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By: **Delegate Finifter**

Introduced and read first time: February 12, 1999

Assigned to: Judiciary

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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 1998 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 1998 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] THE PERSON could exercise if not disabled or a  
11 minor.

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

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

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

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

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

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

28 13-204.

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

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

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

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

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

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

5           (II)    § 9-201(C) OF THIS ARTICLE; OR

6           (III)   § 15-102 OF THIS ARTICLE.

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

11 13-214.

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

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

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

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

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

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

35       (3)     When a minor or disabled person dies, the guardian shall deliver to  
36 the appropriate probate court for safekeeping any will of the deceased person in his  
37 possession, inform the personal representative or a beneficiary named in it that he

1 has done so, and retain the estate for delivery to an appointed personal representative  
2 of the decedent or other person entitled to it.

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

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

11       SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 October 1, 1999.