

MN STATE BAR ASSOCIATION

HF3589/SF3579: Trust Jurisdiction Clarification

Background: This bill addresses the different types of jurisdiction that courts have in trust-related cases.

- *In personam* jurisdiction allows a court to exercise control over the parties who have an interest in a trust. This means the outcome of the case is binding on all parties who were properly served.
- *In rem* jurisdiction, on the other hand, refers to a court's control over the trust (or trust property). This means the outcome of the case is binding on the trust itself and resolves anyone's claims with respect to the trust or trust property.

Recent Confusion: Minnesota courts applied *in rem* jurisdiction in trust-related cases for over a century, but a recent court case has upended that long tradition.

- A 2016 update to the Trust Code was intended to add *in personam* jurisdiction as an additional option, but a 2023 MN Court of Appeals opinion determined that change supplanted *in rem* jurisdiction.
- The decision addressed trustee removal, but it could be applied more broadly, so now parties are forced to invoke jurisdiction under both options, which doubles the cost of notice.
- In addition, pleadings in existing cases have to be modified, which also adds extra expenses for parties.

This bill: This proposal simply clarifies that *in rem* jurisdiction is still allowed in trust-related cases, and still binds everyone with an interest in the trust, which was the intent of the 2016 statutory changes, and which will more efficiently use client and court resources.