

# HOUSE RESEARCH

## Bill Summary

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### Section

#### Article 1: Trust for the Care of Animals

##### Overview

This bill allows for a person to create a trust for the care of their pet.

- 1 **Others treated as qualified beneficiaries.** Adds the person who is charged with enforcing a trust for the care of animal or another noncharitable purpose to the list of people who can get notice and be treated as a qualified beneficiary under the trust code.
- 2 **Requirements for creation.** Adds a trust for the care of an animal to the list of alternatives to a traditional beneficiary in the trust code.
- 3 **Trust for the care of animal.** Allows for the creation of a trust to provide for the care of an animal. This section requires:
  - The animal be an animal that is alive during the settlor's lifetime.
  - The trust terminates after the death of the animal or animals who are the beneficiary of the trust, and no later than 90 years after the enforcement of the trust.
  - The trustee be appointed by the trust or by the court and that a person interested in the animals welfare can ask for someone to be appointed or removed

## Section

- The property in trust be used as intended by the trust, unless that court determines there is an excess of property in the trust for the intended purpose and then the amount in excess is distributed pursuant to the provisions in the trust or consistent with Minnesota probate law, as if the grantor had died intestate (without a will).
- The property remaining in the trust when the last beneficiary animal dies is to be distributed pursuant to the provisions in the trust or consistent with Minnesota probate law, as if the grantor had died intestate (without a will).
- The trust be available as an asset for the purposes of determining long-term care reimbursement through state health care programs.

- 4 **Noncharitable trust without ascertainable beneficiary.** Clarifies that a trust for the care of an animal are governed by the provisions in Minnesota Statutes, section 501C.0408 and are not subject to the provisions of section 501C.0409 as a noncharitable trust without an ascertainable benefit when they conflict.

## Article 2: Uniform Probate Code Updates

### Overview

This article updates some of the monetary thresholds used throughout the probate code which have not been changed in recent years so that the amounts reflect changes that are consistent with inflation. The article also makes other changes to make the probate code consistent with the new trust code passed in 2015 and adds definitions.

- 1 **Exclusions.** Removes guardianship and conservatorship matters from the list of cases that cannot be required by the court to attempt nonbinding arbitration. This would allow judges to refer a guardianship or conservatorship case to nonbinding arbitration before the matter goes to trial when the district has set up a mandatory arbitration program. Both Hennepin and Ramsey County has an arbitration program consistent with this statute.
- 2 **General definitions.** Adds a definition for the probate code for the term “governing instrument,” which is used throughout chapters 524 and 525. The definition would now clarify that a governing instrument includes many different legal forms for transferring assets, such as an account that is payable on death or a transfer on death deed.
- 3 **Share of the spouse.** Amends the financial value of the intestate share of the estate that goes to the surviving spouse, changing the financial value of the surviving spouse’s share from \$150,000 to \$225,000. This section was last updated in 1994.
- 4 **Elective share amount.** Updates the supplemental elective-share amount a surviving spouse can take from \$50,000 to \$75,000 and also the threshold for when that supplemental elective-share amount can be used from \$50,000 to \$75,000. This law was passed in 1994 and has not been amended or updated since then.

## Section

- 5 **Entitlement of spouse; premarital will.** Expands and clarifies when a surviving spouse will not receive a surviving spouse share when the decedent has a will made before the marriage. The new provisions allow other written evidence, trusts created for the surviving spouse, and other nonprobate transfers to be used to show that the surviving spouse is not eligible for the surviving spouse share under intestacy law.
- 6 **Exempt property.** Updates the value of the exempt property the surviving spouse can take from the estate for household goods and furnishings and encumbered assets from \$10,000 to \$15,000. This amount has not been changed since the law was passed in 1994.
- 7 **Family allowance.** Changes the monthly family allowance the surviving spouse and minor child may be granted for maintenance from \$1,500 a month to \$2,300 a month. This amount has not been changed since the law was passed in 1994.
- 8 **Nonademption of specific devices; unpaid proceeds of sale.** Allows a devisee to make a claim for the value of property that was specifically devised by the decedent when the property has been sold or mortgaged by a trustee. The law already allows this when the property was sold or mortgaged by a conservator, guardian, or attorney-in-fact.
- 9 **Reformation to correct mistakes.** Creates a new provision that allows the court to alter the terms of will or other probate transfer if it is proven by clear and convincing evidence that the intent of the transfer was different than the terms provided in the governing instrument.
- 10 **Modification to achieve transferor's tax objectives.** Allows the court to modify the terms of a governing instrument, such as a will or other nonprobate transfer, to achieve the transferor's tax objectives.
- 11 **Formal testacy proceedings; contested cases; testimony of attesting witnesses.** Adds a provision to the law allowing witnesses to a will to provide proof of the execution of the will to the court by affidavit and adds a rebuttable presumption in cases where the will is contested that attestation clause that the will was signed at the attestation clause indicates.
- 12 **Collection of personal property by affidavit.** Allows an affidavit of survivorship to be used to claim property and distribute assets in estates that are valued under \$75,000. The current law allows the affidavit of survivorship to be used when the estate is valued at under \$50,000. The law was changed to \$50,000 in 2009.
- 13 **Exhaustion of estate.** Current law allows the court to close an estate and property to be distributed when it appears that the estate will be sufficient to pay all claims and the property is valued at or below \$100,000, not including the value of homestead property. This amendment to the law would increase the amount to \$150,000. This amount has not been increased since 2000.

## Section

### Article 3: Receiverships

#### Overview

This article makes clarifying and conforming changes related assignments that are governed by Chapter 576 and Chapter 577.

- 1 **Assignment; conditions.** Clarifies how payments of rents and profits will be paid out to creditors, conforming this section to the requirements of section 576.25, passed in 2012.
- 2 **Applicability of chapter and of common law.** Adds references to other sections of law that could also govern a receivership to the applicability section of Chapter 576.
- 3 **Powers.** Clarifies that receiverships have the power to release rights, claims, and causes of action with the court's approval; and that the receivership when operating a business may hire employees and appoint officers on behalf of the business.
- 4 **Receivership as lien creditor; real property recording; subsequent sales of real property.** Clarifies the requirements for the transfer of real property during a receivership.
- 5 **Termination by receiver.** Clarifies that a receiver can receive services under contracts that are ongoing when the receivership occurs (executory contracts) and can sue for a breach under those contracts.
- 6 **Abandonment of property.** Clarifies that when a receiver abandon's property, the property reverts to the respondent.
- 7 **Requisites.** Allows assignees of property to be located outside Minnesota and clarifies that an assignee of property submits to jurisdiction in Minnesota. Receivers do not have to be Minnesota residents.
- 8 **Assignee as lien creditor; real property recording.** Creates a short form for assignment to be used for recording, along with the deed, to indicate the assignment of the real property. In current law the entire assignment has to be filed with the recorder's office.

### Article 4: Minnesota Revised Uniform Limited Liability Company Act

#### Overview

This article makes clarifying and technical changes relating to the Minnesota Revised Uniform Limited Liability Company Act ("Revised Act").

- 1-14 **Corrects cross reference.** Inserts references to the Revised Act.
- 15 **Grammar.** Makes grammatical changes.
- 16 - 18 **Fees.** States the fees for different filings, which are the same as the fees charged under the prior limited liability company act.

**Section**

- 19**      **Abilities of board.** Clarifies that the board of a board-managed company does not need approval from members to engage in business activities, like granting a security interest in company assets and transferring assets to subsidiaries. Consistent with the prior limited liability company act, a board-managed company is only required to receive member approval for activities such as dissolution, merger, or conversion of the company.
- 20**      **Public benefit corporation.** Prohibits a company from converting into a public benefit corporation.
- 21, 22**    **Clarification.** Clarifies that a company can convert to a domestic or foreign company under the Revised Act, even if a foreign jurisdiction uses different terms to describe the conversion.