

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 1520
Economic Matters

(Delegate Brown)

Finance

Liability Insurance – Minors – Settlement of Claims

This bill authorizes a parent of a minor or person in *loco parentis* of the minor to settle a claim under a liability insurance policy brought by the parent or person in *loco parentis* for the benefit of the minor. Payment of a claim settlement must comply with the requirements for recovery of a minor's tort claims.

The bill takes effect June 1, 2004 and applies to claims arising on or after June 1, 2004.

Fiscal Summary

State Effect: The bill would not directly affect the finances or operations of the Maryland Insurance Administration.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Generally, recoveries in tort of at least \$2,000 to a minor must be paid to a trustee or court-appointed guardian. A trusteeship does not require formal court appointment. The trustee must deposit the money on the minor's behalf in specified types of accounts or securities. Except on a circuit court order, the financial institution in which the money is deposited may not allow the money's withdrawal except to pay it to the minor on attaining age 18.

A next friend who brings a civil action, including one in the name of the State, for the benefit of a minor may settle the action on the minor's behalf. If the next friend is not a parent or person in *loco parentis* of the child, the settlement is not effective until approved by the parent or other person responsible for the child.

If both parents are deceased, and there is no person responsible for the care and custody of the child, the settlement is not effective until approved by the court in which the suit was brought. Approval may be granted only on the written application by the next friend, under oath, stating the facts of the case and why the settlement is in the best interest of the child.

Under the Maryland Rules, an individual under disability to sue, including a minor, may sue through a guardian or other like fiduciary or, if none, by next friend, subject to any order of court for the protection of the minor. When a minor is in the sole custody of one of the parents, that parent has the exclusive right to sue on the minor's behalf for a period of one year following the accrual of the cause of action. If the custodial parent fails to institute suit within this period, any person interested in the minor has the right to institute suit on the minor's behalf as next friend, after first mailing notice to the last known address of the custodial parent.

A minor is a person under 18 years of age. A next friend is a person who acts without formal appointment as a guardian for the benefit of a minor, a person of unsound mind who has not been judicially declared incompetent, or other person under a disability. Barring unusual circumstances, a parent acts as next friend of the parent's child.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Automobile Insurance Fund, Maryland Insurance Administration, Department of Legislative Services

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n/ljm

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