

1977 Senate Bill 509

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CHAPTER 409, Laws of 1977

AN ACT to renumber and amend 880.62 (1) (intro.) and (a) to (d); to amend 880.175, 880.61 (5) (a) and (9m), 880.62 (title), (2) and (3), 880.63, 880.64 (5) and (10) (intro.), 880.65 (3) (a), 880.66 and 880.69 (2); and to create 880.61 (6g), 880.62 (1) (f) and 880.685 of the statutes, relating to trusts involving minors and changes 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. 880.175 of the statutes is amended to read:

880.175 Petition for placement of assets in trust. Upon petition by the guardian, a parent, the spouse, any issue or next of kin of any person, assets of ~~such~~ the person may, in the discretion of the court and upon its order, after such notice as the court may require, be transferred to the trustee or trustees of an existing revocable living trust created by ~~such~~ the person for the benefit of himself ~~or herself~~ and those dependent upon ~~him~~ the person for support, or to the trustee or trustees of a trust created for the exclusive benefit of ~~such~~ the person, if a minor, which distributes to him ~~or her~~ at age 18 ~~or 21~~, or to his ~~or her~~ estate, or as he ~~or she~~ appoints if he ~~or she~~ dies prior to age 18 ~~or 21~~.

SECTION 2. 880.61 (5) (a) and (9m) of the statutes are amended to read:

880.61 (5) (a) All securities, life insurance policies, annuity contracts and money under the supervision of the same custodian for the same minor as a consequence of a gift or gifts or distributions made to the minor in a manner prescribed in s. 880.62.

(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 or distribution of the policy or contract is made in the manner prescribed in s. 880.62 or on the life of a member of the minor's family.

SECTION 3. 880.61 (6g) of the statutes is created to read:

880.61 (6g) "Donor" means the natural person whose funds or property are the source of a gift or distribution to a minor under this chapter.

SECTION 4. 880.62 (title) of the statutes is amended to read:

880.62 (title) Manner of making gift or distribution.

SECTION 5. 880.62 (1) (intro.) and (a) to (d) of the statutes are renumbered 880.62 (1) (a) to (e) and amended to read:

880.62 (1) (a) An adult person may, during his or her lifetime or by a testamentary disposition, 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; or the date of distribution in accordance with pars. (b) to (f). The trustees of an inter vivos or testamentary trust may, if specifically authorized or directed to do so by the terms of the trust instrument, make any distribution of a security, money or life insurance or annuity contract to a person who is a minor on the date of distribution under pars. (b) to (f).

(b) If the subject of the gift or distribution is a security in registered form, by registering it in the name of the donor, if living, 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";

(c) If the subject of the gift or distribution is a security not in registered form, by delivering it to an adult member, other than the donor, of the minor's family, a guardian of the minor or a trust company, accompanied by a statement of gift in the following form, in substance, signed by the donor or, if the gift or distribution is made under the terms of a will or trust, the fiduciary administering the will or trust, and the person designated as custodian:

**"GIFT OR DISTRIBUTION UNDER THE WISCONSIN
UNIFORM GIFTS TO MINORS ACT**

I, (name of donor or fiduciary) hereby deliver to (name of custodian) as custodian for (name of minor) under the Wisconsin Uniform Gift to Minors Act, the following security (ies): (insert an appropriate description of the security or securities delivered sufficient to identify it or them)

.....
(Signature of donor or fiduciary)

(Name of custodian) hereby acknowledges receipt of the above described security (ies) as custodian for the above minor under the Wisconsin Uniform Gifts to Minors Act.
Dated

.....";
(Signature of custodian)

(d) If the subject of the gift or distribution is money, by paying or delivering it to a broker or a financial institution for credit to an account in the name of the donor, if living, 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."

(e) If the subject of the gift or distribution 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, if living, 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 6. 880.62 (1) (f) of the statutes is created to read:

880.62 (1) (f) If a gift is made under this section in satisfaction of a specific testamentary bequest or as a distribution from a trust, the donor may designate the custodian. If the donor fails to designate a custodian or if the designated custodian dies, is unable or unwilling to serve, is not an adult member of the minor's family or is not a guardian of the minor or a trust company, then the personal representative of the donor's estate or the trustee, whichever is applicable, shall designate the custodian from among those eligible to become successor custodian under s. 880.67. The receipt of the custodian named or selected under this paragraph shall constitute a sufficient release and discharge for the gift or distribution.

SECTION 7. 880.62 (2) and (3) of the statutes are amended to read:

880.62 (2) Any gift or distribution made in a manner prescribed in sub. (1) may be made to only one minor and only one person may be the custodian.

(3) A donor, personal representative of a donor's estate or trustee who makes a gift or distribution to a minor in a manner prescribed in sub. (1) shall promptly do all things within his or her power to put the subject of the gift or distribution in the possession and control of the custodian, but neither the ~~donor's~~ failure to comply with this subsection, nor ~~his~~ the designation of an ineligible person as custodian, nor renunciation by the person designated as custodian affects the consummation of the gift or distribution.

SECTION 8. 880.63 of the statutes is amended to read:

880.63 (title) Effect of gift or distribution. (1) A gift or distribution made in a manner prescribed in s. 880.62 is irrevocable and conveys to the minor indefeasibly vested legal title to the security, money, 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. 880.61 to 880.71.

(2) By making a gift or distribution in a manner prescribed in s. 880.62, the donor, personal representative of a donor's estate or trustee incorporates in ~~his~~ the gift or distribution all the provisions of ss. 880.61 to 880.71 and grants to the custodian, and to any issuer, transfer agent, 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 9. 880.64 (5) and (10) (intro.) of the statutes are amended to read:

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

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

SECTION 10. 880.65 (3) (a) of the statutes is amended to read:

880.65 (3) (a) A direction by the donor, personal representative of a donor's estate or trustee when the gift or distribution is made;

SECTION 11. 880.66 of the statutes is amended to read:

880.66 Exemption of third persons from liability. 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 make a gift or distribution in a manner authorized by s. 880.62 or 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. 880.61 to 880.71, 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 make a gift or distribution in a manner authorized by s. 880.62 or 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 or her. 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. 880.67 (1) by a minor to whom a gift or distribution has been made in a manner prescribed in ss. 880.61 to 880.71 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. 880.61 to 880.71 of the instrument of designation.

SECTION 12. 880.685 of the statutes is created to read:

880.685 Trustees. If a gift or distribution has been made by a trustee of a trust in a manner prescribed in s. 880.62 (1), the trustee who has made the gift or distribution, and any successor trustee, shall have the same authority, with respect to the gift or distribution, as a donor would have to petition the court under ss. 880.67 (4) and (5) and 880.68 (1).

SECTION 13. 880.69 (2) of the statutes is amended to read:

880.69 (2) Sections 880.61 to 880.71 shall not be construed as providing an exclusive method for making gifts or distributions to minors.
