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ENGROSSED HOUSE
BILL NO. 3076

and

An Act relating to settlements involving minors; creating the Oklahoma Statutory Thresholds for Settlements Involving Minors Act of 2022; prescribing procedures for settling claims involving minors; clarifying when a person with legal custody may enter into a settlement agreement on behalf of a minor; directing attorney representing minor to maintain records; establishing how monies payable under a settlement agreement must be paid; creating exemptions for liability; providing for codification; and providing an effective date.

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 86 of Title 12, unless there is created a duplication in numbering, reads as follows:

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 86.1 of Title 12, unless there is created a duplication in numbering, reads as follows:

1 A. A person having legal custody of a minor may enter into a
2 settlement agreement with a party against whom the minor has a claim
3 if:

4 1. A conservator or guardian ad litem has not been appointed
5 for the minor;

6 2. The total amount of the settlement, not including
7 reimbursement of medical expenses, liens, reasonable attorney fees,
8 and costs of suit, is Twenty-five Thousand Dollars (\$25,000.00) or
9 less if paid in cash, check, draft, or if paid by the purchase of a
10 premium for an annuity;

11 3. The monies paid under the settlement agreement will be paid
12 as set forth in subsections C and D of this section; and

13 4. The person entering into the settlement agreement on behalf
14 of the minor completes an affidavit or verified statement that
15 attests that the person has made a reasonable inquiry and that:

16 a. to the best of the person's knowledge, the minor will
17 be fully compensated by the settlement, or

18 b. there is no practical way to obtain additional amounts
19 from the party entering into the settlement agreement
20 with the minor.

21 B. The attorney representing the person entering into the
22 settlement agreement on behalf of the minor, if any, shall maintain
23 the affidavit or verified statement completed under paragraph 4 of
24

1 subsection A of this section in the attorney file for two (2) years
2 after the minor attains eighteen (18) years of age.

3 C. The monies payable under the settlement agreement must be
4 paid as follows:

5 1. If the minor or person entering into the settlement
6 agreement on behalf of the minor is represented by an attorney and
7 the settlement is paid in cash, by check, draft, or by direct
8 deposit into the attorney trust account maintained pursuant to the
9 Rules of Professional Conduct applicable to management of client
10 trust accounts. The attorney shall deposit the monies received on
11 behalf of the minor directly into a federally insured savings
12 account that earns interest in the sole name of the minor, and
13 provide notice of the deposit to the minor and the person entering
14 into the settlement agreement on behalf of the minor. Notice shall
15 be delivered by personal service or first-class mail;

16 2. If the minor or guardian is not represented by an attorney
17 and the settlement is paid:

18 a. in cash, or by check or draft, the monies shall be
19 deposited by the guardian directly into a federally
20 insured savings account that earns interest, in the
21 sole name of the minor, or

22 b. by direct deposit, the minor or guardian shall provide
23 the person or entity with whom the minor has settled
24 the claim with the necessary information sufficient to

1 complete an electronic transfer of settlement funds
2 within ten (10) business days of the settlement into a
3 federally insured savings account that earns interest,
4 in the sole name of the minor. The notice of the
5 deposit to the minor of the electronic transfer of
6 funds shall be delivered by personal service or first-
7 class mail to the minor and guardian by the person or
8 entity against whom the minor has a claim that settles
9 the claim with the minor;

10 3. If paid by purchase of an annuity, by direct payment to the
11 provider of the annuity with the minor designated as the sole
12 beneficiary of the annuity; or

13 4. If the minor is a ward of the state and the settlement is
14 paid in cash, or by check or draft directly into a trust account, or
15 subaccount of a trust account, established by the department
16 responsible for wards of the state, or similar state mechanism for
17 the purpose of receiving monies payable to the ward under the
18 settlement agreement and that earns interest for the benefit of the
19 ward.

20 D. The monies in the minor's savings account, trust account, or
21 trust subaccount established under subsection C of this section may
22 not be withdrawn, removed, paid out, or transferred to any person,
23 including the minor, except as follows:

24 1. Pursuant to court order;

1 2. Upon the minor's attainment of eighteen (18) years of age;

2 or

3 3. Upon the minor's death.

4 E. If a settlement agreement is entered into in compliance with
5 subsection A of this section, the signature of the person entering
6 into the settlement agreement on behalf of the minor is binding on
7 the minor without the need for further court approval or review and
8 has the same force and effect as if the minor were a competent adult
9 entering into the settlement agreement.

10 F. A person acting in good faith on behalf of a minor under
11 this section is not liable to the minor for the monies paid in
12 settlement or for any other claim arising out of the settlement.

13 G. Any person or entity against whom a minor has a claim that
14 settles the claim with a minor in good faith under this section
15 shall not be liable to the minor for any claims arising from the
16 settlement of the claim.

17 SECTION 3. This act shall become effective November 1, 2022.

18 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
19 April 12, 2022 - DO PASS
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