

FINAL BILL REPORT

HB 2380

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Synopsis as Enacted

Brief Description: Changing the threshold age of minors under the uniform transfers to minors act.

Sponsors: By Representatives Serben, Lantz, Rodne, Haler and Schual-Berke.

House Committee on Judiciary

Senate Committee on Judiciary

Background:

A person may wish to transfer property to a minor, but for legal or other reasons the immediate transfer of the property directly to the minor may not be possible or desirable.

In 1959, Washington adopted the Uniform Gifts to Minors Act. In 1991, that act was replaced by the Uniform Transfers to Minors Act (UTMA) which has remained largely unchanged since then.

The UTMA allows a person to transfer property irrevocably to a minor with the property being held by a custodian nominated by the transferor. The custodianship of the property lasts until the earlier of the minor's death or 21st birthday, or for some types of transfers until the minor reaches age 18. A transfer under the UTMA may be made either by a gift or through a power of appointment. During the custodianship, the custodian may spend as much of the property for the benefit of the minor as the custodian considers advisable. The custodian is also entitled to reimbursement for reasonable expenses incurred. At the end of the custodianship, any remaining property goes to the minor or the minor's estate.

Under federal tax law, a person is allowed to make certain individual gifts without incurring federal tax liability. One of the requirements for qualifying for this tax exemption is that the gift must be of a "present interest" in the property given. A transfer of property to custodianship under the UTMA will not be disqualified as a "future interest" so long as the minor for whom the property is being held will receive the property before the age of 21.

During the custodianship of property transferred under the UTMA, the interests of the minor are protected by certain rights with respect to the management of the property. At age 14 the minor may exercise some of these rights independently. These age-affected rights include:

- the right of the minor to demand financial records from the custodian or to petition a court for an accounting;
- the right of the minor to petition a court to have some of the custodial property paid to the minor or spent for the minor's benefit; and
- the right of the minor to be notified of the resignation of a custodian, to petition for the removal of a custodian and to designate a successor custodian.

Summary:

At the election of the transferor, the custodianship of property under the Uniform Transfers to Minors Act (UTMA) may be extended until the "minor" reaches age 25, instead of age 21. Such an extension must be elected by the transferor at the time of the initial nomination of the custodian of the property. Such extensions are available only for transfers of property made on or after July 1, 2007.

The statutory sample instrument for transfers under the UTMA is amended to include a warning statement about the possible federal gift tax consequences of extending a custodianship beyond the minor's 21st birthday. Any custodianship forms made available by financial institutions or investment advisers must contain the same warning.

The age at which a minor may independently exercise certain rights under a UTMA custodianship is raised from 14 years old to 18 years old.

Votes on Final Passage:

House	97	1
Senate	44	0

Effective: July 1, 2007