

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 8.01-424 of the Code of Virginia, relating to approval of compromises*
3 *on behalf of persons under a disability in suits or actions to which they are parties.*

4 [S 1293]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 8.01-424 of the Code of Virginia is amended and reenacted as follows:**8 § 8.01-424. Approval of compromises on behalf of persons under a disability in suits or actions to
9 which they are parties.10 A. In any action or suit wherein a person under a disability is a party, the court in which the matter
11 is pending shall have the power to approve and confirm a compromise of the matters in controversy on
12 behalf of such party, including claims under the provisions of any liability insurance policy, if such
13 compromise is deemed to be to the interest of the party. Any order or decree approving and confirming
14 the compromise shall be binding upon such party, except that the same may be set aside for fraud.15 B. In case of damage to the person or property of a person under a disability, caused by the
16 wrongful act, neglect or default of any person, when death did not ensue therefrom, any person or
17 insurer interested in compromise of any claim for such damages, including any claim under the
18 provisions of any liability insurance policy, may, upon motion to the court in which the action is
19 pending for the recovery of damages on account of such injury, or if no such action is pending, then to
20 any circuit court, move the court to approve the compromise. The court shall require the movant to give
21 reasonable notice of such motion to all parties and to any person found by the court to be interested in
22 the compromise.23 C. A compromise action involving a claim for wrongful death shall be in accordance with the
24 applicable provisions of § 8.01-55. Nothing in this section shall be construed to affect the provisions of
25 § 8.01-76.26 D. In any compromise action the court shall direct the payment of the proceeds of the compromise
27 agreement, when approved, as follows:28 1. Payment of the sum into court as provided by § 8.01-600 or to the general receiver of such court;
29 2. To a duly qualified fiduciary of the person under a disability, after due inquiry as to the adequacy
30 of the bond of such fiduciary;

31 3. As provided in § 8.01-606; or

32 4. Where the agreement of settlement provides for payments to be made over a period of time in the
33 future, whether such payments are lump sum, periodic, or a combination of both, the court shall approve
34 the settlement only if it finds that all payments which are due to be made are (i) secured by a bond
35 issued by an insurance company authorized to write such bonds in this Commonwealth or (ii) to be
36 made *or irrevocably guaranteed* by an insurance company or companies authorized to do business in
37 this Commonwealth and ~~which~~ is rated "A plus" (A+) or better by Best's Insurance Reports. Payments
38 made under this subdivision totaling not more than \$4,000 in any calendar year may be paid in
39 accordance with § 8.01-606. Payments made under this subdivision, totaling more than \$4,000 in any
40 calendar year while the recipient is under a disability, shall be paid to a duly qualified fiduciary after
41 due inquiry as to adequacy of the bond of such fiduciary.42 E. Payments made under this section, in the case of damage to the person or property of a minor,
43 may be made payable in the discretion of the court to the parent or guardian of the minor to be held in
44 trust for the benefit of the minor. Any such trust shall be subject to court approval and the court may
45 provide for the termination of such trust at any time following attainment of majority which the court
46 deems to be in the best interest of the minor. In an order authorizing the trust or additions to an existing
47 trust the court may order that the trustee thereof be subject to the same duty to qualify in the clerk's
48 office and to file an inventory and annual accountings with the commissioner of accounts as would
49 apply to a testamentary trustee.

ENROLLED

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