

1 IN THE HOUSE

BY ORBECK

2 HOUSE BILL NO. 30

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Alaska Uniform Gifts to  
7 Minors Act."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 45.60 is repealed and re-enacted to read:

10 CHAPTER 60. ALASKA UNIFORM GIFTS TO MINORS ACT.

11 Sec. 45.60.011. MANNER OF MAKING GIFT. (a) An adult person may,  
12 during his lifetime, make a gift of a security or money to a person  
13 who is a minor on the date of the gift

14 (1) if the subject of the gift is a security in registered  
15 form, by registering it in the name of the donor, another adult person  
16 or a trust company, followed, in substance, by the words: "as custo-  
17 dian for (name of minor) under the Alaska Uniform Gifts to Minors  
18 Act";

19 (2) if the subject of the gift is a security not in regis-  
20 tered form, by delivering it to an adult person other than the donor  
21 or a trust company, accompanied by a statement of gift in the following  
22 form, in substance, signed by the donor and the person designated as  
23 custodian:

24 GIFT UNDER THE ALASKA UNIFORM GIFTS  
25 TO MINORS ACT

26 I, (name of donor), hereby deliver to (name of custodian) as custodian  
27 for (name of minor) under the Alaska Uniform Gifts to Minors Act, the  
28 following security(ies): (insert an appropriate description of the  
29 security or securities delivered sufficient to identify it or them)

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(signature of donor)

(name of custodian) hereby acknowledges receipt of the above described security(ies) as custodian for the above minor under the Alaska Uniform Gifts to Minors Act.

Dated.....

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(signature of custodian)

(3) if the subject of the gift is money, by paying or delivering it to a broker or a bank for credit to an account in the name of the donor, another adult person or a bank with trust powers, followed, in substance, by the words: "as custodian for (name of minor) under the Alaska Uniform Gifts to Minors Act".

(b) A gift made in a manner prescribed in (a) of this section may be made to only one minor and only one person may be the custodian.

(c) A donor who makes a gift to a minor in a manner prescribed in (a) of this section shall promptly do all things within his power to put the subject of the gift in the possession and control of the custodian, but neither the donor's failure to comply with this subsection, nor his designation of an ineligible person as custodian, nor renunciation by the person designated as custodian affects the consummation of the gift.

Sec. 45.60.021. EFFECT OF GIFT. (a) A gift made in a manner prescribed in this chapter is irrevocable and conveys to the minor indefeasibly vested legal title to the security or money given, but no guardian of the minor has any right, power, duty or authority with respect to the custodial property except as provided in this chapter.

(b) By making a gift in a manner prescribed in this chapter, the donor incorporates in his gift all the provisions of this chapter and grants to the custodian, and to any issuer, transfer agent, bank,

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1 broker or third person dealing with a person designated as custodian,  
2 the respective powers, rights and immunities provided in this chapter.

3 Sec. 45.60.031. DUTIES AND POWERS OF CUSTODIAN. (a) The custo-  
4 dian shall collect, hold, manage, invest and reinvest the custodial  
5 property.

6 (b) The custodian shall pay over to the minor for expenditure  
7 by him, or expend for the minor's benefit, so much of or all the  
8 custodial property as the custodian considers advisable for the support  
9 maintenance, education and benefit of the minor in the manner, at the  
10 time or times, and to the extent that the custodian in his discretion  
11 considers suitable and proper, with or without court order, with or  
12 without regard to the duty of himself or of any other person to support  
13 the minor or his ability to do so, and with or without regard to other  
14 income or property of the minor which may be applicable or available  
15 for any such purpose.

16 (c) The court, on the petition of a parent or guardian of the  
17 minor or of the minor, if he has attained the age of 14 years, may  
18 order the custodian to pay over the minor for expenditure by him or  
19 to expend so much of or all the custodial property as is necessary for  
20 the minor's support, maintenance or education.

21 (d) To the extent that the custodial property is not so expended,  
22 the custodian shall deliver or pay it over to the minor on his attain-  
23 ing the age of 19 years or, if the minor dies before attaining the age  
24 of 19 years, he shall deliver or pay it over to the estate of the  
25 minor.

26 (e) The custodian, notwithstanding statutes restricting invest-  
27 ments by fiduciaries, shall invest and reinvest the custodial property  
28 as would a prudent man of discretion and intelligence who is seeking  
29 a reasonable income and the preservation of his capital, except that

1 he may, in his discretion and without liability to the minor or his  
2 estate, retain a security given to the minor in a manner prescribed  
3 in this chapter.

4 (f) The custodian may sell, exchange, convert or otherwise  
5 dispose of custodial property in the manner, at the time or times,  
6 for the price or prices and upon the terms he considers advisable.  
7 He may vote in person or by general or limited proxy a security which  
8 is custodial property. He may consent, directly or through a committee  
9 or other agent, to the reorganization, consolidation, merger, dis-  
10 solution or liquidation of an issuer, a security which is custodial  
11 property and to the sale, lease, pledge or mortgage of any property  
12 by or to such an issuer, and to any other action by such an issuer. He  
13 may execute and deliver any and all instruments in writing which he  
14 considers advisable to carry out any of his powers as custodian.

15 (g) The custodian shall register each security which is custodial  
16 property and in registered form in the name of the custodian, followed,  
17 in substance, by the words: "as custodian for (name of minor) under  
18 the Alaska Uniform Gifts to Minors Act". The custodian shall hold  
19 all money which is custodial property in an account with a broker or  
20 in a bank in the name of the custodian, followed, in substance, by  
21 the words: "as custodian for (name of minor) under the Alaska Uniform  
22 Gifts to Minors Act". The custodian shall keep all other custodial  
23 property separate and distinct from his own property in a manner to  
24 identify it clearly as custodial property.

25 (h) The custodian shall keep records of all transactions with  
26 respect to the custodial property and make them available for inspec-  
27 tion at reasonable intervals by a parent or legal representative of  
28 the minor or by the minor, if he has attained the age of 14 years.

29 (i) A custodian has and holds as powers in trust, with respect

1 to the custodial property, in addition to the rights and powers pro-  
2 vided in this chapter, all the rights and powers which a guardian has  
3 with respect to property not held as custodial property.

4 Sec. 45.60.041. CUSTODIAN'S EXPENSES, COMPENSATION, BOND AND  
5 LIABILITIES. (a) A custodian is entitled to reimbursement from the  
6 custodial property for his reasonable expenses incurred in the per-  
7 formance of his duties.

8 (b) A custodian may act without compensation for his services.

9 (c) Unless he is a donor, a custodian may receive from the  
10 custodial property reasonable compensation for his services determined  
11 by one of the following standards in the order stated:

- 12 (1) a direction by the donor when the gift is made;
- 13 (2) a statute of this state applicable to custodians;
- 14 (3) the statute of this state applicable to guardians;
- 15 (4) an order of the court.

16 (d) Except as otherwise provided in this chapter, a custodian  
17 shall not be required to give a bond for the performance of his duties.

18 (e) A custodian not compensated for his services is not liable  
19 for losses to the custodial property unless they result from his bad  
20 faith, intentional wrongdoing or gross negligence or from his failure  
21 to maintain the standard of prudence in investing the custodial pro-  
22 perty provided in this chapter.

23 Sec. 45.60.051. EXEMPTION OF THIRD PERSONS FROM LIABILITY. No  
24 issuer, transfer agent, bank, broker or other person acting on the  
25 instructions of or otherwise dealing with any person purporting to  
26 act as a donor or in the capacity of a custodian is responsible for  
27 determining whether the person designated by the purported donor or  
28 purporting to act as a custodian has been duly designated or whether  
29 any purchase, sale or transfer to or by or any other act of any person

1 purporting to act in the capacity of custodian is in accordance with  
2 or authorized by this chapter, or is obliged to inquire into the  
3 validity or propriety under this chapter of any instrument or instruc-  
4 tions executed or given by a person purporting to act as a donor or  
5 in the capacity of a custodian, or is bound to see to the application  
6 by any person purporting to act in the capacity of a custodian of any  
7 money or other property paid or delivered to him.

8 **Sec. 45.60.061. RESIGNATION, DEATH OR REMOVAL OF CUSTODIAN;**  
9 **BOND; APPOINTMENT OF SUCCESSOR CUSTODIAN.** (a) Only an adult member  
10 of the minor's family, a guardian of the minor or a trust company is  
11 eligible to become successor custodian. A successor custodian has  
12 all the rights, powers, duties and immunities of a custodian designated  
13 in a manner prescribed by this chapter.

14 (b) A custodian, other than the donor, may resign and designate  
15 his successor by:

16 (1) executing an instrument of resignation designating the  
17 successor custodian;

18 (2) causing each security which is custodial property and  
19 in registered form to be registered in the name of the successor  
20 custodian followed, in substance, by the words: "as custodian for  
21 (name of minor) under the Alaska Uniform Gifts to Minors Act"; and

22 (3) delivering to the successor custodian the instrument  
23 of resignation, each security registered in the name of the successor  
24 custodian and all other custodial property, together with any addi-  
25 tional instruments required for the transfer thereof.

26 (c) A custodian, whether or not a donor, may petition the court  
27 for permission to resign and for the designation of a successor custo-  
28 dian.

29 (d) If the person designated as custodian is not eligible,

1 renounces or dies before the minor attains the age of 19 years, the  
2 guardian of the minor shall be successor custodian. If the minor  
3 has no guardian, a donor, his legal representative, the legal  
4 representative of the custodian, an adult member of the minor's  
5 family, or the minor, if he has attained the age of 14 years, may  
6 petition the court for the designation of a successor custodian.

7 (e) A donor, the legal representative of a donor, an adult  
8 member of the minor's family, a guardian of the minor or the minor,  
9 if he has attained the age of 14 years, may petition the court that,  
10 for cause shown in the petition, the custodian be removed and a  
11 successor custodian be designated or, in the alternative, that the  
12 custodian be required to give bond for the performance of his duties.

13 (f) Upon the filing of a petition as provided in this section,  
14 the court shall grant an order, directed to the persons and returnable  
15 on notice the court may require, to show cause why the relief prayed  
16 for in the petition should not be granted and grant relief the court  
17 finds to be in the best interests of the minor.

18 Sec. 45.60.071. ACCOUNTING BY CUSTODIAN. (a) The minor, if he  
19 has attained the age of 14 years, or the legal representative of the  
20 minor, an adult member of the minor's family, or a donor or his  
21 legal representative may petition the court for an accounting by the  
22 custodian or his legal representative.

23 (b) The court, in a proceeding under this chapter or otherwise,  
24 may require or permit the custodian or his legal representative to  
25 account and, if the custodian is removed, shall so require and order  
26 delivery of all custodial property to the successor custodian and the  
27 execution of all instruments required for the transfer.

28 Sec. 45.60.081. CONSTRUCTION. (a) This chapter shall be so  
29 construed as to effectuate its general purpose to make uniform the

1 law of those states which enact it.

2 (b) This chapter shall not be construed as providing an exclusive  
3 method for making gifts to minors.

4 Sec. 45.60.091. DEFINITIONS. In this chapter

5 (1) "adult" means a person who has attained the age of  
6 19 years;

7 (2) "bank" means a bank, trust company, national banking  
8 association, savings bank, or industrial bank;

9 (3) "broker" means a person lawfully engaged in the business  
10 of effecting transactions in securities for the account of others,  
11 and includes a bank which effects such transactions, and a person lawfully  
12 engaged in buying and selling securities for his own account, through  
13 a broker or otherwise, as a part of a regular business;

14 (4) "court" means the superior court;

15 (5) "custodial property" means

16 (A) all securities and money under the supervision of  
17 the same custodian for the same minor as a consequence of a gift  
18 or gifts made to the minor in a manner prescribed in this chapter;

19 (B) the income from the custodial property; or

20 (C) the proceeds, immediate and remote, from the sale,  
21 exchange, conversion, investment, reinvestment or other disposition  
22 of the securities, money and income;

23 (6) "custodian" means a person designated as custodian in  
24 a manner prescribed in this chapter;

25 (7) "guardian" of a minor means the general guardian,  
26 guardian, tutor or curator of his property, estate or person;

27 (8) "issuer" means a person who places or authorizes the  
28 placing of his name on a security (other than as a transfer agent) to  
29 evidence that it represents a share, participation or other interest

1 in his property or in an enterprise or to evidence his duty or under-  
2 taking to perform an obligation evidenced by the security, or who  
3 becomes responsible for or in place of any such person;

4 (9) "legal representative" means a person is his executor  
5 or the administrator, general guardian, guardian, committee, conserva-  
6 tor, tutor or curator of his property or estate;

7 (10) "member" of a "minor's family" means any of the minor's  
8 parents, grandparents, brothers, sisters, uncles and aunts, whether  
9 of the whole blood or the half blood, or by or through legal adoption;

10 (11) "minor" means a person who has not attained the age of  
11 19 years;

12 (12) "security" means a note, stock, treasury stock, bond,  
13 debenture, evidence of indebtedness, certificate of interest or parti-  
14 cipation in an oil, gas or mining title or lease or in payments out of  
15 production under such a title or lease, collateral trust certificate,  
16 transferable share, voting trust certificate, or in general, any  
17 interest or instrument commonly known as a security, or a certificate  
18 of interest or participation in, a temporary or interim certificate,  
19 receipt or certificate of deposit for, or any warrant or right to  
20 subscribe to or purchase, any of the foregoing; the term does not  
21 include a security of which the donor is the issuer; a security is in  
22 "registered form" when it specifies a person entitled to it or to the  
23 rights it evidences and its transfer may be registered upon books  
24 maintained for that purpose by or on behalf of the issuer;

25 (13) "transfer agent" means a person who acts as authentica-  
26 ting trustee, transfer agent, registrar or other agent for an issuer  
27 in the registration of transfer of its securities or in the issue of  
28 new securities or in the cancellation of surrendered securities;

29 (14) "trust company" means a bank authorized to exercise

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trust powers.

Sec. 45.60.101. **SHORT TITLE.** This act may be cited as the  
Alaska Uniform Gifts to Minors Act.