

SENATE BILL 396

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CF 2lr2206

By: **Senator Forehand**

Introduced and read first time: February 1, 2012

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Uniform Transfers to Minors Act – Orphans’ Court**

3 FOR the purpose of altering the definition of the term “court” to include an orphans’
4 court or a court exercising the jurisdiction of an orphans’ court for the purposes
5 of the Maryland Uniform Transfers to Minors Act; and generally relating to the
6 Maryland Uniform Transfers to Minors Act.

7 BY repealing and reenacting, without amendments,
8 Article – Estates and Trusts
9 Section 13–301(a), 13–306, 13–309, 13–312(a), 13–314(c) and (d), 13–318(d) and
10 (f), 13–319, and 3–324
11 Annotated Code of Maryland
12 (2011 Replacement Volume and 2011 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article – Estates and Trusts
15 Section 13–301(e)
16 Annotated Code of Maryland
17 (2011 Replacement Volume and 2011 Supplement)

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

20 **Article – Estates and Trusts**

21 13–301.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (e) "Court" means [the circuit courts] **A CIRCUIT COURT, AN ORPHANS'**
2 **COURT, OR A COURT EXERCISING THE JURISDICTION OF AN ORPHANS' COURT.**

3 13–306.

4 (a) Subject to subsection (c) of this section, a personal representative or
5 trustee may make an irrevocable transfer to another adult or trust company as
6 custodian for the benefit of a minor pursuant to § 13–309 of this subtitle, in the
7 absence of a will or under a will or trust that does not contain an authorization to do
8 so.

9 (b) Subject to subsection (c) of this section, a conservator may make an
10 irrevocable transfer to another adult or trust company as custodian for the benefit of
11 the minor pursuant to § 13–309 of this subtitle.

12 (c) A transfer under subsection (a) or (b) of this section may be made only if:

13 (1) The personal representative, trustee, or conservator considers the
14 transfer to be in the best interest of the minor;

15 (2) The transfer is not prohibited by or inconsistent with provisions of
16 the applicable will, trust agreement, or other governing instrument; and

17 (3) The transfer is authorized by the court if it exceeds \$10,000 in
18 value.

19 13–309.

20 (a) Custodial property is created and a transfer is made whenever:

21 (1) An uncertificated security or a certificated security in registered
22 form is either:

23 (i) Registered in the name of the transferor, an adult other
24 than the transferor, or a trust company, followed in substance by the words: "As
25 custodian for _____ (name of minor) under the Maryland Uniform Transfers to
26 Minors Act"; or

27 (ii) Delivered if in certificated form, or any document necessary
28 for the transfer of an uncertificated security is delivered, together with any necessary
29 endorsement to an adult other than the transferor or to a trust company as custodian,
30 accompanied by an instrument in substantially the form set forth in subsection (b) of
31 this section;

32 (2) Money is paid or delivered to a broker or financial institution for
33 credit to an account in the name of the transferor, an adult other than the transferor,

1 or a trust company, followed in substance by the words: “As custodian for _____
2 (name of minor) under the Maryland Uniform Transfers to Minors Act”;

3 (3) The ownership of a life or endowment insurance policy or annuity
4 contract is either:

5 (i) Registered with the issuer in the name of the transferor, an
6 adult other than the transferor, or a trust company, followed in substance by the
7 words: “As custodian for _____ (name of minor) under the Maryland Uniform
8 Transfers to Minors Act”; or

9 (ii) Assigned in a writing delivered to an adult other than the
10 transferor or to a trust company whose name in the assignment is followed in
11 substance by the words: “As custodian for _____ (name of minor) under the
12 Maryland Uniform Transfers to Minors Act”;

13 (4) An irrevocable exercise of a power of appointment or an irrevocable
14 present right to future payment under a contract is the subject of a written
15 notification delivered to the payor, issuer, or other obligor that the right is transferred
16 to the transferor, an adult other than the transferor, or a trust company, whose name
17 in the notification is followed in substance by the words: “As custodian for _____
18 (name of minor) under the Maryland Uniform Transfers to Minors Act”;

19 (5) An interest in real property is recorded in the name of the
20 transferor, an adult other than the transferor, or a trust company, followed in
21 substance by the words: “As custodian for _____ (name of minor) under the
22 Maryland Uniform Transfers to Minors Act”;

23 (6) A certificate of title issued by a department or agency of a state or
24 of the United States which evidences title to tangible personal property is either:

25 (i) Issued in the name of the transferor, an adult other than the
26 transferor, or a trust company, followed in substance by the words: “As custodian for
27 _____ (name of minor) under the Maryland Uniform Transfers to Minors Act”; or

28 (ii) Delivered to an adult other than the transferor or to a trust
29 company, endorsed to that person, followed in substance by the words: “As custodian
30 for _____ (name of minor) under the Maryland Uniform Transfers to Minors Act”;
31 or

32 (7) An interest in any property not described in paragraphs (1)
33 through (6) of this subsection is transferred to an adult other than the transferor or to
34 a trust company by a written instrument in substantially the form set forth in
35 subsection (b) of this section.

36 (b) An instrument in the following form satisfies the requirements of
37 subsection (a)(1)(ii) and (7) of this section:

1 "Transfer Under the Maryland Uniform
2 Transfers to Minors Act

3 I, _____ (name of transferor or name and representative capacity if a
4 fiduciary) hereby transfer to _____ (name of custodian), as custodian for
5 _____ (name of minor) under the Maryland Uniform Transfers to Minors Act, the
6 following: (insert a description of the custodial property sufficient to identify it).

7 Dated: _____

8 _____
9 (signature)

10 _____ (name of custodian) acknowledges receipt of the property
11 described above as custodian for the minor named above under the Maryland Uniform
12 Transfers to Minors Act.

13 Dated: _____

14 _____"
15 (signature of custodian)

16 (c) A transferor shall place the custodian in control of the custodial property
17 as soon as practicable.

18 13-312.

19 (a) A custodian shall:

- 20 (1) Take control of custodial property;
- 21 (2) Register or record title to custodial property if appropriate; and
- 22 (3) Collect, hold, manage, invest, and reinvest custodial property.

23 13-314.

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

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

1 13-318.

2 (d) (1) If a custodian is ineligible, dies, or becomes incapacitated without
3 having effectively designated a successor and the minor has attained the age of 14
4 years, the minor may designate as successor custodian, in the manner prescribed in
5 subsection (b) of this section, an adult member of the minor's family, a conservator of
6 the minor, or a trust company.

7 (2) If the minor has not attained the age of 14 years or fails to act
8 within 60 days after the ineligibility, death, or incapacity, the conservator of the minor
9 becomes successor custodian.

10 (3) If the minor has no conservator or the conservator declines to act,
11 the transferor, the legal representative of the transferor or of the custodian, an adult
12 member of the minor's family, or any other interested person may petition the court to
13 designate a successor custodian.

14 (f) A transferor, the legal representative of a transferor, an adult member of
15 the minor's family, a guardian of the person of the minor, the conservator of the minor,
16 or the minor if the minor has attained the age of 14 years may petition the court to
17 remove the custodian for cause and to designate a successor custodian other than a
18 transferor under § 13-304 of this subtitle or to require the custodian to give
19 appropriate bond.

20 13-319.

21 (a) A minor who has attained the age of 14 years, the minor's guardian of the
22 person or legal representative, an adult member of the minor's family, a transferor, or
23 a transferor's legal representative may petition the court for:

24 (1) An accounting by the custodian or the custodian's legal
25 representative; or

26 (2) A determination of responsibility, as between the custodial
27 property and the custodian personally, for claims against the custodial property unless
28 the responsibility has been adjudicated in an action under § 13-317 of this subtitle to
29 which the minor or the minor's legal representative was a party.

30 (b) A successor custodian may petition the court for an accounting by the
31 predecessor custodian.

32 (c) The court, in a proceeding under this subtitle or in any other proceeding,
33 may require or permit the custodian or the custodian's legal representative to account.

34 (d) If a custodian is removed under § 13-318(f) of this subtitle, the court
35 shall require an accounting and order delivery of the custodial property and records to

1 the successor custodian and the execution of all instruments required for transfer of
2 the custodial property.

3 13-324.

4 This subtitle may be cited as the "Maryland Uniform Transfers to Minors Act".

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2012.