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By: **Senator Giannetti**

Introduced and read first time: February 3, 2006

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Uniform Transfers to Minors Act - Qualified Minor's Trust - Joint**  
3 **Custodians**

4 FOR the purpose of authorizing a certain joint custodianship of property under the  
5 Maryland Uniform Transfers to Minors Act; providing that each joint custodian  
6 has full power and authority to act alone as a custodian of certain property  
7 under certain circumstances; providing that a certain custodian may serve as a  
8 sole custodian under certain circumstances; repealing certain restrictions on the  
9 authority of a custodian of property under the Maryland Uniform Transfers to  
10 Minors Act to transfer custodial property to a qualified minor's trust without a  
11 court order; providing for the application of this Act; and generally relating to a  
12 transfer to a qualified minor's trust and joint custodians of property under the  
13 Maryland Uniform Transfers to Minors Act.

14 BY repealing and reenacting, without amendments,  
15 Article - Estates and Trusts  
16 Section 13-301(a) and (n)  
17 Annotated Code of Maryland  
18 (2001 Replacement Volume and 2005 Supplement)

19 BY repealing and reenacting, with amendments,  
20 Article - Estates and Trusts  
21 Section 13-310 and 13-314  
22 Annotated Code of Maryland  
23 (2001 Replacement Volume and 2005 Supplement)

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

26 **Article - Estates and Trusts**

27 13-301.

28 (a) In this subtitle the following words have the meanings indicated.

1 (n) "Qualified minor's trust" means a trust, including a trust created by a  
2 custodian for the use and benefit of a minor:

3 (1) Of which a minor is the sole beneficiary during the minor's lifetime;  
4 and

5 (2) That meets the requirements of § 2503(c) of the Internal Revenue  
6 Code and the regulations implementing that section.

7 13-310.

8 (a) [A] SUBJECT TO SUBSECTION (C) OF THIS SECTION, A transfer may be  
9 made only for 1 minor, and only 1 person may be the custodian.

10 (b) All custodial property held under this subtitle by the same custodian for  
11 the benefit of the same minor constitutes a single custodianship.

12 (C) (1) NOTWITHSTANDING ANY PROVISION OF THIS SUBTITLE TO THE  
13 CONTRARY, 2 PERSONS MAY BE DESIGNATED AS CUSTODIANS OF CUSTODIAL  
14 PROPERTY FOR THE BENEFIT OF THE SAME MINOR AND THAT ARRANGEMENT SHALL  
15 CONSTITUTE A SINGLE CUSTODIANSHIP.

16 (2) IF 2 PERSONS ARE DESIGNATED AS CUSTODIANS, THEY SHALL ACT  
17 AS JOINT CUSTODIANS UNDER THIS SUBTITLE AND, UNLESS SPECIFIED OTHERWISE  
18 IN ANY DOCUMENT CREATING THE CUSTODIANSHIP, EACH JOINT CUSTODIAN SHALL  
19 HAVE THE FULL POWER AND AUTHORITY TO ACT ALONE AS A CUSTODIAN UNDER  
20 THIS SUBTITLE.

21 (3) IF EITHER JOINT CUSTODIAN RESIGNS, DIES, BECOMES  
22 INCAPACITATED, OR IS REMOVED, THE REMAINING CUSTODIAN MAY SERVE AS SOLE  
23 CUSTODIAN WITHOUT THE NECESSITY OF APPOINTING A SUCCESSOR JOINT  
24 CUSTODIAN.

25 13-314.

26 (a) A custodian may deliver or pay to the minor or expend for the minor's  
27 benefit so much of the custodial property as the custodian considers advisable for the  
28 use and benefit of the minor, without court order and without regard to:

29 (1) The duty or ability of the custodian personally or of any other person  
30 to support the minor; or

31 (2) Any other income or property of the minor which may be applicable  
32 or available for that purpose.

33 (b) (1) [Subject to paragraphs (3) and (4) of this subsection, a] A custodian  
34 may transfer all or part of the custodial property to a qualified minor's trust without  
35 a court order.

1           (2)     A transfer of custodial property to a qualified minor's trust  
2 terminates the custodianship of that property to the extent of the transfer.

3           [(3)     Custodial property created under a testamentary instrument may  
4 not be transferred under this subsection unless the transfer is expressly authorized  
5 by the instrument.

6           (4)     For an inter vivos transfer under this subsection to be valid, the  
7 instrument that created the custodial property shall contain in conspicuous type a  
8 statement that the transferor of the property elects to grant the custodian the  
9 authority to transfer all or part of the custodial property to a qualified minor's trust  
10 without a court order.]

11       (c)     On petition of an interested person or the minor if the minor has attained  
12 the age of 14 years, the court may order the custodian to deliver or pay to the minor  
13 or expend for the minor's benefit so much of the custodial property as the court  
14 considers advisable for the use and benefit of the minor.

15       (d)     A delivery, payment, or expenditure under this section is in addition to, not  
16 in substitution for, and does not affect any obligation of a person to support the minor.

17       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
18 construed to apply to any custodial account under the Maryland Uniform Transfers to  
19 Minors Act existing on or after the effective date of this Act.

20       SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 October 1, 2006.