

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 3

(Senator Giannetti)

Judicial Proceedings

Judiciary

Maryland Uniform Transfers to Minors Act - Qualified Minor's Trust

This bill provides that a custodian of a minor's property under the Maryland Uniform Transfers to Minors Act (UTMA) may transfer all or part of the custodial property to a qualified minor's trust without a court order and that to the extent of the transfer, custodianship of that property is terminated. An inter vivos or testamentary instrument creating custodial property must expressly authorize the custodian to transfer the property to a qualified minor's trust. A "qualified minor's trust" is defined as a trust in which a minor is the sole beneficiary during the minor's lifetime and that meets the requirements of § 2503(c) of the Internal Revenue Code including regulations implementing that section. The definition includes a trust created by a custodian for the use and benefit of the minor.

Fiscal Summary

State Effect: None.

Local Effect: The bill's provisions could result in a minimal decrease in the workload of local Orphan's Courts.

Small Business Effect: None.

Analysis

Current Law: If the will of a testator provides for a bequest or devise to a minor under UTMA, the personal representative must distribute the property to the named custodian or, if no eligible custodian is named, to a qualified custodian designated by the personal representative.

A custodian may deliver or pay to the 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:

- the duty or ability of the custodian personally or of any other person to support the minor; or
- any other income or property of the minor which may be applicable or available for that purpose.

The custodian of a minor's property under UTMA generally must transfer the property to the minor when the minor attains the age of 21.

Section 2503(c) of the Internal Revenue Code exempts from the federal gift tax gifts in trust for the benefit of a minor if the trust's assets can be distributed to or for the benefit of a minor and the assets pass to the donee upon attaining the age of 21 years or to the donee's estate in the case of the donee's death before reaching age 21.

Background: The bill would allow rollover of a minor's custodial property to a trust with the consent of the minor and allow that property to remain in trust beyond the minor's twenty-first birthday.

Additional Information

Prior Introductions: SB 685 of 2004, an identical bill, was passed by the Senate but unfavorably reported from the House Judiciary Committee.

Cross File: None.

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

Fiscal Note History: First Reader - January 18, 2005
mll/jr Revised - Enrolled Bill - May 9, 2005

Analysis by: Michelle L. Harrison-Davis

Direct Inquiries to:
(410) 946-5510
(301) 970-5510