

Estate and Trust Section Council Testimony in favo

Uploaded by: Roland Schrebler

Position: FAV



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To: Maryland Senate – Judicial Proceedings Committee

From: MSBA Estate & Trust Law Section

Date: January 19, 2024

Subject: **SB 75** – Maryland Uniform Transfers to Minors Act – Transfers as Custodian for the Benefit of a Minor – Authorization of Court

Position: Support

The Estate and Trust Law Section of the Maryland State Bar Association (MSBA) **supports Senate Bill 75 – Maryland Uniform Transfers to Minors Act – Transfers as Custodian for the Benefit of a Minor – Authorization of Court.**

Description of Current Law

The Maryland Uniform Transfers to Minors Act (“UTMA”) currently permits a personal representative of an estate or a trustee of a trust to make a distribution to a custodian for the benefit of a minor beneficiary, if the will or trust agreement authorizes the transfer. If the governing document contains no authorizing provision, or if the estate is intestate, the personal representative or trustee must obtain court approval to transfer more than \$10,000 to an UTMA custodian.

Problem Addressed by this Legislation:

The legislature set the threshold amount for determining whether a transfer to an UTMA custodian requires court approval at \$10,000 in 1989 when Maryland adopted the UTMA. While the amount has remained unchanged for over 30 years, legal fees and court costs have increased significantly. For distributions that barely exceed \$10,000, it is often uneconomical for petitioners to pay for legal representation, and they must figure out how to petition the court themselves. Several neighboring states have increased the threshold amount that can be transferred to an UTMA custodian without court approval. Virginia (in 2014) and Pennsylvania (in 1999) increased their thresholds to \$25,000, and Delaware (in 1997) increased its threshold to \$50,000. New York adopted its own version of UTMA in 1996 with \$50,000 as the threshold. An inflation adjustment to Maryland’s \$10,000 threshold results in a threshold of approximately \$25,000.



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How this Legislation Solves the Problem:

Senate Bill 75 proposes to increase the amount that personal representatives of estates and trustees of trusts can transfer to an UTMA custodian for a minor’s benefit, without petitioning for court approval, from \$10,000 to \$25,000, which is consistent with inflation since 1989 and our neighboring states. The proposed increase would save time, legal fees, and court costs for the recipients of the distributions and would help to preserve more of the estate assets for the minor’s use.

For the reasons stated above, the Estate and Trust Law Section of the MSBA **supports SB 75 and urges a favorable committee report.**

For further information, please contact:

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SB75FWA.pdf

Uploaded by: Christopher West

Position: FWA

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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

January 23rd, 2024

The Maryland State Senate Judicial Proceedings Committee
The Honorable William C. Smith, Jr.
2 East Miller Senate Building
Annapolis, Maryland 21401

Re: Senate Bill 75: *Maryland Uniform Transfers to Minors Act - Transfers as Custodian for the Benefit of a Minor - Authorization of Court*

Dear Chairman Smith and Members of the Committee,

Section 13-306 of the Estates and Trusts Article deals with the situation in which a minor is given a bequest, and the personal representative administering the estate has not been granted the authority to make the transfer to an adult or to a trust company as custodian for the benefit of the minor. This could either be because the will is missing a provision granting such authority, or because the decedent died without a will.

The current version of Section 13-306 allows such a transfer of the bequested money or property to be made to an adult or to a trust company for the benefit of the minor without a court proceeding if the bequest is valued at \$10,000 or less. In the event that the bequest is valued over \$10,000, an attorney for the minor has to prepare and file a petition to a court seeking authorization to transfer the bequested money or property to an adult or trust company for the benefit of the minor. Such a petition entails legal fees and court costs, thus reducing the amount of the bequest ultimately received by the minor.

The provision containing the \$10,000 limitation has been in the Maryland Code since the *Uniform Transfer of Minors Act* was first enacted back in 1989. That was 35 years ago, and the \$10,000 limit that was appropriate in 1989 seems unduly restrictive today, given the huge increase in the cost of living in the past 35 years. In the intervening years, some of our neighboring states (Virginia, Pennsylvania and Delaware) have increased the limitation to higher amounts such as \$25,000. Senate Bill 75 will adjust the \$10,000 limitation in Maryland to \$25,000, which reflects the inflation that has occurred over the course of the past 35 years.

Increasing the limit to \$25,000 will save time and costs for the recipients of these bequests.

This bill is an initiative of the Estates and Trusts Section of the Maryland State Bar Association, and I am pleased that Roland Schrebler from the Estates and Trusts Section is with me today to further explain the need for this bill and to assist in answering your questions about the bill.

I appreciate the Committee's consideration of Senate Bill 75 and will be happy to answer any questions the Committee may have.



SB0075/243826/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

17 JAN 24
11:16:47

BY: Senator West

(To be offered in the Judicial Proceedings Committee)

AMENDMENT TO SENATE BILL 75

(First Reading File Bill)

On page 2, in line 6, strike “**\$50,000**” and substitute “**\$25,000**”.