

Senate Bill 131

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CHAPTER 46, LAWS OF 1967

AN ACT to amend 319.61 (5) (intro.), (a) and (c), (6) and (7), 319.62 (1) (intro.) and (c), 319.63, 319.64 (5), (6) and (7), 319.66 and 319.67 (1) to (5); to repeal and recreate 319.61 (9m), 319.62 (1) (d) and 319.64 (10); and to create 319.61 (6m) of the statutes, relating to revisions in the uniform gifts to minors act.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 319.61 (5) (intro.), (a) and (c) of the statutes are amended to read:

319.61 (5) (intro.) ~~“The~~ “custodial property” includes:

(a) All securities, *life insurance policies, annuity contracts and money and life insurance* under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in s. 319.62.

(c) The proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment, *surrender* or other disposition of such securities, money, *life insurance policies, annuity contracts* and income.

SECTION 2. 319.61 (6) of the statutes is amended to read:

319.61 (6) A “custodian” is a person so designated in a manner prescribed in ss. 319.62 and 319.67; *the term includes a successor custodian.*

SECTION 3. 319.61 (6m) of the statutes is created to read:

319.61 (6m) A “financial institution” is a bank; a federal savings and loan association, a savings institution chartered and supervised as a savings and loan or similar institution under federal law or the laws of a state or a federal credit union or a credit union chartered and supervised under the laws of a state; an “insured financial institution” is one, deposits (including a savings, share, certificate or deposit account) in which are, in whole or in part, insured by the federal deposit insurance corporation, by the federal savings and loan insurance corporation or by a deposit insurance fund approved by this state.

SECTION 4. 319.61 (7) of the statutes is amended to read:

319.61 (7) A "guardian" of a minor means the guardian of his property ~~or person~~ *appointed or qualified by a court of this state or another state.*

SECTION 5. 319.61 (9m) of the statutes is repealed and recreated to read:

319.61 (9m) A "life insurance policy or annuity contract" means a life insurance policy or annuity contract issued by an insurance company authorized to do business in this state on the life of a minor to whom a gift of the policy or contract is made in the manner prescribed in s. 319.62 or on the life of a member of the minor's family.

SECTION 6. 319.62 (1) (intro.) of the statutes is amended to read:

319.62 (1) (intro.) An adult person may, during his lifetime, make a gift of a security, money or life insurance *policy or annuity contract* to a person who is a minor on the date of the gift:

SECTION 7. 319.62 (1) (c) of the statutes is amended to read:

319.62 (1) (c) If the subject of the gift is money, by paying or delivering it to a broker or a ~~bank~~ *financial institution* for credit to an account in the name of the donor, an adult member of the minor's family, a guardian of the minor or a trust company, followed, in substance, by the words: "as custodian for (name of minor under the Wisconsin Uniform Gifts to Minors Act.)"

SECTION 8. 319.62 (1) (d) of the statutes is repealed and recreated to read:

319.62 (1) (d) If the subject of the gift is a life insurance policy or annuity contract, by causing the ownership of the policy or contract to be registered with the issuing insurance company in the name of the donor, an adult member of the minor's family, a guardian of the minor or a trust company, followed, in substance, by the words: "as custodian for (name of minor) under the Wisconsin Uniform Gifts to Minors Act."

SECTION 9. 319.63 of the statutes is amended to read:

319.63 (1) A gift made in a manner prescribed in s. 319.62 is irrevocable and conveys to the minor indefeasibly vested legal title to the security, money ~~or~~ *life insurance or annuity contract* given, but no guardian of the minor has any right, power, duty or authority with respect to the custodial property except as provided in ss. 319.61 to 319.71.

(2) By making a gift in a manner prescribed in s. 319.62, the donor incorporates in his gift all the provision of ss. 319.61 to 319.71 and grants to the custodian, and to any issuer, transfer agent, ~~bank~~ *financial institution*, *life insurance company*, broker or 3rd person dealing with a person designated as custodian, the respective powers, rights and immunities provided in those sections.

SECTION 10. 319.64 (5), (6) and (7) of the statutes are amended to read:

319.64 (5) The custodian, notwithstanding statutes restricting investments by fiduciaries, shall invest and reinvest the custodial property as would a prudent man of discretion and intelligence who is seeking a reasonable income and the preservation of his capital, except that he may, in his discretion and without liability to the minor or his estate, retain a security given to the minor in a manner prescribed in this act *or hold money so given in an account in the financial institution to which it was paid or delivered by the donor.*

(6) The custodian may sell, exchange, convert, *surrender* or otherwise dispose of custodial property in the manner, at the time or times, for the price or prices and upon the terms he deems advisable. He may vote in

person or by general or limited proxy a security which is custodial property. He may consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution or liquidation of an issuer, a security of which is custodial property, and to the sale, lease, pledge or mortgage of any property by or to such an issuer, and to any other action by such an issuer. He may execute and deliver any and all instruments in writing which he deems advisable to carry out any of his powers as custodian.

(7) The custodian shall register each security which is custodial property and in registered form in the name of the custodian, followed, in substance, by the words: "as custodian for (name of minor) under the Wisconsin Uniform Gifts to Minors Act." If the custodian is a trust company it may hold and deposit money in the same manner as it does other trust funds held by it. All other custodians shall hold all money which is custodial property in an account with a broker or in ~~a bank~~ *an insured financial institution* in the name of the custodian, followed, in substance, by the words: "as custodian for (name of minor) under the Wisconsin Uniform Gifts to Minors Act." The custodian shall keep all other custodial property separate and distinct from his own property in a manner to identify it clearly as custodial property.

SECTION 11. 319.64 (10) of the statutes is repealed and recreated to read:

319.64 (10) If the subject of the gift is a life insurance policy or annuity contract, the custodian:

(a) In his capacity as custodian, has all the incidents of ownership in the policy or contract to the same extent as if he were the owner, except that the designated beneficiary of any policy or contract on the life of the minor shall be the minor's estate and the designated beneficiary of any policy or contract on the life of a person other than the minor shall be the custodian as custodian for the minor for whom he is acting; and

(b) May pay premiums on the policy or contract out of the custodial property.

SECTION 12. 319.66 of the statutes is amended to read:

319.66 No issuer, transfer agent, bank, *life insurance company*, broker or other person or *financial institution* acting on the instructions of or otherwise dealing with any person purporting to act as a donor or in the capacity of a custodian is responsible for determining whether the person designated *as custodian* by the purported donor or *by the custodian* or purporting to act as a custodian has been duly designated or whether any purchase, sale or transfer to or by or any other act of any person purporting to act in the capacity of custodian is in accordance with or authorized by ss. 319.61 to 319.71, or is obliged to inquire into the validity or propriety under those sections of any instrument or instructions executed or given by a person purporting to act as a donor or in the capacity of a custodian, or is bound to see to the application by any person purporting to act in the capacity of a custodian of any money or other property paid or delivered to him. *No issuer, transfer agent, bank, life insurance company, broker or other person or financial institution acting on any instrument of designation of a successor custodian, executed as provided in s. 319.67 (1) by a minor to whom a gift has been made in a manner prescribed in ss. 319.61 to 319.71 and who has attained the age of 14 years, is responsible for determining whether the person designated by the minor as successor custodian has been duly designated, or is obliged to inquire into the validity or propriety under ss. 319.61 to 319.71 of the instrument of designation.*

SECTION 13. 319.67 (1) to (5) of the statutes are amended to read:

319.67 RESIGNATION, DEATH OR REMOVAL OF CUSTODIAN; BOND; DESIGNATION OF SUCCESSOR CUSTODIAN. (1) Only an

adult member of the minor's family, a guardian of the minor or a trust company is eligible to become successor custodian. A custodian may designate his successor by executing and dating an instrument of designation before a subscribing witness other than the successor; the instrument of designation may but need not contain the resignation of the custodian. If the custodian does not so designate his successor before he dies or becomes legally incapacitated, and the minor has attained the age of 14 years, the minor may designate a successor custodian by executing an instrument of designation before a subscribing witness other than the successor. A successor custodian has all the rights, powers, duties and immunities of a custodian designated in a manner prescribed by ss. 319.64 and 319.65 319.61 to 319.71.

(2) A custodian, other than the donor, may resign and designate his successor by:

~~(a) Executing an instrument of resignation designating the successor custodian; and~~ The designation of a successor custodian as provided in sub. (1) takes effect as to each item of the custodial property when the custodian resigns, dies or becomes legally incapacitated and the custodian or his legal representative:

~~(b) Causing each~~ (a) Causes the item, if it is a security which is custodial property and in registered form or a life insurance policy or annuity contract, to be registered, with the issuing insurance company in the case of a life insurance policy or annuity contract, in the name of the successor custodian followed, in substance, by the words: "as custodian for (name of minor) under the Wisconsin Uniform Gifts to Minors Act"; and

~~(c) Delivering~~ (b) Delivers or causes to be delivered to the successor custodian the instrument of resignation, each security registered in the name of the successor custodian and all any other item of the custodial property, together with the instrument of designation of the successor custodian or a true copy thereof and any additional instruments required for the transfer thereof to the successor custodian.

(3) A custodian, whether or not a donor, may petition the court for permission to resign and for the designation of a successor custodian who executes an instrument of designation of his successor containing the custodian's resignation as provided in sub. (1) shall promptly do all things within his power to put each item of the custodial property in the possession and control of the successor custodian named in the instrument. The legal representative of a custodian who dies or becomes legally incapacitated shall promptly do all things within his power to put each item of the custodial property in the possession and control of the successor custodian named in an instrument of designation executed as provided in sub. (1) by the custodian or, if none, by the minor if he has no guardian and has attained the age of 14 years, or in the possession and control of the guardian of the minor if he has a guardian. If the custodian has executed as provided in sub. (1) more than one instrument of designation, his legal representative shall treat the instrument dated on an earlier date as having been revoked by the instrument dated on a later date.

(4) If ~~the~~ a person designated as custodian or as successor custodian by the custodian as provided in sub. (1) is not eligible, renounces or dies or becomes legally incapacitated before the minor attains the age of 21 years and if the minor has a guardian, the guardian of the minor shall be successor custodian. If the minor has no guardian and if no successor custodian who is eligible and has not died or become legally incapacitated has been designated as provided in sub. (1), a donor, his legal representative, the legal representative of the custodian, or an adult member of the minor's family, ~~or the minor, if he has attained the age of 14 years,~~ may petition the court for the designation of a successor custodian.

(5) A donor, the legal representative of a donor, a successor custodian,

an adult member of the minor's family, a guardian of the minor or the minor, if he has attained the age of 14 years, may petition the court that, for cause shown in the petition, the custodian be removed and a successor custodian be designated or, in the alternative, that the custodian be required to give bond for the performance of his duties.

Approved June 19, 1967.