

HOUSE RESEARCH

Bill Summary

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Subject: Animal Care and Memorial Trusts and Other Trust Law Changes

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Overview

The bill (1) allows creation of a trust to care for pets or a trust to create a fund to benefit one or more individuals, (2) amends a section on trustee powers, (3) allows certain nonjudicial settlements regarding specified trust provisions and (4) amends the application provision of a 2002 trust law.

Section

1

Trust for care of animal. Allows creation of a trust to care for one or more animals.

This is a Uniform Trust Code provision. Provides for the trust to end on the earlier of the death of the animal(s) or the passage of 21 years. The trust may appoint someone to enforce it or a person interested in the animal's welfare can ask the court to appoint someone to enforce the trust. When the trust terminates, or if a court determines there is more money than needed for animal care, the remaining funds are transferred (1) according to any trust terms on the subject, or (2) to the grantor's heirs as if the grantor had died without a will.

2

Memorial fund. Creates a legal structure for the kinds of memorial funds typically set up by a community in response to a personal tragedy (e.g. deaths in a fire). Currently there is no law on how these are set up or administered. This section would have the trust governed by the Minnesota Uniform Custodial Trust Act, which would assure the money is used for the benefit of the intended individuals.

3

Application. Amends Minn. Stat. §501B.14. This section concerning the exercise of powers by a trustee was enacted in 1993 to comply with IRS rulings on trust taxation. The amendment in the bill strikes one clause in the subdivision that provides circumstances in which the section does not apply.

4

Nonjudicial settlement agreements. Allows the trustee and all beneficiaries of a trust that is not under court supervision to enter a binding nonjudicial settlement agreement regarding (1)

approval of a trustee's accounting, (2) resignation of a trustee, (3) determination of a trustee's compensation, transfer of the trust location, and (4) termination of a charitable trust with a fair market value under \$50,000 if the cost of administering the trust would defeat or substantially impair the trust purpose. Requires the trust property to be distributed to conform to the grantor's intention.

The agreement is valid if it does not violate a material purpose of the trust.

5 Representation; pleadings; when parties are bound by others; notice.

Subd. 1. Applicability. Applies to judicial proceedings on trusts and to nonjudicial settlement agreements.

Subd. 2. Description to give reasonable notice. Interests to be affected must be described in a way that gives owners reasonable information.

Subd. 3. Binding effect of orders and agreements. Specifies when orders bind the sole holder or all co-holders of a power of revocation or general power of appointment.

Specifies that absent a conflict of interest, orders binding the conservator of property bind the conservatee; orders binding the guardian bind the ward, and orders binding the agent bind the principal.

Lets fiduciaries provide "virtual representation" of the following if they are not otherwise represented and there is no conflict of interest: unborn or unascertained persons, persons whose identity or location is unknown and cannot be reasonably determined after diligent search, a minor, or any other person under legal disability.

Subd. 4. Required notice. Specifies who must receive notice in order to be bound as provided by subdivision 3.

6 Effective date. Amends the effective date section of a 2002 probate bill. Provides the application date of a section of the bill affecting the rules for revoking a will or trust after marriage dissolution or annulment. The section would apply to decedents dying after July 31, 2002 (that is, on or after the 2002 act's effective date).