

SECOND REGULAR SESSION

HOUSE BILL NO. 1405

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DEGROOT.

4896H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 475.330, 507.150, 507.184, and 507.188, RSMo, and to enact in lieu thereof four new sections relating to financial interests of minors.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 475.330, 507.150, 507.184, and 507.188, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 475.330, 507.150, 507.184,
3 and 507.188, to read as follows:

475.330. 1. When the whole estate of a minor does not exceed the value of ~~ten~~ **fifty**
2 thousand dollars, the court may, in its discretion, without the appointment of a conservator or the
3 giving of bond, authorize:

4 (1) The deposit in a depository authorized to receive fiduciary funds, payable to the
5 conservator of the estate when appointed or to the minor upon his attaining the age of eighteen
6 years; or

7 (2) The delivery thereof to a suitable person designated by the court, deliverable to the
8 conservator of the estate when appointed or to the minor upon his attaining the age of eighteen
9 years; or

10 (3) The payment or delivery thereof to the parent of the minor, or to the person having
11 care or custody of the minor or to the minor himself.

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13 The person receiving such money or other assets shall hold and dispose of the same in the
14 manner directed by the court.

15 2. When the whole estate of a person over the age of eighteen who has been adjudicated
16 to be disabled does not exceed the value of ~~ten~~ **fifty** thousand dollars, the court may, in its

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 discretion, without the appointment of a conservator or the giving of bond, authorize the deposit
18 thereof in a depository authorized to receive fiduciary funds in the name of a suitable person
19 designated by the court, or authorize the delivery thereof to a suitable person designated by the
20 court. The person receiving such money or other assets shall hold and dispose of the same in
21 such manner as the court directs.

22 3. When the whole estate of a minor or a disabled person does not exceed ~~[ten]~~ **fifty**
23 thousand dollars, the court may discharge the conservator of the estate and authorize disposition
24 of the assets of the estate of the protectee in the same manner as provided in subsections 1 and
25 2 of this section.

26 4. The person or officer making payment, delivery, transfer or issuance of personal
27 property or evidence thereof to the person designated by the court under this section is
28 discharged and released to the same extent as if such payment, delivery, transfer or issuance was
29 made to a conservator of the minor or disabled person, and he is not required to see to the
30 application thereof, except that a person or officer making payment, delivery, transfer or issuance
31 of money or personal property, or evidence thereof, to a next friend or guardian ad litem may be
32 discharged and released as provided for in section 507.184.

507.150. 1. Before a next friend or guardian ad litem can receive or receipt for any
2 money or property, personal or real, and before he can acknowledge satisfaction or discharge of
3 any judgment, he must execute a bond to such infant; except[;] that, no bond shall be required
4 if the total value of the property or money, exclusive of expenses and fees approved by the court,
5 is not in excess of ~~[ten]~~ **fifty** thousand dollars and all of the money or property is to be turned
6 over to the infant or his parent. The bond must be approved by the court or the clerk thereof and
7 shall be conditioned that the next friend or guardian ad litem shall account to the infant for all
8 money or property which has or does come into his hands, less only those expenses and attorney
9 fees the payment of which has been approved by order of the court. The bond shall be in an
10 amount equal to the value of the money or property if the surety is a corporate bonding, surety
11 or insurance company, and in an amount double the value of the money or property if the surety
12 is not a corporate bonding, surety or insurance company, in which event there shall be two
13 sureties. In either event, the surety or sureties shall be approved by the court or clerk thereof
14 before the bond can be approved.

15 2. Failure to execute such approved bond with approved surety or sureties when required
16 under the provisions of subsection 1 of this section shall, upon receipt by a next friend or
17 guardian ad litem of any money or property for or on behalf of such minor, immediately render
18 such next friend or guardian ad litem personally liable to the minor for a penal sum in an amount
19 double the value of the money or property and also shall render absolutely void and of no effect

20 any release, receipt or acknowledgment of satisfaction or discharge of any judgment which has
21 or is in the future made or executed by the next friend or guardian ad litem.

22 3. The next friend's duties or guardian ad litem's duties and his obligations under the
23 bond shall continue until he is discharged therefrom by order of the court.

507.184. 1. The next friend, guardian ad litem or guardian or conservator shall have the
2 power and authority, subject to the approval of the court, to waive a jury and submit all issues
3 in such action or proposed settlement to the court for determination.

4 2. The next friend, guardian ad litem or guardian or conservator shall have the power and
5 authority to contract on behalf of the minor for a settlement of the minor's claim, action or
6 judgment[;] ; provided that, such contract and settlement shall not be effective until approved
7 by the court. The next friend, guardian ad litem and guardian or conservator shall also have the
8 power and authority to execute and sign a release or satisfaction and discharge of a judgment
9 which shall be binding upon the minor, provided the court orders the execution of such release
10 or satisfaction and discharge of judgment.

11 3. The court shall have the power and authority to hear evidence on and either approve
12 or disapprove a proposed contract to settle an action or claim of a minor, to authorize and order
13 the next friend, guardian ad litem or guardian or conservator to execute and sign a release or
14 satisfaction and discharge of judgment, and shall also have the power and authority to approve
15 a fee contract between the next friend, guardian ad litem or guardian or conservator and an
16 attorney and to order him to pay an attorney fee and to pay the expenses which have been
17 reasonably incurred in connection with the preparation and prosecution of the action or claim and
18 including the cost of any bonds required herein.

19 **4. Evidence in support of a proposed contract to settle an action or claim of a minor**
20 **may be made by affidavit. If affidavits of the minor's custodial parent or parents or**
21 **guardian or guardians are filed with the court and each attests to:**

22 (1) The affiant's belief that the proposed contract to settle an action or claim of a
23 minor is fair, reasonable, and in the best interests of the minor;

24 (2) The affiant's awareness that court approval of the proposed contract to settle
25 waives the minor's right to trial by judge or jury and waives the minor's future rights to
26 additional recovery against all persons named in the affidavits; and

27 (3) The affiant's understanding and desire that all moneys remaining after paying
28 any attorneys' fees and expenses shall be deposited in a depository authorized to receive
29 fiduciary funds, payable to the conservator of the minor's estate when appointed or to the
30 minor upon his or her attaining the age of eighteen years,

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32 testimony or a hearing is not required, and the court may enter its order approving the
33 proposed contract.

34 **5. Nothing in this section shall require any court to approve any proposed contract**
35 **to settle an action or claim of a minor if the court believes the proposed contract to settle**
36 **an action or claim of a minor is not fair, reasonable, or in the best interests of the minor.**
37 **Nothing in this section shall prohibit a court from requiring testimony or a hearing in**
38 **addition to the affidavit or affidavits allowed by this section if the circumstances of an**
39 **individual matter warrant.**

507.188. 1. If, after paying the attorney fee and the expenses, the next friend or guardian
2 ad litem has in his hands money or property of the minor in an amount equal to or less than ~~ten~~
3 **fifty** thousand dollars, then the court may, if in its discretion it finds it to be to the best interests
4 of the minor to do so, order the next friend or guardian ad litem to pay, deposit, or deliver all or
5 any part of such money or property in accordance with one of the alternatives prescribed by
6 subsection 1 of section 475.330. The provisions of chapters 473 and 475 shall apply to any such
7 payment, deposit, or delivery. In the event of such order and payment, deposit, or delivery, the
8 next friend or guardian ad litem shall file with the court or the clerk thereof a receipt from the
9 person to whom the payment, deposit, or delivery was made evidencing such payment, deposit,
10 or delivery. After such receipt has been filed and accepted by the court or clerk thereof as
11 authentic, then the court or clerk thereof may order the next friend or guardian ad litem
12 discharged and released from all of his duties and obligations and from his bond. In the event
13 such payment or delivery is to the minor, then the minor's signature upon the receipt shall be
14 unavoidable, irrevocable and forever binding upon the minor.

15 2. If, after paying the attorney fee and the expenses, the next friend or guardian ad litem
16 has in his hands money or property of the minor in an amount in excess of ~~ten~~ **fifty** thousand
17 dollars, then the court shall order the next friend or guardian ad litem to pay or transfer such
18 money or property to a duly appointed and qualified conservator of the minor. Upon such
19 payment or transfer, the next friend or guardian ad litem shall file with the court or the clerk
20 thereof a receipt from such conservator to whom such payment or transfer was made, evidencing
21 such payment, with a certified copy of such conservator's letters attached to such receipt. After
22 such receipt has been filed and accepted by the court as authentic, then the court shall order the
23 next friend or guardian ad litem discharged and released from all of his duties and obligations
24 and from his bond.

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