
HOUSE BILL 1088

State of Washington 52nd Legislature 1991 Regular Session

By Representatives Appelwick and Paris.

Read first time January 18, 1991. Referred to Committee on Judiciary.

1 AN ACT Relating to uniform transfers to minors; amending RCW
2 11.76.090, 11.76.095, 11.98.170, and 67.70.220; adding a new chapter to
3 Title 11 RCW; repealing RCW 11.93.010, 11.93.020, 11.93.030, 11.93.040,
4 11.93.050, 11.93.060, 11.93.070, 11.93.080, 11.93.900, 11.93.910,
5 11.93.911, 11.93.912, and 11.93.920; providing an effective date; and
6 declaring an emergency.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** DEFINITIONS. Unless the context clearly
9 requires otherwise, the definitions in this section apply throughout
10 this chapter.

11 (1) "Adult" means an individual who has attained the age of twenty-
12 one years.

13 (2) "Benefit plan" means an employer's plan for the benefit of an
14 employee or partner.

1 (3) "Broker" means a person lawfully engaged in the business of
2 effecting transactions in securities or commodities for the person's
3 own account or for the account of others.

4 (4) "Conservator" means a person appointed or qualified by a court
5 to act as general, limited, or temporary guardian of a minor's property
6 or a person legally authorized to perform substantially the same
7 functions.

8 (5) "Court" means a superior court of the state of Washington.

9 (6) "Custodial property" means (a) any interest in property
10 transferred to a custodian under this chapter and (b) the income from
11 and proceeds of that interest in property.

12 (7) "Custodian" means a person so designated under section 9 of
13 this act or a successor or substitute custodian designated under
14 section 18 of this act.

15 (8) "Financial institution" means a bank, trust company, savings
16 institution, or credit union, chartered and supervised under state or
17 federal law.

18 (9) "Legal representative" means an individual's personal
19 representative or conservator.

20 (10) "Member of the minor's family" means the minor's parent,
21 stepparent, spouse, grandparent, brother, sister, uncle, or aunt,
22 whether of the whole or half blood or by adoption.

23 (11) "Minor" means an individual who has not attained the age of
24 twenty-one years.

25 (12) "Person" means an individual, corporation, organization, or
26 other legal entity.

27 (13) "Personal representative" means an executor, administrator,
28 successor personal representative, or special administrator of a
29 decedent's estate or a person legally authorized to perform
30 substantially the same functions.

1 (14) "State" includes any state of the United States, the District
2 of Columbia, the Commonwealth of Puerto Rico, and any territory or
3 possession subject to the legislative authority of the United States.

4 (15) "Transfer" means a transaction that creates custodial property
5 under section 9 of this act.

6 (16) "Transferor" means a person who makes a transfer under this
7 chapter.

8 (17) "Trust company" means a financial institution, corporation, or
9 other legal entity, authorized to exercise general trust powers.

10 NEW SECTION. **Sec. 2.** SCOPE AND JURISDICTION. (1) This chapter
11 applies to a transfer that refers to this chapter in the designation
12 under section 9(1) of this act by which the transfer is made if at the
13 time of the transfer, the transferor, the minor, or the custodian is a
14 resident of this state or the custodial property is located in this
15 state. The custodianship so created remains subject to this chapter
16 despite a subsequent change in residence of a transferor, the minor, or
17 the custodian, or the removal of custodial property from this state.

18 (2) A person designated as custodian under this chapter is subject
19 to personal jurisdiction in this state with respect to any matter
20 relating to the custodianship.

21 (3) A transfer that purports to be made and which is valid under
22 the uniform transfers to minors act, the uniform gifts to minors act,
23 or a substantially similar act of another state is governed by the law
24 of the designated state and may be executed and is enforceable in this
25 state if at the time of the transfer, the transferor, the minor, or the
26 custodian is a resident of the designated state or the custodial
27 property is located in the designated state.

1 NEW SECTION. **Sec. 3.** NOMINATION OF CUSTODIAN. (1) A person
2 having the right to designate the recipient of property transferable
3 upon the occurrence of a future event may revocably nominate a
4 custodian to receive the property for a minor beneficiary upon the
5 occurrence of the event by naming the custodian followed in substance
6 by the words: "... as custodian for (name of minor) under
7 the Washington uniform transfers to minors act." The nomination may
8 name one or more persons as substitute custodians to whom the property
9 shall be transferred, in the order named, if the first nominated
10 custodian dies before the transfer or is unable, declines, or is
11 ineligible to serve. The nomination may be made in a will, a trust, a
12 deed, an instrument exercising a power of appointment, or in a writing
13 designating a beneficiary of contractual rights which is registered
14 with or delivered to the payor, issuer, or other obligor of the
15 contractual rights.

16 (2) A custodian nominated under this section shall be a person to
17 whom a transfer of property of that kind may be made under section 9(1)
18 of this act.

19 (3) The nomination of a custodian under this section does not
20 create custodial property until the nominating instrument becomes
21 irrevocable or a transfer to the nominated custodian is completed under
22 section 9 of this act. Unless the nomination of a custodian has been
23 revoked, upon the occurrence of the future event the custodianship
24 becomes effective and the custodian shall enforce a transfer of the
25 custodial property pursuant to section 9 of this act.

26 NEW SECTION. **Sec. 4.** TRANSFER BY GIFT OR EXERCISE OF POWER OF
27 APPOINTMENT. A person may make a transfer by irrevocable gift to, or
28 the irrevocable exercise of a power of appointment in favor of, a
29 custodian for the benefit of a minor pursuant to section 9 of this act.

1 NEW SECTION. **Sec. 5.** TRANSFER AUTHORIZED BY WILL OR TRUST. (1)

2 A personal representative or trustee may make an irrevocable transfer
3 pursuant to section 9 of this act to a custodian for the benefit of a
4 minor as authorized in the governing will or trust.

5 (2) If the testator or settlor has nominated a custodian under
6 section 3 of this act to receive the custodial property, the transfer
7 shall be made to that person.

8 (3) If the testator or settlor has not nominated a custodian under
9 section 3 of this act, or all persons so nominated as custodian die
10 before the transfer or are unable, decline, or are ineligible to serve,
11 the personal representative or the trustee, as the case may be, shall
12 designate the custodian from among those eligible to serve as custodian
13 for property of that kind under section 9(1) of this act.

14 NEW SECTION. **Sec. 6.** OTHER TRANSFER BY FIDUCIARY. (1) Subject to

15 subsection (3) of this section, a personal representative or trustee
16 may make an irrevocable transfer to another adult or trust company as
17 custodian for the benefit of a minor pursuant to section 9 of this act,
18 in the absence of a will or under a will or trust that does not contain
19 an authorization to do so.

20 (2) Subject to subsection (3) of this section, a conservator may
21 make an irrevocable transfer to another adult or trust company as
22 custodian for the benefit of the minor pursuant to section 9 of this
23 act.

24 (3) A transfer under subsection (1) or (2) of this section may be
25 made only if (a) the personal representative, trustee, or conservator
26 considers the transfer to be in the best interest of the minor, (b) the
27 transfer is not prohibited by or inconsistent with provisions of the
28 applicable will, trust agreement, or other governing instrument, and

1 (c) the transfer is authorized by the court if it exceeds ten thousand
2 dollars in value.

3 NEW SECTION. **Sec. 7.** TRANSFER BY OBLIGOR. (1) Subject to
4 subsections (2) and (3) of this section, a person not subject to
5 section 5 or 6 of this act who holds property of or owes a liquidated
6 debt to a minor not having a conservator may make an irrevocable
7 transfer to a custodian for the benefit of the minor pursuant to
8 section 9 of this act.

9 (2) If a person having the right to do so under section 3 of this
10 act has nominated a custodian under that section to receive the
11 custodial property, the transfer shall be made to that person.

12 (3) If no custodian has been nominated under section 3 of this act,
13 or all persons so nominated as custodian die before the transfer or are
14 unable, decline, or are ineligible to serve, a transfer under this
15 section may be made to an adult member of the minor's family or to a
16 trust company unless the property exceeds ten thousand dollars in
17 value.

18 NEW SECTION. **Sec. 8.** RECEIPT FOR CUSTODIAL PROPERTY. A written
19 acknowledgment of delivery by a custodian constitutes a sufficient
20 receipt and discharge for custodial property transferred to the
21 custodian under this chapter.

22 NEW SECTION. **Sec. 9.** MANNER OF CREATING CUSTODIAL PROPERTY AND
23 EFFECTING TRANSFER--DESIGNATION OF INITIAL CUSTODIAN--CONTROL. (1)
24 Custodial property is created and a transfer is made if:

25 (a) An uncertificated security or a certificated security in
26 registered form is either:

1 (i) Registered in the name of the transferor, an adult other than
2 the transferor, or a trust company, followed in substance by the words:
3 "... as custodian for (name of minor) under the Washington
4 uniform transfers to minors act"; or

5 (ii) Delivered if in certificated form, or any document necessary
6 for the transfer of an uncertificated security is delivered, together
7 with any necessary endorsement to an adult other than the transferor or
8 to a trust company as custodian, accompanied by an instrument in
9 substantially the form set forth in subsection (2) of this section;

10 (b) Money is paid or delivered, or a security held in the name of
11 a broker, financial institution, or its nominee is transferred, to a
12 broker or financial institution for credit to an account in the name of
13 the transferor, an adult other than the transferor, or a trust company,
14 followed in substance by the words: "... as custodian for
15 (name of minor) under the Washington uniform transfers to minors act";

16 (c) The ownership of a life or endowment insurance policy or
17 annuity contract is either:

18 (i) Registered with the issuer in the name of the transferor, an
19 adult other than the transferor, or a trust company, followed in
20 substance by the words: "... as custodian for (name of
21 minor) under the Washington uniform transfers to minors act"; or

22 (ii) Assigned in a writing delivered to an adult other than the
23 transferor or to a trust company whose name in the assignment is
24 followed in substance by the words: "... as custodian for
25 (name of minor) under the Washington uniform transfers to minors act";

26 (d) An irrevocable exercise of a power of appointment or an
27 irrevocable present right to future payment under a contract is the
28 subject of a written notification delivered to the payor, issuer, or
29 other obligor that the right is transferred to the transferor, an adult
30 other than the transferor, or a trust company, whose name in the

1 notification is followed in substance by the words: "... as custodian
2 for (name of minor) under the Washington uniform transfers
3 to minors act";

4 (e) An interest in real property is recorded in the name of the
5 transferor, an adult other than the transferor, or a trust company,
6 followed in substance by the words: "... as custodian for
7 (name of minor) under the Washington uniform transfers to minors act";

8 (f) A certificate of title issued by a department or agency of a
9 state or of the United States which evidences title to tangible
10 personal property is either:

11 (i) Issued in the name of the transferor, an adult other than the
12 transferor, or a trust company, followed in substance by the words: "
13 ... as custodian for (name of minor) under the Washington
14 uniform transfers to minors act"; or

15 (ii) Delivered to an adult other than the transferor or to a trust
16 company, endorsed to that person followed in substance by the words:
17 "... as custodian for (name of minor) under the Washington
18 uniform transfers to minors act"; or

19 (g) An interest in any property not described in (a) through (f) of
20 this subsection is transferred to an adult other than the transferor or
21 to a trust company by a written instrument in substantially the form
22 set forth in subsection (2) of this section.

23 (2) An instrument in the following form satisfies the requirements
24 of subsection (1) (a)(ii) and (g) of this section:

25 "TRANSFER UNDER THE WASHINGTON
26 UNIFORM TRANSFERS TO MINORS ACT

27 I, (name of transferor or name and representative
28 capacity if a fiduciary) hereby transfer to (name of
29 custodian), as custodian for (name of minor) under the

1 Washington uniform transfers to minors act, the following: (insert a
2 description of the custodial property sufficient to identify it).

3 Dated:

4

5 (Signature)

6 (name of custodian) acknowledges receipt of the property
7 described above as custodian for the minor named above under the
8 Washington uniform transfers to minors act.

9 Dated:

10"

11 (Signature of Custodian)

12 (3) A transferor shall place the custodian in control of the
13 custodial property as soon as practicable.

14 NEW SECTION. **Sec. 10.** SINGLE CUSTODIANSHIP. A transfer may be
15 made only for one minor, and only one person may be the custodian. All
16 custodial property held under this chapter by the same custodian for
17 the benefit of the same minor constitutes a single custodianship.

18 NEW SECTION. **Sec. 11.** VALIDITY AND EFFECT OF TRANSFER. (1) The
19 validity of a transfer made in a manner prescribed in this chapter is
20 not affected by:

21 (a) Failure of the transferor to comply with section 9(3) of this
22 act concerning possession and control;

23 (b) Designation of an ineligible custodian, except designation of
24 the transferor in the case of property for which the transferor is
25 ineligible to serve as custodian under section 9(1) of this act; or

26 (c) Death or incapacity of a person nominated under section 3 of
27 this act or designated under section 9 of this act as custodian or the
28 disclaimer of the office by that person.

1 (2) A transfer made pursuant to section 9 of this act is
2 irrevocable, and the custodial property is indefeasibly vested in the
3 minor, but the custodian has all the rights, powers, duties, and
4 authority provided in this chapter, and neither the minor nor the
5 minor's legal representative has any right, power, duty, or authority
6 with respect to the custodial property except as provided in this
7 chapter.

8 (3) By making a transfer, the transferor incorporates in the
9 disposition all the provisions of this chapter and grants to the
10 custodian, and to any third person dealing with a person designated as
11 custodian, the respective powers, rights, and immunities provided in
12 this chapter.

13 NEW SECTION. **Sec. 12.** CARE OF CUSTODIAL PROPERTY. (1) A
14 custodian shall:

15 (a) Take control of custodial property;

16 (b) Register or record title to custodial property if appropriate;
17 and

18 (c) Collect, hold, manage, invest, and reinvest custodial property.

19 (2) In dealing with custodial property, a custodian shall observe
20 the standard of care that would be observed by a prudent person dealing
21 with property of another and is not limited by any other statute
22 restricting investments by fiduciaries. If a custodian has a special
23 skill or expertise or is named custodian on the basis of
24 representations of a special skill or expertise, the custodian shall
25 use that skill or expertise. However, a custodian, in the custodian's
26 discretion and without liability to the minor or the minor's estate,
27 may retain any custodial property received from a transferor.

28 (3) A custodian may invest in or pay premiums on life insurance or
29 endowment policies on (a) the life of the minor only if the minor or

1 the minor's estate is the sole beneficiary, or (b) the life of another
2 person in whom the minor has an insurable interest only to the extent
3 that the minor, the minor's estate, or the custodian in the capacity of
4 custodian, is the irrevocable beneficiary.

5 (4) A custodian at all times shall keep custodial property separate
6 and distinct from all other property in a manner sufficient to identify
7 it clearly as custodial property of the minor. Custodial property
8 consisting of an undivided interest is so identified if the minor's
9 interest is held as a tenant in common and is fixed. Custodial
10 property subject to recordation is so identified if it is recorded, and
11 custodial property subject to registration is so identified if it is
12 either registered, or held in an account designated, in the name of the
13 custodian, followed in substance by the words: "... as custodian for
14 (name of minor) under the Washington uniform transfers to
15 minors act."

16 (5) A custodian shall keep records of all transactions with respect
17 to custodial property, including information necessary for the
18 preparation of the minor's tax returns, and shall make them available
19 for inspection at reasonable intervals by a parent or legal
20 representative of the minor or by the minor if the minor has attained
21 the age of fourteen years.

22 NEW SECTION. **Sec. 13.** POWERS OF CUSTODIAN. (1) A custodian,
23 acting in a custodial capacity, has all the rights, powers, and
24 authority over custodial property that unmarried adult owners have over
25 their own property, but a custodian may exercise those rights, powers,
26 and authority in that capacity only.

27 (2) This section does not relieve a custodian from liability for
28 breach of section 12 of this act.

1 NEW SECTION. **Sec. 14.** USE OF CUSTODIAL PROPERTY. (1) A custodian
2 may deliver or pay to the minor or expend for the minor's benefit so
3 much of the custodial property as the custodian considers advisable for
4 the use and benefit of the minor, without court order and without
5 regard to (a) the duty or ability of the custodian personally or of any
6 other person to support the minor, or (b) any other income or property
7 of the minor which may be applicable or available for that purpose.

8 (2) On petition of an interested person or the minor if the minor
9 has attained the age of fourteen years, the court may order the
10 custodian to deliver or pay to the minor or expend for the minor's
11 benefit so much of the custodial property as the court considers
12 advisable for the use and benefit of the minor.

13 (3) A delivery, payment, or expenditure under this section is in
14 addition to, not in substitution for, and does not affect any
15 obligation of a person to support the minor.

16 NEW SECTION. **Sec. 15.** CUSTODIAN'S EXPENSES, COMPENSATION, AND
17 BOND. (1) A custodian is entitled to reimbursement from custodial
18 property for reasonable expenses incurred in the performance of the
19 custodian's duties.

20 (2) Except for one who is a transferor under section 4 of this act,
21 a custodian has a noncumulative election during each calendar year to
22 charge reasonable compensation for services performed during that year.

23 (3) Except as provided in section 18(6) of this act, a custodian
24 need not give a bond.

25 NEW SECTION. **Sec. 16.** EXEMPTION OF THIRD PERSON FROM LIABILITY.
26 A third person in good faith and without court order may act on the
27 instructions of or otherwise deal with any person purporting to make a

1 transfer or purporting to act in the capacity of a custodian and, in
2 the absence of knowledge, is not responsible for determining:

3 (1) The validity of the purported custodian's designation;

4 (2) The propriety of, or the authority under this chapter for, any
5 act of the purported custodian;

6 (3) The validity or propriety under this chapter of any instrument
7 or instructions executed or given either by the person purporting to
8 make a transfer or by the purported custodian; or

9 (4) The propriety of the application of any property of the minor
10 delivered to the purported custodian.

11 NEW SECTION. **Sec. 17.** LIABILITY TO THIRD PERSONS. (1) A claim
12 based on (a) a contract entered into by a custodian acting in a
13 custodial capacity, (b) an obligation arising from the ownership or
14 control of custodial property, or (c) a tort committed during the
15 custodianship, may be asserted against the custodial property by
16 proceeding against the custodian in the custodial capacity, whether or
17 not the custodian or the minor is personally liable therefor.

18 (2) A custodian is not personally liable:

19 (a) On a contract properly entered into in the custodial capacity
20 unless the custodian fails to reveal that capacity and to identify the
21 custodianship in the contract; or

22 (b) For an obligation arising from control of custodial property or
23 for a tort committed during the custodianship unless the custodian is
24 personally at fault.

25 (3) A minor is not personally liable for an obligation arising from
26 ownership of custodial property or for a tort committed during the
27 custodianship unless the minor is personally at fault.

1 NEW SECTION. **Sec. 18.** RENUNCIATION, RESIGNATION, DEATH, OR

2 REMOVAL OF CUSTODIAN--DESIGNATION OF SUCCESSOR CUSTODIAN. (1) A person
3 nominated under section 3 of this act or designated under section 9 of
4 this act as custodian may decline to serve. If the event giving rise
5 to a transfer has not occurred and no substitute custodian able,
6 willing, and eligible to serve was nominated under section 3 of this
7 act, the person who made the nomination may nominate a substitute
8 custodian under section 3 of this act; otherwise the transferor or the
9 transferor's legal representative shall designate a substitute
10 custodian at the time of the transfer, in either case from among the
11 persons eligible to serve as custodian for that kind of property under
12 section 9(1) of this act. The custodian so designated has the rights
13 of a successor custodian.

14 (2) A custodian at any time may designate a trust company or an
15 adult other than a transferor under section 4 of this act as successor
16 custodian by executing and dating an instrument of designation before
17 a subscribing witness other than the successor. If the instrument of
18 designation does not contain or is not accompanied by the resignation
19 of the custodian, the designation of the successor does not take effect
20 until the custodian resigns, dies, becomes incapacitated, or is
21 removed.

22 (3) A custodian may resign at any time by delivering written notice
23 to the minor if the minor has attained the age of fourteen years and to
24 the successor custodian and by delivering the custodial property to the
25 successor custodian.

26 (4) If a custodian is ineligible, dies, or becomes incapacitated
27 without having effectively designated a successor and the minor has
28 attained the age of fourteen years, the minor may designate as
29 successor custodian, in the manner prescribed in subsection (2) of this
30 section, an adult member of the minor's family, a conservator of the

1 minor, or a trust company. If the minor has not attained the age of
2 fourteen years or fails to act within sixty days after the
3 ineligibility, death, or incapacity, the conservator of the minor
4 becomes successor custodian. If the minor has no conservator or the
5 conservator declines to act, the transferor, the legal representative
6 of the transferor or of the custodian, an adult member of the minor's
7 family, or any other interested person may petition the court to
8 designate a successor custodian.

9 (5) A custodian who declines to serve under subsection (1) of this
10 section or resigns under subsection (3) of this section, or the legal
11 representative of a deceased or incapacitated custodian, as soon as
12 practicable, shall put the custodial property and records in the
13 possession and control of the successor custodian. The successor
14 custodian by action may enforce the obligation to deliver custodial
15 property and records and becomes responsible for each item as received.

16 (6) A transferor, the legal representative of a transferor, an
17 adult member of the minor's family, a guardian of the person of the
18 minor, the conservator of the minor, or the minor if the minor has
19 attained the age of fourteen years may petition the court to remove the
20 custodian for cause and to designate a successor custodian other than
21 a transferor under section 4 of this act or to require the custodian to
22 give appropriate bond.

23 NEW SECTION. **Sec. 19.** ACCOUNTING BY AND DETERMINATION OF
24 LIABILITY OF CUSTODIAN. (1) A minor who has attained the age of
25 fourteen years, the minor's guardian of the person or legal
26 representative, an adult member of the minor's family, a transferor, or
27 a transferor's legal representative may petition the court (a) for an
28 accounting by the custodian or the custodian's legal representative; or
29 (b) for a determination of responsibility, as between the custodial

1 property and the custodian personally, for claims against the custodial
2 property unless the responsibility has been adjudicated in an action
3 under section 17 of this act to which the minor or the minor's legal
4 representative was a party.

5 (2) A successor custodian may petition the court for an accounting
6 by the predecessor custodian.

7 (3) The court, in a proceeding under this chapter or in any other
8 proceeding, may require or permit the custodian or the custodian's
9 legal representative to account.

10 (4) If a custodian is removed under section 18(6) of this act, the
11 court shall require an accounting and order delivery of the custodial
12 property and records to the successor custodian and the execution of
13 all instruments required for transfer of the custodial property.

14 NEW SECTION. **Sec. 20.** TERMINATION OF CUSTODIANSHIP. The
15 custodian shall transfer in an appropriate manner the custodial
16 property to the minor or to the minor's estate upon the earlier of:

17 (1) The minor's attainment of twenty-one years of age with respect
18 to custodial property transferred under section 4 or 5 of this act;

19 (2) The minor's attainment of eighteen years of age with respect to
20 custodial property transferred under section 6 or 7 of this act; or

21 (3) The minor's death.

22 NEW SECTION. **Sec. 21.** APPLICABILITY. This chapter applies to a
23 transfer within the scope of section 2 of this act made after the
24 effective date of section 2 of this act, if:

25 (1) The transfer purports to have been made under the Washington
26 uniform gifts to minors act; or

27 (2) The instrument by which the transfer purports to have been made
28 uses in substance the designation "as custodian under the uniform gifts

1 to minors act" or "as custodian under the uniform transfers to minors
2 act" of any other state, and the application of this chapter is
3 necessary to validate the transfer.

4 NEW SECTION. **Sec. 22.** EFFECT ON EXISTING CUSTODIANSHIPS. (1) Any
5 transfer of custodial property as now defined in this chapter made
6 before the effective date of this section, is validated notwithstanding
7 that there was no specific authority in the Washington uniform gifts to
8 minors act for the coverage of custodial property of that kind or for
9 a transfer from that source at the time the transfer was made.

10 (2) This chapter applies to all transfers made before the effective
11 date of this section, in a manner and form prescribed in the Washington
12 uniform gifts to minors act, except insofar as the application impairs
13 constitutionally vested rights or extends the duration of
14 custodianships in existence on the effective date of this section.

15 NEW SECTION. **Sec. 23.** UNIFORMITY OF APPLICATION AND CONSTRUCTION.
16 This chapter shall be applied and construed to effectuate its general
17 purpose to make uniform the law with respect to the subject of this
18 chapter among states enacting it.

19 NEW SECTION. **Sec. 24.** SHORT TITLE. This chapter may be cited as
20 the uniform transfers to minors act.

21 NEW SECTION. **Sec. 25.** CAPTIONS NOT LAW. Section headings as used
22 in this chapter do not constitute any part of the law.

23 NEW SECTION. **Sec. 26.** SAVINGS. To the extent that this chapter,
24 by virtue of section 22(2) of this act, does not apply to transfers
25 made in a manner prescribed in the uniform gifts to minors act of

1 Washington or to the powers, duties, and immunities conferred by
2 transfers in that manner upon custodians and persons dealing with
3 custodians, the repeal of the uniform gifts to minors act of Washington
4 does not affect those transfers or those powers, duties, and
5 immunities.

6 NEW SECTION. **Sec. 27.** The following acts or parts of acts are
7 each repealed:

- 8 (1) RCW 11.93.010 and 1985 c 30 s 12;
- 9 (2) RCW 11.93.020 and 1985 c 30 s 13;
- 10 (3) RCW 11.93.030 and 1985 c 30 s 14;
- 11 (4) RCW 11.93.040 and 1985 c 30 s 15;
- 12 (5) RCW 11.93.050 and 1985 c 30 s 16;
- 13 (6) RCW 11.93.060 and 1985 c 30 s 17;
- 14 (7) RCW 11.93.070 and 1985 c 30 s 18;
- 15 (8) RCW 11.93.080 and 1985 c 30 s 19;
- 16 (9) RCW 11.93.900 and 1985 c 30 s 20;
- 17 (10) RCW 11.93.910 and 1985 c 30 s 21;
- 18 (11) RCW 11.93.911 and 1985 c 30 s 22;
- 19 (12) RCW 11.93.912 and 1985 c 30 s 23; and
- 20 (13) RCW 11.93.920 and 1985 c 30 s 24.

21 **Sec. 28.** RCW 11.76.090 and 1988 c 29 s 4 are each amended to read
22 as follows:

23 When a decree of distribution is made by the court in
24 administration upon a decedent's estate and distribution is ordered to
25 a person under the age of eighteen years, of property having a value of
26 five thousand dollars or less, the court, in such order of
27 distribution, may order the same distributed or paid, for the use and
28 as the property of said minor, to the person named in said order of

1 distribution to receive the same, without requiring bond or appointment
2 of any guardian. This section shall not bar distribution under ((RCW
3 ~~11.93.020(4)~~) chapter 11.-- RCW (sections 1 through 26 of this 1991
4 act)).

5 **Sec. 29.** RCW 11.76.095 and 1988 c 29 s 5 are each amended to read
6 as follows:

7 When a decree of distribution is made by the court in
8 administration upon a decedent's estate or when distribution is made by
9 a personal representative under a nonintervention will and distribution
10 is ordered under such decree or authorized under such nonintervention
11 will to a person under the age of eighteen years, it shall be required
12 that:

13 (1) The money be deposited in a bank or trust company or be
14 invested in an account in an insured financial institution for the
15 benefit of the minor subject to withdrawal only upon the order of the
16 court in the original probate proceeding, or upon said minor's
17 attaining the age of eighteen years and furnishing proof thereof
18 satisfactory to the depositary;

19 (2) A general guardian shall be appointed and qualify and the money
20 or property be paid or delivered to such guardian prior to the
21 discharge of the personal representative in the original probate
22 proceeding; or

23 (3) The provisions of ((either)) RCW 11.76.090 ((or ~~11.93.020(4)~~))
24 are complied with.

25 **Sec. 30.** RCW 11.98.170 and 1985 c 30 s 59 are each amended to read
26 as follows:

27 (1) Any life insurance policy or retirement plan payment provision
28 may designate as beneficiary:

1 (a) A trustee named or to be named by will, and immediately after
2 the proving of the will, the proceeds of such insurance or of such plan
3 designated as payable to that trustee, in part or in whole, shall be
4 paid to the trustee in accordance with the beneficiary designation, to
5 be held and disposed of under the terms of the will governing the
6 testamentary trust; or

7 (b) A trustee named or to be named under a trust agreement executed
8 by the insured, the plan participant, or any other person, and the
9 proceeds of such insurance or retirement plan designated as payable to
10 such trustee, in part or in whole, shall be paid to the trustee in
11 accordance with the beneficiary designation, to be held and disposed of
12 by the trustee as provided in such trust agreement; a trust is valid
13 even if the only corpus consists of the right of the trustee to receive
14 as beneficiary insurance or retirement plan proceeds; any such trustee
15 may also receive assets, other than insurance or retirement plan
16 proceeds, by testamentary disposition or otherwise and, unless directed
17 otherwise by the transferor of the assets, shall administer all
18 property of the trust according to the terms of the trust agreement.

19 (2) If no qualified trustee makes claim to the insurance policy or
20 retirement plan proceeds from the insurance company or the plan
21 administrator within twelve months after the death of the insured or
22 plan participant, determination of the proper recipient of the proceeds
23 shall be made pursuant to the judicial or nonjudicial dispute
24 resolution procedures of chapter 11.96 RCW, unless prior to the
25 institution of the judicial procedures, a qualified trustee makes claim
26 to the proceeds, except that (a) if satisfactory evidence is furnished
27 the insurance company or plan administrator within the twelve-month
28 period showing that no trustee can or will qualify to receive such
29 proceeds, payment shall be made to those otherwise entitled to the
30 proceeds under the terms of the policy or retirement plan, including

1 the terms of the beneficiary designation except that (b) if there is
2 any dispute as to the proper recipient of insurance policy or
3 retirement plan proceeds, the dispute shall be resolved pursuant to the
4 judicial or nonjudicial resolution procedures in chapter 11.96 RCW.

5 (3) The proceeds of the insurance or retirement plan as collected
6 by the trustee are not subject to debts of the insured or the plan
7 participant to any greater extent than if the proceeds were payable to
8 any named beneficiary other than the personal representative or the
9 estate of the insured or of the plan participant.

10 (4) For purposes of this section the following definitions apply:

11 (a) "Plan administrator" means the person upon whom claim must be
12 made in order for retirement plan proceeds to be paid upon the death of
13 the plan participant.

14 (b) "Retirement plan" means any plan, account, deposit, annuity, or
15 benefit, other than a life insurance policy, that provides for payment
16 to a beneficiary designated by the plan participant for whom the plan
17 is established. The term includes, without limitation, such plans
18 regardless of source of funding, and, for example, includes pensions,
19 annuities, stock bonus plans, employee stock ownership plans, profit
20 sharing plans, self-employed retirement plans, individual retirement
21 accounts, individual retirement annuities, and retirement bonds, as
22 well as any other retirement plan or program.

23 (c) "Trustee" includes any custodian under chapter (~~(11.93)~~) 11.--
24 RCW (sections 1 through 26 of this 1991 act) or any similar statutory
25 provisions of any other state and the terms "trust agreement" and
26 "will" refer to the provisions of chapter (~~(11.93)~~) 11.-- RCW (sections
27 1 through 26 of this 1991 act) or such similar statutory provisions of
28 any other state.

29 (5) Enactment of this section does not invalidate life insurance
30 policy or retirement plan beneficiary designations executed prior to

1 January 1, 1985, naming a trustee established by will or by trust
2 agreement.

3 **Sec. 31.** RCW 67.70.220 and 1985 c 7 s 128 are each amended to read
4 as follows:

5 If the person entitled to a prize is under the age of eighteen
6 years, and such prize is less than five thousand dollars, the director
7 may direct payment of the prize by delivery to an adult member of the
8 minor's family or a guardian of the minor of a check or draft payable
9 to the order of such minor. If the person entitled to a prize is under
10 the age of eighteen years, and such prize is five thousand dollars or
11 more, the director may direct payment to such minor by depositing the
12 amount of the prize in any bank to the credit of an adult member of the
13 minor's family or a guardian of the minor as custodian for such minor.
14 The person so named as custodian shall have the same duties and powers
15 as a person designated as a custodian in a manner prescribed by the
16 Washington uniform ~~((gifts))~~ transfers to minors act, chapter ~~((11.93))~~
17 11.-- RCW (sections 1 through 26 of this 1991 act), and for the
18 purposes of this section the terms "adult member of a minor's family,"
19 "guardian of a minor," and "bank" shall have the same meaning as in
20 chapter ~~((11.93))~~ 11.-- RCW (sections 1 through 26 of this 1991 act).
21 The commission and the director shall be discharged of all further
22 liability upon payment of a prize to a minor pursuant to this section.

23 NEW SECTION. **Sec. 32.** Sections 1 through 26 of this act shall
24 constitute a new chapter in Title 11 RCW.

25 NEW SECTION. **Sec. 33.** This act is necessary for the immediate
26 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and shall take
2 effect July 1, 1991.

3 NEW SECTION. **Sec. 34.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.