

MN State Bar Association

HF279/SF258: “Harmless Error Rule” for will executions

- During the 2020 session the Legislature passed a temporary law creating a “harmless error rule” for will executions.
 - ***The language of the law came from the Uniform Probate Code.***
 - ***This law is set to expire on February 15, 2021.***

- The harmless error rule allows imperfectly executed wills to be probated if execution defects are found to be harmless errors.
 - ***Such a finding requires clear and convincing evidence—the highest civil evidentiary standard.***

- Experienced probate attorneys in the Bar Association believe that the harmless error rule is helpful and should be made permanent.
 - ***Similar or identical harmless error standards have been adopted in at least nine other states.***

- Making the harmless error rule permanent will allow courts to salvage some wills that might otherwise be invalidated by technicalities, and it will serve justice by implementing a decedent’s wishes if there is clear and convincing evidence of the decedent’s intent.