

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1714

By: Kinnamon

AS INTRODUCED

An Act relating to transfers to minors; amending 58 O.S. 1991, Sections 1201, 1202, 1210 and 1221, which relate to the Oklahoma Uniform Transfers to Minors Act; modifying short title; modifying definition; updating statutory references; authorizing custodial property to be transferred to a beneficiary upon the death of a minor; modifying the transfer of custodial property; providing for the delay in transfer of custodial property to minors; providing procedures; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 58 O.S. 1991, Section 1201, is amended to read as follows:

Section 1201. Sections ~~±~~ 1201 through ~~26~~ 1225 of this ~~act~~ title and Section 5 of this act shall be known and may be cited as the "Oklahoma Uniform Transfers to Minors Act".

SECTION 2. AMENDATORY 58 O.S. 1991, Section 1202, is amended to read as follows:

Section 1202. As used in the Oklahoma Uniform Transfers to Minors Act:

1. "Adult" means an individual who has attained the age of eighteen (18) years.

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

3. "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.

4. "Guardian" means a person appointed or qualified by a court to act as guardian of the estate or of the person and the estate.

5. "Court" means the district court of this state in the county where the minor resides, or, if the minor is not a resident of this state, the district court of this state in the county where the custodian resides or has his principal place of business.

6. "Custodial property" means:

- a. any interest in property transferred to a custodian pursuant to the provisions of the Oklahoma Uniform Transfers to Minors Act, and
- b. the income from and proceeds of that interest in property.

7. "Custodian" means a person so designated pursuant to the provisions of Section ~~10~~ 1210 of this ~~act~~ title or a successor or substitute custodian designated pursuant to the provisions of Section ~~19~~ 1219 of this ~~act~~ title.

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

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

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

11. "Minor" means an individual who has not attained the age of eighteen (18) years, or when used with reference to the beneficiary for whose benefit custodial property is held or is to be held, an individual who has not attained the age at which the custodian is required under Section 1221 of this title or Section 5 of this act to transfer the custodial property to the beneficiary.

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

13. "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.

14. "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.

15. "Transfer" means a transaction that creates custodial property pursuant to the provisions of Section ~~10~~ 1210 of this ~~act~~ title.

16. "Transferor" means a person who makes a transfer pursuant to the provisions of the Oklahoma Uniform Transfers to Minors Act.

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

SECTION 3. AMENDATORY 58 O.S. 1991, Section 1210, is amended to read as follows:

Section 1210. A. Custodial property is created and a transfer is made whenever:

1. An uncertificated security or a certificated security in registered form is either:

- a. registered in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for

_____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act"; or

- b. delivered if in certificated form, or any document necessary for the transfer of an uncertificated security is delivered, together with any necessary endorsement to an adult other than the transferor or to a trust company as custodian, accompanied by an instrument in substantially the form set forth in subsection B of this section; or

2. Money is paid or delivered to a broker or financial institution for credit to an account in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act".
Money paid or delivered to a financial institution as prescribed in this paragraph also may be deposited using the terms "Payable on Death" or "P.O.D.", in which case, such deposits shall be payable on the designated minor's death to a trust designated in the deposit account agreement as the "P.O.D." beneficiary, or to an individual named beneficiary if living and if not, to the named beneficiary's estate, notwithstanding any provision to the contrary contained in Sections 41 through 57 of Title 84 of the Oklahoma Statutes; or

3. The ownership of a life or endowment insurance policy or annuity contract is either:

- a. registered with the issuer in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act"; or
- b. assigned in a writing delivered to an adult other than the transferor or to a trust company whose name in the assignment is followed in substance by the words: "as

custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act"; or

4. An irrevocable exercise of a power of appointment or an irrevocable present right to future payment under a contract is the subject of a written notification delivered to the payor, issuer, or other obligor that the right is transferred to the transferor, an adult other than the transferor, or a trust company, whose name in the notification is followed in substance by the words: "as custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act"; or

5. An interest in real property is recorded in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act"; or

6. A certificate of title issued by a department or agency of a state or of the United States which evidences title to tangible personal property is either:

a. issued in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act"; or

b. delivered to an adult other than the transferor or to a trust company, endorsed to that person followed in substance by the words: "as custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act"; or

7. An interest in any property not described in paragraphs 1, 2, 3, 4, 5 and 6 is transferred to an adult other than the transferor or to a trust company by a written instrument in substantially the form set forth in subsection B of this section.

B. An instrument in the following form satisfies the requirements of subparagraph b of paragraph 1 and paragraph 7 of subsection A of this section:

"TRANSFER UNDER THE OKLAHOMA UNIFORM TRANSFERS TO MINORS ACT

I, _____ (name of transferor or name and representative capacity if a fiduciary) hereby transfer to _____ (name of custodian), as custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act, the following: (insert a description of the custodial property sufficient to identify it).

Dated: _____

(Signature)

_____ (name of custodian) acknowledges receipt of the property described above as custodian for the minor named above under the Oklahoma Uniform Transfers to Minors Act.

Dated: _____

_____ "

(Signature of Custodian)

C. A transferor shall place the custodian in control of the custodial property as soon as practicable.

SECTION 4. AMENDATORY 58 O.S. 1991, Section 1221, is amended to read as follows:

Section 1221. The custodian shall transfer in an appropriate manner the custodial property to the minor ~~or to~~ the minor's estate, or the minor's beneficiary as prescribed in paragraph 2 of subsection A of Section 1210 of this title upon the earlier of:

1. The minor's attainment of eighteen (18) years of age with respect to custodial property transferred pursuant to the provisions of Section ~~5~~ 1205 or ~~6~~ 1206 of this ~~act~~ title, unless the time of transfer of the custodial property to the minor is delayed under _____

Section 5 of this act to a time after the time the minor attains eighteen (18) years of age; or

2. The minor's attainment of majority pursuant to the laws of this state with respect to custodial property transferred pursuant to the provisions of Section 7 1207 or 8 1208 of this ~~act~~ title, unless the time of transfer of the custodial property to the minor is delayed under Section 5 of this act to a time after the time the minor attains the age of majority; or

3. The minor's death.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1221.1 of Title 58, unless there is created a duplication in numbering, reads as follows:

A. Subject to the requirements and limitations of this section, the time for transfer to the minor of custodial property transferred under or pursuant to Section 1204, 1205 or 1206 of Title 58 of the Oklahoma Statutes may be delayed until a specific time after the time the minor attains the age of eighteen (18) years, which time shall be specified in the transfer pursuant to Section 1210 of Title 58 of the Oklahoma Statutes.

B. To specify a delayed time for transfer to the minor of the custodial property, the words "as custodian for _____ (name of minor) until age _____ (age for delivery of property to minor) under the Oklahoma Uniform Transfers to Minors Act" shall be substituted in substance for the words "as custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act" in making the transfer pursuant to Section 1210 of Title 58 of the Oklahoma Statutes.

C. The time for transfer to the minor of custodial property transferred under or pursuant to Section 1204 or 1206 may be delayed under this section only if the governing will or trust or nomination provides in substance that the custodianship is to continue until the time the minor attains a specified age, which time may not be

later than the time the minor attains twenty-five (25) years of age, and in that case, the governing will or trust or nomination shall determine the time to be specified in the transfer pursuant to Section 1210 of Title 58 of the Oklahoma Statutes.

D. The time for transfer to the minor of custodial property transferred by the irrevocable exercise of a power of appointment under Section 1205 of Title 58 of the Oklahoma Statutes may be delayed under this section only if the transfer pursuant to Section 1210 of Title 58 of the Oklahoma Statutes provides in substance that the custodianship is to continue until the time the minor attains a specified age, which time may not be later than the time the minor attains twenty-five (25) years of age.

E. The time for transfer to the minor of custodial property transferred by irrevocable gift under Section 1205 of Title 58 of the Oklahoma Statutes may be delayed under this section only if the transfer pursuant to Section 1210 of Title 58 of the Oklahoma Statutes provides in substance that the custodianship is to continue until the time the minor attains twenty-one (21) years of age.

F. If the transfer pursuant to Section 1210 of Title 58 of the Oklahoma Statutes does not specify any age, the time for the transfer of the custodial property to the minor under Section 1221 of Title 58 of the Oklahoma Statutes is the time when the minor attains eighteen (18) years of age.

G. If the transfer pursuant to Section 1210 of Title 58 of the Oklahoma Statutes provides in substance that the duration of the custodianship is for a time longer than the maximum time permitted by this section for the duration of a custodianship created by that type of transfer, the custodianship shall be deemed to continue only until the time the minor attains the maximum age permitted by this section for the duration of a custodianship created by that type of transfer.

SECTION 6. This act shall become effective September 1, 1993.

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