Minnesota Statutes Annotated
Property and Property Interests (Ch. 500-515b)
Chapter 501C. Trusts
Miscellaneous

This section has been updated. Click here for the updated version.

M.S.A. § 501C.1206
Formerly cited as MN ST § 501B.895

501C.1206. Public health care programs and certain trusts

Effective: January 1, 2016 to June 2, 2022

(a) It is the public policy of this state that individuals use all available resources to pay for the cost of long-term care services, as defined in section 256B.0595, before turning to Minnesota health care program funds, and that trust instruments should not be permitted to shield available resources of an individual or an individual's spouse from such use.

(b) When a state or local agency makes a determination on an application by the individual or the individual's spouse for payment of long-term care services through a Minnesota public health care program pursuant to chapter 256B, any irrevocable inter vivos trust or any legal instrument, device, or arrangement similar to an irrevocable inter vivos trust created on or after July 1, 2005, containing assets or income of an individual or an individual's spouse, including those created by a person, court, or administrative body with legal authority to act in place of, at the direction of, upon the request of, or on behalf of the individual or individual's spouse, becomes revocable for the sole purpose of that determination. For purposes of this section, any inter vivos trust and any legal instrument, device, or arrangement similar to an inter vivos trust:

(1) shall be deemed to be located in and subject to the laws of this state; and

(2) is created as of the date it is fully executed by or on behalf of all of the settlors or others.

(c) For purposes of this section, a legal instrument, device, or arrangement similar to an irrevocable inter vivos trust means any instrument, device, or arrangement which involves a settlor who transfers or whose property is transferred by another including, but not limited to, any court, administrative body, or anyone else with authority to act on their behalf or at their direction, to an individual or entity with fiduciary, contractual, or legal obligations to the settlor or others to be held, managed, or administered by the individual or entity for the benefit of the settlor or others. These legal instruments, devices, or other arrangements are irrevocable inter vivos trusts for purposes of this section.

(d) In the event of a conflict between this section and the provisions of an irrevocable trust created on or after July 1, 2005, this section shall control.

(e) This section does not apply to trusts that qualify as supplemental needs trusts under section 501C.1205 or to trusts meeting the criteria of United States Code, title 42, section 1396p (d)(4)(a) and (c) for purposes of eligibility for medical assistance.

(f) This section applies to all trusts first created on or after July 1, 2005, as permitted under United States Code, title 42, section 1396p, and to all interests in real or personal property regardless of the date on which the interest was created, reserved, or acquired.

Credits

Laws 2015, c. 5, art. 12, § 6, eff. Jan. 1, 2016.

Editors' Notes

VALIDITY

<For preemption of this section, see Geyen v. Commissioner of Minnesota Dept. of Human Services, 964 N.W.2d 639.>

M. S. A. § 501C.1206, MN ST § 501C.1206

Current with legislation effective through May 20, 2023 from the 2023 Regular Session. Some statute sections may be more current, see credits for details. The statutes are subject to change as determined by the Minnesota Revisor of Statutes. (These changes will be incorporated later this year.)

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