

MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 454

H. P. 320

House of Representatives, January 31, 1967

Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Soulas of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SEVEN

AN ACT to Revise the Uniform Gifts to Minors Act.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 33, § 1001, sub-§ 5, amended. Subsection 5 of section 1001 of Title 33 of the Revised Statutes is amended to read as follows:

5. Custodial property. "The custodial property" includes:

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 made to the minor in a manner prescribed in this chapter;

B. The income from the custodial property; and

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.

Sec. 2. R. S., T. 33, § 1001, sub-§ 6, amended. Subsection 6 of section 1001 of Title 33 of the Revised Statutes is amended to read as follows:

6. Custodian. A "custodian" is a person so designated in a manner prescribed in this chapter; **the term includes a successor custodian.**

Sec. 3. R. S., T. 33, § 1001, sub-§ 6-A, additional. Section 1001 of Title 33 of the Revised Statutes is amended by adding a new subsection 6-A, to read as follows:

6-A. Financial institution. 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; a "domestic financial institution" is one chartered and supervised under the laws of this State or chartered and supervised under federal law and having its principal office in this State; and "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.

Sec. 4. R. S., T. 33, § 1001, sub-§ 7, amended. Subsection 7 of section 1001 of Title 33 of the Revised Statutes is amended to read as follows:

7. Guardian. A "guardian" of a minor ~~includes~~ means the general guardian, guardian, tutor or curator of his property or estate ~~or person appointed or qualified by a court of this State or another state.~~

Sec. 5. R. S., T. 33, § 1001, sub-§ 9-A, additional. Section 1001 of Title 33 of the Revised Statutes is amended by adding a new subsection 9-A, to read as follows:

9-A. Life insurance policy or annuity contract. 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 this chapter or on the life of a member of the minor's family.

Sec. 6. R. S., T. 33, § 1001, sub-§ 14, amended. Subsection 14 of section 1001 of Title 33 of the Revised Statutes is amended to read as follows:

14. Trust company. A "trust company" is a bank, corporation or other legal entity authorized to exercise trust powers in this State.

Sec. 7. R. S., T. 33, § 1002, sub-§ 1, amended. Subsection 1 of section 1002 of Title 33 of the Revised Statutes is amended to read as follows:

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

A. If the subject of the gift is a security in registered form, by registering it in the name of the donor, another adult person or a trust company, followed, in substance, by the words: "as custodian for
(name of minor)

under the Maine Uniform Gifts to Minors Act";

B. If the subject of the gift is a security not in registered form, by delivering it to an adult ~~person~~, other than the donor, or a trust company, accompanied by a statement of gift in the following form, in substance, signed by the donor and the person designated as custodian:

"GIFT UNDER THE MAINE UNIFORM GIFTS TO MINORS ACT
I,, hereby deliver to
(name of donor) (name of custodian)
as custodian for under the Maine Uniform
(name of minor)

Gifts to Minors Act, the following security or securities :

(insert an appropriate description of the security or securities delivered sufficient to identify it or them)

.....
(signature of donor)

..... hereby acknowledges receipt of the above
(name of custodian)

described security or securities as custodian for the above minor under the Maine Uniform Gifts to Minors Act.

Dated :

.....”
(signature of custodian)

C. If the subject of the gift is money, by paying or delivering it to a broker or a ~~bank~~ **domestic financial institution** for credit to an account in the name of the donor, another adult ~~person~~ or a trust company, followed, in substance, by the words “as custodian for under
(name of minor)
the Maine Uniform Gifts to Minors Act.”

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, another adult or a trust company, followed, in substance, by the words: “as custodian for
..... under the Maine Uniform Gifts to Minors Act”.
(name of minor)

Sec. 8. R. S., T. 33, § 1003, amended. Section 1003 of Title 33 of the Revised Statutes is amended to read as follows :

§ 1003. Effect of gift

A gift made in a manner prescribed in this chapter is irrevocable and conveys to the minor indefeasibly vested legal title to the security, **life insurance policy, annuity contract** or money given, but no guardian of the minor has any right, power, duty or authority with respect to the custodial property except as provided in this chapter.

By making a gift in a manner prescribed in this chapter, the donor incorporates in his gift all the provisions of this chapter and grants to the custodian, and to any issuer, transfer agent, bank, **financial institution, life insurance company**, broker or third person dealing with a person designated as custodian, the respective powers, rights and immunities provided in this chapter.

Sec. 9. R. S., T. 33, § 1004, amended. The 5th paragraph of section 1004 of Title 33 of the Revised Statutes is amended to read as follows :

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 chapter **or hold money so given in an account in the financial institution to which it was paid or delivered by the donor.**

Sec. 10. R. S., T. 33, § 1004, amended. The first sentence of the 6th paragraph of section 1004 of Title 33 of the Revised Statutes is amended to read as follows:

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.

Sec. 11. R. S., T. 33, § 1004, amended. The 7th paragraph of section 1004 of Title 33 of the Revised Statutes is amended to read as follows:

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 under the Maine (name of minor)

Uniform Gifts to Minors Act." The custodian 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 under the Maine Uniform (name of minor)

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.

Sec. 12. R. S., T. 33, § 1004, amended. Section 1004 of Title 33 of the Revised Statutes is amended by adding at the end the following:

If the subject of the gift is a life insurance policy or annuity contract, the custodian, 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 may pay premiums on the policy or contract out of the custodial property.

Sec. 13. R. S., T. 33, § 1006, amended. Section 1006 of Title 33 of the Revised Statutes is amended to read as follows:

§ 1006. Exemption of 3rd 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 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 this chapter, or is obliged to inquire into the validity or propriety under this chapter 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 section 1007, by a minor to whom a gift has been made in a manner prescribed in this chapter 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 this chapter of the instrument of designation.

Sec. 14. R. S., T. 33, § 1007, amended. The first paragraph of section 1007 of Title 33 of the Revised Statutes is amended by adding after the first sentence, 2 new sentences, as follows:

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.

Sec. 15. R. S., T. 33, § 1007, amended. The 2nd paragraph and subsections 1, 2 and 3 of section 1007 of Title 33 of the Revised Statutes are repealed and the following enacted in place thereof:

The designation of a successor custodian as provided in this section 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:

1. Registration in name of successor. Causes the item, if it is a security 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 under the Maine
(name of minor)

Uniform Gifts to Minors Act"; and

2. Delivery of property to successor. Delivers or causes to be delivered to the successor custodian 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.

Sec. 16. R. S., T. 33, § 1007, amended. The 4th paragraph from the end of section 1007 of Title 33 of the Revised Statutes is repealed and the following enacted in place thereof:

A custodian who executes an instrument of designation of his successor containing the custodian's resignation as provided in this section 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 in-

strument of designation executed as provided in this section 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 this section 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.

Sec. 17. R. S., T. 33, § 1007, amended. The 2nd and 3rd paragraphs from the end of section 1007 of Title 33 of the Revised Statutes are amended to read as follows:

If ~~the~~ a person designated as custodian **or as successor custodian by the custodian as provided in this section** 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 this section,** a donor, his legal representative, the legal representatives 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.

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.