqualified from holding *
69 any public office or employment, by reason of ~~his~~ his appointment to *
70 the board, nor shall ~~he~~ the member forfeit any such office or *
71 employment notwithstanding any general, special, or local *
72 restriction, or ordinance, or city charter to the contrary.

73 No change for subd 2

626*#843S

1 626.843 RULES, STANDARDS; EXECUTIVE DIRECTOR.

2 Subdivision 1. RULES REQUIRED. The board shall adopt
3 rules with respect to:

4 (a) The certification of peace officer training schools,
5 programs, or courses including training schools for the
6 Minnesota state patrol. Such schools, programs and courses
7 shall include those administered by the state, county, school
8 district, municipality, or joint or contractual combinations
9 thereof, and shall include preparatory instruction in law
10 enforcement and minimum basic training courses;

11 (b) Minimum courses of study, attendance requirements, and
12 equipment and facilities to be required at each certified peace
13 officers training school located within the state;

14 (c) Minimum qualifications for instructors at certified
15 peace officer training schools located within this state;

16 (d) Minimum standards of physical, mental and educational
17 fitness which shall govern the recruitment and licensing of
18 peace officers within the state, by any state, county,
19 municipality, or joint or contractual combination thereof,
20 including members of the Minnesota state patrol;

21 (e) Minimum standards of conduct which would affect
22 the individual's performance of ~~the-individual-in-his~~ duties as
23 a peace officer; *

24 These standards shall be established and published on or
25 before July 1, 1979.

26 (f) Minimum basic training which peace officers appointed
27 to temporary or probationary terms shall complete before being
28 eligible for permanent appointment, and the time within which
29 such basic training must be completed following any such
30 appointment to a temporary or probationary term;

31 (g) Minimum specialized training which part-time peace
32 officers shall complete in order to be eligible for continued
33 employment as a part-time peace officer or permanent employment
34 as a peace officer, and the time within which the specialized
35 training must be completed;

36 (h) Content of minimum basic training courses required of
37 graduates of certified law enforcement training schools or
38 programs. Such courses shall not duplicate the content of
39 certified academic or general background courses completed by a
40 student but shall concentrate on practical skills deemed
41 essential for a peace officer. Successful completion of such a
42 course shall be deemed satisfaction of the minimum basic
43 training requirement;

44 (i) Grading, reporting, attendance and other records, and
45 certificates of attendance or accomplishment;

46 (j) The procedures to be followed by a part-time peace
47 officer for notifying the board of ~~his-intention~~ intent to
48 pursue the specialized training for part-time peace officers who
49 desire to become peace officers pursuant to sections 626.843,
50 subdivision 1, clause (g) and 626.845, subdivision 1, clause (g); *

51 (k) The establishment, and use by any political subdivision
52 or state law enforcement agency which employs persons licensed
53 by the board of procedures for investigation and resolution of
54 allegations of misconduct by persons licensed by the board. The
55 procedures shall be in writing and shall be established on or
56 before October 1, 1984; and

57 (l) Such other matters as may be necessary consistent with
58 sections 626.84 to 626.855. Rules promulgated by the attorney
59 general with respect to these matters may be continued in force
60 by resolution of the board if the board finds the rules to be
61 consistent with sections 626.84 to 626.855.

62 No change for subd 1a to 4

626*#846S

63 626.846 ATTENDANCE, FORFEITURE OF POSITION.

64 No change for subd 1

65 Subd. 2. Every peace officer or part-time peace officer
66 who shall be appointed by any state, county, municipality or
67 joint or contractual combination thereof of the state of
68 Minnesota on a temporary basis or for a probationary term, shall
69 forfeit ~~his~~ the officer's position unless ~~he~~ the officer has
70 been licensed by the board pursuant to sections 626.841 to
71 626.855. Any other peace officer or part-time peace officer
72 employed or elected by any state, county, municipality or joint
73 or contractual combination thereof, may attend peace officer
74 training courses and be licensed by the board pursuant to
75 sections 626.84 to 626.855. *

1 No change for subd 3
 626*#8465S
 2 626.8465 PART-TIME OFFICERS; LIMITATIONS.
 3 Subdivision 1. SUPERVISION OF POWERS AND DUTIES. No
 4 law enforcement agency shall utilize the services of a part-time
 5 peace officer unless the part-time peace officer exercises his *
 6 the part-time peace officer's powers and duties under the *
 7 supervision, directly or indirectly of a licensed peace officer
 8 designated by the chief law enforcement officer. Supervision
 9 also may be via radio communications. With the consent of the
 10 county sheriff, the designated supervising officer may be a
 11 member of the county sheriff's department.
 12 Subd. 2. PART-TIME PEACE OFFICER LICENSE, RESTRICTION.
 13 Any individual licensed by the board as a part-time peace
 14 officer shall be eligible for appointment or employment anywhere
 15 in the state as a part-time peace officer but not as a peace
 16 officer unless he the individual meets board training and *
 17 licensing requirements then in effect for peace officers.
 18 Subd. 3. EMERGENCY APPOINTMENT. Upon application of
 19 a law enforcement agency the board shall exempt from the
 20 provisions of Laws 1979, Chapter 282 the number of individuals
 21 necessary to secure and maintain the public safety in the case
 22 of an emergency arising from a natural disaster, civil disorder,
 23 fire, explosion, or similar catastrophic event; provided that no
 24 exemption shall be valid for a period exceeding 30 days. In the
 25 event the emergency requires an exemption immediately, the
 26 director or in case of his the director's absence, the chief law *
 27 enforcement officer of the municipality or township, or the
 28 sheriff of the county in which the emergency has arisen, shall
 29 grant an exemption which shall be valid only until the board has
 30 met and approved or rejected the application, but in no event
 31 shall an exemption granted by the director, the chief law
 32 enforcement officer of the municipality or township, or a county
 33 sheriff, be valid for a period exceeding seven days.
 626*#847S
 34 626.847 COMPULSORY PROGRAM; EXEMPTIONS.
 35 Nothing contained in sections 626.841 to 626.855, shall be
 36 construed to exempt any peace officer from the provisions of
 37 sections 626.841 to 626.855, or to exempt a peace officer having
 38 received his the peace officer's last permanent appointment as a *
 39 peace officer prior to July 1, 1967.
 626*#85S
 40 626.85 INSTRUCTORS; DONATIONS, CONTRIBUTIONS.
 41 Subdivision 1. In addition to the bureau employees
 42 assigned to police training, full time or part time, the
 43 superintendent is authorized to engage such part time
 44 instructors as he the superintendent deems proper and necessary *
 45 to furnish the best possible instruction in police sciences,
 46 subject to board rules and to the limitation of funds as
 47 appropriated and available for expenditure. Laws 1981, Chapter
 48 210, Sections 1 to 48 shall not apply to such part time
 49 employees.
 50 No change for subd 2
 51 Subd. 3. Any peace officer who has been designated to
 52 serve as an instructor, researcher or member of a special
 53 project for the peace officer training board may in the
 54 discretion of the appointing authority be given up to a 12 month
 55 leave of absence with pay from the police department or agency
 56 by which ~~he-is~~ employed for the purpose of serving as such *
 57 instructor, researcher or member of a special project. While
 58 serving in such capacity peace officers shall continue to
 59 maintain the civil service status they have attained or accrued
 60 pursuant to chapters 43A, 44 and 419. The state treasurer shall
 61 reimburse solely from federal funds available for this purpose
 62 the respective law enforcement employers of such peace officers
 63 for all salaries and contributions such employers make during
 64 said leave of absence towards accrual of their civil service
 65 benefits, pension fund and hospitalization benefits.
 626*#852S
 66 626.852 TUITION; SALARY AND EXPENSES.
 67 No tuition shall be charged any peace officer or part-time
 68 peace officer for attending any training school herein provided
 69 for, and each officer when assigned to the bureau of criminal
 70 apprehension continuing education courses pursuant to rules of
 71 the board shall receive his the officer's regular salary and *
 72 shall be reimbursed by the governing body of the governmental

1 unit or combination of governmental units from which elected or
 2 by which employed for ~~his~~ the cost of meals, travel, and *
 3 lodgings while in attendance at the bureau of criminal
 4 apprehension courses, not to exceed similar allowance for state
 5 employees.

626*#855S

6 626.855 UNIVERSITY OF MINNESOTA PEACE OFFICERS.
 7 A university of Minnesota peace officer appointed and
 8 employed on or after July 1, 1977 by the regents of the
 9 university of Minnesota who has not previously attended a peace
 10 officers training course shall attend a peace officers training
 11 course within 12 months of ~~his~~ the officer's appointment or of *
 12 August 1, 1977.

626*#861S

13 626.861 LEVY AND COLLECTION OF PENALTY ASSESSMENTS.
 14 No change for subd 1
 15 Subd. 2. PAYMENT GUIDELINES. The sentencing court
 16 may, upon a showing of indigency or undue hardship upon the
 17 convicted person or ~~his~~ the convicted person's immediate family, *
 18 authorize payment of the penalty assessment in installments. If
 19 the convicted person is sentenced and committed to imprisonment,
 20 the chief executive officer of the institution in which the
 21 person is confined may collect the assessment from any earnings
 22 the inmate shall accrue for work performed in the institution or
 23 while on conditional release therefrom under the provisions of
 24 sections 241.26 or 631.425 and forward same to the clerk of the
 25 court in which ~~he~~ the convicted person was sentenced, for *
 26 transmittal to the state treasurer in the manner provided in
 27 subdivision 3.
 28 The court may decline to impose a penalty assessment or may
 29 forgive payment of a penalty assessment previously imposed, in
 30 cases where undue hardship cannot otherwise be avoided.
 31 No change for subd 3 to 4

626*#88S

32 626.88 UNIFORMS; PEACE OFFICERS, SECURITY GUARDS; COLOR.
 33 Subdivision 1. DEFINITIONS. (a) For the purposes of
 34 this section, the following terms have the meanings given them.
 35 (b) "Peace officer" means an employee of a political
 36 subdivision or state law enforcement agency who is licensed
 37 pursuant to sections 626.84 to 626.855 charged with the
 38 prevention and detection of crime and the enforcement of the
 39 general criminal laws of the state and who has full power of
 40 arrest, and shall also include Minnesota state troopers, state
 41 conservation officers, park police, constables, and University
 42 of Minnesota police officers.
 43 (c) "Security guard" means any person who is paid a fee,
 44 wage or salary to perform one or more of the following functions:
 45 (1) Prevention or detection of intrusion, unauthorized
 46 entry or activity, vandalism or trespass on private property;
 47 (2) Prevention or detection of theft, loss, embezzlement,
 48 misappropriation, or concealment of merchandise, money, bonds,
 49 stocks, notes, or other valuable documents or papers;
 50 (3) Control, regulation, or direction of the flow or
 51 movements of the public, whether by vehicle or otherwise, to
 52 assure protection of private property;
 53 (4) Protection of individuals from bodily harm; or
 54 (5) Enforcement of policies and rules of ~~his~~ the security *
 55 guard's employer related to crime reduction insofar as such *
 56 enforcement falls within the scope of ~~his~~ security guard's *
 57 duties.
 58 The term "security guard" does not include: (i) auditors,
 59 accountants, and accounting personnel performing audits or
 60 accounting functions; (ii) employees of a firm licensed pursuant
 61 to section 326.331 whose duties are primarily administrative or
 62 clerical in nature; (iii) unarmed watchmen security personnel; *
 63 (iv) personnel temporarily employed pursuant to statute or
 64 ordinance by political subdivisions to provide protective
 65 services at social functions; (v) employees of air or rail
 66 carriers.
 67 No change for subd 2 to 3

626A#01S

68 626A.01 DEFINITIONS.
 69 No change for subd 1 to 5
 70 Subd. 6. ELECTRONIC, MECHANICAL OR OTHER DEVICE.
 71 "Electronic, mechanical, or other device" means any device or
 72 apparatus which can be used to intercept a wire or oral

1 communication other than

2 (a) any telephone or telegraph instrument, equipment or
3 facility, or any component thereof, (i) furnished to the
4 subscriber or user by a communications common carrier in the
5 ordinary course of its business and being used by the subscriber
6 or user in the ordinary course of its business; or (ii) being
7 used by a communications common carrier in the ordinary course
8 of its business, or by an investigative or law enforcement
9 officer in the ordinary course of his duties; *

10 (b) a hearing aid or similar device being used to correct
11 subnormal hearing to not better than normal;

12 (c) that which is specifically designed to only record
13 conversations to which the operator of the device is a party;

14 (d) that which is used in the normal course of broadcasting
15 by radio or television; or

16 (e) that which is otherwise commonly used for a purpose or
17 purposes other than overhearing or recording conversations.

18 In determining whether a device which is alleged to be an
19 electronic, mechanical or other device is, in fact, such a
20 device there shall be taken into account, among other things,
21 the size, appearance, directivity, range, sensitivity,
22 frequency, power, or intensity, and the representations of the
23 maker or manufacturer as to its performance and use.

24 No change for subd 7 to 13

626A#02S

25 626A.02 INTERCEPTION AND DISCLOSURE OF WIRE OR ORAL
26 COMMUNICATIONS PROHIBITED.

27 No change for subd 1

28 Subd. 2. EXEMPTIONS. (a) It shall not be unlawful
29 under sections 626A.01 to 626A.23 for an operator of a
30 switchboard, or an officer, employee, or agent of any
31 communication common carrier, whose facilities are used in the
32 transmission of a wire communication, to intercept, disclose, or
33 use that communication in the normal course of his employment *
34 while engaged in any activity which is a necessary incident to *
35 the rendition of his service or to the protection of the rights
36 or property of the carrier of such communication: provided,
37 that said communication common carriers shall not utilize
38 service observing or random monitoring except for mechanical or
39 service quality control checks.

40 (b) It shall not be unlawful under sections 626A.01 to
41 626A.23 for an officer, employee, or agent of the Federal
42 Communications Commission, in the normal course of his *
43 employment and in discharge of the monitoring responsibilities
44 exercised by the commission in the enforcement of chapter 5 of
45 title 47 of the United States Code to intercept a wire
46 communication, or oral communication transmitted by radio, or to
47 disclose or use the information thereby obtained.

48 (c) It shall not be unlawful under sections 626A.01 to
49 626A.23 for a person acting under color of law to intercept a
50 wire or oral communication, where such person is a party to the
51 communication or one of the parties to the communication has
52 given prior consent to such interception.

53 (d) It shall not be unlawful under this chapter for a
54 person not acting under color of law to intercept a wire or oral
55 communication where such person is a party to the communication
56 or where one of the parties to the communication has given prior
57 consent to such interception unless such communication is
58 intercepted for the purpose of committing any criminal or
59 tortious act in violation of the constitution or laws of the
60 United States or of any state or for the purpose of committing
61 any other injurious act.

626A#06S

62 626A.06 PROCEDURE FOR INTERCEPTION OF WIRE OR ORAL
63 COMMUNICATIONS.

64 Subdivision 1. THE APPLICATIONS. Each application
65 for a warrant authorizing or approving the interception of a
66 wire or oral communication shall be made in writing upon oath or
67 affirmation to a judge of the district court or of the supreme
68 court and shall state the applicant's authority to make such
69 application. Each application shall include the following
70 information:

71 (a) the identity of the investigative or law enforcement
72 officer making the application, and the officer authorizing the
73 application;

74 (b) a full and complete statement of the facts and

1 circumstances relied upon by the applicant, to justify ~~his~~ the *
 2 applicant's belief that an order should be issued, including (i) *
 3 details as to the particular offense that has been, is being, or
 4 is about to be committed, (ii) a particular description of the
 5 nature and location of the facilities from which or the place
 6 where the communication is to be intercepted, (iii) a particular
 7 description of the type of communications sought to be
 8 intercepted, (iv) the identity of the person, if known,
 9 committing the offense and whose communications are to be
 10 intercepted;

11 (c) a full and complete statement as to whether or not
 12 other investigative procedures have been tried and failed or why
 13 they reasonably appear to be unlikely to succeed if tried or to
 14 be too dangerous;

15 (d) a statement of the period of time for which the
 16 interception is required to be maintained. If the nature of the
 17 investigation is such that the authorization for interception
 18 should not automatically terminate when the described type of
 19 communication has been first obtained, a particular description
 20 of facts establishing probable cause to believe that additional
 21 communications of the same type will occur thereafter;

22 (e) a full and complete statement of the facts concerning
 23 all previous applications known to the individual authorizing
 24 and making the application, made to any judge for authorization
 25 to intercept, or for approval of interceptions of, wire or oral
 26 communications involving any of the same persons, facilities, or
 27 places specified in the application, and the action taken by the
 28 judge on each such application;

29 (f) where statements in the application are solely upon the
 30 information or belief of the applicant, the grounds for the
 31 belief must be given; and

32 (g) the names of persons submitting affidavits in support
 33 of the application.

34 Subd. 2. ADDITIONAL SHOWING OF PROBABLE CAUSE. The
 35 court to whom any such application is made, before issuing any
 36 warrant thereon, may examine on oath the person seeking the
 37 warrant and any witnesses ~~he~~ the person may produce, and must *
 38 take ~~his~~ the person's affidavit or other affidavits in writing, *
 39 and cause them to be subscribed by the party or parties making
 40 the same. The court may also require the applicant to furnish
 41 additional documentary evidence or additional oral testimony to
 42 satisfy ~~himself~~ itself of the existence of probable cause for *
 43 issuance of the warrant.

44 No change for subd 3

45 Subd. 4. THE WARRANT. Each warrant to intercept
 46 communications shall be directed to a law enforcement officer,
 47 commanding ~~him~~ the officer to hold the recording of all *
 48 intercepted communications conducted under said warrant in ~~his~~ *
 49 custody subject to the further order of the court issuing the
 50 warrant. The warrant shall contain the grounds for its issuance
 51 with findings, as to the existence of the matters contained in
 52 subdivision 1 and shall also specify:

53 (a) the identity of the person, if known, whose
 54 communications are to be intercepted and recorded;

55 (b) the nature and location of the communications
 56 facilities as to which, or the place where, authority to
 57 intercept is granted, and in the case of telephone or telegraph
 58 communications the general designation of the particular line or
 59 lines involved;

60 (c) a particular description of the type of communication
 61 sought to be intercepted, and a statement of the particular
 62 offense to which it relates;

63 (d) the identity of the law enforcement office or agency
 64 authorized to intercept the communications, the name of the
 65 officer or officers thereof authorized to intercept
 66 communications, and of the person authorizing the application;

67 (e) the period of time during which such interception is
 68 authorized, including a statement as to whether or not the
 69 interception shall automatically terminate when the described
 70 communication has been first obtained;

71 (f) any other limitations on the interception of
 72 communications being authorized, for the protection of the
 73 rights of third persons;

74 (g) a statement that using, divulging, or disclosing any
 75 information concerning such application and warrant for
 76 intercepting communications is prohibited and that any violation

1 is punishable by the penalties of sections 626A.01 to 626A.23.
 2 (h) a statement that the warrant shall be executed as soon
 3 as practicable, shall be executed in such a way as to minimize
 4 the interception of communications not otherwise subject to
 5 interception under sections 626A.01 to 626A.23 and must
 6 terminate upon attainment of the authorized objective, or in any
 7 event in ten days.

8 Denial of an application for a warrant to intercept
 9 communications or of an application for renewal of such warrant
 10 shall be by written order that shall include a statement as to
 11 the offense or offenses designated in the application, the
 12 identity of the official applying for the warrant and the name
 13 of the law enforcement office or agency.

14 No change for subd 5 to 6

15 Subd. 7. DELIVERY AND RETENTION OF COPIES. Any
 16 warrant for intercepting communications under this section, or
 17 any order renewing a prior warrant, together with the
 18 application made therefor and any supporting papers upon which
 19 the application was based, shall be delivered to and retained by
 20 the applicant as authority for the interception of
 21 communications authorized therein. A true copy of such warrant
 22 and the application made therefor shall be retained in ~~his~~ the
 23 ~~possession by of~~ the judge issuing the same, and, in the event
 24 of the denial of an application for such a warrant, a true copy
 25 of the papers upon which the application was based shall in like
 26 manner be retained by the judge denying the same.

27 No change for subd 8 to 9

28 Subd. 10. PERSONS EXECUTING WARRANT. A warrant for
 29 the interception of communications may in all cases be served by
 30 any of the officers mentioned in its direction, but by no other
 31 person except ~~in-aid-of~~ if the officer ~~on-his-requiring-it,~~ he
 32 being requires aid while present and acting in its execution.

626A#08S

33 626A.08 PRESERVATION OF MATERIAL OBTAINED, APPLICATIONS
 34 AND ORDERS; DESTRUCTION.

35 Subdivision 1. MATERIAL OBTAINED. Every part of any
 36 communication, conversation, or discussion overheard pursuant to
 37 sections 626A.01 to 626A.23 shall be completely recorded on tape
 38 or wire or other comparable device and shall be done in such
 39 manner as will protect the recording from editing or other
 40 alterations. Immediately upon the expiration of the period of
 41 the order, or extensions thereof, such recordings shall be made
 42 available to the judge issuing such order and sealed under ~~his~~
 43 the judge's directions. Custody of the recordings shall be
 44 wherever the judge orders. They shall not be destroyed except
 45 upon an order of the issuing or denying judge or ~~his~~ a successor
 46 and in any event shall be kept for ten years. Duplicate
 47 recordings may be made for use or disclosure pursuant to the
 48 provisions of section 626A.09 for investigations. The presence
 49 of the seal provided for by this subdivision, or a satisfactory
 50 explanation for the absence thereof, shall be a prerequisite for
 51 the use or disclosure of the contents of any wire or oral
 52 communication or evidence derived therefrom under section
 53 626A.09.

54 No change for subd 2 to 4

626A#09S

55 626A.09 AUTHORIZATION FOR DISCLOSURE AND USE OF
 56 INTERCEPTED WIRE OR ORAL COMMUNICATIONS.

57 No change for subd 1

58 Subd. 2. Any investigative or law enforcement officer who,
 59 by any means authorized by sections 626A.01 to 626A.23, has
 60 obtained knowledge of the contents of any wire or oral
 61 communication or evidence derived therefrom may use such
 62 contents to the extent such use is appropriate to the proper
 63 performance of ~~his~~ official duties.

64 No change for subd 3 to 5

626A#10S

65 626A.10 NOTICE TO DEFENDANT.

66 Subdivision 1. NOTICE OF ORDER. Within a reasonable
 67 time but not later than 90 days after the termination of the
 68 period of a warrant or extensions thereof, the issuing or
 69 denying judge shall cause to be served, on the persons named in
 70 the warrant and the application, and such other parties to
 71 intercepted communications as the judge may determine ~~in-his~~
 72 ~~discretion~~ that is in the interest of justice, an inventory
 73 which shall include notice of:

1 (1) the fact of the issuance of the warrant or the
 2 application;
 3 (2) the date of the issuance and the period of authorized,
 4 approved or disapproved interception, or the denial of the
 5 application; and
 6 (3) the fact that during the period wire or oral
 7 communications were or were not intercepted.
 8 Subd. 2. NOTICE OF INTENT TO USE EVIDENCE OBTAINED BY
 9 INTERCEPTION OF WIRE OR ORAL COMMUNICATION. The contents of
 10 any intercepted wire or oral communication or evidence derived
 11 therefrom shall not be received in evidence otherwise disclosed
 12 in any trial, hearing, or other proceeding in a federal or state
 13 court unless each party, not less than ten days before the
 14 trial, hearing, or proceeding, has been furnished with a copy of
 15 the court order, and accompanying application, under which the
 16 interception was authorized or approved. This ten-day period
 17 may be waived by the judge if ~~he~~ the judge finds that it was not *
 18 possible to furnish the party with the above information ten
 19 days before the trial, hearing, or proceeding and that the party
 20 will not be prejudiced by the delay in receiving such
 21 information.

626A#12S

22 626A.12 MOTION TO SUPPRESS EVIDENCE.

23 No change for subd 1

24 Subd. 2. TIME OF MAKING MOTION. Upon receiving the
 25 notice required to be given by section 626A.10, subdivision 2, a
 26 defendant shall make ~~his~~ a motion to suppress prior to the *
 27 commencement of any trial or hearing in which the communications
 28 or conversations claimed to have been unlawfully obtained are
 29 proposed to be offered as evidence, except that the court shall
 30 entertain a motion made for the first time during trial upon a
 31 showing that (a) the defendant was unaware of the interception
 32 of communications until after the commencement of the trial, or
 33 (b) the defendant obtained material evidence previously *
 34 unavailable to ~~him~~ the defendant indicating it was unlawfully
 35 obtained, or (c) the defendant has not had adequate time or
 36 opportunity to make the motion before trial.

37 If a motion has been made and denied before trial, the
 38 determination shall be binding upon the trial court, except
 39 that, if it is established that, after the making of such
 40 motion, the defendant obtained additional material evidence of
 41 unlawfulness which could not have been obtained with reasonable
 42 diligence before the making of the motion, the court shall
 43 entertain another motion, or a renewal of a motion, during the
 44 trial.

45 When the motion is made before trial, the trial shall not
 46 be commenced until the motion has been determined.

47 When the motion is made during trial, the court shall, in
 48 the absence of the jury, if there be one, hear evidence in the
 49 same manner as if the motion had been made prior to trial, and
 50 shall decide all issues of fact and law.

51 If no motion is made in accordance with the provisions of
 52 this section, the defendant shall be deemed to have waived any
 53 objection during trial to the admission of evidence based on the
 54 ground that such evidence was unlawfully obtained.

55 No change for subd 3 to 5

626A#15S

56 626A.15 DUTY TO REPORT VIOLATIONS.

57 Any officer or employee of a telephone or telegraph company
 58 shall report to the police department or county attorney having
 59 jurisdiction, any violation of sections 626A.01 to 626A.23
 60 coming to ~~his~~ the officer or employee's attention. *

626A#17S

61 626A.17 REPORT, CONCERNING INTERCEPTION OF

62 COMMUNICATIONS.

63 No change for subd 1

64 Subd. 2. REPORT BY COUNTY ATTORNEY. No later than
 65 January 15 of each year each county attorney shall report to the
 66 court administrator:

67 (a) with respect to each application for an order or
 68 extension made during the preceding year:

69 (1) the fact that an order or extension was applied for;

70 (2) the kind of order or extension applied for;

71 (3) the fact that the order or extension was granted as
 72 applied for, was modified, or was denied;

73 (4) the period of interceptions authorized by the order,

- 1 and the number and duration of any extensions of the order;
- 2 (5) the offense specified in the order or application, or
- 3 extension of an order;
- 4 (6) the identity of the applying investigative or law
- 5 enforcement officer and agency making the application and the
- 6 person authorizing the application; and
- 7 (7) the nature of the facilities from which or the place
- 8 where communications were to be intercepted.
- 9 (b) a general description of the interceptions made under
- 10 such order or extension, including (i) the approximate nature
- 11 and frequency of incriminating communications intercepted, (ii)
- 12 the approximate nature and frequency of other communications
- 13 intercepted, (iii) the approximate number of persons whose
- 14 communications were intercepted, and (iv) the approximate
- 15 nature, amount, and cost of the ~~manpower~~ personnel and other *
16 resources used in the interceptions;
- 17 (c) the number of arrests resulting from interceptions made
- 18 under such order or extension, and the offenses for which
- 19 arrests were made;
- 20 (d) the number of trials resulting from such interceptions;
- 21 (e) the number of motions to suppress made with respect to
- 22 such interceptions, and the number granted or denied;
- 23 (f) the number of convictions resulting from such
- 24 interceptions and the offenses for which the convictions were
- 25 obtained and a general assessment of the importance of the
- 26 interceptions; and
- 27 (g) the information required by paragraphs (b) through (f)
- 28 of this subdivision with respect to orders or extensions
- 29 obtained in a preceding calendar year.
- 30 No change for subd 3

626A#20S

31 626A.20 SUSPENSION OR REVOCATION OF LICENSES.
 32 On the conviction of any person of the violation of any
 33 provision of this chapter, a copy of the judgment and sentence,
 34 and of the opinion of the court, if any opinion be filed, shall
 35 be sent by the clerk of the court to the board or officer, if
 36 any, by whom the convicted defendant has been licensed or
 37 registered to practice ~~his~~ a profession or to carry on ~~his~~ a *
 38 business. On the conviction of any such person, such board or
 39 officer may, in its discretion, suspend or revoke the license or
 40 registration of the convicted defendant to practice ~~his~~ a *
 41 profession or to carry on ~~his~~ a business. On the application of *
 42 any person whose license or registration has been suspended or
 43 revoked, and upon proper showing and for good cause the board or
 44 officer may, in its discretion, reinstate such license or
 45 registration.

628*#09S

46 628.09 INDICTMENT PRESENTED, FILED, AND RECORDED; EFFECT.
 47 When an indictment is found, it shall be immediately
 48 presented by the ~~foreman~~ foreperson, in the presence of the *
 49 grand jury, to the court, filed with the clerk, recorded in a
 50 book kept for that purpose as soon as the arraignment shall have
 51 been made, and remain in the clerk's office as a public record.
 52 The clerk shall certify at the bottom of the record that ~~he~~ the *
 53 clerk has compared the same with the original, and that it is a *
 54 true copy thereof. Such record shall have all the force and
 55 effect of the original indictment, and, in case the indictment
 56 should be lost, mislaid, or for any reason not be before the
 57 court, any proceeding may be had upon such record in the same
 58 manner and with the same effect as if the original was before
 59 the court, and in such case no trial, conviction, or sentence
 60 shall be invalid by reason of the fact that the original
 61 indictment has disappeared from the files of the court after the
 62 recording thereof.

628*#13S

63 628.13 FICTITIOUS NAME.
 64 When a defendant shall be indicted by a fictitious or
 65 erroneous name, and in any stage of the proceedings ~~his~~ the true *
 66 name shall be discovered, it may be inserted in the subsequent
 67 proceedings, referring to the fact of ~~his~~ the defendant's being *
 68 indicted by the name mentioned in the indictment.

628*#18S

69 628.18 TESTS OF SUFFICIENCY.
 70 The indictment shall be sufficient if it is drafted in
 71 accordance with the provisions of Rule 17.02 of the rules of
 72 criminal procedure and if it can be understood therefrom:

- 1 (1) That it is entitled in a court having authority to
- 2 receive it, though the name of the court is not accurately
- 3 stated;
- 4 (2) That it was found by a grand jury of the county in
- 5 which the court was held;
- 6 (3) That the defendant is named, or, if ~~his~~ the name cannot *
7 be discovered, ~~that-he~~ is described by a fictitious name, with *
8 the statement that ~~he~~ the defendant has refused to discover ~~his~~ *
9 the real name; *
- 10 (4) That the offense was committed at some place within the
- 11 jurisdiction of the court, except where, as provided by law, the
- 12 act, though done without the local jurisdiction of the county,
- 13 is triable therein;
- 14 (5) That the offense was committed at some time prior to
- 15 the time of finding the indictment;
- 16 (6) That the act or omission charged as the offense is
- 17 clearly and distinctly set forth, in ordinary and concise
- 18 language, without repetition;
- 19 (7) That the act or omission charged as the offense is
- 20 stated with such a degree of certainty as to enable the court to
- 21 pronounce judgment, upon a conviction, according to the right of
- 22 the case.

628*#22S

23 628.22 INDICTMENT FOR CRIMINAL DEFAMATION.
 24 An indictment for criminal defamation need not set forth
 25 any extrinsic facts for the purpose of showing the application
 26 to the party defamed of the defamatory matter on which the
 27 indictment is founded, but it shall be sufficient to state
 28 generally that the same was published concerning ~~him~~ the party *
 29 defamed, and the fact that it was so published shall be *
 30 established on the trial.

628*#48S

31 628.48 FAILURE TO REPORT; ATTACHMENT.
 32 Every grand and petit juror drawn and summoned to attend
 33 and serve at any term of a district court shall report to such
 34 court at the time and place designated in such summons. A
 35 failure to so report shall constitute contempt of court. On the
 36 first day of the term fixed for the attendance of either the
 37 grand or the petit jurors, or as soon thereafter as may be, the
 38 court shall ascertain whether the persons summoned to attend at
 39 such term as grand or petit jurors, as the case may be, have
 40 reported for duty as required by law; and, if it shall find a
 41 failure on the part of any person so summoned to report, it
 42 shall at once cause an attachment to issue against ~~him~~ the *
 43 juror, which shall be served by the sheriff or ~~his~~ a deputy, and *
 44 ~~he~~ shall be forthwith arrested and brought before the court to *
 45 be dealt with according to law. Nothing in this section
 46 contained shall render liable to jury duty any person who is
 47 exempt by law.

628*#54S

48 628.54 CAUSES OF OBJECTION TO JUROR; HOW TRIED; DECISION
 49 ENTERED.
 50 An objection to an individual grand juror may be based upon *
 51 ~~any-of-the-following-causes~~ on the cause that the grand juror: *
 52 (1) ~~That-he~~ is less than 18 years of age; *
 53 (2) ~~That-he~~ is not a citizen of the United States; *
 54 (3) ~~That-he~~ has not resided in this state 30 days; *
 55 (4) ~~That-he~~ is insane; *
 56 (5) ~~That-he~~ is a prosecutor upon a charge against the *
 57 defendant;
 58 (6) ~~That-he~~ is a witness on the part of the prosecution, *
 59 and has been served with process or bound by recognizance as
 60 such;
 61 (7) ~~That-a~~ is of a state of mind exists-on-his-part in *
 62 reference to the case or to either party which shall satisfy the *
 63 court, in the exercise of a sound discretion, that ~~he~~ the juror *
 64 cannot act impartially and without prejudice to the substantial
 65 rights of the party objecting.

628*#56S

66 628.56 FOREMAN FOREPERSON; JURY SWORN; CHARGE BY COURT. *
 67 From the persons summoned to serve as grand jurors and *
 68 appearing, the court shall appoint a foreman foreperson, and it *
 69 shall also appoint a foreman foreperson whenever one already *
 70 appointed shall be discharged or excused before such jury is
 71 dismissed. The grand jury shall then be sworn according to law,
 72 and the same oath shall be administered to any grand juror

1 afterwards appearing and admitted as such. The grand jury shall
 2 then be charged by the court, who, in doing so, shall read to it
 3 the provisions of sections 628.01, 628.02, 628.60 to 628.66, and
 4 Rules 18.06, Subdivisions 1 and 2, and 18.08 of the rules of
 5 criminal procedure, and may give it such other information as it
 6 may deem proper as to the nature of its duties, and any charges
 7 for public offenses returned to the court, or likely to come
 8 before the grand jury; but it need not charge it respecting the
 9 violation of any particular statute unless expressly made its
 10 duty by the provisions of such statute.

628*#60S

11 628.60 JUROR COMPLAINANT, WHEN.

12 If a member of the grand jury shall know or have reason to
 13 believe that a public offense has been committed which is
 14 triable in the county, he the member shall declare the same to
 15 his-fellow the other jurors, who shall thereupon investigate the
 16 same. *

628*#65S

17 628.65 MAKE DISCLOSURE, WHEN.

18 Any grand juror may be required by any court to disclose
 19 the testimony of any witnesses examined before the grand jury,
 20 for the purpose of ascertaining whether it is consistent with
 21 that given by the witnesses before the court, or to disclose the
 22 testimony given before it by any other person, upon a charge
 23 against him the person for perjury in giving his the testimony,
 24 or upon his the trial therefor. *

628*#66S

25 628.66 ACTION NOT TO BE QUESTIONED; EXCEPTION.

26 A grand juror shall not be questioned for anything he the
 27 juror may say or any vote he the juror may give in the grand
 28 jury relative to a matter legally pending before the jury,
 29 except for a perjury of which he the juror may be guilty in
 30 making an accusation, or giving testimony to his-fellow the
 31 other jurors. *

628*#68S

32 628.68 DISCLOSURE OF TRANSACTIONS OF GRAND JURY.

33 Except as otherwise provided in Rule 18.08 of the rules of
 34 criminal procedure, every judge, grand juror, county attorney,
 35 clerk, or other officer, who, except in the due discharge of his
 36 official duty, shall disclose, before an accused person shall be
 37 in custody, the fact that an indictment found or ordered against
 38 him the accused person, and every grand juror who, except when
 39 lawfully required by a court or officer, shall wilfully disclose
 40 any evidence adduced before the grand jury, or anything which he
 41 himself the juror or any other member of the grand jury said, or
 42 in what manner he-or any other grand juror voted upon any matter
 43 before them, shall be guilty of a misdemeanor. Disclosure may
 44 be made by the county attorney, by notice to the defendant
 45 or his the defendant's attorney of the indictment and the time
 46 of defendant's appearance in the district court, if in the
 47 discretion of the judge notice is sufficient to insure
 48 defendant's appearance. *

629*#03S

49 629.03 DEMAND IN WRITING.

50 No demand for the extradition of a person charged with
 51 crime in another state shall be recognized by the governor
 52 unless it alleges in writing, except in cases arising under
 53 section 629.06, that the accused was present in the demanding
 54 state at the time of the commission of the alleged crime, and
 55 that he the accused subsequently fled from the state. The
 56 demand shall be accompanied by a copy of an indictment found or
 57 by information supported by affidavit in the state having
 58 jurisdiction of the crime, or by a copy of an affidavit made
 59 before a court there, together with a copy of any warrant which
 60 was issued on it; or by a copy of a judgment of conviction or of
 61 a sentence imposed in execution of it, together with a statement
 62 by the executive authority of the demanding state that the
 63 person claimed has escaped from confinement or has broken the
 64 terms of his bail, probation, or parole. The indictment,
 65 information, or affidavit made before the court must
 66 substantially charge the person demanded with having committed a
 67 crime under the law of that state. The copy of the indictment,
 68 information, affidavit, judgment of conviction or sentence must
 69 be authenticated by the executive authority making the demand. *

629*#04S

70 629.04 ATTORNEY GENERAL TO INVESTIGATE.

1 When a demand shall be made upon the governor of this state
 2 by the executive authority of another state for the surrender of
 3 a person so charged with crime, the governor may call upon the
 4 attorney general or any prosecuting officer in this state to
 5 investigate or assist in investigating the demand, and to report
 6 to ~~him~~ the governor the situation and circumstances of the
 7 person so demanded, and whether ~~he~~ the person ought to be
 8 surrendered. *

629*#05S

9 629.05 EXTRADITION BY AGREEMENT.

10 When it is desired to have returned to this state a person
 11 charged in this state with a crime, and such person is
 12 imprisoned or is held under criminal proceedings then pending
 13 against ~~him~~ that person in another state, the governor of this
 14 state may agree with the executive authority of such other state
 15 for the extradition of such person before the conclusion of such
 16 proceedings or ~~his~~ the person's term of sentence in such other
 17 state, upon condition that such person be returned to such other
 18 state at the expense of this state as soon as the prosecution in
 19 this state is terminated. *

20 The governor of this state may also surrender, on demand of
 21 the executive authority of any other state, any person in this
 22 state who is charged in the manner provided in section 629.23
 23 with having violated the laws of the state whose executive
 24 authority is making the demand, even though such person left the
 25 demanding state involuntarily. *

629*#07S

26 629.07 WARRANT OF ARREST.

27 ~~If-the-governor-decides~~ In deciding that the demand should
 28 be complied with, ~~he~~ the governor shall sign a warrant of
 29 arrest, which shall be sealed with the state seal, and be
 30 directed to any peace officer or other person whom ~~he~~ the
 31 governor may think fit to entrust with the execution thereof. *
 32 The warrant must substantially recite the facts necessary to the
 33 validity of its issuance. *

629*#08S

34 629.08 ACCUSED TURNED OVER TO DEMANDING STATE.

35 Such warrant shall authorize the peace officer or other
 36 person to whom directed to arrest the accused at any time and
 37 any place where ~~he~~ the accused may be found within the state and
 38 to command the aid of all peace officers or other persons in the
 39 execution of the warrant, and to deliver the accused, subject to
 40 the provisions of sections 629.01 to 629.29, to the duly
 41 authorized agent of the demanding state. *

629*#10S

42 629.10 ACCUSED TAKEN BEFORE COURT.

43 No person arrested upon such warrant shall be delivered
 44 over to the agent whom the executive authority demanding ~~him~~ the
 45 person shall have appointed to receive ~~him~~ the person unless ~~he~~
 46 ~~shall~~ first be taken forthwith before a judge of a court of
 47 record in this state, who shall inform ~~him~~ the person of the
 48 demand made for ~~his~~ surrender and of the crime with which ~~he~~ the
 49 person is charged, and that ~~he~~ the person has the right to
 50 demand and procure legal counsel; and, if the prisoner or ~~his~~
 51 the prisoner's counsel shall state that ~~he-or-they-desire~~ either
 52 desires to test the legality of ~~his~~ the arrest, the judge of
 53 such court of record shall fix a reasonable time to be
 54 allowed ~~him~~ the prisoner within which to apply for a writ of
 55 habeas corpus. When such writ is applied for, notice thereof,
 56 and of the time and place of hearing thereon, shall be given to
 57 the prosecuting officer of the county in which the arrest is
 58 made and in which the accused is in custody, and to the agent of
 59 the demanding state. *

629*#11S

60 629.11 VIOLATION A GROSS MISDEMEANOR.

61 Any officer who shall deliver to the agent for extradition
 62 of the demanding state a person in ~~his~~ custody under the
 63 governor's warrant in willful disobedience to section 629.10
 64 shall be guilty of a gross misdemeanor; and upon conviction
 65 shall be fined not more than \$3,000 or be imprisoned for not
 66 more than six months. *

629*#12S

67 629.12 ACCUSED MAY BE CONFINED IN JAIL.

68 The officer or persons executing the governor's warrant of
 69 arrest, or the ~~agent~~ agents of the demanding state to whom the
 70 prisoner may have been delivered, may, when necessary, confine *

1 the prisoner in the jail of any county or city through which he *
 2 they may pass; and the keeper of such jail must receive and *
 3 safely keep the prisoner until the officer or person having
 4 charge of him the prisoner is ready to proceed on his the route, *
 5 such officer or person being chargeable with the expense of
 6 keeping.

7 The officer or agent of a demanding state to whom a
 8 prisoner may have been delivered following extradition
 9 proceedings in another state, or to whom a prisoner may have
 10 been delivered after waiving extradition in such other state,
 11 and who is passing through this state with such a prisoner for
 12 the purpose of immediately returning such prisoner to the
 13 demanding state, may, when necessary, confine the prisoner in
 14 the jail of any county or city through which he the officer or *
 15 agent may pass; and the keeper of such jail must receive and *
 16 safely keep the prisoner until the officer or agent having
 17 charge of him the prisoner is ready to proceed on his the route, *
 18 such officer or agent being chargeable with the expense of
 19 keeping; provided, that such officer or agent shall produce and
 20 show to the keeper of such jail satisfactory written evidence of
 21 the fact that he the officer or agent is actually transporting *
 22 such prisoner to the demanding state after a requisition by the
 23 executive authority of such demanding state. Such prisoner
 24 shall not be entitled to demand a new requisition while in this
 25 state.

629*#13S

26 629.13 WHO MAY BE APPREHENDED.

27 When any person within this state is charged on the oath of
 28 any credible person before any judge of this state with the
 29 commission of any crime in any other state and, except in cases
 30 arising under section 629.06, with having fled from justice,
 31 with having been convicted of a crime in that state and having
 32 escaped from confinement, or having broken the terms of his *
 33 bail, probation, or parole, or when complaint has been made
 34 before any judge in this state setting forth on the affidavit of
 35 any credible person in another state that a crime has been
 36 committed in the other state and that the accused has been
 37 charged in that state with the commission of the crime and,
 38 except in cases arising under section 629.06, has fled from
 39 justice, or with having been convicted of a crime in that state
 40 and having escaped from confinement, or having broken the terms
 41 of his bail, probation, or parole, and is believed to be in this *
 42 state, the judge shall issue a warrant directed to any peace
 43 officer commanding him the officer to apprehend the person named *
 44 in it, wherever he the accused may be found in this state, and *
 45 to bring him the accused before the same or any other judge or *
 46 court who or which may be available in or convenient of access
 47 to the place where the arrest may be made, to answer the charge
 48 or complaint and affidavit. A certified copy of the sworn
 49 charge or complaint and affidavit upon which the warrant is
 50 issued shall be attached to the warrant.

629*#14S

51 629.14 ARREST WITHOUT WARRANT.

52 The arrest of a person may be lawfully made also by any
 53 peace officer or a private person, without a warrant upon
 54 reasonable information that the accused stands charged in the
 55 courts of a state with a crime punishable by death or
 56 imprisonment for a term exceeding one year. When arrested the
 57 accused must be taken before a judge with all practicable speed
 58 and complaint must be made against him the accused under oath *
 59 setting forth the ground for the arrest as in section 629.13.
 60 Thereafter his the answer shall be heard as if he the accused *
 61 had been arrested on a warrant.

629*#15S

62 629.15 COURT MAY COMMIT TO JAIL.

63 If from the examination before the judge it appears that
 64 the person held is the person charged with having committed the
 65 crime alleged and, except in cases arising under section 629.06,
 66 that he the accused has fled from justice, the judge must, by a *
 67 warrant reciting the accusation, commit him the accused to the *
 68 county jail for a time, not exceeding 30 days and specified in
 69 the warrant, as will enable the arrest of the accused to be made
 70 under a warrant of the governor on a requisition of the
 71 executive authority of the state having jurisdiction of the
 72 offense, unless the accused gives bail as provided in section
 73 629.16, or until he the accused is legally discharged. *

629*#16S

1 629.16 ADMIT TO BAIL.
 2 Unless the offense with which the prisoner is charged is
 3 shown to be an offense punishable by death or life imprisonment
 4 under the laws of the state in which it was committed, a judge
 5 in this state may admit the person arrested to bail by bond,
 6 with sufficient sureties, and in such sum as ~~he~~ the judge deems
 7 proper, conditioned for ~~his~~ the person's appearance before ~~him~~
 8 the judge at a time specified in the bond, and for ~~his~~ the
 9 person's surrender, to be arrested upon the warrant of the
 10 governor of this state.

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629*#17S

11 629.17 DISCHARGE.
 12 If the accused is not arrested under warrant of the
 13 governor by the expiration of the time specified in the warrant
 14 or bond, a judge may discharge ~~him~~ the accused or may recommit
 15 ~~him~~ the accused for a further period not to exceed 60 days. A
 16 judge may again take bail for ~~his~~ the accused's appearance and
 17 surrender, as provided in section 629.16, but within a period
 18 not to exceed 60 days after the date of the new bond.

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629*#18S

19 629.18 BOND FORFEITED.
 20 If the prisoner is admitted to bail, and fails to appear
 21 and surrender ~~himself~~ according to the conditions of ~~his~~ the
 22 bond, the judge by proper order shall declare the bond forfeited
 23 and order ~~his~~ the prisoner's immediate arrest without warrant if
 24 ~~he~~ the prisoner is within this state. Recovery may be had on
 25 the bond in the name of the state as in the case of other bonds
 26 given by the accused in criminal proceedings within this state.

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629*#19S

27 629.19 PRISONER HELD OR SURRENDERED.
 28 If a criminal prosecution has been instituted against such
 29 person under the laws of this state and is still pending, the
 30 governor, ~~in his discretion,~~ either may surrender ~~him~~ the person
 31 on demand of the executive authority of another state or
 32 hold ~~him~~ the person until ~~he~~ the person has been tried and
 33 discharged or convicted and punished in this state.

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629*#20S

34 629.20 GUILT OR INNOCENCE NOT INQUIRED INTO.
 35 The guilt or innocence of the accused as to the crime of
 36 which ~~he~~ the accused is charged may not be inquired into by the
 37 governor or in any proceeding after the demand for extradition
 38 accompanied by a charge of crime in legal form, as provided,
 39 shall have been presented to the governor, except as it may be
 40 involved in identifying the person held as the person charged
 41 with the crime.

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629*#21S

42 629.21 RECALL OF WARRANT.
 43 The governor may recall ~~his~~ the warrant of arrest or may
 44 issue another warrant when ~~he~~ the governor deems it proper.

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629*#22S

45 629.22 WARRANT FOR PAROLEES OR PROBATIONERS.
 46 When the governor of this state shall demand a person
 47 charged with crime or with escaping from confinement or breaking
 48 the terms of ~~his~~ bail, probation, or parole in this state, from
 49 the executive authority of any other state, or from the chief
 50 justice or an associate justice of the supreme court of the
 51 District of Columbia authorized to receive such demand under the
 52 laws of the United States, ~~he~~ the governor shall issue a warrant
 53 under the seal of this state, to some agent, commanding ~~him~~ the
 54 agent to receive the person so charged if delivered to ~~him~~ the
 55 agent and convey ~~him~~ the person to the proper officer of the
 56 county in this state in which the offense was committed.

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629*#23S

57 629.23 PROSECUTING ATTORNEY, WRITTEN APPLICATION.
 58 Subdivision 1. CONTENTS. When the return to this
 59 state of a person charged with crime in this state is required,
 60 the prosecuting attorney shall present to the governor ~~his~~ a
 61 written application for a requisition for the return of the
 62 person charged, in which application shall be stated the name of
 63 the person so charged, the crime charged against ~~him~~ the person,
 64 the approximate time, place, and circumstances of its
 65 commission, the state in which ~~he~~ the person is believed to be,
 66 including the location of the accused therein at the time the
 67 application is made, and certifying that, in the opinion of the
 68 prosecuting attorney, the ends of justice require the arrest and

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1 return of the accused to this state for trial and that the
 2 proceeding is not instituted to enforce a private claim.
 3 Subd. 2. RETURN OF FUGITIVE. When the return to this
 4 state is required of a person who has been convicted of a crime
 5 in this state and has escaped from confinement or broken the
 6 terms of ~~his~~ bail, probation, or parole, the prosecuting *
 7 attorney of the county in which the offense was committed, the
 8 parole board, or the chief executive officer of the facility or
 9 sheriff of the county, from which the escape was made, shall
 10 present to the governor a written application for a requisition
 11 for the return of such person, in which application shall be
 12 stated the name of the person, the crime of which ~~he~~ the person *
 13 was convicted, the circumstances of ~~his~~ escape from confinement *
 14 or of the breach of the terms of ~~his~~ bail, probation, or parole, *
 15 the state in which ~~he~~ the person is believed to be, including *
 16 the location of the person therein at the time application is
 17 made.

18 No change for subd 3

629*#24S

19 629.24 CIVIL PROCESS NOT TO BE SERVED.

20 A person brought into this state by, or after waiver of,
 21 extradition based on a criminal charge, shall not be subject to
 22 service of personal process in civil actions arising out of the
 23 same facts as the criminal proceedings to answer which ~~he~~ the *
 24 person is being or has been returned, until ~~he~~ the person has *
 25 been convicted in the criminal proceeding, or, if acquitted,
 26 until ~~he~~ the person has had reasonable opportunity to return to *
 27 the state from which ~~he~~ the person was extradited. *

28 Any person arrested in this state charged with having
 29 committed any crime in another state or alleged to have escaped
 30 from confinement, or broken the terms of ~~his~~ bail, probation, or *
 31 parole, may waive the issuance and service of the warrant
 32 provided for in sections 629.07 and 629.08 and all other
 33 procedure incidental to extradition proceedings, by executing or
 34 subscribing, in the presence of a judge of any court of record
 35 within this state, a writing which states that ~~he~~ the person *
 36 consents to return to the demanding state; provided, that before
 37 such waiver shall be executed or subscribed by such person it
 38 shall be the duty of such judge to inform such person of ~~his~~ the *
 39 person's rights to the issuance and service of a warrant of *
 40 extradition and to obtain a writ of habeas corpus, as provided
 41 for in section 629.10.

42 If and when such consent has been duly executed, it shall
 43 forthwith be forwarded to the office of the governor of this
 44 state and filed therein. The judge shall direct the officer
 45 having such person in custody to deliver forthwith such person
 46 to the duly accredited agent or agents of the demanding state,
 47 and shall deliver or cause to be delivered to such agent or
 48 agents a copy of such consent; provided, that nothing in this
 49 section shall be deemed to limit the rights of the accused
 50 person to return voluntarily and without formality to the
 51 demanding state, nor shall this waiver procedure be deemed to be
 52 an exclusive procedure or to limit the powers, rights, or duties
 53 of the officers of the demanding state or of this state.

54 Nothing in sections 629.01 to 629.29 shall be deemed to
 55 constitute a waiver by this state of its right, power, or
 56 privilege to try such demanded person for crime committed within
 57 this state, or of its right, power, or privilege to regain
 58 custody of such person by extradition proceedings or otherwise
 59 for the purpose of trial, sentence, or punishment for any crime
 60 committed within this state, nor shall any proceedings had under
 61 sections 629.01 to 629.29 which result in, or fail to result in,
 62 extradition be deemed a waiver by this state of any of its
 63 rights, privileges, or jurisdiction in any way.

629*#25S

64 629.25 TRIAL FOR OTHER CRIMES.

65 After a person has been brought back to this state by or
 66 after waiver of extradition proceedings, ~~he~~ the person may be *
 67 tried in this state for other crimes which ~~he~~ the person may be *
 68 charged with having committed here, as well as that specified in *
 69 the requisition for ~~his~~ extradition. *

629*#27S

70 629.27 GOVERNOR MAY APPOINT AGENT.

71 In every case authorized by the Constitution and laws of
 72 the United States, the governor may appoint an agent, who shall
 73 be the sheriff of the county from which the application for

1 extradition shall come, when he the sheriff can act, to demand *
 2 of the executive authority of any state or territory any
 3 fugitive from justice or any person charged with a felony or
 4 other crime in this state; and when an application shall be made
 5 to the governor for that purpose, the attorney general, when so
 6 required by ~~him~~ the governor, shall forthwith investigate or *
 7 cause to be investigated by any county attorney the grounds of
 8 such application, and report to the governor all material
 9 circumstances which shall come to ~~his~~ the attorney general's *
 10 knowledge, with an abstract of the evidence, and ~~his~~ an opinion *
 11 as to the expediency of the demand. The accounts of agents so
 12 appointed shall in each case be audited by the county board of
 13 the county wherein the crime upon which extradition proceedings
 14 are based shall be alleged to have been committed, and every
 15 such agent shall receive from the treasury of such county \$4 for
 16 each calendar day, and the necessary expenses incurred by ~~him~~ *
 17 the agent in the performance of such duties. *

629*#28S

18 629.28 POWERS OF OFFICERS.
 19 Any person who has been or shall be convicted of or charged
 20 with a crime in any other state, and who shall be lawfully in
 21 the custody of any officer of the state where such offense is
 22 claimed to have been committed, may be by such officer conveyed
 23 through or from this state, for which purpose such officer shall
 24 have all the powers in regard to ~~his~~ the person's control or *
 25 custody that an officer of this state has over a prisoner in ~~his~~ *
 26 the officer's charge. *

629*#291S

27 629.291 TRANSFER OF INMATES OF CORRECTIONAL FACILITIES
 28 TO FEDERAL DISTRICT COURT FOR TRIAL FOR VIOLATIONS OF FEDERAL
 29 CRIMINAL LAWS.
 30 Subdivision 1. PETITION FOR TRANSFER. The attorney
 31 general of the United States, or any of ~~his-or-her~~ the attorney
 32 general's assistants, or the United States attorney for the *
 33 district of Minnesota, or any of ~~his-or-her~~ the United States
 34 attorney's assistants, may file a petition with the governor *
 35 requesting the state of Minnesota to consent to transfer an
 36 inmate, serving a term of imprisonment in a Minnesota
 37 correctional facility for violation of a Minnesota criminal law,
 38 to the United States district court for the purpose of being
 39 tried for violation of a federal criminal law. In order for a
 40 petition to be filed under this section, the inmate must at the
 41 time of the filing of the petition be under indictment in the
 42 United States district court for Minnesota for violation of a
 43 federal criminal law. The petition must name the inmate for
 44 whom transfer is requested and the Minnesota correctional
 45 facility in which the inmate is imprisoned. The petition must
 46 be verified and have a certified copy of the federal indictment
 47 attached to it. The petitioner must agree in the petition to
 48 pay all expenses incurred by the state in transferring the
 49 inmate to the United States court for trial.

50 No change for subd 2 to 3

629*#292S

51 629.292 UNIFORM MANDATORY DISPOSITION OF DETAINERS ACT.
 52 Subdivision 1. REQUEST FOR DISPOSITION; NOTIFICATION OF
 53 PRISONER. (a) Any person who is imprisoned in a penal or
 54 correctional institution or other facility in the department of
 55 corrections of this state may request final disposition of any
 56 untried indictment or information pending against ~~him~~ the person *
 57 in this state. The request shall be in writing addressed to the
 58 court in which the indictment or information is pending and to
 59 the prosecuting attorney charged with the duty of prosecuting
 60 it, and shall set forth the place of imprisonment.
 61 (b) The commissioner of corrections or other official
 62 designated by ~~him~~ the commissioner having custody of prisoners *
 63 shall promptly inform each prisoner in writing of the source and
 64 nature of any untried indictment or information against ~~him~~ the
 65 prisoner of which the commissioner of corrections or such *
 66 official had knowledge or notice and of ~~his~~ the prisoner's right *
 67 to make a request for final disposition thereof. *
 68 (c) Failure of the commissioner of corrections or other
 69 such official to inform a prisoner, as required by this section,
 70 within one year after a detainer has been filed at the
 71 institution shall entitle ~~him~~ the prisoner to a final dismissal *
 72 of the indictment or information with prejudice.
 73 Subd. 2. PROCEDURE ON RECEIPT OF REQUEST. The

1 request shall be delivered to the commissioner of corrections or
2 other official designated by ~~him~~ the commissioner having custody
3 of the prisoner, who shall forthwith.

4 (a) certify the term of commitment under which the prisoner
5 is being held, the time already served on the sentence, the time
6 remaining to be served, the good time earned, the time of parole
7 eligibility of the prisoner, and any decisions of the
8 commissioner of corrections relating to the prisoner; and

9 (b) send by registered or certified mail, return receipt
10 requested, one copy of the request and certificate to the court
11 and one copy to the prosecuting attorney to whom it is addressed.

12 Subd. 3. TIME OF TRIAL. Within six months after the
13 receipt of the request and certificate by the court and
14 prosecuting attorney, or within such additional time as the
15 court for good cause shown in open court may grant, the prisoner
16 or ~~his~~ counsel being present, the indictment or information
17 shall be brought to trial; but the parties may stipulate for a
18 continuance or a continuance may be granted on notice to the
19 attorney of record and opportunity for ~~him~~ the attorney to be
20 heard. If, after such a request, the indictment or information
21 is not brought to trial within that period, no court of this
22 state shall any longer have jurisdiction thereof, nor shall the
23 untried indictment or information be of any further force or
24 effect, and the court shall dismiss it with prejudice.

25 Subd. 4. EFFECT OF ESCAPE. Escape from custody by
26 any prisoner subsequent to ~~his~~ the prisoner's execution of a
27 request for final disposition of an untried indictment or
28 information voids the request.

29 Subd. 5. NOTIFICATION OF EXISTENCE OF PROCEDURE. The
30 commissioner of corrections or other official designated by ~~him~~
31 the commissioner having custody of prisoners shall arrange for
32 all prisoners to be informed in writing of the provisions of
33 this section, and for a record thereof to be placed in the
34 prisoner's file.

35 No change for subd 6 to 7

629*#341S

36 629.341 ALLOWING PROBABLE CAUSE ARRESTS FOR DOMESTIC
37 VIOLENCE; IMMUNITY FROM LIABILITY.

38 Subdivision 1. ARREST. Notwithstanding section
39 629.34 or any other law or rule, a peace officer may arrest a
40 person anywhere without a warrant, including at the person's
41 residence if the peace officer has probable cause to believe
42 that the person within the preceding four hours has assaulted,
43 threatened with a dangerous weapon, or placed in fear of
44 immediate bodily harm ~~his-or-her~~ the person's spouse, former
45 spouse, or other person with whom ~~he-or-she~~ the person resides
46 or has formerly resided. The arrest may be made even though the
47 assault did not take place in the presence of the peace officer.

48 No change for subd 2 to 3

49 Subd. 4. REPORT REQUIRED. Whenever a peace officer
50 investigates an allegation that an incident described in
51 subdivision 1 has occurred, whether or not an arrest is made,
52 the officer shall make a written police report of the alleged
53 incident. The officer shall submit the report to ~~his-or-her~~ the
54 officer's supervisor or other person to whom the employer's
55 rules or policies require reports of similar allegations of
56 criminal activity to be made.

57 No change for subd 5

629*#361S

58 629.361 MAKING PEACE OFFICERS RESPONSIBLE FOR CUSTODY OF
59 STOLEN PROPERTY.

60 A peace officer arresting a person charged with committing
61 or aiding in the committing of a robbery, aggravated robbery, or
62 theft shall use reasonable diligence to secure the property
63 alleged to have been stolen. After seizure of the property, the
64 officer shall be answerable for it while it remains in the
65 officer's custody. The officer shall annex a schedule of the
66 property to the return of the warrant. Upon request of the
67 county attorney, the law enforcement agency that has custody of
68 the property alleged to have been stolen shall deliver the
69 property to the custody of the county attorney for use as
70 evidence at an omnibus hearing or at trial. The county attorney
71 shall make a receipt for the property and be responsible for the
72 property while it is in ~~her-or-his~~ the county attorney's custody.
73 When the offender is convicted, whoever has custody of the
74 property shall turn it over to the owner.

629*#364S

1 629.364 AUTHORIZING ARRESTS FOR SWINDLING.

2 (a) The following persons shall arrest, with or without a
3 warrant, a person found committing an offense described in
4 section 609.52, subdivision 2, clause (4):

5 (1) a conductor or other employee on a railway car or train;

6 (2) a captain, clerk, or other employee on a boat;

7 (3) a station agent at a depot;

8 (4) an officer of a fair or fairground; or

9 (5) a proprietor or employee of a public resort.

10 (b) A person not required to make an arrest under clause

11 (a) may arrest, with or without a warrant, a person found
12 committing an offense described in section 609.52, subdivision
13 2, clause (4).

14 (c) A person making an arrest under clause (a) or (b) shall
15 take the arrested person to the proper law enforcement
16 authorities and have a written complaint issued against that
17 person. A person making an arrest under clause (a) or (b) has
18 the same authority in all respects as a peace officer with a
19 warrant, including the power to summon assistance. The person
20 shall also arrest the person injured by reason of the offense,
21 and take that person before a court, which shall require that
22 person to give security for ~~his-or-her~~ appearance as a witness
23 on trial of the case. *

24 (d) A victim of an offense described in section 609.52 who
25 testifies at trial against the person arrested for the offense
26 shall receive the fee for travel and attendance provided in
27 section 357.24.

629*#366S

28 629.366 THEFT IN BUSINESS ESTABLISHMENTS; DETAINING
29 SUSPECTS.

30 Subdivision 1. CIRCUMSTANCES JUSTIFYING DETENTION. A
31 merchant or merchant's employee may detain a person for the sole
32 purpose of delivering ~~him-or-her~~ the person to a peace officer
33 if the merchant or employee has reasonable cause to believe: *

34 (1) that the person has taken, or is taking, an article of
35 value without paying for it, from the possession of the merchant
36 in ~~his-or-her~~ the merchant's place of business or from a vehicle
37 or premises under the merchant's control; *

38 (2) that the taking is done with the intent to wrongfully
39 deprive the merchant of the property or the use or benefit of
40 it; or

41 (3) that the taking is done with the intent to appropriate
42 the use of the property to the taker or any other person.

43 The merchant or employee shall deliver the detained person
44 to a peace officer without unnecessary delay. The person
45 detained shall be informed promptly of the purpose of the
46 detention and may not be subjected to unnecessary or
47 unreasonable force, nor to interrogation against ~~his-or-her~~ the
48 person's will. *

49 No change for subd 2 to 3 *

629*#38S

50 629.38 REQUIRING A PRIVATE PERSON TO DISCLOSE CAUSE OF
51 ARREST.

52 Before making an arrest a private person shall inform the
53 person to be arrested of the cause of the arrest and require ~~him~~
54 ~~or-her~~ the person to submit. The warning required by this
55 section need not be given if the person is arrested while
56 committing the offense or when the person is arrested on pursuit
57 immediately after committing the offense. If a person has
58 committed a felony, a private person may break open an outer or
59 inner door or window of a dwelling house to make the arrest if,
60 before entering, the private person informs the person to be
61 arrested of ~~his-or-her~~ the intent to make the arrest and the
62 private person is then refused admittance. *

629*#39S

63 629.39 REQUIRING PRIVATE PERSON MAKING ARREST TO DELIVER
64 ARRESTEE TO JUDGE OR PEACE OFFICER.

65 A private person who arrests another for a public offense
66 shall take the arrested person before a judge or to a peace
67 officer without unnecessary delay. If a person arrested
68 escapes, the person from whose custody ~~he-or-she~~ the person has
69 escaped may immediately pursue and retake the escapee, at any
70 time and in any place in the state. For that purpose, the
71 pursuer may break open any door or window of a dwelling house if
72 the pursuer informs the escapee of ~~his-or-her~~ the intent to *

1 arrest the escapee and the pursuer is refused admittance.

629*#402S

2 629.402 ARREST WITHOUT AUTHORITY.

3 It is a gross misdemeanor for a public officer, or person *
4 one pretending to be a public officer, knowingly and under the *
5 pretense or color of any process, (1) to arrest a person or
6 detain a person against ~~his-or-her~~ the person's will, (2) to *
7 seize or levy upon any property, or (3) to dispossess any one of
8 lands or tenements, without a regular process for those actions.

629*#404S

9 629.404 COUNTIES OR MUNICIPALITIES CAUSING ARREST;
10 REQUIRING RETURN TRANSPORTATION.

11 Subdivision 1. RETURN TRANSPORTATION. A county or
12 municipality which causes to be issued a warrant for arrest for
13 a person under section 629.41 and Rules 3.01 and 19.01 of the
14 rules of criminal procedure, shall furnish return
15 transportation, upon request to the person arrested. The person
16 must be transported to the municipality or township of ~~his-or~~ *
17 ~~her~~ residence in Minnesota after a trial or final hearing on the *
18 matter.

19 No change for subd 2

629*#45S

20 629.45 PROCEEDINGS IN THE CASE OF BAIL REFUSAL.

21 If a judge in the county where an arrest is made refuses to
22 release the person arrested on bail, or if sufficient bail is
23 not offered, the officer in charge of that person shall take ~~him~~ *
24 ~~or-her~~ the person before the judge who issued the warrant. If *
25 the judge who issued the warrant is absent, the officer in
26 charge of the arrested person shall take ~~him-or-her~~ the person *
27 before some other judge of the county in which the warrant was
28 issued, to be proceeded with as directed.

629*#53S

29 629.53 PROVIDING RELEASE ON BAIL; COMMITMENT.

30 A person charged with a criminal offense may be released
31 with or without bail in accordance with Rule 6.02 of the rules
32 of criminal procedure. Money bail is the property of the
33 accused, whether deposited by that person or by a third person
34 on ~~his-or-her~~ the accused's behalf. When money bail is accepted *
35 by a judge, that judge shall order it to be deposited with the
36 clerk of court. The clerk shall retain it until the final
37 disposition of the case and the final order of the court
38 disposing of the case. Upon release, the amount released must
39 be paid to the accused personally or upon that person's written
40 order. In case of conviction of the accused, the judge may
41 order the money bail deposit to be applied to any fine imposed
42 and, if the fine is less than the deposit, order the balance to
43 be paid to the defendant. If the fine exceeds the money bail
44 deposit, the deposit must be applied to the fine and the
45 defendant committed until the balance is paid. The commitment
46 may not exceed one day's time for each dollar of the unpaid
47 balance of the fine. Money bail in the hands of the court or
48 any officer of it is exempt from garnishment or levy under
49 attachment or execution.

629*#54S

50 629.54 REQUIRING A WITNESS TO RECOGNIZE.

51 When a person charged with a criminal offense is admitted
52 to bail or committed by the judge, the judge shall also bind by
53 recognizance any witnesses against the accused whom the judge
54 considers material, to appear and testify at any trial or
55 hearing in which the accused is scheduled to appear. If the
56 judge is satisfied that there is good reason to believe that a
57 witness will not perform the conditions of the witness'
58 recognizance unless other security is given, the judge may order
59 the witness to enter into a recognizance for ~~his-or-her~~ the *
60 witness' appearance, with sureties as the judge considers *
61 necessary. Except in case of murder in the first degree, arson
62 where human life is destroyed, and cruel abuse of children, the
63 judge may not commit any witness who offers to recognize,
64 without sureties, for ~~his-or-her~~ the witness' appearance. *

629*#58S

65 629.58 PROCEEDINGS REQUIRED WHEN A PERSON UNDER BOND
66 DEFAULTS; PAYING BOND TO COURT.

67 When a person in a criminal prosecution is under bond (1)
68 to appear and answer, (2) to prosecute an appeal, or (3) to
69 testify in court, and fails to perform the conditions of the
70 bond, the default must be recorded. The court shall issue

1 process against some or all of the persons bound by the bond as
 2 the prosecuting officer directs. If a person under bond fails
 3 to perform the conditions of the bond, the law enforcement
 4 authorities shall apprehend that person in the manner provided
 5 in Rule 6.03 of the rules of criminal procedure. After default
 6 on a bond, a surety may, with permission of the court, pay to
 7 the county treasurer or clerk of court the amount for which ~~he~~
 8 ~~or-she~~ the surety was bound as surety, with costs as the court
 9 may direct. Payment may be made either before or after process
 10 is issued. When it is made, the surety is fully discharged
 11 of ~~his-or-her~~ any obligation under the bond.

629*#61S

12 629.61 ALLOWING ARREST OF DEFAULTER.

13 When a defendant has been admitted to bail after verdict or
 14 trial, and neglects to appear at the time or place at which ~~he~~
 15 the defendant is bound to appear and submit to the jurisdiction
 16 of the proper court, the court may have that defendant arrested
 17 as provided in Rule 6.03, Subdivision 1, of the rules of
 18 criminal procedure. In accordance with Rules 6.02 and 6.03 of
 19 the rules of criminal procedure, the court may continue the
 20 release upon the same conditions or impose different or
 21 additional conditions for the defendant's possible release.

629*#62S

22 629.62 APPLICATION FOR BAIL, JUSTIFICATION.

23 If a person charged with a criminal offense and in custody
 24 desires release on bail and if the district court is not in
 25 session in the county the person may apply to a judge of
 26 district court or a judge of the court of appeals. The person
 27 shall apply by affidavit showing the nature of the application,
 28 the names of the persons to be offered as bail, and a copy of
 29 the papers upon which ~~he~~ the person is held in custody. The
 30 judge may order the person charged to appear at a hearing to
 31 determine bail. The court shall give notice of the application
 32 to the county attorney, if within the county. No matters may be
 33 inquired into except those matters which relate to the amount of
 34 bail and the sufficiency of the sureties. A surety shall prove
 35 either by affidavit or upon oral examination by the court that
 36 ~~his-or-her~~ the surety's assets are sufficient to pay the bond
 37 penalty amount to the court if the person bound under the bond
 38 fails a condition of the bond.

629*#63S

39 629.63 CONDITIONS UNDER WHICH SURETY MAY ARREST
40 DEFENDANT.

41 If a surety believes that a defendant for whom ~~he-or-she~~
 42 the surety is acting as bondsperson bonding agent is (1) about
 43 to flee, (2) will not appear as required by the defendant's
 44 recognizance, or (3) will otherwise not perform the conditions
 45 of the recognizance, the surety may arrest or have another
 46 person or the sheriff arrest the defendant.

47 If the surety or another person at the surety's direction
 48 arrests the defendant, the surety or the other person shall take
 49 the defendant before the judge before whom the defendant was
 50 required to appear and surrender the defendant to that judge.

51 If the surety wants the sheriff to arrest the defendant,
 52 the surety shall deliver a certified copy of the recognizance
 53 under which the defendant is held to the sheriff, with a
 54 direction endorsed on the recognizance requiring the sheriff to
 55 arrest the defendant and bring ~~him-or-her~~ the defendant before
 56 the appropriate judge.

57 Upon receiving a certified copy of the recognizance and
 58 payment of the sheriff's fees, the sheriff shall arrest the
 59 defendant and bring ~~him-or-her~~ the defendant before the judge.

60 Before a surety who has arrested a defendant who has
 61 violated the conditions of ~~his-or-her~~ release may personally
 62 surrender the defendant to the appropriate judge, the surety
 63 shall notify the sheriff. If the defendant at the hearing
 64 before the judge is unable to post increased bail or meet
 65 alternative conditions of release in accordance with Rule 6.03
 66 of the rules of criminal procedure, the sheriff or a deputy
 67 shall take the defendant into custody.

629*#64S

68 629.64 ALLOWING JUDGE TO IMPOSE NEW CONDITIONS OF
69 RELEASE ON DEFENDANT WHO VIOLATED RELEASE.

70 When a defendant who has violated conditions imposed on ~~his~~
 71 ~~or-her~~ the defendant's release is surrendered to a judge under
 72 section 629.63, the judge shall, in accordance with Rules 6.02

1 and 6.03 of the rules of criminal procedure, continue the
 2 release upon the same conditions or impose different or
 3 additional conditions for the defendant's possible release.

629*#65S

4 629.65 FEES OF SHERIFF.

5 In a case involving a defendant who violated the conditions
 6 of ~~his-or-her~~ the defendant's release, the sheriff must be *
 7 allowed the same fees and mileage for making an arrest or
 8 attending before a judge as for arresting a person under a bench
 9 warrant. In all cases the sheriff's fees shall be paid by the
 10 surety or sureties surrendering a defendant who has violated
 11 conditions imposed on ~~his-or-her~~ the defendant's release under *
 12 section 629.63.

629*#67S

13 629.67 SURETIES ON BOND, RECOGNIZANCE, OR UNDERTAKING;
 14 AFFIDAVITS REQUIRED.

15 A personal surety upon any bond, recognizance, or
 16 undertaking given to secure the appearance of a defendant in a
 17 criminal case shall make an affidavit, to be attached to the
 18 bond, recognizance, or undertaking, stating:

19 (1) the surety's full name;
 20 (2) the surety's residence and post office address;
 21 (3) whether or not the affiant is surety upon any other
 22 bond, recognizance, or undertaking in any criminal case, and, if
 23 so, stating the name of the principal, the amount of each
 24 obligation, and the court in which the obligation was given; and
 25 (4) the legal description of all real property owned by the
 26 surety and specifying as to each parcel of property its fair
 27 market value, what liens or encumbrances, if any, exist on it,
 28 and whether or not the property is the surety's homestead or is
 29 otherwise exempt from execution. The court may require the
 30 surety to disclose all or some of the surety's personal property
 31 by affidavit as required for real property.

32 The court may, in its discretion, by written order endorsed
 33 on the bond, recognizance, or undertaking, dispense with the
 34 affidavit disclosing the surety's real or personal property, or
 35 any part of it, if the court is satisfied that the surety is
 36 worth the amount necessary to act as surety on the bond,
 37 recognizance or undertaking to secure the defendant in a
 38 criminal case and is not a professional or habitual ~~bondsman~~ *
 39 bonding agent in criminal cases. *

629*#70S

40 629.70 AUTHORIZING CORPORATE BONDS IN CRIMINAL CASES.

41 A defendant required to give a bond, recognizance, or
 42 undertaking to secure ~~his-or-her~~ an appearance in a criminal *
 43 case may choose to give a surety bond, recognizance, or
 44 undertaking executed by a corporation authorized by law to
 45 execute bonds, recognizances, or undertakings. However, the
 46 amount of the bond, recognizance, or undertaking as fixed by the
 47 court must be the same regardless of the kind of bond,
 48 recognizance, or undertaking given.

629*#72S

49 629.72 BAIL IN CASES OF DOMESTIC ASSAULT.

50 Subdivision 1. ALLOWING DETENTION IN LIEU OF CITATION;
 51 RELEASE. Notwithstanding any other law or rule, an arresting
 52 officer may not issue a citation in lieu of arrest and detention
 53 to an individual charged with assaulting ~~his-or-her~~ the *
 54 individual's spouse or other individual with whom the charged *
 55 person resides.

56 Notwithstanding any other law or rule, an individual who is
 57 arrested on a charge of assaulting ~~his-or-her~~ the individual's *
 58 spouse or other person with whom ~~he-or-she~~ the individual *
 59 resides must be brought to the police station or county jail.
 60 The officer in charge of the police station or the county
 61 sheriff in charge of the jail shall issue a citation in lieu of
 62 continued detention unless it reasonably appears to the officer
 63 or sheriff that detention is necessary to prevent bodily harm to
 64 the arrested person or another, or there is a substantial
 65 likelihood the arrested person will fail to respond to a
 66 citation.

67 If the arrested person is not issued a citation by the
 68 officer in charge of the police station or the county sheriff,
 69 the arrested person must be brought before the nearest available
 70 judge of the county court or county municipal court in the
 71 county in which the alleged assault took place without
 72 unnecessary delay as provided by court rule.

1 Subd. 2. JUDICIAL REVIEW; RELEASE; BAIL. The judge
 2 before whom the arrested person is brought shall review the
 3 facts surrounding the arrest and detention. The arrested person
 4 must be ordered released pending trial or hearing on ~~his-or-her~~ *
 5 the person's personal recognizance or on an order to appear or *
 6 upon the execution of an unsecured bond in a specified amount
 7 unless the judge determines that release (1) will be inimical to
 8 public safety, (2) will create a threat of bodily harm to the
 9 arrested person or another, or (3) will not reasonably assure
 10 the appearance of the arrested person at subsequent
 11 proceedings. If the judge determines release is not advisable,
 12 the judge may impose any conditions of release that will
 13 reasonably assure the appearance of the person for subsequent
 14 proceedings, or may fix the amount of money bail without other
 15 conditions upon which the arrested person may obtain ~~his~~ release. *

16 No change for subd 3 to 4

630*#12S 17 630.12 DEFENDANT TO BE ASKED HIS TRUE NAME. *

18 When the defendant shall be arraigned, ~~he~~ the defendant *
 19 shall be informed that, if the name ~~by-which-he-has-been~~ *
 20 indicted appearing on the indictment is not ~~his-true~~ *
 21 name correct, ~~he~~ the defendant shall then declare ~~his~~ the *
 22 true name, or be proceeded against by the name in the
 23 indictment. If ~~he~~ the defendant shall give no other name, the *
 24 court may proceed accordingly; if ~~he~~ the defendant shall allege *
 25 that another name is ~~his~~ the true name, the court shall direct *
 26 an entry thereof in the minutes of the arraignment, and the *
 27 subsequent proceedings may be had against ~~him~~ the defendant by *
 28 that name, referring also to the name by which ~~he~~ the defendant *
 29 was indicted.

630*#18S 30 630.18 GROUNDS FOR DISMISSAL; WAIVER.

31 In addition to the grounds for dismissal of an indictment
 32 specified in Rules 17.06, Subdivision 2, and 18.02, Subdivision
 33 2, of the rules of criminal procedure and subject to the
 34 provisions of Rules 17.06, Subdivision 1, and 31.01, of the
 35 rules of criminal procedure, the indictment shall be dismissed
 36 by the court in which the defendant is arraigned, upon ~~his~~ the *
 37 defendant's motion, in any of the following cases: *

- 38 (1) When the indictment is not found, endorsed or
- 39 presented as prescribed in sections 628.41 to 628.66 relating to
- 40 grand juries;
- 41 (2) When the names of the witnesses examined before the
- 42 grand jury are not inserted at the foot of the indictment or
- 43 endorsed thereon;
- 44 (3) When a person was permitted to be present at the
- 45 session of the grand jury while the charge embraced in the
- 46 indictment was under consideration, except as provided by
- 47 section 628.63 and Rule 18.04 of the rules of criminal procedure;
- 48 (4) When the grand jury by which the indictment was found
- 49 had no legal authority to inquire into the offense charged, by
- 50 reason of the offense charged not being within the local
- 51 jurisdiction of the county;
- 52 (5) When the indictment does not substantially conform to
- 53 the requirements of sections 628.10 to 628.13, as qualified by
- 54 section 628.18, or was not found within the time prescribed
- 55 therein;
- 56 (6) When more than one offense is charged in the
- 57 indictment, except in cases where it is allowed by statute;
- 58 (7) When the facts stated do not constitute a public
- 59 offense; or
- 60 (8) When the indictment contains any matter which, if
- 61 true, would constitute a legal justification or excuse of the
- 62 offense charged, or other legal bar to the prosecution.

63 If the motion to dismiss the indictment is not made, the
 64 defendant shall be precluded from afterwards making any of the
 65 foregoing objections except that the objection to lack of
 66 jurisdiction specified in clause (4) and the objection of
 67 failure of the indictment to include facts stating a public
 68 offense specified in clause (7) shall be noticed by the court at
 69 any time during the pendency of a proceeding. Failure to
 70 include any objections constitutes a waiver thereof, but the
 71 court for good cause shown may, in accordance with Rule 10.03 of
 72 the rules of criminal procedure, grant relief from the waiver.

630*#32S 73 630.32 ACQUITTAL; WHEN A BAR.

1 If the defendant was formerly acquitted on the ground of a
 2 variance between the indictment and the proof, or the indictment
 3 was dismissed, upon an objection to its form or substance,
 4 without a judgment of acquittal, it is not an acquittal of the
 5 same offense. If he the defendant was acquitted on the merits, *
 6 he the defendant shall be deemed acquitted of the same offense, *
 7 notwithstanding a defect in the form or substance of the
 8 indictment on which he the defendant was acquitted. *

630*#33S

9 630.33 INDICTMENT FOR OFFENSE OF DIFFERENT DEGREES.
 10 If the defendant shall have been convicted or acquitted
 11 upon an indictment for an offense consisting of different
 12 degrees, such conviction or acquittal shall be a bar to another
 13 indictment for the offense charged in the former, or for any
 14 inferior degree of that offense, or for an attempt to commit the
 15 same, or for an offense necessarily included therein of which he *
 16 the defendant might have been convicted under that indictment. *

630*#36S

17 630.36 ISSUES, HOW DISPOSED OF.
 18 Subdivision 1. ORDER. The issues on the calendar
 19 shall be disposed of in the following order, unless, upon the
 20 application of either party, for good cause, the court directs
 21 an indictment or complaint to be tried out of its order:
 22 (1) indictments or complaints for felony, where the
 23 defendant is in custody;
 24 (2) indictments or complaints for misdemeanor, where the
 25 defendant is in custody;
 26 (3) indictments or complaints alleging child abuse, as
 27 defined in subdivision 2, where the defendant is on bail;
 28 (4) indictments or complaints for felony, where the
 29 defendant is on bail; and
 30 (5) indictments or complaints for misdemeanor, where the
 31 defendant is on bail.
 32 After his a plea, the defendant shall be entitled to at *
 33 least four days to prepare for his trial, if he the defendant *
 34 requires it.

35 No change for subd 2

630*#37S

36 630.37 REGISTER.
 37 The clerk shall keep a register of all criminal actions, in
 38 which he the clerk shall enter: *
 39 (1) all indictments found in the court, or sent or removed
 40 to it for trial, with the time of finding the indictment, or
 41 when it was sent or removed; and
 42 (2) the time of arraignment, of the demurrer or plea, and
 43 of the trial, conviction, or acquittal of the defendant,
 44 together with a brief note of all the other proceedings in the
 45 action.

631*#05S

46 631.05 REQUIRING A JUROR TO TESTIFY WHEN HE-OR-SHE THE *
 47 JUROR HAS PERSONAL KNOWLEDGE RESPECTING FACT IN CONTROVERSY; *
 48 VIEW.
 49 If a juror has personal knowledge respecting a fact in
 50 controversy in a cause, the juror shall declare it in open court
 51 during the trial. If during the retirement of a jury, a juror
 52 declares a fact which could be evidence in the cause, as of his *
 53 the juror's own knowledge, the jury shall return into court. In *
 54 either of these cases, the juror making the statement shall be
 55 sworn as a witness and examined in the presence of the parties.
 56 The court may order a view by a jury impaneled to try a criminal
 57 case in accordance with Rule 26.03, Subdivision 10, of the rules
 58 of criminal procedure.

631*#12S

59 631.12 CONDITIONS UNDER WHICH A JURY MAY BE DISCHARGED
 60 WITHOUT VERDICT.
 61 After the retirement of the jury, the court may discharge
 62 it if:
 63 (1) one of the jurors becomes so sick that-he-or-she-cannot *
 64 as to be unable to continue to serve on the jury; *
 65 (2) the jury is unable to agree upon a verdict; or
 66 (3) any other accident or cause occurs to prevent the jury
 67 from being kept together for deliberation.

631*#21S

68 631.21 ALLOWING DISMISSAL OF CAUSE UPON COURT'S OR
 69 PROSECUTOR'S MOTION.
 70 The court may order a criminal action, whether prosecuted

1 upon indictment or complaint, to be dismissed. The court may
 2 order dismissal of an action either on its own motion or upon
 3 motion of the prosecuting attorney and in furtherance of
 4 justice. If the court dismisses an action, the reasons for the
 5 dismissal must be set forth in the order and entered upon the
 6 minutes. The recommendations of the prosecuting officer in
 7 reference to dismissal, with ~~his-or-her~~ reasons for dismissal, *
 8 must be stated in writing and filed as a public record with the
 9 official files of the case.

631*#36S

10 631.36 EXAMINATION OF CHALLENGED JUROR AT VOIR DIRE.

11 At a voir dire examination, a challenged juror may be
 12 examined as a witness to prove or disprove the challenge. The
 13 juror shall answer every question pertinent to the inquiry.
 14 When challenged on the ground that ~~he-or-she~~ the juror is not a *
 15 citizen of the United States, the juror's own testimony is
 16 competent evidence of the fact of naturalization, without other
 17 evidence. The juror's testimony on the issue of citizenship may
 18 be disputed by the challenger. At a voir dire examination
 19 either party may examine other witnesses on either side. The
 20 rules of evidence applicable to the trial of other issues govern
 21 the admission or exclusion of testimony at a voir dire
 22 examination.

631*#471S

23 631.471 PROTECTING INMATES; CERTAIN FORFEITURES
 24 ABOLISHED.

25 An inmate sentenced to imprisonment is under the protection
 26 of the law, and an unauthorized injury to ~~his~~ the inmate's *
 27 person is punishable just as if the inmate were not convicted or
 28 sentenced. A conviction for a crime does not work a forfeiture
 29 of real or personal property or of any right or interest in
 30 property. Forfeitures in the nature of deodands, or in a case
 31 of suicide, or where a person flees from justice, are abolished.

634*#03S

32 634.03 CONFESSION, INADMISSIBLE WHEN.

33 A confession of the defendant shall not be sufficient to
 34 warrant ~~his~~ conviction without evidence that the offense charged *
 35 has been committed; nor can it be given in evidence against ~~him~~ *
 36 the defendant whether made in the course of judicial proceedings *
 37 or to a private person, when made under the influence of fear
 38 produced by threats.

634*#031S

39 634.031 EVIDENCE OF ACCOMPLICE.

40 Any person may be convicted for violation of sections
 41 609.75 to 609.76 on ~~his~~ the person's own confession out of *
 42 court, or upon the testimony of an accomplice.

634*#07S

43 634.07 NONRESIDENTS REQUIRED TO TESTIFY IN THIS STATE.

44 If a person, in any state which by its laws has made
 45 provision for commanding persons within that state to attend and
 46 testify either for the prosecution or the defense in criminal
 47 actions, or for the purpose of a grand jury investigation which
 48 has commenced or is about to be commenced, in this state, is a
 49 material witness in an action pending in a district court, or a
 50 grand jury investigation which has commenced or is about to be
 51 commenced, in this state, a judge of such court may issue a
 52 certificate, under the seal of the court, stating these facts
 53 and specifying the number of days the witness will be required.
 54 This certificate shall be presented to a judge of a court of
 55 record in the county in which the witness resides, or the county
 56 in which ~~he~~ the witness is found if not a resident of that state. *

57 If the witness is ordered by the court to attend and
 58 testify in a criminal action or a grand jury investigation in
 59 this state ~~he~~ the witness shall be tendered the sum of ten cents *
 60 a mile for each mile by the ordinary traveled route to and from
 61 the court where the action is pending, or the place where the
 62 grand jury investigation has commenced or is about to be
 63 commenced, and \$5 for each day that ~~he~~ the witness is required *
 64 to travel and attend as a witness. A witness who has appeared
 65 in accordance with the provisions of the order of the court
 66 shall not be required to remain within this state a longer
 67 period of time than the period mentioned in the certificate.

634*#08S

68 634.08 EXEMPTIONS; ARREST, SERVICE OF PROCESS.

69 If a person comes into this state in obedience to a court
 70 order directing ~~him-to-attend-and-testify~~ the person's *

1 attendance and testimony in a criminal action, or grand jury *
 2 investigation, in this state ~~he~~ the person shall not, while in *
 3 this state, pursuant to such court order, be subject to arrest
 4 or the service of process, civil or criminal, in connection with
 5 matters which arose before ~~his~~ entrance into this state under *
 6 such order.

7 If a person passes through this state while going to
 8 another state in obedience to a court order requiring ~~him~~ to
 9 ~~attend and testify~~ the person's attendance and testimony in a *
 10 criminal action or grand jury investigation in that state or *
 11 while returning therefrom, ~~he~~ the person shall not, while so *
 12 passing through this state, be subject to arrest or the service
 13 of process, civil or criminal, in connection with matters which
 14 arose before ~~his~~ entrance into this state pursuant to such court *
 15 order.

634*#15S

16 634.15 ADMISSION INTO EVIDENCE OF CERTAIN CERTIFICATES
 17 OF ANALYSIS AND BLOOD SAMPLE REPORTS.

18 No change for subd 1

19 Subd. 2. TESTIMONY AT TRIAL. An accused person or *
 20 ~~his~~ the accused person's attorney may request, by notifying the *
 21 prosecuting attorney at least ten days before the trial, that
 22 the following persons testify in person at the trial on behalf
 23 of the state:

24 (a) A person who performed the laboratory analysis or
 25 examination for the report described in subdivision 1, clause
 26 (a); or

27 (b) A person who prepared the blood sample report described
 28 in subdivision 1, clause (b).

634*#16S

29 634.16 ADMISSION INTO EVIDENCE OF RESULTS OF INFRARED
 30 BREATH-TESTS.

31 In any civil or criminal hearing or trial, the results of
 32 an infrared breath-test, when performed by a person who has been
 33 fully trained in the use of an infrared breath-testing
 34 instrument, as defined in section 169.01, subdivision 68,
 35 pursuant to training given or approved by the commissioner of
 36 public safety or ~~his~~ the commissioner's acting agent, are *
 37 admissible in evidence without antecedent expert testimony that
 38 an infrared breath-testing instrument provides a trustworthy and
 39 reliable measure of the alcohol in the breath.

636*#07S

40 636.07 CARE AND CUSTODY OF MINORS.

41 Every sheriff or other person having charge of a minor
 42 under the age of 18 years, chargeable with any crime, shall
 43 provide a separate place of confinement for ~~him~~ and the minor, *
 44 under no circumstances ~~place him~~ with grown-up prisoners. Every *
 45 minor while in confinement shall be provided with good reading
 46 matter, and ~~his~~ relatives and friends likely to exert a good *
 47 influence over ~~him~~ the minor shall at all reasonable times be *
 48 permitted to visit ~~him~~. *

636*#08S

49 636.08 TRIAL OF MINORS.

50 At the hearing or trial of a minor under the age of 18,
 51 charged with any crime, the trial judge, prior to ~~his~~ the
 52 minor's being brought into the courtroom, shall clear the *
 53 courtroom of all persons except officers of the court, including *
 54 attorneys, witnesses, relatives, and friends.

638*#03S

55 638.03 WARRANT; RETURN.

56 The board of pardons may issue its warrant, under its seal,
 57 to any proper officers to carry into effect any pardon,
 58 commutation, or reprieve. As soon as may be after the execution
 59 of the warrant, the officer to whom it is directed shall make
 60 return thereof, under ~~his~~ hand, with ~~his~~ the doings thereon, to *
 61 the governor. Such officer shall also file with the clerk of
 62 the court in which the offender was convicted an attested copy
 63 of the warrant and return, a brief abstract of which such clerk
 64 shall subjoin to the record of the conviction.

638*#05S

65 638.05 APPLICATION FOR PARDON.

66 Every application for a pardon or commutation of sentence
 67 shall be in writing, addressed to the board of pardons, signed
 68 by the convict or some one in ~~his~~ the convict's behalf, shall *
 69 state concisely the grounds upon which the pardon or commutation
 70 is sought, and in addition shall contain the following facts:

- 1 (1) The name under which the convict was indicted, and
- 2 every alias by which ~~he has been~~ known; *
- 3 (2) The date and terms of sentence, and the names of the
- 4 offense for which it was imposed;
- 5 (3) The name of the trial judge and the county attorney who
- 6 participated in the trial of the convict, together with that of
- 7 the county ~~in which he was tried~~ of trial; *
- 8 (4) A succinct statement of the evidence adduced at the
- 9 trial, with the endorsement of the judge or county attorney who
- 10 tried the case that the same is substantially correct; if such
- 11 statement and endorsement are not furnished, the reason thereof
- 12 shall be stated;
- 13 (5) The age, birthplace, parentage, and occupation and
- 14 residence of the convict during five years immediately preceding
- 15 conviction;
- 16 (6) A statement of other arrests, indictments, and
- 17 convictions, if any, of the convict.

638*#06S

18 638.06 ACTION ON APPLICATION.

19 Every such application shall be filed with the clerk of the

20 board of pardons. If an application for a pardon or commutation

21 has been once heard and denied on the merits, no subsequent

22 application shall be filed without the consent of two members of

23 the board endorsed thereon. The clerk shall, immediately on

24 receipt of any application, mail notice thereof, and of the time

25 and place of hearing thereon, to the judge of the court wherein

26 the applicant was tried and sentenced, and to the prosecuting

27 attorney who prosecuted the applicant, or ~~his~~ a successor in *

28 office; provided, pardons or commutations of sentence of persons

29 committed to a county jail or workhouse may be granted by the

30 board without notice.

638*#07S

31 638.07 RECORDS; SECRETARY.

32 The board of pardons shall keep a record of every petition

33 received, and of every pardon, reprieve, or commutation of

34 sentence granted or refused, and the reasons assigned therefor,

35 and shall have a seal, with which every pardon, reprieve, or

36 commutation of sentence shall be attested. It may adopt such

37 additional necessary and proper rules and regulations as are not

38 inconsistent herewith. The commissioner of corrections or ~~his~~ a *

39 designee shall be the secretary of the board. ~~He~~ The *

40 commissioner shall have charge of and keep its records and *

41 perform such other duties as the board may from time to time

42 direct. ~~He~~ The commissioner is hereby authorized and empowered *

43 to serve subpoenas and other writs or processes necessary to

44 return parole violators to prison, and to bring before the board

45 witnesses to be heard in matters pending before it. The records

46 and all the files shall be kept and preserved by the secretary,

47 and shall be open to public inspection at all reasonable times.

641*#02S

48 641.02 FUGITIVES FROM JUSTICE, SAFEKEEPING; FEES.

49 Any county jail may be used for the safekeeping of

50 fugitives from justice in this state, in accordance with the

51 provisions of any act of congress. The officer holding any such

52 fugitive in custody shall pay the county \$2 as a commitment fee,

53 and a fee to be determined pursuant to section 641.03 for the

54 use of the county, for ~~his~~ the fugitive's board. *

641*#03S

55 641.03 FEDERAL PRISONERS; FEES.

56 When any person is committed to any jail by any process

57 issued under authority of the United States, the sheriff or

58 jailer shall receive such person into custody, and safely keep

59 ~~him~~ the person until discharged by due course of law, subject in *

60 all respects to the same liabilities and remedies as though

61 committed under process issued under state authority. The

62 United States shall pay to the county the minimum sum of \$5 per

63 day for each prisoner so kept and boarded. Provided, that in

64 any county of this state, the sheriff shall at the request of

65 the county board of commissioners determine the average daily

66 per capita cost for the food, clothing, medical and incidental

67 expense for the care and maintenance of persons committed to the

68 county jail for the preceding year. The amount found to be the

69 average daily per capita cost of such committed persons shall be

70 paid to the county by the United States for each prisoner so

71 kept and boarded during the current year.

641*#04S

1 641.04 COMMITMENT PRESERVED.
 2 Every instrument, or attested copy thereof, by which a
 3 prisoner is committed or liberated, shall be endorsed, filed,
 4 and safely stored by the sheriff or jailer, and delivered to the
 5 sheriff's or jailer's successor. When the process by which any
 6 prisoner is committed is required to be returned to the court,
 7 the sheriff or jailer shall duly certify and keep a copy thereof *
 8 ~~7-duty-certified-by-himself,~~ which shall be prima facie evidence *
 9 of the sheriff's or jailer's right to retain the prisoner in
 10 custody.

641*#05S

11 641.05 RECORD OF INMATES; RETURN TO COURT.
 12 Every sheriff shall, at the expense of the county, maintain
 13 a permanent record of all persons committed to any jail under
 14 ~~his~~ the sheriff's charge. It shall contain the name of every *
 15 person committed, by what authority, ~~his~~ residence, date of *
 16 commitment, and, if for a criminal offense, a description of the
 17 person, when and by what authority liberated, and, in case of
 18 escape, the time and manner thereof. At the opening of each
 19 term of district court ~~he~~ the sheriff shall make a certified *
 20 transcript therefrom to such court, showing all cases therein
 21 not previously disposed of. Every sheriff who neglects or
 22 refuses to so report shall be guilty of a gross misdemeanor.

641*#06S

23 641.06 APPOINTMENT OF EMPLOYEES; COMPENSATION.
 24 The sheriff of every county maintaining a jail, shall
 25 appoint a competent woman as matron jail guard, who, under the *
 26 sheriff's direction, shall have exclusive charge of all female *
 27 prisoners. ~~Matrons Jail guards~~ and jailers shall hold office
 28 during the pleasure of the sheriff and may be removed at any
 29 time by the sheriff.

641*#07S

30 641.07 PRISONERS, LABOR.
 31 Every able bodied male prisoner over 16 years of age
 32 confined in any county jail or statutory city lockup under
 33 judgment of any court or other tribunal authorized to imprison
 34 for the violation of any law, ordinance, bylaw, or police
 35 regulation, may be required to work for not more than ten hours
 36 per day. The court or tribunal, when passing judgment of
 37 imprisonment for nonpayment of fine or otherwise, shall
 38 determine and specify whether or not the imprisonment shall be
 39 at hard labor. The labor may be in the jail or jail yard, upon
 40 public roads and streets, public buildings, grounds, or
 41 elsewhere in the county. Upon request, persons awaiting trial
 42 may be allowed to perform labor. Each prisoner performing labor
 43 may be paid a reasonable compensation by the county if
 44 imprisoned in violation of state law or awaiting trial upon a
 45 charge thereof, and by the city if confined for the violation of
 46 any ordinance, bylaw, or police regulation. The compensation
 47 shall be paid to the wife spouse, family, or dependents of the *
 48 prisoner, or any other person the court sentencing ~~him~~ the *
 49 prisoner directs. It shall be in an amount that the court *
 50 determines. It shall be allowed by the board of county
 51 commissioners or the governing body of the city upon order of
 52 the court.

641*#10S

53 641.10 PAYMENT FOR LABOR; PROTECTION.
 54 For each day's labor the prisoner shall be credited \$3 on
 55 any judgment for fine and costs and, when imprisoned in default
 56 of payment of a fine or fine and costs, ~~he~~ the prisoner shall be *
 57 discharged when ~~he~~ the prisoner has performed sufficient labor *
 58 to pay the same. The officer in charge of such prisoners shall
 59 protect them from insult and annoyance while at labor or going
 60 to and returning therefrom. Every person who shall insult,
 61 annoy, or communicate with such prisoners, after being by such
 62 officers commanded to desist, shall be guilty of a misdemeanor
 63 and punished by imprisonment for not more than five days or by
 64 fine of not more than \$10.

641*#13S

65 641.13 PRISONERS FROM OTHER COUNTIES, BOARDING FEES.
 66 When any prisoner is ordered confined in any county other
 67 than that in which ~~his~~ the offense was committed, the other *
 68 county shall keep ~~him~~ the prisoner at the expense of the county *
 69 sending ~~him~~ the prisoner, and the other county board shall *
 70 collect from the county sending ~~him~~ the prisoner, for ~~his~~ board *
 71 such an amount as is charged for local county prisoners for each

1 day, or fractional day, and, in addition thereto, the county
 2 board of the other county shall collect from the county sending
 3 the prisoners, sums as have been necessarily expended for
 4 clothing, bedding, and medical aid for the prisoners. In
 5 addition thereto the county board of the other county may
 6 collect from the county sending the prisoners such sum as the
 7 county board may determine for other expenses incurred by the
 8 other county in providing jail facilities for the prisoners.
 9 The county board of the county from which the prisoners are
 10 sent, at its first session after their commitment, shall
 11 authorize the county auditor to issue to the county where they
 12 are committed orders upon the county treasurer for the
 13 maintenance of the prisoners while they remain in such jail.

641*#15S

14 641.15 PRISONERS; FEEDING, CARE.

15 The county board shall provide suitable jail clothing,
 16 without distinctive marks, underclothing, linen and bedding,
 17 towels, and medical aid for prisoners, and fuel for the jail
 18 and, if adjoining and connected, the sheriff's residence. The
 19 sheriff may require a prisoner to wear jail clothing during his
 20 confinement, but shall restore personal clothing upon
 21 discharge. No prisoner shall be required to wear clothing
 22 previously used until it has been thoroughly cleansed. The
 23 sheriff or jailer shall keep the jail in a clean and healthy
 24 condition, have each prisoner's clothing washed at least once a
 25 week, furnish to each sufficient clean water for drinking and
 26 bathing, and serve each three times a day with a sufficient
 27 quantity of wholesome, well cooked food.

641*#25S

28 641.25 DISTRICT JAILS; HOW DESIGNATED.

29 The commissioner of corrections, with the consent of the
 30 county board, may designate any suitable jail in the state as a
 31 district jail, to be used for the detention of prisoners from
 32 other counties in addition to those of its own. If the jail or
 33 its management becomes unfit for that purpose, he the
 34 commissioner may rescind its designation. Whenever there is no
 35 sufficient jail in any county, the examining county or municipal
 36 judge, upon his the judge's own motion, or the judge of the
 37 district court, upon application of the sheriff, may order any
 38 person charged with a criminal offense committed to a sufficient
 39 jail in some other county. If there is a district jail in the
 40 judicial district, he the charged person shall be sent to it, or
 41 to any other nearer district jail designated by the judge. The
 42 sheriff of the county containing the district jail, on
 43 presentation of the order, shall receive, keep in custody, and
 44 deliver him the charged person up upon the order of the court or
 45 a judge.

641*#26S

46 641.26 CONDEMNATION OF JAILS.

47 When the jail of any county is insecure or otherwise unfit
 48 for use, the judge of the district court therein, on the
 49 recommendation of the grand jury or of his the judge's own
 50 motion, may issue his a written order condemning it; or, when
 51 the commissioner of corrections shall adjudge any county jail
 52 insecure or otherwise unfit for use, he the commissioner may,
 53 with consent of the judge of the district court, issue his a
 54 written order condemning it. After condemnation that jail shall
 55 not be used for the detention of any prisoner until the order of
 56 condemnation is rescinded.

641*#262S

57 641.262 ESTABLISHMENT OF REGIONAL JAILS BY CONTIGUOUS
58 COUNTIES.

59 No change for subd 1

60 Subd. 2. REGIONAL JAIL BOARD; MEMBERSHIP, TERM,

61 COMPENSATION. The county board of each cooperating county
 62 shall appoint two members to a board to be known as the regional
 63 jail board. Members appointed to the board shall be county
 64 commissioners. One of the members first appointed to the
 65 regional jail board shall be appointed for a term expiring on
 66 June 30 next following his appointment, the other for a term
 67 expiring one year later. After the appointment of the first
 68 members, one succeeding member shall be appointed each year for
 69 a two year period beginning on July 1. Each appointee shall
 70 hold office until his a successor is appointed and has qualified.
 71 Vacancies are filled by the appointing power. The members of
 72 the regional jail board serve without compensation but shall be

1 reimbursed for all necessary expenses incurred by them in
 2 performance of their official duties. This reimbursement is
 3 payable by the county from which the member is appointed, until
 4 the regional jail fund is established. When the regional jail
 5 fund is established, reimbursement shall be made from that
 6 fund. Reimbursement authorized by this subdivision is in
 7 addition to any reimbursement received by a regional jail board
 8 member who is also a member of a county board.

9 Subd. 3. BOARD MEETINGS. As soon as possible after
 10 the appointment of the members of the regional jail board by the
 11 cooperating counties, the regional jail board shall hold a joint
 12 meeting and shall elect a chairman chair, vice
 13 chairman vice-chair, and secretary. The county board of the
 14 county first appointing members to the regional jail board shall
 15 call the first meeting of the board and shall designate the
 16 place of meeting. The regional jail board shall meet at least
 17 annually thereafter at a place designated by the regional jail
 18 board and may meet at such other times and places as it
 19 considers necessary.

641*#263S

20 641.263 POWERS, DUTIES OF BOARD.

21 No change for subd 1 to 3

22 Subd. 4. EMPLOYEES MERIT SYSTEM. A regional jail
 23 merit system may be established under the provisions of this
 24 subdivision and Minnesota Statutes 1961, Chapter 44. Consistent
 25 with standards promulgated by the commissioner of corrections
 26 for qualifications of regional jail employees, the cooperating
 27 counties, by vote of each county board, may establish, modify,
 28 or abandon a merit system for the employment, promotion,
 29 discipline, and dismissal of all regional jail employees except
 30 the superintendent. Questions relating to the establishment,
 31 modification, or abandonment of the merit system shall not be
 32 submitted to the voters for their approval. The following words
 33 and phrases defined in Minnesota Statutes 1961, Section 44.01,
 34 have the meanings given in this subdivision for the purposes of
 35 a regional jail merit system:

36 (1) "Appointing authority" means the regional jail
 37 superintendent;

38 (2) "Board" means the "personnel board" consisting of the
 39 chairman chair, vice-chairman vice-chair, and secretary of the
 40 regional jail board;

41 (3) "Council" means the county boards of the cooperating
 42 counties.

641*#264S

43 641.264 FINANCING.

44 No change for subd 1 to 3

45 Subd. 4. EXPENDITURES. The regional jail board
 46 shall approve by majority vote all expenditure vouchers and the
 47 chairman chair of the board shall transmit them to the county
 48 auditor of the county in which the regional jail is located for
 49 payment by the county treasurer, accompanied by the chairman's
 50 chair's certification that the expenditure vouchers have been
 51 approved by a majority of the regional jail board.

52 No change for subd 5 to 6

642*#09S

53 642.09 INSPECTION; HEALTH OFFICER, SHERIFF.

54 The health officer of every city having a lockup shall
 55 inspect the same once a year, with reference to its sanitary
 56 condition, make a written report thereof to the commissioner of
 57 corrections upon blanks furnished by him the commissioner, and
 58 deliver a copy of such report to the governing body of such
 59 city. Upon filing such report he the health officer shall
 60 receive from the treasurer of such municipality a fee of \$5.
 61 The sheriff of any county in which a municipality maintains a
 62 lockup shall inspect such lockup once a year, with reference to
 63 its security and administration, and make a written report
 64 thereof to the commissioner of corrections upon blanks furnished
 65 by him the commissioner, and deliver a copy of such report to
 66 the governing body of the municipality maintaining such lockup.

642*#10S

67 642.10 CONDEMNATION OF LOCKUP.

68 When the commissioner of corrections shall become
 69 satisfied, from the report of a local health officer or sheriff
 70 or from the report of any agent he the commissioner may appoint
 71 and authorize to examine lockups, or from his the commissioner's
 72 inspection that any lockup does not reasonably conform to

1 essential conditions and details of construction, such as are
2 prescribed by law for plans for lockups, and that such lockup is
3 in a condition or of a construction such as to endanger the
4 wellbeing, health, security or life of any person confined
5 therein, ~~he~~ the commissioner shall condemn such lockup by ~~his~~ *
6 written order and it shall not be further used while such order
7 is in force.

642*#11S

8 642.11 CONDEMNATION, HOW ENFORCED.

9 If any lockup condemned by the commissioner of corrections
10 shall thereafter be used while the order of condemnation is in
11 force, it shall be the duty of the commissioner to bring an
12 action in the district court in the county where the lockup is,
13 for the purpose of enforcing ~~his~~ the order of condemnation, and *
14 upon the trial of the action a copy of such order, certified in
15 the usual form by the commissioner, shall be conclusive evidence
16 that such lockup has been condemned by the commissioner and
17 shall be prima facie evidence that the lockup does not comply
18 with the requirements of sections 642.02, 642.10 and 642.11 and
19 is unfit for use as a lockup, and that its future use should be
20 enjoined by the court. Evidence to sustain the order of
21 condemnation may be received in rebuttal.

642*#12S

22 642.12 FURNISHING LIQUOR TO INMATES.

23 No sheriff, jailer, police officer, marshal, or other
24 person in charge of any jail or lockup, under any pretense,
25 shall give, sell, or deliver to any prisoner therein any
26 contraband, as defined in section 641.165, subdivision 1, unless
27 a reputable physician certifies in writing that the health of
28 such prisoner or inmate requires it, in which case ~~he~~ the *
29 prisoner or inmate may be allowed the prescribed quantity, and *
30 no more.

643*#01S

31 643.01 TRANSFER OF PRISONERS BETWEEN JAIL AND WORKHOUSE.

32 In any county of this state in which there is now or shall
33 be hereafter maintained by any county or by any city and county,
34 a workhouse, correctional or work farm for the confinement of
35 criminal offenders, and a county jail, any district court or
36 county court judge of the judicial district in which the county
37 is situated, shall have the power, either of ~~his~~ the judge's own *
38 motion, or on the application of the county attorney of the
39 county, in accordance with written county policy approved by the
40 commissioner of corrections, to order:

41 (1) any prisoner who shall be confined in the county jail
42 under sentence, to be transferred and recommitted to the
43 workhouse, correctional or work farm at hard labor, for the
44 remainder of the term for which sentenced; or

45 (2) any prisoner who shall be confined in the workhouse,
46 correctional or work farm under sentence, to be transferred and
47 recommitted to the county jail for the remainder of the term for
48 which sentenced; or

49 (3) any prisoner who shall be confined in the county jail,
50 convicted and awaiting sentence, to be transferred to and
51 confined in the workhouse, correctional or work farm while
52 awaiting sentence.

53 Transferred prisoners are subject to the rules and
54 discipline of the confining institution. Transportation of
55 prisoners is the responsibility of the sending institution.

643*#02S

56 643.02 PROCEDURE OF DISTRICT COURT OR COUNTY COURT JUDGE
57 IN CHARGE AND DUTY OF SHERIFF.

58 When any district court or county court judge shall make an
59 order for the transfer of any prisoner as provided in section
60 643.01, the order shall be made in duplicate by the judge, shall
61 recite therein the name of the court by which the prisoner was
62 sentenced or convicted, the date of sentence or conviction, the
63 general nature of the offense for which sentenced or convicted,
64 the length of the original sentence and the length of the
65 sentence still remaining or the sentencing date if known, and
66 any other facts that will furnish material information regarding
67 the case, and shall direct the superintendent or other keeper of
68 the workhouse, correctional or work farm, or sheriff or other
69 keeper of the county jail to safely keep the prisoner at hard
70 labor for the remainder of the original term of sentence, or
71 until further sentencing proceedings, as stated in the order,
72 unless otherwise released according to law, or the parole rules

1 and regulations of the workhouse, correctional or work farm, or
 2 county jail. Both of the orders for transfer of the prisoner to
 3 the workhouse, correctional or work farm, or county jail shall
 4 be filed forthwith with the sheriff or other keeper of the jail,
 5 or superintendent or other keeper of the workhouse, correctional
 6 or work farm and the sheriff or other keeper of the jail, or
 7 superintendent or other keeper of the workhouse, correctional or
 8 work farm shall thereupon retain one of the orders of transfer
 9 and shall without delay transfer and deliver the prisoner named
 10 in the order ~~and deliver him or her~~, together with the other of
 11 the duplicate orders for the transfer of the prisoner to the
 12 superintendent or other keeper of the workhouse, correctional or
 13 work farm, or sheriff or other keeper of the jail, who shall
 14 retain the order and safely keep the prisoner named therein for
 15 the remainder of the sentence at hard labor or until further
 16 sentencing proceedings, as specified in the order, unless
 17 otherwise released as hereinbefore provided. The order for
 18 transfer of any prisoner, as hereinbefore mentioned, shall have
 19 the same force and effect as the writ of commitment issued by
 20 the court which sentenced the prisoner in the first instance or
 21 as the order for confinement issued by the court in the first
 22 instance, and in addition shall be full authority for the
 23 holding and keeping of the prisoner by the superintendent or
 24 other keeper of the workhouse, correctional or work farm, or the
 25 sheriff or other keeper of the jail, and for ~~his~~ the prisoner's
 26 apprehension by any peace officer in case of the escape of the
 27 prisoner from the workhouse, correctional or work farm, or
 28 county jail. On the request of any district court or county
 29 court judge of the district in which the workhouse, correctional
 30 or work farm, and county jail are located, the sheriff of the
 31 county, or superintendent, shall without delay furnish a copy to
 32 the judge of any commitment or order in ~~his~~ the sheriff's or
 33 superintendent's possession.

643*#29S

34 643.29 DIMINUTION OF SENTENCE.

35 No change for subd 1

36 Subd. 2. ENFORCEMENT. Any jailer, workhouse or
 37 correctional work farm superintendent, or person similarly in
 38 custody of persons incarcerated as set forth in subdivision 1
 39 may, pursuant to a prisoner discipline plan, take away any or
 40 all of the reduction in sentence previously gained by good
 41 conduct, and in consideration of mitigating circumstances, may
 42 afterwards restore ~~him~~ the prisoner in whole or in part, to the
 43 standing ~~he~~ possessed before the reduction in sentence was taken
 44 away.

645*#08S

45 645.08 CANONS OF CONSTRUCTION.

46 In construing the statutes of this state, the following
 47 canons of interpretation are to govern, unless their observance
 48 would involve a construction inconsistent with the manifest
 49 intent of the legislature, or repugnant to the context of the
 50 statute:

51 (1) Words and phrases are construed according to rules of
 52 grammar and according to their common and approved usage; but
 53 technical words and phrases and such others as have acquired a
 54 special meaning, or are defined in this chapter, are construed
 55 according to such special meaning or their definition;

56 (2) The singular includes the plural; and the plural, the
 57 singular; words ~~in the masculine of one~~ gender include the
 58 ~~feminine and neuter~~ other genders; words used in the past or
 59 present tense include the future;

60 (3) General words are construed to be restricted in their
 61 meaning by preceding particular words;

62 (4) Words in a law conferring a joint authority upon three
 63 or more public officers or other persons are construed to confer
 64 authority upon a majority of such officers or persons; and

65 (5) A majority of the qualified members of any board or
 66 commission constitutes a quorum.

645*#44S

67 645.44 PARTICULAR WORDS AND PHRASES.

68 No change for subd 1 to 1a

69 Subd. 2. CLERK. When used in reference to court
 70 procedure, "clerk" means the clerk of the court in which the
 71 action or proceeding is pending, and "clerk's office" means ~~his~~
 72 that clerk's office.

73 No change for subd 3 to 13

1 Subd. 14. WRITING. "Written" and "in writing" may
2 include any mode of representing words and letters. The
3 signature of a person, when required by law, (a) must be in the
4 handwriting of the person or, (b) if ~~he~~-be the person is unable *
5 to write, (i) ~~his~~ the person's mark or ~~his~~ name written by ~~some~~ *
6 person another at ~~his~~ the request and in ~~his~~ the presence *
7 of the person or, (ii) by a rubber stamp facsimile of ~~his~~ the *
8 person's actual signature, mark, or a signature of ~~his~~ the *
9 person's name or a mark made by another ~~person~~ and adopted for *
10 all purposes of signature by the person with a motor disability
11 and affixed in ~~his~~ the person's presence. *
12 No change for subd 15 to 18