

2 **SHB 1088 - H AMD 277 Adopted 3-19-91**

3 By Representatives Applewick and Padden

4

5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. Sec. 1. DEFINITIONS. Unless the context clearly  
8 requires otherwise, the definitions in this section apply throughout  
9 this chapter.

10 (1) "Adult" means an individual who has attained the age of twenty-  
11 one years.

12 (2) "Benefit plan" means an employer's plan for the benefit of an  
13 employee or partner.

14 (3) "Broker" means a person lawfully engaged in the business of  
15 effecting transactions in securities or commodities for the person's  
16 own account or for the account of others.

17 (4) "Guardian" means a person appointed or qualified by a court to  
18 act as general, limited, or temporary guardian of a minor's property or  
19 a person legally authorized to perform substantially the same  
20 functions. Conservator means guardian for transfers made under another  
21 state's law but enforceable in this state's courts.

22 (5) "Court" means a superior court of the state of Washington.

23 (6) "Custodial property" means (a) any interest in property  
24 transferred to a custodian under this chapter and (b) the income from  
25 and proceeds of that interest in property.

26 (7) "Custodian" means a person so designated under section 9 of  
27 this act or a successor or substitute custodian designated under  
28 section 18 of this act.

1 (8) "Financial institution" means a bank, trust company, savings  
2 institution, or credit union, chartered and supervised under state or  
3 federal law.

4 (9) "Legal representative" means an individual's personal  
5 representative or guardian.

6 (10) "Member of the minor's family" means the minor's parent,  
7 stepparent, spouse, grandparent, brother, sister, uncle, or aunt,  
8 whether of the whole or half blood or by adoption.

9 (11) "Minor" means an individual who has not attained the age of  
10 twenty-one years.

11 (12) "Person" means an individual, corporation, organization, or  
12 other legal entity.

13 (13) "State" includes any state of the United States, the District  
14 of Columbia, the Commonwealth of Puerto Rico, and any territory or  
15 possession subject to the legislative authority of the United States.

16 (14) "Transfer" means a transaction that creates custodial property  
17 under section 9 of this act.

18 (15) "Transferor" means a person who makes a transfer under this  
19 chapter.

20 (16) "Trust company" means a financial institution, corporation, or  
21 other legal entity, authorized to exercise general trust powers."

22 "NEW SECTION. Sec. 2. SCOPE AND JURISDICTION. (1) This chapter  
23 applies to a transfer that refers to this chapter in the designation  
24 under section 9(1) of this act by which the transfer is made if at the  
25 time of the transfer, the transferor, the minor, or the custodian is a  
26 resident of this state or the custodial property is located in this  
27 state. The custodianship so created remains subject to this chapter  
28 despite a subsequent change in residence of a transferor, the minor, or  
29 the custodian, or the removal of custodial property from this state.

1 (2) A person designated as custodian under this chapter is subject  
2 to personal jurisdiction in this state with respect to any matter  
3 relating to the custodianship.

4 (3) A transfer that purports to be made and which is valid under  
5 the uniform transfers to minors act, the uniform gifts to minors act,  
6 or a substantially similar act of another state is governed by the law  
7 of the designated state and may be executed and is enforceable in this  
8 state if at the time of the transfer, the transferor, the minor, or the  
9 custodian is a resident of the designated state or the custodial  
10 property is located in the designated state.

11 (4) A matter under this chapter subject to court determination is  
12 governed by the procedures provided in chapter 11.96 RCW. However, no  
13 guardian ad litem is required for the minor, except under section 19(1)  
14 of this act, in the case of a petition by a unrepresented minor under  
15 the age of fourteen years."

16 NEW SECTION. **Sec. 3.** NOMINATION OF CUSTODIAN. (1) A person  
17 having the right to designate the recipient of property transferable  
18 upon the occurrence of a future event may revocably nominate a  
19 custodian to receive the property for a minor beneficiary upon the  
20 occurrence of the event by naming the custodian followed in substance  
21 by the words: "... as custodian for ..... (name of minor) under  
22 the Washington uniform transfers to minors act." The nomination may  
23 name one or more persons as substitute custodians to whom the property  
24 shall be transferred, in the order named, if the first nominated  
25 custodian dies before the transfer or is unable, declines, or is  
26 ineligible to serve. The nomination may be made in a will, a trust, a  
27 deed, an instrument exercising a power of appointment, or in a writing  
28 designating a beneficiary of contractual rights which is registered

1 with or delivered to the payor, issuer, or other obligor of the  
2 contractual rights.

3 (2) A custodian nominated under this section shall be a person to  
4 whom a transfer of property of that kind may be made under section 9(1)  
5 of this act.

6 (3) The nomination of a custodian under this section does not  
7 create custodial property until the nominating instrument becomes  
8 irrevocable or a transfer to the nominated custodian is completed under  
9 section 9 of this act. Unless the nomination of a custodian has been  
10 revoked, upon the occurrence of the future event the custodianship  
11 becomes effective and the custodian shall enforce a transfer of the  
12 custodial property pursuant to section 9 of this act."

13 "NEW SECTION. Sec. 4. TRANSFER BY GIFT OR EXERCISE OF POWER OF  
14 APPOINTMENT. A person may make a transfer by irrevocable gift to, or  
15 the irrevocable exercise of a power of appointment in favor of, a  
16 custodian for the benefit of a minor pursuant to section 9 of this  
17 act."

18 "NEW SECTION. Sec. 5. TRANSFER AUTHORIZED BY WILL OR TRUST. (1)  
19 A personal representative or trustee may make an irrevocable transfer  
20 pursuant to section 9 of this act to a custodian for the benefit of a  
21 minor as authorized in the governing will or trust. The personal  
22 representative or trustee may designate himself or herself as custodian  
23 provided he or she falls within the class of persons eligible to serve  
24 as custodian under section 9(1) of this act.

25 (2) If the testator or grantor has nominated a custodian under  
26 section 3 of this act to receive the custodial property, the transfer  
27 shall be made to that person.

1 (3) If the testator or grantor has not nominated a custodian under  
2 section 3 of this act, or all persons so nominated as custodian die  
3 before the transfer or are unable, decline, or are ineligible to serve,  
4 the personal representative or the trustee, as the case may be, shall  
5 designate the custodian from among those eligible to serve as custodian  
6 for property of that kind under section 9(1) of this act. The personal  
7 representative or trustee may designate himself or herself as  
8 custodian, provided he or she falls within the class of persons  
9 eligible to serve as custodian under section 9(1) of this act."

10 "NEW SECTION. **Sec. 6.** OTHER TRANSFER BY FIDUCIARY. (1) A  
11 personal representative or trustee may make an irrevocable transfer to  
12 an adult or trust company for the benefit of a minor pursuant to  
13 section 9 of this act, in the absence of a will or under a will or  
14 trust that does not contain an authorization to do so, but only if:

15 (a) The personal representative or trustee, or the court if an  
16 order is requested under (c) of this subsection, considers the transfer  
17 to be in the best interest of the minor;

18 (b) The transfer is not prohibited by or inconsistent with  
19 provisions of the applicable will, trust instrument, or other governing  
20 instrument; and

21 (c) The transfer is authorized by the court if it exceeds thirty  
22 thousand dollars in value.

23 The personal representative, the trustee, or a member of the  
24 minor's family may select the custodian, subject to court approval.  
25 The personal representative or trustee may serve as custodian, provided  
26 he or she falls within the class of persons eligible to serve as  
27 custodian under section 9(1) of this act.

1 (2) A member of the minor's family may request that the court  
2 establish a custodianship if a custodianship has not already been  
3 established, regardless of the value of the transfer."

4 "NEW SECTION. **Sec. 7.** TRANSFER BY OBLIGOR. (1) Subject to  
5 subsections (2) and (3) of this section, a person not subject to  
6 section 5 or 6 of this act who holds property of or owes a liquidated  
7 debt to a minor not having a guardian may make an irrevocable transfer  
8 to a custodian for the benefit of the minor pursuant to section 9 of  
9 this act.

10 (2) If a person having the right to do so under section 3 of this  
11 act has nominated a custodian under that section to receive the  
12 custodial property, the transfer shall be made to that person.

13 (3) If no custodian has been nominated under section 3 of this act,  
14 or all persons so nominated as custodian die before the transfer or are  
15 unable, decline, or are ineligible to serve, a transfer under this  
16 section may be made to an adult member of the minor's family or to a  
17 trust company unless the property exceeds thirty thousand dollars in  
18 value.

19 (4) A member of the minor's family or the person who holds the  
20 property of the minor or who owes a debt to the minor may request that  
21 the court establish a custodianship if not previously established,  
22 regardless of the value of the transfer."

23 "NEW SECTION. **Sec. 8.** RECEIPT FOR CUSTODIAL PROPERTY. A written  
24 confirmation of delivery by a custodian constitutes a sufficient  
25 receipt and discharge of the transferor for custodial property  
26 transferred to the custodian under this chapter."

1           "NEW SECTION.   **Sec. 9.**   MANNER OF CREATING CUSTODIAL PROPERTY AND  
2   EFFECTING TRANSFER--DESIGNATION OF INITIAL CUSTODIAN--CONTROL.   (1)

3   Custodial property is created and a transfer is made if:

4           (a) An uncertificated security or a certificated security in  
5   registered form is either:

6           (i) Registered in the name of the transferor, an adult other than  
7   the transferor, or a trust company, followed in substance by the words:  
8   "... as custodian for ..... (name of minor) under the Washington  
9   uniform transfers to minors act"; or

10          (ii) Delivered if in certificated form, or any document necessary  
11   for the transfer of an uncertificated security is delivered, together  
12   with any necessary endorsement to an adult other than the transferor or  
13   to a trust company as custodian, accompanied by an instrument in  
14   substantially the form set forth in subsection (2) of this section;

15          (b) Money is paid or delivered, or a security held in the name of  
16   a broker, financial institution, or its nominee is transferred, to a  
17   broker or financial institution for credit to an account in the name of  
18   the transferor, an adult other than the transferor, or a trust company,  
19   followed in substance by the words: "... as custodian for .....  
20   (name of minor) under the Washington uniform transfers to minors act";

21          (c) The ownership of a life or endowment insurance policy or  
22   annuity contract is either:

23          (i) Registered with the issuer in the name of the transferor, an  
24   adult other than the transferor, or a trust company, followed in  
25   substance by the words: "... as custodian for ..... (name of  
26   minor) under the Washington uniform transfers to minors act"; or

27          (ii) Assigned in a writing delivered to an adult other than the  
28   transferor or to a trust company whose name in the assignment is  
29   followed in substance by the words: "... as custodian for .....  
30   (name of minor) under the Washington uniform transfers to minors act";

1 (d) An irrevocable exercise of a power of appointment or an  
2 irrevocable present right to future payment under a contract is the  
3 subject of a written notification delivered to the payor, issuer, or  
4 other obligor that the right is transferred to the transferor, an adult  
5 other than the transferor, or a trust company, whose name in the  
6 notification is followed in substance by the words: "... as custodian  
7 for ..... (name of minor) under the Washington uniform transfers  
8 to minors act";

9 (e) An interest in real property is recorded in the name of the  
10 transferor, an adult other than the transferor, or a trust company,  
11 followed in substance by the words: "... as custodian for .....  
12 (name of minor) under the Washington uniform transfers to minors act";

13 (f) A certificate of title issued by a department or agency of a  
14 state or of the United States which evidences title to tangible  
15 personal property is either:

16 (i) Issued in the name of the transferor, an adult other than the  
17 transferor, or a trust company, followed in substance by the words: "  
18 ... as custodian for ..... (name of minor) under the Washington  
19 uniform transfers to minors act"; or

20 (ii) Delivered to an adult other than the transferor or to a trust  
21 company, endorsed to that person followed in substance by the words:  
22 "... as custodian for ..... (name of minor) under the Washington  
23 uniform transfers to minors act"; or

24 (g) An interest in any property not described in (a) through (f) of  
25 this subsection is transferred to an adult other than the transferor or  
26 to a trust company by a written instrument in substantially the form  
27 set forth in subsection (2) of this section.

28 (2) An instrument in the following form satisfies the requirements  
29 of subsection (1) (a)(ii) and (g) of this section:



1 "TRANSFER UNDER THE WASHINGTON  
2 UNIFORM TRANSFERS TO MINORS ACT

3 I, ..... (name of transferor or name and representative  
4 capacity if a fiduciary) hereby transfer to ..... (name of  
5 custodian), as custodian for ..... (name of minor) under the  
6 Washington uniform transfers to minors act, the following: (insert a  
7 description of the custodial property sufficient to identify it).

8 Dated: .....  
9 .....

10 (Signature)

11 ..... (name of custodian) acknowledges receipt of the property  
12 described above as custodian for the minor named above under the  
13 Washington uniform transfers to minors act.

14 Dated: .....  
15 ....."

16 (Signature of Custodian)

17 (3) A transferor shall place the custodian in control of the  
18 custodial property as soon as practicable."

19 "NEW SECTION. Sec. 10. SINGLE CUSTODIANSHIP. A transfer may be  
20 made only for one minor, and only one person may be the custodian. All  
21 custodial property held under this chapter by the same custodian for  
22 the benefit of the same minor constitutes a single custodianship."

23 "NEW SECTION. Sec. 11. VALIDITY AND EFFECT OF TRANSFER. (1) The  
24 validity of a transfer made in a manner prescribed in this chapter is  
25 not affected by:

26 (a) Failure of the transferor to comply with section 9(3) of this  
27 act concerning possession and control;

1 (b) Designation of an ineligible custodian, except designation of  
2 the transferor in the case of property for which the transferor is  
3 ineligible to serve as custodian under section 9(1) of this act; or

4 (c) Death or incapacity of a person nominated under section 3 of  
5 this act or designated under section 9 of this act as custodian or the  
6 disclaimer of the office by that person.

7 (2) A transfer made pursuant to section 9 of this act is  
8 irrevocable, and the custodial property is indefeasibly vested in the  
9 minor, but the custodian has all the rights, powers, duties, and  
10 authority provided in this chapter, and neither the minor nor the  
11 minor's legal representative has any right, power, duty, or authority  
12 with respect to the custodial property except as provided in this  
13 chapter.

14 (3) By making a transfer, the transferor incorporates in the  
15 disposition all the provisions of this chapter and grants to the  
16 custodian, and to any third person dealing with a person designated as  
17 custodian, the respective powers, rights, and immunities provided in  
18 this chapter."

19 "NEW SECTION. **Sec. 12.** CARE OF CUSTODIAL PROPERTY. (1) A  
20 custodian shall, as soon as custodial property is made available to the  
21 custodian:

22 (a) Take control of custodial property;

23 (b) Register or record title to custodial property if appropriate;  
24 and

25 (c) Collect, hold, manage, invest, and reinvest custodial property.

26 (2) In dealing with custodial property, a custodian shall observe  
27 the standard of care applicable to fiduciaries under chapter 11.100  
28 RCW. If a custodian has a special skill or expertise or is named  
29 custodian on the basis of representations of a special skill or

1 expertise, the custodian shall use that skill or expertise. A  
2 custodian, in the custodian's discretion and without liability to the  
3 minor or the minor's estate, may retain any custodial property received  
4 from a transferor according to the same standards as apply to a  
5 fiduciary holding trust funds under RCW 11.100.060. However, the  
6 provisions of RCW 11.100.025, 11.100.040, and 11.100.140 shall not  
7 apply to a custodian.

8 (3) A custodian may invest in or pay premiums on life insurance or  
9 endowment policies on (a) the life of the minor only if the minor or  
10 the minor's estate is the sole beneficiary, or (b) the life of another  
11 person in whom the minor has an insurable interest only to the extent  
12 that the minor, the minor's estate, or the custodian in the capacity of  
13 custodian, is the irrevocable beneficiary.

14 (4) A custodian at all times shall keep custodial property separate  
15 and distinct from all other property in a manner sufficient to identify  
16 it clearly as custodial property of the minor. Custodial property  
17 consisting of an undivided interest is so identified if the minor's  
18 interest is held as a tenant in common and is fixed. Custodial  
19 property subject to recordation is so identified if it is recorded, and  
20 custodial property subject to registration is so identified if it is  
21 either registered, or held in an account designated, in the name of the  
22 custodian, followed in substance by the words: "... as custodian for  
23 ..... (name of minor) under the Washington uniform transfers to  
24 minors act."

25 (5) A custodian shall keep records of all transactions with respect  
26 to custodial property, including information necessary for the  
27 preparation of the minor's tax returns, and shall make them available  
28 upon request for inspection by a parent or legal representative of the  
29 minor or by the minor if the minor has attained the age of fourteen  
30 years."

1        "NEW SECTION.    **Sec. 13.**    POWERS OF CUSTODIAN.    (1) A custodian,  
2 acting in a custodial capacity, has all the rights, powers, and  
3 authority over custodial property that unmarried adult owners have over  
4 their own property, including without limitation all the powers granted  
5 to a trustee under RCW 11.98.070, but a custodian may exercise those  
6 rights, powers, and authority only in a custodial capacity.

7        (2) This section does not relieve a custodian from liability for  
8 breach of section 12 of this act."

9        "NEW SECTION.    **Sec. 14.**    USE OF CUSTODIAL PROPERTY.    (1) A  
10 custodian may deliver or pay to the minor or expend for the minor's  
11 benefit so much of the custodial property as the custodian considers  
12 advisable for the use and benefit of the minor, without court order and  
13 without regard to (a) the duty or ability of the custodian personally  
14 or of any other person to support the minor, or (b) any other income or  
15 property of the minor which may be applicable or available for that  
16 purpose.

17        (2) On petition of an interested person or the minor if the minor  
18 has attained the age of fourteen years, the court may order the  
19 custodian to deliver or pay to the minor or expend for the minor's  
20 benefit so much of the custodial property as the court considers  
21 advisable for the use and benefit of the minor.

22        (3) A delivery, payment, or expenditure under this section is in  
23 addition to, not in substitution for, and does not affect any  
24 obligation of a person to support the minor."

25        "NEW SECTION.    **Sec. 15.**    CUSTODIAN'S EXPENSES, COMPENSATION, AND  
26 BOND.    (1) A custodian is entitled to reimbursement from custodial  
27 property for reasonable expenses incurred in the performance of the  
28 custodian's duties.

1 (2) Except for one who is a transferor under section 4 of this act,  
2 a custodian has a noncumulative election during each calendar year to  
3 charge reasonable compensation for services performed during that year.

4 (3) Except as provided in section 18(6) of this act, a custodian  
5 need not give a bond.

6 (4) Notwithstanding section 19 of this act, a custodian not  
7 compensated for services is not liable for losses to the custodial  
8 property unless they result from bad faith, intentional wrongdoing, or  
9 gross negligence, or from failure to maintain the standard of prudence  
10 in investing the custodial property provided in this chapter."

11 "NEW SECTION. **Sec. 16.** EXEMPTION OF THIRD PERSON FROM LIABILITY.

12 A third person in good faith and without court order may act on the  
13 instructions of or otherwise deal with any person purporting to make a  
14 transfer or purporting to act in the capacity of a custodian or  
15 successor custodian and, in the absence of knowledge, is not  
16 responsible for determining:

17 (1) The validity of the purported custodian's designation;

18 (2) The propriety of, or the authority under this chapter for, any  
19 act of the purported custodian;

20 (3) The validity or propriety under this chapter of any instrument  
21 or instructions executed or given either by the person purporting to  
22 make a transfer or by the purported custodian; or

23 (4) The propriety of the application of any property of the minor  
24 delivered to the purported custodian."

25 "NEW SECTION. **Sec. 17.** LIABILITY TO THIRD PERSONS. (1) A claim  
26 based on:

27 (a) A contract entered into by a custodian acting in a custodial  
28 capacity;

1 (b) An obligation arising from the ownership or control of  
2 custodial property;

3 (c) A tort committed during the custodianship, may be asserted  
4 against the custodial property by proceeding against the custodian in  
5 the custodial capacity, whether or not the custodian or the minor is  
6 personally liable therefor; or

7 (d) A noncontractual obligation, including obligations in tort, is  
8 collectible from the custodial property only if:

9 (i) The obligation was a common incident of the kind of business  
10 activity in which the custodian or the custodian's predecessor was  
11 properly engaged for the custodianship;

12 (ii) Neither the custodian nor the custodian's predecessor, nor any  
13 officer or employee of the custodian or the custodian's predecessor was  
14 personally at fault in incurring the obligation; or

15 (iii) Although the obligation did not fall within (d)(i) or (ii) of  
16 this subsection, the incident that gave rise to the obligation  
17 increased the value of the custodial property.

18 If the obligation is within (d)(i) or (ii) or this subsection,  
19 collection may be had of the full amount of damage proved. If the  
20 obligation is within (d)(iii) of this subsection, collection may be had  
21 only to the extent of the increase in the value of the trust property.

22 (2) A custodian is not personally liable:

23 (a) On a contract properly entered into in the custodial capacity  
24 unless the custodian fails to reveal that capacity. The addition of  
25 the words "custodian" or "as custodian" after the signature of a  
26 custodian is adequate revelation of this capacity; or

27 (b) For an obligation arising from control of custodial property or  
28 for a tort committed during the custodianship unless the custodial  
29 property is not liable for the obligation under (b) of this subsection  
30 and unless the custodian is personally at fault.

1 (3) A minor is not personally liable for an obligation arising from  
2 ownership of custodial property or for a tort committed during the  
3 custodianship unless the minor is personally at fault."

4 "NEW SECTION. **Sec. 18.** RENUNCIATION, RESIGNATION, DEATH, OR  
5 REMOVAL OF CUSTODIAN--DESIGNATION OF SUCCESSOR CUSTODIAN. (1) A person  
6 nominated under section 3 of this act or designated under section 9 of  
7 this act as custodian may decline to serve. If the event giving rise  
8 to a transfer has not occurred and no substitute custodian able,  
9 willing, and eligible to serve was nominated under section 3 of this  
10 act, the person who made the nomination may nominate a substitute  
11 custodian under section 3 of this act; otherwise the transferor or the  
12 transferor's legal representative shall designate a substitute  
13 custodian at the time of the transfer, in either case from among the  
14 persons eligible to serve as custodian for that kind of property under  
15 section 9(1) of this act. The custodian so designated has the rights  
16 of a successor custodian.

17 (2) A custodian at any time may designate a trust company or an  
18 adult other than a transferor under section 4 of this act as successor  
19 custodian by executing and dating an instrument of designation. If the  
20 instrument of designation does not contain or is not accompanied by the  
21 resignation of the custodian, the designation of the successor does not  
22 take effect until the custodian resigns, dies, becomes incapacitated,  
23 or is removed, and custodial property is transferred to the successor  
24 custodian.

25 (3) A custodian may resign at any time by delivering written notice  
26 to the minor, if the minor has attained the age of fourteen years, and  
27 to the successor custodian, and by delivering the custodial property to  
28 the successor custodian.

1 (4) If a custodian is ineligible, dies, or becomes incapacitated  
2 and no successor custodian has been designated as provided in this  
3 chapter, and the minor has attained the age of fourteen years, the  
4 minor may designate as successor custodian, in the manner prescribed in  
5 subsection (2) of this section, an adult member of the minor's family,  
6 a guardian of the minor, or a trust company. If the minor has not  
7 attained the age of fourteen years or fails to act within sixty days  
8 after the ineligibility, death, or incapacity, the guardian of the  
9 minor becomes successor custodian. If the minor has no guardian or the  
10 guardian declines to act, the transferor, the legal representative of  
11 the transferor or of the custodian, an adult member of the minor's  
12 family, or any other interested person may petition the court to  
13 designate a successor custodian.

14 (5) A custodian who declines to serve under subsection (1) of this  
15 section or resigns under subsection (3) of this section, or the legal  
16 representative of a deceased or incapacitated custodian, as soon as  
17 practicable, shall put the custodial property and records in the  
18 possession and control of the successor custodian. The successor  
19 custodian by action may enforce the obligation to deliver custodial  
20 property and records and becomes responsible for each item as received.

21 (6) A transferor, the legal representative of a transferor, an  
22 adult member of the minor's family, a guardian of the minor, or the  
23 minor if the minor has attained the age of fourteen years may petition  
24 the court to remove the custodian for cause and to designate a  
25 successor custodian other than a transferor under section 4 of this act  
26 or to require the custodian to give appropriate bond."

27 NEW SECTION. **Sec. 19.** ACCOUNTING BY AND DETERMINATION OF  
28 LIABILITY OF CUSTODIAN. (1) A minor who has attained the age of  
29 fourteen years, the minor's legal representative, an adult member of



1 the minor's family, a transferor, or a transferor's legal  
2 representative may petition the court (a) for an accounting by the  
3 custodian or the custodian's legal representative; or (b) for a  
4 determination of responsibility, as between the custodial property and  
5 the custodian personally, for claims against the custodial property  
6 unless the responsibility has been adjudicated in an action under  
7 section 17 of this act to which the minor or the minor's legal  
8 representative was a party.

9 (2) A successor custodian may petition the court for an accounting  
10 by the predecessor custodian.

11 (3) The court, in a proceeding under this chapter or in any other  
12 proceeding, may require or permit the custodian or the custodian's  
13 legal representative to account.

14 (4) If a custodian is removed under section 18(6) of this act, the  
15 court shall require an accounting and order delivery of the custodial  
16 property and records to the successor custodian and the execution of  
17 all instruments required for transfer of the custodial property."

18 "NEW SECTION. **Sec. 20.** TERMINATION OF CUSTODIANSHIP. Subject to  
19 section 22 of act, the custodian shall transfer in an appropriate  
20 manner the custodial property to the minor or to the minor's estate  
21 upon the earlier of:

22 (1) The minor's attainment of twenty-one years of age with respect  
23 to custodial property transferred under section 4 or 5 of this act;

24 (2) The minor's attainment of eighteen years of age with respect to  
25 custodial property transferred under section 6 or 7 of this act; or

26 (3) The minor's death."

1        "NEW SECTION.   **Sec. 21.**   APPLICABILITY.   This chapter applies to a  
2 transfer within the scope of section 2 of this act made after the  
3 effective date of section 2 of this act, if:

4        (1) The transfer purports to have been made under the Washington  
5 uniform gifts to minors act; or

6        (2) The instrument by which the transfer purports to have been made  
7 uses in substance the designation "as custodian under the uniform gifts  
8 to minors act" or "as custodian under the uniform transfers to minors  
9 act" of any other state, and the application of this chapter is  
10 necessary to validate the transfer."

11        "NEW SECTION.   **Sec. 22.**   EFFECT ON EXISTING CUSTODIANSHIPS.   (1)  
12 Any transfer of custodial property as now defined in this chapter made  
13 before the effective date of this section, is validated notwithstanding  
14 that there was no specific authority in the Washington uniform gifts to  
15 minors act for the coverage of custodial property of that kind or for  
16 a transfer from that source at the time the transfer was made.

17        (2) This chapter applies to all transfers made before the effective  
18 date of this section, in a manner and form prescribed in the Washington  
19 uniform gifts to minors act, except insofar as the application impairs  
20 constitutionally vested rights or extends the duration of  
21 custodianships in existence on the effective date of this section.  
22 However, as to any custodianship established after August 9, 1971, but  
23 prior to January 1, 1985, a minor has the right after attaining the age  
24 of eighteen to demand delivery from the custodian of all or any portion  
25 of the custodial property."

26        "NEW SECTION.   **Sec. 23.**   UNIFORMITY OF APPLICATION AND  
27 CONSTRUCTION.   This chapter shall be applied and construed to

1 effectuate its general purpose to make uniform the law with respect to  
2 the subject of this chapter among states enacting it."

3 "NEW SECTION. **Sec. 24.** SHORT TITLE. This chapter may be cited as  
4 the uniform transfers to minors act."

5 "NEW SECTION. **Sec. 25.** CAPTIONS NOT LAW. Section headings as  
6 used in this chapter do not constitute any part of the law."

7 "NEW SECTION. **Sec. 26.** SAVINGS. To the extent that this chapter,  
8 by virtue of section 22(2) of this act, does not apply to transfers  
9 made in a manner prescribed in the uniform gifts to minors act of  
10 Washington or to the powers, duties, and immunities conferred by  
11 transfers in that manner upon custodians and persons dealing with  
12 custodians, the repeal of the uniform gifts to minors act of Washington  
13 does not affect those transfers or those powers, duties, and  
14 immunities."

15 "NEW SECTION. **Sec. 27.** The following acts or parts of acts are  
16 each repealed:

- 17 (1) RCW 11.93.010 and 1985 c 30 s 12;
- 18 (2) RCW 11.93.020 and 1985 c 30 s 13;
- 19 (3) RCW 11.93.030 and 1985 c 30 s 14;
- 20 (4) RCW 11.93.040 and 1985 c 30 s 15;
- 21 (5) RCW 11.93.050 and 1985 c 30 s 16;
- 22 (6) RCW 11.93.060 and 1985 c 30 s 17;
- 23 (7) RCW 11.93.070 and 1985 c 30 s 18;
- 24 (8) RCW 11.93.080 and 1985 c 30 s 19;
- 25 (9) RCW 11.93.900 and 1985 c 30 s 20;
- 26 (10) RCW 11.93.910 and 1985 c 30 s 21;

- 1 (11) RCW 11.93.911 and 1985 c 30 s 22;  
2 (12) RCW 11.93.912 and 1985 c 30 s 23; and  
3 (13) RCW 11.93.920 and 1985 c 30 s 24."

4 "Sec. 28. RCW 11.76.095 and 1988 c 29 s 5 are each amended to read  
5 as follows:

6 When a decree of distribution is made by the court in  
7 administration upon a decedent's estate or when distribution is made by  
8 a personal representative under a nonintervention will and distribution  
9 is ordered under such decree or authorized under such nonintervention  
10 will to a person under the age of eighteen years, it shall be required  
11 that:

12 (1) The money be deposited in a bank or trust company or be  
13 invested in an account in an insured financial institution for the  
14 benefit of the minor subject to withdrawal only upon the order of the  
15 court in the original probate proceeding, or upon said minor's  
16 attaining the age of eighteen years and furnishing proof thereof  
17 satisfactory to the depositary;

18 (2) A general guardian shall be appointed and qualify and the money  
19 or property be paid or delivered to such guardian prior to the  
20 discharge of the personal representative in the original probate  
21 proceeding; ~~((or))~~

22 (3) The provisions of ~~((either))~~ RCW 11.76.090 ~~((or 11.93.020(4)))~~  
23 are complied with; or

24 (4) A custodian be selected and the money or property be  
25 transferred to the custodian subject to chapter 11.93 RCW."

26 "Sec. 29. RCW 11.98.170 and 1985 c 30 s 59 are each amended to  
27 read as follows:

1 (1) Any life insurance policy or retirement plan payment provision  
2 may designate as beneficiary:

3 (a) A trustee named or to be named by will, and immediately after  
4 the proving of the will, the proceeds of such insurance or of such plan  
5 designated as payable to that trustee, in part or in whole, shall be  
6 paid to the trustee in accordance with the beneficiary designation, to  
7 be held and disposed of under the terms of the will governing the  
8 testamentary trust; or

9 (b) A trustee named or to be named under a trust agreement executed  
10 by the insured, the plan participant, or any other person, and the  
11 proceeds of such insurance or retirement plan designated as payable to  
12 such trustee, in part or in whole, shall be paid to the trustee in  
13 accordance with the beneficiary designation, to be held and disposed of  
14 by the trustee as provided in such trust agreement; a trust is valid  
15 even if the only corpus consists of the right of the trustee to receive  
16 as beneficiary insurance or retirement plan proceeds; any such trustee  
17 may also receive assets, other than insurance or retirement plan  
18 proceeds, by testamentary disposition or otherwise and, unless directed  
19 otherwise by the transferor of the assets, shall administer all  
20 property of the trust according to the terms of the trust agreement.

21 (2) If no qualified trustee makes claim to the insurance policy or  
22 retirement plan proceeds from the insurance company or the plan  
23 administrator within twelve months after the death of the insured or  
24 plan participant, determination of the proper recipient of the proceeds  
25 shall be made pursuant to the judicial or nonjudicial dispute  
26 resolution procedures of chapter 11.96 RCW, unless prior to the  
27 institution of the judicial procedures, a qualified trustee makes claim  
28 to the proceeds, except that (a) if satisfactory evidence is furnished  
29 the insurance company or plan administrator within the twelve-month  
30 period showing that no trustee can or will qualify to receive such

1 proceeds, payment shall be made to those otherwise entitled to the  
2 proceeds under the terms of the policy or retirement plan, including  
3 the terms of the beneficiary designation except that (b) if there is  
4 any dispute as to the proper recipient of insurance policy or  
5 retirement plan proceeds, the dispute shall be resolved pursuant to the  
6 judicial or nonjudicial resolution procedures in chapter 11.96 RCW.

7 (3) The proceeds of the insurance or retirement plan as collected  
8 by the trustee are not subject to debts of the insured or the plan  
9 participant to any greater extent than if the proceeds were payable to  
10 any named beneficiary other than the personal representative or the  
11 estate of the insured or of the plan participant.

12 (4) For purposes of this section the following definitions apply:

13 (a) "Plan administrator" means the person upon whom claim must be  
14 made in order for retirement plan proceeds to be paid upon the death of  
15 the plan participant.

16 (b) "Retirement plan" means any plan, account, deposit, annuity, or  
17 benefit, other than a life insurance policy, that provides for payment  
18 to a beneficiary designated by the plan participant for whom the plan  
19 is established. The term includes, without limitation, such plans  
20 regardless of source of funding, and, for example, includes pensions,  
21 annuities, stock bonus plans, employee stock ownership plans, profit  
22 sharing plans, self-employed retirement plans, individual retirement  
23 accounts, individual retirement annuities, and retirement bonds, as  
24 well as any other retirement plan or program.

25 (c) "Trustee" includes any custodian under chapter (~~11.93~~) 11.--  
26 RCW (sections 1 through 26 of this 1991 act) or any similar statutory  
27 provisions of any other state and the terms "trust agreement" and  
28 "will" refer to the provisions of chapter (~~11.93~~) 11.-- RCW (sections  
29 1 through 26 of this 1991 act) or such similar statutory provisions of  
30 any other state.

1 (5) Enactment of this section does not invalidate life insurance  
2 policy or retirement plan beneficiary designations executed prior to  
3 January 1, 1985, naming a trustee established by will or by trust  
4 agreement."

5 "Sec. 30. RCW 67.70.220 and 1985 c 7 s 128 are each amended to  
6 read as follows:

7 If the person entitled to a prize is under the age of eighteen  
8 years, and such prize is less than five thousand dollars, the director  
9 may direct payment of the prize by delivery to an adult member of the  
10 minor's family or a guardian of the minor of a check or draft payable  
11 to the order of such minor. If the person entitled to a prize is under  
12 the age of eighteen years, and such prize is five thousand dollars or  
13 more, the director may direct payment to such minor by depositing the  
14 amount of the prize in any bank to the credit of an adult member of the  
15 minor's family or a guardian of the minor as custodian for such minor.  
16 The person so named as custodian shall have the same duties and powers  
17 as a person designated as a custodian in a manner prescribed by the  
18 Washington uniform ~~((gifts))~~ transfers to minors act, chapter ~~((11.93))~~  
19 11.-- RCW (sections 1 through 26 of this 1991 act), and for the  
20 purposes of this section the terms "adult member of a minor's family,"  
21 "guardian of a minor," and "bank" shall have the same meaning as in  
22 chapter ~~((11.93))~~ 11.-- RCW (sections 1 through 26 of this 1991 act).  
23 The commission and the director shall be discharged of all further  
24 liability upon payment of a prize to a minor pursuant to this section."

25 "NEW SECTION. Sec. 31. RCW 11.76.090 and 1988 c 29 s 4, 1974  
26 ex.s. c 117 s 11, 1971 c 28 s 2, & 1965 c 145 s 11.76.090 are each  
27 repealed."

1       **"Sec. 32.** RCW 11.92.140 and 1990 c 122 s 32 are each amended to  
2 read as follows:

3       The court, upon the petition of a guardian of the estate of an  
4 incapacitated person other than the guardian of a minor, and after such  
5 notice as the court directs and other notice to all persons interested  
6 as required by chapter 11.96 RCW, may authorize the guardian to take  
7 any action, or to apply funds not required for the incapacitated  
8 person's own maintenance and support, in any fashion the court approves  
9 as being in keeping with the incapacitated person's wishes so far as  
10 they can be ascertained and as designed to minimize insofar as possible  
11 current or prospective state or federal income and estate taxes, permit  
12 entitlement under otherwise available federal or state medical or other  
13 assistance programs, and to provide for gifts to such charities,  
14 relatives, and friends as would be likely recipients of donations from  
15 the incapacitated person.

16       The action or application of funds may include but shall not be  
17 limited to the making of gifts, to the conveyance or release of the  
18 incapacitated person's contingent and expectant interests in property  
19 including marital property rights and any right of survivorship  
20 incident to joint tenancy or tenancy by the entirety, to the exercise  
21 or release of the incapacitated person's powers as donee of a power of  
22 appointment, the making of contracts, the creation of revocable or  
23 irrevocable trusts of property of the incapacitated person's estate  
24 which may extend beyond the incapacitated person's disability or life,  
25 the establishment of custodianships for the benefit of a minor under  
26 chapter 11.93 RCW, the Washington uniform transfers to minors act, the  
27 exercise of options of the incapacitated person to purchase securities  
28 or other property, the exercise of the incapacitated person's right to  
29 elect options and to change beneficiaries under insurance and annuity  
30 policies and the surrendering of policies for their cash value, the



1 exercise of the incapacitated person's right to any elective share in  
2 the estate of the incapacitated person's deceased spouse, and the  
3 renunciation or disclaimer of any interest acquired by testate or  
4 intestate succession or by inter vivos transfer.

5 The guardian in the petition shall briefly outline the action or  
6 application of funds for which approval is sought, the results expected  
7 to be accomplished thereby and the savings expected to accrue. The  
8 proposed action or application of funds may include gifts of the  
9 incapacitated person's personal or real property. Gifts may be for the  
10 benefit of prospective legatees, devisees, or heirs apparent of the  
11 incapacitated person, or may be made to individuals or charities in  
12 which the incapacitated person is believed to have an interest. Gifts  
13 may or may not, in the discretion of the court, be treated as  
14 advancements to donees who would otherwise inherit property from the  
15 incapacitated person under the incapacitated person's will or under the  
16 laws of descent and distribution. The guardian shall also indicate in  
17 the petition that any planned disposition is consistent with the  
18 intentions of the incapacitated person insofar as the intentions can be  
19 ascertained, and if the incapacitated person's intentions cannot be  
20 ascertained, the incapacitated person will be presumed to favor  
21 reduction in the incidence of the various forms of taxation and the  
22 partial distribution of the incapacitated person's estate as provided  
23 in this section. The guardian shall not, however, be required to  
24 include as a beneficiary any person whom there is reason to believe  
25 would be excluded by the incapacitated person. No guardian may be  
26 required to file a petition as provided in this section, and a failure  
27 or refusal to so petition the court does not constitute a breach of the  
28 guardian's fiduciary duties."

1        "NEW SECTION.   **Sec. 33.**   Sections 1 through 26 of this act shall  
2   constitute a new chapter in Title 11 RCW."

3        "NEW SECTION.   **Sec. 34.**   This act is necessary for the immediate  
4   preservation of the public peace, health, or safety, or support of the  
5   state government and its existing public institutions, and shall take  
6   effect July 1, 1991."

7        "NEW SECTION.   **Sec. 35.**   If any provision of this act or its  
8   application to any person or circumstance is held invalid, the  
9   remainder of the act or the application of the provision to other  
10   persons or circumstances is not affected."

11   **SHB 1088** - H AMD  
12        By Representative

13  
14        On page 1, line 1 of the title, after "minors;" strike the  
15   remainder of the title and insert "amending RCW 11.76.095, 11.98.170,  
16   67.70.220, and 11.92.140; adding a new chapter to Title 11 RCW;  
17   repealing RCW 11.93.010, 11.93.020, 11.93.030, 11.93.040, 11.93.050,  
18   11.93.060, 11.93.070, 11.93.080, 11.93.900, 11.93.910, 11.93.911,  
19   11.93.912, 11.93.920, and 11.76.090; providing an effective date; and  
20   declaring an emergency."