

SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION

S.F. No. 2914

(SENATE AUTHORS: JOHNSON)

DATE
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OFFICIAL STATUS
Introduction and first reading
Referred to Judiciary and Public Safety Finance and Policy

1.1 A bill for an act
1.2 relating to civil law; modifying certain transfer to minors provisions; amending
1.3 Minnesota Statutes 2018, sections 527.32; 527.33; 527.40; 527.42.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2018, section 527.32, is amended to read:

1.6 **527.32 CARE OF CUSTODIAL PROPERTY.**

1.7 (a) A custodian shall:

1.8 (1) take control of custodial property;

1.9 (2) register or record title to custodial property if appropriate; and

1.10 (3) collect, hold, manage, invest, and reinvest custodial property.

1.11 (b) In dealing with custodial property, a custodian shall ~~observe the standard of care that~~
1.12 ~~would be observed by a prudent person dealing with property of another and is not limited~~
1.13 ~~by any other statute restricting investments by fiduciaries. If a custodian has a special skill~~
1.14 ~~or expertise or is named custodian on the basis of representations of a special skill or~~
1.15 ~~expertise, the custodian shall use that skill or expertise~~ comply with the prudent investor
1.16 rule set forth in section 501C.0901 as if such custodial property were trust property. However,
1.17 a custodian, in the custodian's discretion and without liability to the minor or the minor's
1.18 estate, may retain any custodial property received from a transferor.

1.19 (c) A custodian may invest in or pay premiums on life insurance or endowment policies
1.20 on (i) the life of the minor only if the minor or the minor's estate is the sole beneficiary, or
1.21 (ii) 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.

(d) A custodian at all times shall keep custodial property separate and distinct from all other property in a manner sufficient to identify it clearly as custodial property of the minor. Custodial property consisting of certificated securities may be held on deposit at a stock brokerage firm or financial institution registered in a street name or nominee name. Custodial property consisting of an undivided interest is so identified if the minor's interest is held as a tenant in common and is fixed. Custodial property subject to recordation is so identified if it is recorded, and custodial property subject to registration is so identified if it is either registered, or held in an account designated, in the name of the custodian, followed in substance by the words: "as a custodian for (name of minor) under the Minnesota Uniform Transfers to Minors Act."

(e) A custodian shall keep records of all transactions with respect to custodial property, including information necessary for the preparation of the minor's tax returns, and shall make them available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor if the minor has attained the age of 14 years.

Sec. 2. Minnesota Statutes 2018, section 527.33, is amended to read:

527.33 POWERS OF CUSTODIAN.

(a) A custodian, acting in a custodial capacity, has all the rights, powers, and authority over custodial property that unmarried adult owners have over their own property, but a custodian may exercise those rights, powers, and authority in that capacity only.

(b) This section does not relieve a custodian from liability for breach of section 527.32.

(c) At any time, with or without a court order, a custodian may transfer all or part of the custodial property to a trust, including a trust created by a custodian, that satisfies the requirements of section 2503(c) of the Internal Revenue Code and the regulations implementing that section. A transfer to a trust pursuant to this paragraph terminates the custodianship to the extent of the transfer.

Sec. 3. Minnesota Statutes 2018, section 527.40, is amended to read:

527.40 TRANSFER UPON TERMINATION OF CUSTODIANSHIP.

Subdivision 1. Terminating events. The custodian shall transfer in an appropriate manner the custodial property to the minor or to the minor's estate upon the earlier of the following terminating events:

(1) the minor's attainment of 21 years of age with respect to custodial property transferred under section 527.24 ~~or~~ 527.25, 527.26, or 527.27; or

~~(2) the minor's attainment of age 18 with respect to custodial property transferred under section 527.26 or 527.27; or~~

~~(3)~~ (2) the minor's death.

Subd. 2. **Transfer.** (a) Upon the date of the applicable terminating event pursuant to subdivision 1, if (1) there is no custodian then serving or (2) no court proceeding is pending and the custodian fails to transfer the custodial property to the minor or the minor's estate within 90 days of that date, then the minor or the minor's personal representative may execute an affidavit setting forth the date of the terminating event and facts that show that the terminating event has occurred. The person in possession of the custodial property must transfer to the minor or the minor's personal representative the custodial property when presented with the executed affidavit and a certified copy of the minor's birth certificate or, in the case of a deceased minor, a certified copy of the minor's death certificate.

(b) The affidavit and documentation under paragraph (a) are conclusive proof for any party relying on the affidavit of the occurrence of the applicable terminating event pursuant to subdivision 1 and the right of the minor or the minor's estate to receive the custodial property outright. Any person in possession of the custodial property that transfers assets to the minor or the minor's estate pursuant to this subdivision shall not be liable to any person for the transfer.

Sec. 4. Minnesota Statutes 2018, section 527.42, is amended to read:

527.42 EFFECT ON EXISTING CUSTODIANSHIPS.

~~(a) Any transfer of custodial property as now defined in sections 527.21 to 527.40 made before January 1, 1986, is validated notwithstanding that there was no specific authority in Minnesota Statutes 1984, sections 527.01 to 527.11 for the coverage of custodial property of that kind or for a transfer from that source at the time the transfer was made.~~

~~(b) Sections 527.21 to 527.40 apply to all transfers made before January 1, 1986, in a manner and form prescribed in Minnesota Statutes 1984, sections 527.01 to 527.11, except insofar as the application impairs constitutionally vested rights or extends the duration of custodianships in existence before January 1, 1986.~~

~~(c) Sections 527.21 and 527.40 with respect to the age of a minor for whom custodial property is held under those sections do not apply to custodial property held in a~~

4.1 ~~custodianship that terminated because of the minor's attainment of the age of 18 after May~~
4.2 ~~31, 1973, and before January 1, 1986.~~

4.3 Section 527.40, subdivision 1, does not apply to custodial property transferred under
4.4 section 527.26 or 527.27 before the effective date of this section. For custodial property
4.5 transferred under section 527.26 or 527.27 before the effective date of this section, the
4.6 custodian shall transfer in an appropriate manner the custodial property to the minor or to
4.7 the minor's estate upon the earlier of the following terminating events: (1) the minor's
4.8 attainment of 18 years of age or (2) the minor's death.

4.9 **EFFECTIVE DATE.** This section is effective the day following final enactment.