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HOUSE BILL NO. 2831

House Amendments in [] - January 31, 2007

A BILL to amend and reenact §§ 31-37 and 31-50 of the Code of Virginia, relating to trusts held for the benefit of minors.

Patron Prior to Engrossment—Delegate Gilbert

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 31-37 and 31-50 of the Code of Virginia are amended and reenacted as follows:

§ 31-37. Definitions.

In this chapter, unless the context otherwise requires:

"Adult" means an individual who attained the age of eighteen years.

"Benefit plan" means an employer's plan for the benefit of an employee or partner.

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

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

"Court" means the circuit court having appropriate equity jurisdiction.

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

"Custodian" means a person so designated under § 31-45 or a successor or substitute custodian designated under § 31-54.

"Financial institution" means a bank, trust company, savings institution, or credit union chartered and supervised under state or federal law.

"Legal representative" means an individual's personal representative or conservator.

"Member of the minor's family" means the minor's parent, step-parent, spouse, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption.

"Minor" means an individual who has not attained the age of eighteen years.

"Person" means an individual, corporation, organization, or other legal entity.

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

"Qualified minor's trust" means any trust [; ()] including a trust created by a custodian [;)] that meets the requirements of § 2503 (c) of the Internal Revenue Code of 1986 and the regulations implementing that section.

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

"Transfer" means a transaction that creates custodial property under § 31-45.

"Transferor" means a person who makes a transfer under this chapter.

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

§ 31-50. Use of custodial property.

A custodian may deliver or pay to the minor or expend for the minor's benefit so much of the custodial property as the custodian considers advisable for the use and benefit of the minor, without court order and without regard to (i) the duty or ability of the custodian personally or of any other person to support the minor, or (ii) any other income or property of the minor which may be applicable or available for that purpose.

At any time a custodian may, without court order, transfer all or part of the custodial property to [(i)] a qualified minor's trust [or (ii) a trust that the minor is the sole beneficiary of and has a general power of appointment exercisable either by the beneficiary alone or in conjunction with a party having no interest in the trust property adverse to the interest of the beneficiary] . Such a transfer terminates the custodianship to the extent of the custodial property transferred.

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

A delivery, payment or expenditure under this section is in addition to, not in substitution for, and

ENGROSSED

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59 does not affect any obligation of a person to support the minor.