

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

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Legislative Document

No. 1713

H.P. 1172

House of Representatives, April 25, 1991

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative MITCHELL of Vassalboro.

Cosponsored by Senator GAUVREAU of Androscoggin and Representative STEVENS of Bangor.

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STATE OF MAINE

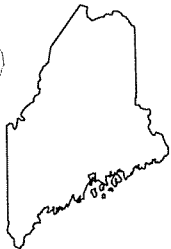
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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

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An Act to Safeguard Money Held for Minors.

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

2           Sec. 1. 18-A MRSA §5-103, as enacted by PL 1979, c. 540, §1,  
4 is amended to read:

6           **§5-103. Facility of payment or delivery**

8           Any person under a duty to pay or deliver money or personal  
10 property to a minor may perform this duty, in amounts not  
12 exceeding \$5,000 per year, by paying or delivering the money or  
14 property to (1) the minor, if he--is married; (2) any person  
16 having the care and custody of the minor with whom the minor  
18 resides; (3) a guardian of the minor; or (4) a financial  
20 institution incident to a deposit in a federally insured savings  
22 account in the sole name of the minor and giving notice of the  
24 deposit to the minor. This section does not apply if the person  
26 making payment or delivery has actual knowledge that a  
28 conservator has been appointed or proceedings for appointment of  
30 a conservator of the estate of the minor are pending. Persons  
32 who pay or deliver money or property in accordance with the  
34 provisions of this section are not responsible for actions taken  
36 by another after payment or delivery. The persons, other than  
38 the minor or any financial institution under (4) above, receiving  
40 money or property for a minor, are obligated to apply the money  
to the support and education of the minor, but may not pay  
themselves except by way of reimbursement for out-of-pocket  
expenses for goods and services necessary for the minor's  
support. Any excess sums shall must be preserved for future  
support of the minor and any balance not so used and any property  
received for the minor must be turned over to the minor when he  
that minor attains majority, unless the time of distribution is  
extended by the court, after notice and hearing on the petition  
of the custodian or other interested person, and after a finding  
by the court that such extension is necessary and in the best  
interests of the minor. ~~Persons who pay or deliver in accordance~~  
~~with provisions of this section are not responsible for the~~  
~~proper application thereof.~~ The time for distribution may not be  
extended beyond age 25. Prior to distribution, the custodian of  
the money or property shall account to the court and the minor.

42           Sec. 2. 18-A MRSA §5-209, first ¶, as enacted by PL 1979, c.  
540, §1, is amended to read:

44           A guardian of a minor has the powers and responsibilities of  
46 a parent who has not been deprived of custody of his a minor and  
48 unemancipated child, except that a guardian is not legally  
50 obligated to provide from his the guardian's own funds for the  
ward and is not liable to 3rd persons by reason of the parental  
52 relationship for acts of the ward. In particular, and without  
qualifying the foregoing, a guardian has the following powers and  
duties:

2           **Sec. 3. 18-A MRSA §5-209, sub-§§(b) and (d), as enacted by PL**  
1979, c. 540, §1, are amended to read:

4           (b) He The guardian may receive money payable for the  
6 support of the ward to the ward's parent, guardian or custodian  
under the terms of any statutory benefit or insurance system, or  
8 any private contract, devise, trust, conservatorship or  
custodianship. He The guardian also may receive money or property  
10 of the ward paid or delivered by virtue of section 5-103. Any  
sums so received shall be applied to the ward's current needs for  
12 support, care and education. He The guardian must exercise due  
care to conserve any excess for the ward's future needs unless a  
14 conservator has been appointed for the estate of the ward, in  
which case excess shall must be paid over at least annually to  
the conservator. Sums so received by the guardian are not to be  
16 used for compensation for his the guardian's services except as  
approved by order of court or as determined by a duly appointed  
18 conservator other than the guardian. If there is no conservator,  
the excess funds must be turned over to the minor when the minor  
20 attains age 18, unless the guardian or other interested person  
petitions the court and the court extends the time for  
22 distribution beyond majority, but in no event beyond age 25,  
after a finding that an extension is necessary and in the minor's  
24 best interest. A guardian may institute proceedings to compel  
the performance by any person of a duty to support the ward or to  
26 pay sums for the welfare of the ward.

28           (d) A guardian must report the condition of his the ward  
and of the ward's estate which has been subject to his that  
30 guardian's possession or control, as ordered by court on petition  
of any person interested in the minor's welfare or as required by  
32 court rule. If the guardian has received any funds pursuant to  
section 5-103, the guardian shall account to the court and the  
34 minor regarding how the funds were expended prior to the  
termination of that person's responsibilities as guardian.

36           **Sec. 4. 18 MRSA §5-408, ¶(6) is enacted to read:**

38           (6) If the protected person is a minor, the court may, upon  
40 petition of the conservator or other interested person filed  
pursuant to section 5-416 before the minor attains the age of 18,  
42 extend the time for distribution of money or other property to  
the ward beyond the age of majority, but in no event beyond age  
44 25. The petitioner must demonstrate that the extension is  
necessary and in the minor's best interest. The court may  
46 require that the money be placed in trust or impose any other  
conditions or restrictions the court determines appropriate under  
48 the circumstances.

50           **Sec. 5. 18 MRSA §5-419, sub-§(a), as enacted by PL 1985, c.**  
440, §§12 and 13, is amended to read:

52

2 (a) Every conservator must account to the court for his the  
3 administration of the trust as specified by the court at the time  
4 of the initial order or at the time of a subsequent order or as  
5 provided by court rule and upon his resignation or removal. On  
6 termination of the protective protected person's minority or  
7 disability, a conservator may account to the court or he may  
8 account to the former protected person or his that person's  
9 personal representative. Prior to the termination of the  
10 protected person's minority and the termination of any extension  
11 ordered pursuant to section 5-408, paragraph (6), the conservator  
12 must account to the court and the protected person.

13 Sec. 6. 18-A MRSA §5-425, sub-§(c), as enacted by PL 1979, c.  
14 540, §1, is amended to read:

15 (c) When a minor who has not been adjudged disabled under  
16 section 5-401, paragraph (2) attains his majority, his that  
17 minor's conservator, after meeting all prior claims and expenses  
18 of administration, shall pay over and distribute all funds and  
19 properties to the former protected person as soon as possible,  
20 unless the court extends the time for distribution pursuant to  
21 section 5-408, paragraph (6).

22 Sec. 7. 33 MRSA §1670, sub-§5 is enacted to read:

23 5. Accounting required at termination. Prior to the  
24 termination of the custodian's responsibilities, the custodian  
25 shall account to the court and the minor.

26 Sec. 8. 33 MRSA §1671, sub-§§2 and 3, as enacted by PL 1987, c.  
27 734, §2, are amended to read:

28 2. Attainment of majority. The minor's attainment of  
29 majority under the laws of this State other than this Act with  
30 respect to custodial property transferred under section 1657 or  
31 1658; or

32 3. Death. The minor's death; or

33 Sec. 9. 33 MRSA §1671, sub-§4 is enacted to read:

34 4. Court order. The date ordered by the court, after  
35 notice and hearing, upon application by the custodian or other  
36 interested person prior to attainment of majority and after a  
37 finding by the court that an extension of the custodianship, not  
38 to go beyond age 25, is necessary and in the best interest of the  
39 minor.

2

## STATEMENT OF FACT

4           This bill amends the Maine Uniform Transfers to Minors Act  
6 to provide that a court may order funds or property to be held  
8 for the minor's benefit past the minor's attainment of majority  
and through age 25 when necessary and in the best interest of the  
minor.