

SENATE BILL REPORT

HB 2380

As Reported By Senate Committee On:
Judiciary, February 21, 2006

Title: An act relating to the uniform transfers to minors act.

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

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

Brief History: Passed House: 2/07/06, 97-1.

Committee Activity: Judiciary: 2/16/06, 2/21/06 [DP]

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Johnson, Ranking Minority Member; Carrell, Esser, Hargrove, McCaslin and Rasmussen.

Staff: Aldo Melchiori (786-7439)

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. The Uniform Transfers to Minors Act (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. The transfer 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 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 to demand financial records from the custodian or to petition a court for an accounting; the right 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 to be notified of the resignation of a custodian, to petition for the removal of a custodian, and to designate a successor custodian.

Summary of Bill: At the election of the transferor, the custodianship of property under the UTMA may be extended until the "minor" reaches age 25, instead of age 21. The extension must be elected by the transferor at the time of the initial nomination of the custodian of the property. 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 also contain the 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.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on July 1, 2007.

Testimony For: The bill creates more options for people planning their estates. People will be given notice of the possible tax consequences of their decisions. The bill further protects the interests of minors.

Testimony Against: None.

Who Testified: PRO: Representative Serbin, prime sponsor; Luke Thomas, WSBA; Al Falk, WSBA.