

Department of Legislative Services  
Maryland General Assembly  
2018 Session

FISCAL AND POLICY NOTE  
Third Reader

House Bill 769

(Delegate Dumais)

Health and Government Operations

Judicial Proceedings

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Estates and Trusts - Maryland Uniform Transfers to Minors Act - Award of  
Reasonable and Necessary Expenses

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This bill authorizes a court adjudicating a claim under the Maryland Uniform Transfers to Minors Act (MUTMA), under specified circumstances, to (1) order a party to the proceeding to reimburse or pay to the other party specified expenses; (2) order that counsel fees awarded be paid directly to the lawyer; and (3) enter judgement in favor of the lawyer.

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Fiscal Summary

**State Effect:** None. The change is procedural in nature and does not directly affect governmental finances.

**Local Effect:** None. The change is procedural in nature and does not directly affect local governmental finances.

**Small Business Effect:** None.

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Analysis

**Bill Summary:** At any point during a MUTMA proceeding, and after considering specified factors, the court may order either party to pay to the other party an amount for the “reasonable and necessary expense” of prosecuting or defending the proceeding. The court must consider the financial resources and financial needs of both parties and whether there was substantial justification for prosecuting or defending the proceeding before ordering payment. The court is also authorized to award reimbursement for reasonable and necessary expenses that have previously been paid.

“Reasonable and necessary expense” includes suit money, counsel fees, and costs.

**Current Law:**

*Judicial Claims/Proceedings Generally Under MUTMA*

Generally, on petition of an interested person or the minor if the minor is at least age 14, the court may:

- order the custodian to deliver or pay to the minor or expend for the minor’s benefit so much of the custodial property as the court considers advisable for the use and benefit of the minor;
- remove the custodian for cause and designate a successor custodian other than a transferor;
- order an accounting by the custodian or the custodian’s legal representative; or
- order a determination of responsibility, as between the custodial property and the custodian personally, for claims against the custodial property, as specified.

Whether or not the custodian or the minor is personally liable, a claim may be asserted against the custodial property by proceeding against the custodian in the custodial capacity:

- on a contract entered into by a custodian acting in a custodial capacity;
- for an obligation arising from the ownership or control of custodial property; or
- on a tort committed during the custodianship.

*The Maryland Uniform Transfers to Minors Act, Generally*

Generally, MUTMA allows property to be irrevocably transferred to a custodian for the benefit of a minor until the minor reaches age 18 or 21, depending on whether the transfer was initiated by an individual, a personal representative, a trustee, or a person who holds property of a minor or owes a debt to a minor, as specified in statute. A custodian is required to transfer property in an appropriate manner to the minor’s estate upon the death of the minor. A custodian, acting in a custodial capacity, has all the rights, powers, and authority over custodial property that unmarried adult owners have over their own property, but a custodian may exercise those rights, powers, and authority in that capacity only.

A custodian under MUTMA may deliver or pay to a minor or expend for the minor’s benefit so much of the custodial property as the custodian considers advisable for the use and benefit of the minor, without court order and without regard to (1) the duty or ability of the custodian personally or of any other person to support the minor or (2) any other income or property of the minor which may be applicable or available for that purpose.

## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Register of Wills; Department of Legislative Services

**Fiscal Note History:** First Reader - February 13, 2018  
md/kdm Third Reader - March 16, 2018

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