
By: **Delegate Finifter**

Introduced and read first time: March 2, 1998

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts - Guardianship of Property of Minor or Disabled**
3 **Person - Power of Circuit Court**

4 FOR the purpose of providing that a circuit court has the power to authorize or direct
5 a guardian to make certain gifts and to disclaim on behalf of a minor or disabled
6 person the right of succession or transfer to that person of any property or any
7 interest in any property; providing that certain powers of the circuit court
8 described in this Act are in addition to and may not limit certain powers
9 conferred upon the guardian or the circuit court; providing for the application of
10 this Act; and generally relating to guardianship of property of a minor or
11 disabled person and the power of the circuit court.

12 BY repealing and reenacting, without amendments,
13 Article - Estates and Trusts
14 Section 9-201(c) and 13-214
15 Annotated Code of Maryland
16 (1991 Replacement Volume and 1997 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article - Estates and Trusts
19 Section 13-203(c) and 13-204
20 Annotated Code of Maryland
21 (1991 Replacement Volume and 1997 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article - Estates and Trusts**

25 9-201.

26 (c) Thirty days after delivering or mailing written notice to all interested
27 persons, the attorney-in-fact of a person, or the personal representative of a deceased
28 person, or the guardian of the property of a minor or disabled person, may disclaim on

1 behalf of that person, in whole or in part, the right of succession or transfer to that
2 person of any property or interest in any property. The circuit court, without
3 appointing a guardian, may authorize or direct a disclaimer on behalf of a minor or
4 disabled person pursuant to § 13-204 of this article. In the case of a deceased person,
5 interested persons are those defined in § 1-101 of this article. In all other cases,
6 interested persons are those defined in § 13-101 of this article.

7 13-203.

8 (c) (1) Except for the limitations contained in § 13-106 of this title, after
9 appointment of the guardian, the court has all the powers over the property of the
10 minor or disabled person that he could exercise if not disabled or a minor.

11 (2) THE POWERS THAT A CIRCUIT COURT HAS UNDER PARAGRAPH (1) OF
12 THIS SUBSECTION INCLUDE THE POWER TO AUTHORIZE OR DIRECT THE GUARDIAN
13 TO:

14 (I) MAKE GIFTS FROM THE PRINCIPAL AND INCOME OF THE
15 ESTATE; AND

16 (II) DISCLAIM ON BEHALF OF THE MINOR OR DISABLED PERSON, IN
17 WHOLE OR IN PART, THE RIGHT OF SUCCESSION OR TRANSFER TO THAT PERSON OF
18 ANY PROPERTY OR INTEREST IN ANY PROPERTY.

19 (3) THE POWERS THAT A CIRCUIT COURT HAS UNDER PARAGRAPH (2) OF
20 THIS SUBSECTION ARE IN ADDITION TO AND MAY NOT LIMIT THE POWER:

21 (I) CONFERRED UPON THE GUARDIAN TO MAKE DISTRIBUTIONS
22 UNDER § 13-214 OF THIS SUBTITLE; AND

23 (II) CONFERRED UPON THE GUARDIAN OR THE CIRCUIT COURT,
24 WITHOUT APPOINTING A GUARDIAN, TO DISCLAIM OR AUTHORIZE OR DIRECT A
25 DISCLAIMER ON BEHALF OF A MINOR OR DISABLED PERSON UNDER § 9-201(C) OF
26 THIS ARTICLE.

27 13-204.

28 (a) If a basis exists as described in § 13-201 OF THIS SUBTITLE for assuming
29 jurisdiction over the property of a minor or disabled person, the circuit court, without
30 appointing a guardian, may authorize or direct a transaction with respect to the
31 property, service, or care arrangement of the minor or disabled person. These
32 transactions include but are not limited to:

33 (1) [payment] PAYMENT, delivery, deposit, or retention of funds or
34 property;

35 (2) [sale] SALE, mortgage, lease, or other transfer of property;

36 (3) [purchase] PURCHASE of contracts for an annuity, life care, training,
37 or education; or

1 (4) [any] ANY other transaction described in:

2 (I) § 13-203(C)(2) OF THIS SUBTITLE;

3 (II) § 9-201(C) OF THIS ARTICLE; OR

4 (III) § 15-102 OF THIS ARTICLE.

5 (b) Before approving a transaction or arrangement under this section, the
6 court shall consider the interests of creditors and dependents of the minor or disabled
7 person and whether the property of the minor or disabled person needs the continuing
8 protection provided by a guardian.

9 13-214.

10 (a) A guardian may distribute or disburse property without court
11 authorization or confirmation in accordance with this section.

12 (b) (1) A guardian of a minor may pay or apply income and principal from
13 the estate as needed for the clothing, support, care, protection, welfare, and education
14 of the minor.

15 (2) A guardian of a disabled person may pay or apply income and
16 principal from the estate as needed for the clothing, support, care, protection, welfare,
17 and rehabilitation of the disabled person. He shall give consideration to the support
18 and care of the disabled person during the probable period of the estate and the needs
19 of persons dependent upon the disabled person.

20 (3) Income and principal also may be paid or applied for the benefit of
21 persons legally dependent upon the minor or disabled person and, with the approval
22 of the court, for the benefit of other persons maintained and supported in whole or in
23 part by the disabled person prior to the appointment of a guardian.

24 (c) (1) When a minor attains his majority, his guardian, after meeting all
25 prior claims and expenses of administration, shall distribute the estate to the former
26 minor as soon as possible, unless the minor is then disabled. The distribution
27 normally shall be in kind.

28 (2) If the guardian is satisfied that the disability of the disabled person
29 has ceased or if the court has found in a proceeding under § 13-221 that the disability
30 has ceased, the guardian, after meeting all prior claims and expenses of
31 administration, shall distribute the estate to the former disabled person as soon as
32 possible. The distribution normally shall be in kind.

33 (3) When a minor or disabled person dies, the guardian shall deliver to
34 the appropriate probate court for safekeeping any will of the deceased person in his
35 possession, inform the personal representative or a beneficiary named in it that he
36 has done so, and retain the estate for delivery to an appointed personal representative
37 of the decedent or other person entitled to it.

1 (4) If a guardianship is terminated for reasons other than the
2 attainment of majority, cessation of disability, or death of the protected person, the
3 guardian shall distribute the estate in accordance with the order of the court
4 terminating the guardianship.

5 SECTION 2. AND BE IT FURTHER ENACTED, That the powers articulated by
6 this Act, being declaratory of existing law, apply to all gifts and disclaimers of the
7 property of the minor or disabled person, authorized by court order, whether such
8 order was issued before, on, or after the effective date of this Act.

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 1998.