

House Bill 266

By: Representatives Kelley of the 16th, Willard of the 51st, Fleming of the 121st, Evans of the 42nd, Oliver of the 82nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 3 of Title 29 of the Official Code of Georgia Annotated, relating to
2 conservators of minors, so as to revise the personal property value that a natural guardian
3 may receive of a minor without having to become a legally qualified conservator of the
4 minor; to revise the amount of the debt owing to a minor which a natural guardian may
5 release without approval by the court; to revise the amount of the proposed gross settlement
6 of a minor's claim by which the natural guardian of the minor may compromise without
7 becoming the conservator of the minor or seeking court approval; to revise the amount by
8 which a conservator of a minor may compromise any contested or doubtful claim or release
9 the debtor and compromise all debts; to provide for related matters; to repeal conflicting
10 laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Chapter 3 of Title 29 of the Official Code of Georgia Annotated, relating to conservators of
14 minors, is amended by revising Code Section 29-3-1, relating to "personal property" defined,
15 natural guardian must qualify as conservator, and exception, as follows:

16 "29-3-1.

17 (a) For purposes of this Code section, 'personal property' does not include the value of
18 property that is held for the minor's benefit in trust or by a custodian under Article 5 of
19 Chapter 5 of Title 44, 'The Georgia Transfers to Minors Act.'

20 (b) The natural guardian of a minor may not receive the personal property of the minor
21 until the natural guardian becomes the legally qualified conservator of the minor; provided,
22 however, that when the total value of all personal property of the minor is ~~\$15,000.00~~
23 \$25,000.00 or less, the natural guardian may receive and shall thereafter hold and use all
24 or part of the personal property for the benefit of the minor and shall be accountable for the
25 personal property but shall not be required to become the legally qualified conservator as
26 to that personal property.

27 (c) Upon receiving an affidavit:

28 (1) That the value of all the personal property of a minor will not exceed ~~\$15,000.00~~
29 \$25,000.00 in value;

30 (2) That no conservator has been appointed for the minor's estate; and

31 (3) That the affiant is the natural guardian of the minor,

32 any person indebted to or holding personal property of the minor shall be authorized to pay
33 the amount of the indebtedness or to deliver the personal property to the affiant. In the
34 same manner and upon like proof, any person having the responsibility for the issuance or
35 transfer of stocks, bonds, or other personal property shall be authorized to issue or transfer
36 the stocks, bonds, or personal property to or in the name of the affiant. Upon such
37 payment, delivery, transfer, or issuance pursuant to the affidavit, the person shall be
38 released to the same extent as if the payment, delivery, transfer, or issuance had been made
39 to the legally qualified conservator of the minor and shall not be required to see to the
40 application or disposition of the personal property.

41 (d) This Code section shall not authorize a temporary, testamentary, or permanent guardian
42 to receive personal property of the minor unless the guardian becomes the legally qualified
43 conservator of the minor."

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SECTION 2.

46 Said chapter is further amended by revising Code Section 29-3-2, relating to release of debtor
47 when collection doubtful, as follows:

48 "29-3-2.

49 The natural guardian of a minor who has no conservator may release the debtor and
50 compromise a debt when the collection of the debt is doubtful without becoming the
51 conservator of the minor and without such action being approved by the court if the amount
52 of the debt is ~~\$15,000.00~~ \$25,000.00 or less."

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SECTION 3.

54 Said chapter is further amended by revising Code Section 29-3-3, relating to "gross
55 settlement" defined, compromise of claim, and finality of settlement, as follows:

56 "29-3-3.

57 (a) For purposes of this Code section, the term 'gross settlement' means the present value
58 of all amounts paid or to be paid in settlement of the claim, including cash, medical
59 expenses, expenses of litigation, attorney's fees, and any amounts paid to purchase an
60 annuity or other similar financial arrangement.

61 (b) If the minor has a conservator, the only person who can compromise a minor's claim
62 is the conservator.

63 (c) Whether or not legal action has been initiated, if the proposed gross settlement of a
64 minor's claim is ~~\$15,000.00~~ \$25,000.00 or less, the natural guardian of the minor may
65 compromise the claim without becoming the conservator of the minor and without court
66 approval. The natural guardian must qualify as the conservator of the minor in order to
67 receive payment of the settlement if necessary to comply with Code Section 29-3-1.

68 (d) If no legal action has been initiated and the proposed gross settlement of a minor's
69 claim is more than ~~\$15,000.00~~ \$25,000.00, the settlement must be submitted for approval
70 to the court.

71 (e) If legal action has been initiated and the proposed gross settlement of a minor's claim
72 is more than ~~\$15,000.00~~ \$25,000.00, the settlement must be submitted for approval to the
73 court in which the action is pending. The natural guardian or conservator shall not be
74 permitted to dismiss the action and present the settlement to the court for approval without
75 the approval of the court in which the action is pending.

76 (f) If the proposed gross settlement of a minor's claim is more than ~~\$15,000.00~~ \$25,000.00,
77 but the gross settlement reduced by:

78 (1) Attorney's fees, expenses of litigation, and medical expenses which shall be paid
79 from the settlement proceeds; and

80 (2) The present value of amounts to be received by the minor after reaching the age of
81 majority

82 is ~~\$15,000.00~~ \$25,000.00 or less, the natural guardian may seek approval of the proposed
83 settlement from the appropriate court without becoming the conservator of the minor. The
84 natural guardian must qualify as the conservator of the minor in order to receive payment
85 of the settlement if necessary to comply with Code Section 29-3-1.

86 (g) If the proposed gross settlement of a minor's claim is more than ~~\$15,000.00~~
87 \$25,000.00, but such gross settlement reduced by:

88 (1) Attorney's fees, expenses of litigation, and medical expenses which shall be paid
89 from the settlement proceeds; and

90 (2) The present value of amounts to be received by the minor after reaching the age of
91 majority

92 is more than ~~\$15,000.00~~ \$25,000.00, the natural guardian may not seek approval of the
93 proposed settlement from the appropriate court without becoming the conservator of the
94 minor.

95 (h) If an order of approval is obtained from the court, or a court in which the action is
96 pending, based upon the best interest of the minor, the natural guardian or conservator shall
97 be authorized to compromise any contested or doubtful claim in favor of the minor without
98 receiving consideration for such compromise as a lump sum. Without limiting the
99 foregoing, the compromise may be in exchange for an arrangement that defers receipt of

100 part, not to exceed a total distribution of ~~\$15,000.00~~ \$25,000.00 prior to a minor reaching
101 the age of majority, or all of the consideration for the compromise until after the minor
102 reaches the age of majority and may involve a structured settlement or creation of a trust
103 on terms which the court approves.

104 (i) Any settlement entered consistent with the provisions of this Code section shall be final
105 and binding upon all parties, including the minor."

106 **SECTION 4.**

107 Said chapter is further amended in Code Section 29-3-22, relating to power of conservator
108 and cooperation with guardian of minor, by revising paragraphs (12) and (13) of subsection
109 (a) as follows:

110 "(12) Compromise any contested or doubtful claim for or against the minor if the
111 proposed gross settlement as defined in Code Section 29-3-3 is in the amount of
112 ~~\$15,000.00~~ \$25,000.00 or less; and

113 (13) Release the debtor and compromise all debts in the amount of ~~\$15,000.00~~
114 \$25,000.00 or less when the collection of the debt is doubtful."

115 **SECTION 5.**

116 All laws and parts of laws in conflict with this Act are repealed.