

# Minnesota State Bar Association

## HF360: Probate & Trust Bill

**Background:** This bill makes numerous changes to the MN Trust Code to clarify intent and streamline procedures. The legislation also makes other changes to related statutory chapters and closes a loophole regarding an estranged parent's ability to inherit.

**The bill does the following:**

- Authorizes virtual representation used for consent to apply to agreements and waivers.
- Raises the value to terminate an uneconomic trust from \$50,000 to \$150,000
- Adopts a middle ground among states regarding the maximum duration of a trust.
- Clarifies:
  - How to charge expenses of administering a revocable trust after the settlor's death.
  - That notice is only intended to be used after the trust Settlor has died.
  - That an investment trust advisor is not authorized to select the trustee or set the trustee's fee schedule
  - That amendments or revocations of a certificate of trust have only prospective effect.
  - The roles, duties, and fiduciary responsibilities of interested parties in a directed trust (a type of trust in which duties traditionally held by a trustee are filled by multiple parties who have particular knowledge or expertise in certain areas).
- Establishes 120 days as a reasonable time for a designated trustee to accept trusteeship.
- Creates an affidavit of trustee for personal property transactions, modeled on the affidavit of trustee for real property transactions.
- Adopts several provisions from the Uniform Trust Decanting Act.
- Codifies recent appellate court decisions construing Trust Code provisions to (1) maintain current law that requirements for a will do not apply to evidence of an oral trust; (2) clarify an attorney-in-fact's authority to amend a trust instrument; (3) clarify that statutory power of attorney cannot be used to amend a trust; and (4) incorporate a presumption that marital dissolution excludes an ex-spouse's heirs from the testator's estate.
- Bars estranged parents from inheriting from an adult child's estate (current law only enforces this inheritance ban when the child dies under age 18).