
HOUSE BILL 2380

State of Washington 59th Legislature 2006 Regular Session

By Representatives Serben, Lantz, Rodne, Haler and Schual-Berke

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Committee on Judiciary.

1 AN ACT Relating to the uniform transfers to minors act; amending
2 RCW 11.114.010, 11.114.020, 11.114.090, 11.114.120, 11.114.140,
3 11.114.180, 11.114.190, and 11.114.200; and providing an effective
4 date.

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

6 **Sec. 1.** RCW 11.114.010 and 1991 c 193 s 1 are each amended to read
7 as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "Adult" means an individual other than the minor who has
11 attained the age of twenty-one years and is older than the minor.

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

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

17 (4) "Guardian" means a person appointed or qualified by a court to
18 act as general, limited, or temporary guardian of a minor's property or

1 a person legally authorized to perform substantially the same
2 functions. Conservator means guardian for transfers made under another
3 state's law but enforceable in this state's courts.

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

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

8 (7) "Custodian" means a person so designated under RCW 11.114.090
9 or a successor or substitute custodian designated under RCW 11.114.180.

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

13 (9) "Legal representative" means an individual's personal
14 representative or guardian.

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

18 (11) "Minor" means an individual who has not attained the age of
19 (~~twenty-one~~) twenty-five years.

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

22 (13) "State" includes any state of the United States, the District
23 of Columbia, the Commonwealth of Puerto Rico, and any territory or
24 possession subject to the legislative authority of the United States.

25 (14) "Transfer" means a transaction that creates custodial property
26 under RCW 11.114.090.

27 (15) "Transferor" means a person who makes a transfer under this
28 chapter.

29 (16) "Trust company" means a financial institution, corporation, or
30 other legal entity, authorized to exercise general trust powers.

31 **Sec. 2.** RCW 11.114.020 and 1999 c 42 s 633 are each amended to
32 read as follows:

33 (1) This chapter applies to a transfer that refers to this chapter
34 in the designation under RCW 11.114.090(1) by which the transfer is
35 made if at the time of the transfer, the transferor, the minor, or the
36 custodian is a resident of this state or the custodial property is
37 located in this state. The custodianship so created remains subject to

1 this chapter despite a subsequent change in residence of a transferor,
2 the minor, or the custodian, or the removal of custodial property from
3 this state.

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

7 (3) A transfer that purports to be made and which is valid under
8 the uniform transfers to minors act, the uniform gifts to minors act,
9 or a substantially similar act of another state is governed by the law
10 of the designated state and may be executed and is enforceable in this
11 state if at the time of the transfer, the transferor, the minor, or the
12 custodian is a resident of the designated state or the custodial
13 property is located in the designated state.

14 (4) A matter under this chapter subject to court determination is
15 governed by the procedures provided in RCW 11.96A.080 through
16 11.96A.200. However, no guardian ad litem is required for the minor,
17 except under RCW 11.114.190(1), in the case of a petition by (~~a~~~~-an~~)
18 an unrepresented minor under the age of (~~fourteen~~) eighteen years.

19 **Sec. 3.** RCW 11.114.090 and 1991 c 193 s 9 are each amended to read
20 as follows:

21 (1) Custodial property is created and a transfer is made if:

22 (a) An uncertificated security or a certificated security in
23 registered form is either:

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

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

33 (b) Money is paid or delivered, or a security held in the name of
34 a broker, financial institution, or its nominee is transferred, to a
35 broker or financial institution for credit to an account in the name of
36 the transferor, an adult other than the transferor, or a trust company,

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

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

6 (i) Registered with the issuer in the name of the transferor, an
7 adult other than the transferor, or a trust company, followed in
8 substance by the words: " as custodian for
9 (name of minor) under the Washington uniform transfers to minors act";
10 or

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

16 (d) An irrevocable exercise of a power of appointment or an
17 irrevocable present right to future payment under a contract is the
18 subject of a written notification delivered to the payor, issuer, or
19 other obligor that the right is transferred to the transferor, an adult
20 other than the transferor, or a trust company, whose name in the
21 notification is followed in substance by the words: " as
22 custodian for (name of minor) under the Washington uniform
23 transfers to minors act";

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

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

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

36 (ii) Delivered to an adult other than the transferor or to a trust
37 company, endorsed to that person followed in substance by the words:

1 " as custodian for (name of minor) under the
2 Washington uniform transfers to minors act"; or

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

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

9 "TRANSFER UNDER THE WASHINGTON
10 UNIFORM TRANSFERS TO MINORS ACT

11 I, (name of transferor or name and
12 representative capacity if a fiduciary) hereby transfer to
13 (name of custodian), as custodian for
14 (name of minor) under the Washington uniform transfers to
15 minors act, the following: (insert a description of the
16 custodial property sufficient to identify it).

17 (Electing the following paragraph is optional to the
18 transferor):

19 If (name of custodian) is or becomes unable to
20 act or to continue to act as custodian, the alternate or
21 successor custodian shall be the first of the following
22 persons, in order of preference and succession, who is then
23 able and willing to act as custodian: (insert the name(s) of
24 the alternate or successor custodian(s)).

- 25 1.
- 26 2.
- 27 3.

28 (Electing the following paragraph is optional to the
29 transferor):

30 I elect to extend the custodianship to the minor's
31 twenty-fifth birthday. I UNDERSTAND THAT ELECTING TO
32 EXTEND CUSTODIANSHIP TO AGE TWENTY-FIVE MAY CAUSE
33 ME TO LOSE MY ANNUAL EXCLUSION FROM FEDERAL GIFT
34 TAX AND THAT I SHOULD CONSULT WITH AN ATTORNEY OR
35 TAX ADVISOR BEFORE MAKING THIS ELECTION.

36 Dated:

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.....

(Signature)

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

Dated:

..... "

(Signature of Custodian)

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

Sec. 4. RCW 11.114.120 and 1991 c 193 s 12 are each amended to
read as follows:

(1) A custodian shall, as soon as custodial property is made
available to the custodian:

- (a) Take control of custodial property;
- (b) Register or record title to custodial property if appropriate;

and

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

(2) In dealing with custodial property, a custodian shall observe
the standard of care applicable to fiduciaries under chapter 11.100
RCW. If a custodian has a special skill or expertise or is named
custodian on the basis of representations of a special skill or
expertise, the custodian shall use that skill or expertise. A
custodian, in the custodian's discretion and without liability to the
minor or the minor's estate, may retain any custodial property received
from a transferor according to the same standards as apply to a
fiduciary holding trust funds under RCW 11.100.060. However, the
provisions of RCW 11.100.025, 11.100.040, and 11.100.140 shall not
apply to a custodian.

(3) A custodian may invest in or pay premiums on life insurance or
endowment policies on (a) the life of the minor only if the minor or
the minor's estate is the sole beneficiary, or (b) the life of another
person in whom the minor has an insurable interest only to the extent
that the minor, the minor's estate, or the custodian in the capacity of
custodian, is the irrevocable beneficiary.

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

12 (5) A custodian shall keep records of all transactions with respect
13 to custodial property, including information necessary for the
14 preparation of the minor's tax returns, and shall make them available
15 upon request for inspection by a parent or legal representative of the
16 minor or by the minor if the minor has attained the age of (~~fourteen~~)
17 eighteen years.

18 **Sec. 5.** RCW 11.114.140 and 1991 c 193 s 14 are each amended to
19 read as follows:

20 (1) A custodian may deliver or pay to the minor or expend for the
21 minor's benefit so much of the custodial property as the custodian
22 considers advisable for the use and benefit of the minor, without court
23 order and without regard to (a) the duty or ability of the custodian
24 personally or of any other person to support the minor, or (b) any
25 other income or property of the minor which may be applicable or
26 available for that purpose.

27 (2) On petition of an interested person or the minor if the minor
28 has attained the age of (~~fourteen~~) eighteen years, the court may
29 order the custodian to deliver or pay to the minor or expend for the
30 minor's benefit so much of the custodial property as the court
31 considers advisable for the use and benefit of the minor.

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

35 **Sec. 6.** RCW 11.114.180 and 1991 c 193 s 18 are each amended to
36 read as follows:

1 (1) A person nominated under RCW 11.114.030 or designated under RCW
2 11.114.090 as custodian may decline to serve. If the event giving rise
3 to a transfer has not occurred and no substitute custodian able,
4 willing, and eligible to serve was nominated under RCW 11.114.030, the
5 person who made the nomination may nominate a substitute custodian
6 under RCW 11.114.030; otherwise the transferor or the transferor's
7 legal representative shall designate a substitute custodian at the time
8 of the transfer, in either case from among the persons eligible to
9 serve as custodian for that kind of property under RCW 11.114.090(1).
10 The custodian so designated has the rights of a successor custodian.

11 (2) A custodian at any time may designate a trust company or an
12 adult other than a transferor under RCW 11.114.040 as successor
13 custodian by executing and dating an instrument of designation. If the
14 instrument of designation does not contain or is not accompanied by the
15 resignation of the custodian, the designation of the successor does not
16 take effect until the custodian resigns, dies, becomes incapacitated,
17 or is removed, and custodial property is transferred to the successor
18 custodian.

19 (3) A custodian may resign at any time by delivering written notice
20 to the minor, if the minor has attained the age of (~~fourteen~~)
21 eighteen years, and to the successor custodian, and by delivering the
22 custodial property to the successor custodian.

23 (4) If a custodian is ineligible, dies, or becomes incapacitated
24 and no successor custodian has been designated as provided in this
25 chapter, and the minor has attained the age of (~~fourteen~~) eighteen
26 years, the minor may designate as successor custodian, in the manner
27 prescribed in subsection (2) of this section, an adult member of the
28 minor's family, a guardian of the minor, or a trust company. If the
29 minor has not attained the age of (~~fourteen~~) eighteen years or fails
30 to act within sixty days after the ineligibility, death, or incapacity,
31 the guardian of the minor becomes successor custodian. If the minor
32 has no guardian or the guardian declines to act, the transferor, the
33 legal representative of the transferor or of the custodian, an adult
34 member of the minor's family, or any other interested person may
35 petition the court to designate a successor custodian.

36 (5) A custodian who declines to serve under subsection (1) of this
37 section or resigns under subsection (3) of this section, or the legal
38 representative of a deceased or incapacitated custodian, as soon as

1 practicable, shall put the custodial property and records in the
2 possession and control of the successor custodian. The successor
3 custodian by action may enforce the obligation to deliver custodial
4 property and records and becomes responsible for each item as received.

5 (6) A transferor, the legal representative of a transferor, an
6 adult member of the minor's family, a guardian of the minor, or the
7 minor if the minor has attained the age of (~~fourteen~~) eighteen years
8 may petition the court to remove the custodian for cause and to
9 designate a successor custodian other than a transferor under RCW
10 11.114.040 or to require the custodian to give appropriate bond.

11 **Sec. 7.** RCW 11.114.190 and 1991 c 193 s 19 are each amended to
12 read as follows:

13 (1) A minor who has attained the age of (~~fourteen~~) eighteen
14 years, the minor's legal representative, an adult member of the minor's
15 family, a transferor, or a transferor's legal representative may
16 petition the court (a) for an accounting by the custodian or the
17 custodian's legal representative; or (b) for a determination of
18 responsibility, as between the custodial property and the custodian
19 personally, for claims against the custodial property unless the
20 responsibility has been adjudicated in an action under RCW 11.114.170
21 to which the minor or the minor's legal representative was a party.

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

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

27 (4) If a custodian is removed under RCW 11.114.180(6), the court
28 shall require an accounting and order delivery of the custodial
29 property and records to the successor custodian and the execution of
30 all instruments required for transfer of the custodial property.

31 **Sec. 8.** RCW 11.114.200 and 1991 c 193 s 20 are each amended to
32 read as follows:

33 (1) Subject to RCW 11.114.220, the custodian shall transfer in an
34 appropriate manner the custodial property to the minor or to the
35 minor's estate upon the earlier of:

1 ~~((1))~~ (a) The minor's attainment of twenty-one years of age with
2 respect to custodial property transferred under RCW 11.114.040 or
3 11.114.050;

4 ~~((2))~~ (b) The minor's attainment of eighteen years of age with
5 respect to custodial property transferred under RCW 11.114.060 or
6 11.114.070; or

7 ~~((3))~~ (c) The minor's death.

8 (2) The transferor may, in the initial nomination of custodian,
9 extend the custodianship to the earlier of the minor's attainment of
10 twenty-five years of age or the minor's death unless:

11 (a) The governing will, trust, or instrument creating the power of
12 appointment specifically provides otherwise if the custodian property
13 is transferred under RCW 11.114.040, 11.114.050, or 11.114.060; or

14 (b) The custodial property is transferred under RCW 11.114.070. In
15 that case, the person nominating the custodian under RCW 11.114.030 may
16 elect to extend the custodianship. If no custodian has been nominated
17 under RCW 11.114.030, the court establishing the custodianship under
18 RCW 11.114.070(4) may extend the custodianship if it determines that
19 doing so would not be contrary to the interest of the minor.

20 (3) An extension of the custodianship under subsection (2) of this
21 section will be valid only if the transfer creating the custodianship
22 is made on or after July 1, 2007.

23 (4) Any bank, trust company, insurance company, registered broker-
24 dealer, investment company regulated under the federal Investment
25 Company Act of 1940, investment advisor regulated under the federal
26 Investment Advisors Act of 1940, or other person who makes
27 custodianship forms available for adoption in contemplation of selling
28 assets to or managing assets for a custodianship shall include, in any
29 form made available on or after July 1, 2007, an option to extend the
30 custodianship under subsection (2) of this section and a warning to the
31 transferor that exercising the option to extend may result in the
32 transfer not qualifying for annual exclusion from federal gift tax. An
33 instrument in the form described in RCW 11.114.090(2) will satisfy the
34 requirements of this subsection.

35 NEW SECTION. Sec. 9. This act takes effect July 1, 2007.

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