

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

CONFERENCE COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
SENATE BILL 1554

By: Henry of the Senate

and

Toure of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to civil procedure; amending 12 O.S. 2001, Section 83, which relates to conserving certain monies; modifying entities to invest certain monies; creating cause of action for attorney fees and costs in certain situations; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 12 O.S. 2001, Section 83, is amended to read as follows:

Section 83. A. Monies recovered in any court proceeding by a next friend or guardian ad litem for or on behalf of a person who is less than eighteen (18) years of age in excess of One Thousand Dollars (\$1,000.00) over sums sufficient for paying costs and expenses including medical bills and attorney's fees shall be deposited, by order of the court, in one or more federally insured banking, credit union or savings and loan institutions, or invested by a bank or trust department of a banking institution company having trust powers under applicable federal law or the laws of this state, approved by the court; provided, that the court may approve a structured settlement, by the terms of which the proceeds of a settlement may be invested by the plaintiff or the defendant in an annuity to be paid to or for the benefit of the minor by an insurance company licensed in this state.

B. Until the person becomes eighteen (18) years of age, withdrawals of monies from such account or accounts shall be solely pursuant to order of the court made in the case in which recovery was had.

C. When an application for the order is made by a person who is not represented by an attorney-at-law, the judge of the court shall prepare the order.

D. This section shall not apply if a legal guardian has been appointed for the minor prior to any award of monies pursuant to subsection A of this section. If a legal guardian is appointed after any award of monies pursuant to subsection A of this section the legal guardian may petition the district court in the county where the federally insured funds are held for an order directing the bank, credit union and/or savings and loan to transfer the funds to the legal guardian. The district court may make the granting of the request to transfer funds subject to reasonable safeguards.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 941.1 of Title 12, unless there is created a duplication in numbering, reads as follows:

A parent or guardian who invokes the procedural safeguards afforded in 20 U.S.C., Section 1415, C.F.R. Section 300.500, et seq. and enters into an agreement with the involved school district to resolve the issues, including but not limited to, an agreement entered into before a complaint is received under subsection (b)(6) or (k) of 20 U.S.C., Section 1415, shall be entitled to recover from the school district the reasonable attorney fees and costs incurred and may bring an action for the recovery thereof in a district court for the county in which the school district administrative office is located. Reasonable attorney fees and costs shall include expenses incurred before, or in the absence of, a formal administrative proceeding, including attorney fees and expenses, technical or expert witness fees and expenses, other witness fees and expenses,

and witness travel expenses, lodging, and meals. In addition, the plaintiff shall be allowed a reasonable attorney fee to be set by the court, to be taxed and collected as costs in the action brought pursuant to this section, unless the court finds the plaintiff's action brought pursuant to this section was without reasonable basis or was frivolous. The rights and remedies set forth in this section are in addition to all other rights and remedies available under 20 U.S.C., Section 1415 of the Individuals with Disabilities Act, 20 U.S.C., Section 1400, et seq. or other applicable law.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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