

Original Sponsors: Orbeck and Fink

Offered: 2/3/67  
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR 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 AS 45.60 is repealed and re-enacted to read: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, a life insurance policy  
13 or annuity contract or money to a person who is a minor on the date of  
14 the gift

15 (1) if the subject of the gift is a security in registered  
16 form, by registering it in the name of the donor, another adult person,  
17 an adult member of the minor's family, a guardian of the minor or a  
18 trust company, followed, in substance, by the words: "as custodian  
19 for. . . . .(name of minor) under the Alaska Uniform  
20 Gifts to Minors Act";

21 (2) if the subject of the gift is a security not in registered  
22 form, by delivering it to an adult other than the donor, an adult  
23 member, other than the donor, of the minor's family, a guardian of the  
24 minor or a trust company, accompanied by a statement of gift in the  
25 following form, in substance, signed by the donor and the person desig-  
26 nated as custodian:

27 GIFT UNDER THE ALASKA UNIFORM GIFTS TO MINORS ACT I, . . . . .  
28 (name of donor) hereby deliver to . . . . . (name of custodian)  
29 as custodian for . . . . . (name of minor) under the

1 Alaska Uniform Gifts to Minors Act, the following security(ies): (in-  
2 sort an appropriate description of the security or securities delivered  
3 sufficient to identify it or them).

4 . . . . .  
5 (signature of donor)

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

9 Dated: . . . . .  
10 (signature of custodian)

11 (3) if the subject of the gift is money, by paying or de-  
12 livering it to a broker or a financial institution for credit to an  
13 account in the name of the donor, another adult, an adult member of the  
14 minor's family, a guardian of the minor, or a trust company, followed,  
15 in substance, by the words: "as custodian for . . . . .  
16 (name of minor) under the Alaska Uniform Gifts to Minors Act".

17 (4) if the subject of the gift is a life insurance policy or  
18 annuity contract by causing the ownership of the policy or contract to  
19 be registered with the issuing insurance company in the name of the  
20 donor, another adult, an adult member of the minor's family, a guardian  
21 of the minor or a trust company, followed, in substance, by the words:  
22 "as custodian for . . . . . (name of minor) under the  
23 Alaska Uniform Gifts to Minors Act".

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

26 (c) A donor who makes a gift to a minor in a manner prescribed  
27 in (a) of this section shall promptly do all things within his power to  
28 put the subject of the gift in the possession and control of the  
29 custodian, but neither the donor's failure to comply with this subsection,

1 nor his designation of an ineligible person as custodian, nor renun-  
2 ciation by the person designated as custodian affects the consummation  
3 of the gift.

4 Sec. 45.60.021. EFFECT OF GIFT. (a) A gift made in a manner  
5 prescribed in this chapter is irrevocable and conveys to the minor in-  
6 defeasibly vested legal title to the security, life insurance policy,  
7 annuity contract or money given, but no guardian of the minor has any  
8 right, power, duty or authority with respect to the custodial property  
9 except as provided in this chapter.

10 (b) By making a gift in a manner prescribed in this chapter, the  
11 donor incorporates in his gift all the provisions of this chapter and  
12 grants to the custodian, and to any issuer, transfer agent, bank, broker  
13 or third person dealing with a person designated as custodian, the  
14 respective powers, rights and immunities provided in this chapter.

15 Sec. 45.60.031. DUTIES AND POWERS OF CUSTODIAN. (a) The  
16 custodian shall collect, hold, manage, invest and reinvest the custodial  
17 property.

18 (b) The custodian shall pay over to the minor for expenditure by  
19 him, or expend for the minor's benefit, so much of or all the custodial  
20 property as the custodian considers advisable for the support, mainten-  
21 ance, education and benefit of the minor in the manner, at the time or  
22 times, and to the extent that the custodian in his discretion considers  
23 suitable and proper, with or without court order, with or without re-  
24 gard to the duty of himself or of any other person to support the minor  
25 or his ability to do so, and with or without regard to other income or  
26 property of the minor which may be applicable or available for that  
27 purpose.

28 (c) The court, on the petition of a parent or guardian of the  
29 minor or of the minor, if he has attained the age of 14 years, may

1 order the custodian to pay over to the minor for expenditure by him or  
2 to expend so much of or all the custodial property as is necessary for  
3 the minor's support, maintenance or education.

4 (d) To the extent that the custodial property is not so expended,  
5 the custodian shall deliver or pay it over to the minor on his attaining  
6 the age of 19 years or, if the minor dies before attaining the age of  
7 19 years, he shall deliver or pay it over to the estate of the minor.

8 (e) The custodian, notwithstanding statutes restricting invest-  
9 ments by fiduciaries, shall invest and reinvest the custodial property  
10 as would a prudent man of discretion and intelligence who is seeking a  
11 reasonable income and the preservation of his capital, except that he  
12 may, in his discretion and without liability to the minor or his estate,  
13 retain a security given to the minor in a manner prescribed in this  
14 chapter.

15 (f) The custodian may sell, exchange, convert, surrender or  
16 otherwise dispose of custodial property in the manner, at the time or  
17 times, for the price or prices and upon the terms he considers advisable.  
18 He may vote in person or by general or limited proxy a security which  
19 is custodial property. He may consent, directly or through a committee  
20 or other agent, to the reorganization, consolidation, merger, dissolu-  
21 tion or liquidation of an issuer, a security which is custodial  
22 property, and to the sale, lease, pledge or mortgage of any property  
23 by or to such an issuer, and to any other action by such an issuer.  
24 He may execute and deliver any and all instruments in writing which he  
25 considers advisable to carry out his powers as custodian.

26 (g) The custodian shall register each security which is custodial  
27 property and in registered form in the name of the custodian, followed,  
28 in substance, by the words: "as custodian for . . . . .  
29 (name of minor) under the Alaska Uniform Gifts to Minors Act". The

1        custodian shall hold all money which is custodial property in an ac-  
2        count with a broker or in an insured financial institution in the name  
3        of the custodian, followed, in substance, by the words: "as custodian  
4        for . . . . . (name of minor) under the Alaska Uniform  
5        Gifts to Minors Act". The custodian shall keep all other custodial  
6        property separate and distinct from his own property in a manner to  
7        identify it clearly as custodial property.

8            (h) The custodian shall keep records of all transactions with  
9        respect to the custodial property and make them available for inspection  
10       at reasonable intervals by a parent or legal representative of the  
11       minor or by the minor, if he has attained the age of 14 years.

12           (i) A custodian has and holds as powers in trust, with respect  
13       to the custodial property, in addition to the rights and powers provided  
14       in this chapter, all the rights and powers which a guardian has with  
15       respect to property not held as custodial property.

16           (j) If the subject of the gift is a life insurance policy or  
17       annuity contract, the custodian:

18                (1) has, in his capacity as custodian, all the incidents of  
19       ownership in the policy or contract to the extent as if he were the  
20       owner, except that the designated beneficiary of any policy or contract  
21       on the life of the minor shall be the minor's estate and the designated  
22       beneficiary of any policy or contract on the life of a person other than  
23       the minor shall be the custodian as custodian for the minor for whom  
24       he is acting; and

25                (2) may pay premiums on the policy or contract out of the  
26       custodial property.

27            Sec. 45.60.041. CUSTODIAN'S EXPENSES, COMPENSATION, BOND AND  
28       LIABILITIES. (a) A custodian is entitled to reimbursement from the  
29       custodial property for his reasonable expenses incurred in the

1 performance of his duties.

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

3 (c) Unless he is a donor, a custodian may receive from the cus-  
4 todial property reasonable compensation for his services determined by  
5 one of the following standards in the order stated:

- 6 (1) a direction by the donor when the gift is made;  
7 (2) a statute of this state applicable to custodians;  
8 (3) the statute of this state applicable to guardians;  
9 (4) an order of the court.

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

13 (e) A custodian not compensated for his services is not liable  
14 for losses to the custodial property unless they result from his bad  
15 faith, intentional wrongdoing or gross negligence or from his failure  
16 to maintain the standard of prudence in investing the custodial  
17 property provided in this chapter.

18 **Sec. 45.60.051. EXEMPTION OF THIRD PERSONS FROM LIABILITY.**

19 No issuer, transfer agent, bank, life insurance company, broker  
20 or other person or financial institution acting on the instructions  
21 of or otherwise dealing with any person purporting to act as a donor  
22 or in the capacity of a custodian is responsible for determining  
23 whether the person designated as custodian by the purported donor  
24 or by the custodian or purporting to act as custodian has been  
25 duly designated or whether any purchase, sale or transfer to  
26 or by or any other act of any person purporting to act in the  
27 capacity of custodian is in accordance with or authorized by this  
28 chapter, or is obliged to inquire into the validity or propriety under  
29 this chapter of any instrument or instructions executed or given

1 by a person purporting to act as a donor or in the capacity of a cus-  
2 todian, or is bound to see to the application by any person purporting  
3 to act in the capacity of a custodian of any money or other property  
4 paid or delivered to him. No issuer, transfer agent, bank, life insur-  
5 ance company, broker or other person or financial institution acting  
6 on any instrument of designation of a successor custodian, executed as  
7 provided in sec. 61(a) of this chapter by a minor to whom a gift has  
8 been made in a manner prescribed in this chapter and who has attained  
9 the age of 14 years, is responsible for determining whether the person  
10 designated by the minor as successor custodian has been duly desig-  
11 nated, or is obliged to inquire into the validity or propriety under  
12 this chapter of the instrument of designation.

13 Sec. 45.60.061. RESIGNATION, DEATH OR REMOVAL OF CUSTODIAN; BOND.  
14 DESIGNATION OF SUCCESSOR CUSTODIAN. (a) Only an adult member of the  
15 minor's family, a guardian of the minor or a trust company is eligible  
16 to become successor custodian. A custodian may designate his successor  
17 by executing and dating an instrument of designation before a subscrib-  
18 ing witness other than the successor; the instrument of designation may  
19 but need not contain the resignation of the custodian. If the cus-  
20 todian does not so designate his successor before he dies or becomes  
21 legally incapacitated and the minor has attained the age of 14 years,  
22 the minor may designate a successor custodian by executing an instrument  
23 of designation before a subscribing witness other than the successor.  
24 A successor custodian has all the rights, powers, duties and immunities  
25 of a custodian designated in a manner prescribed by this chapter.

26 (b) The designation of a successor custodian as provided in (a)  
27 of this section takes effect as to each item of the custodial property  
28 when the custodian resigns, dies or becomes legally incapacitated and  
29 the custodian or his legal representative

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(1) causes the item, if it is a security in registered form or a life insurance policy or annuity contract, to be registered, with the issuing insurance company in the case of a life insurance policy or annuity contract, in the name of the successor custodian, followed, in substance, by the words: "as custodian for . . . . . (name of minor) under the Alaska Uniform Gifts to Minors Act"; and

(2) delivers or causes to be delivered to the successor custodian any other item of the custodial property, together with the instrument of designation of the successor custodian or a true copy thereof and any additional instruments required for the transfer thereof to the successor custodian.

(c) A custodian who executes an instrument of designation of his successor containing the custodian's resignation as provided in (a) of this section shall promptly do all things within his power to put each item of the custodial property in the possession and control of the successor custodian named in the instrument. The legal representative of a custodian who dies or becomes legally incapacitated shall promptly do all things within his power to put each item of the custodial property in the possession and control of the successor custodian named in an instrument of designation executed as provided in (a) of this section by the custodian or, if none, by the minor if he has no guardian and has attained the age of 14 years, or in the possession and control of the guardian of the minor if he has a guardian. If the custodian has executed as provided in (a) of this section more than one instrument of designation, his legal representative shall treat the instrument dated on an earlier date as having been revoked by the instrument dated on a later date.

(d) If a person designated as custodian or as successor custodian as provided in (a) of this section is not eligible, dies or becomes

1       legally incapacitated before the minor attains the age of 19 years  
2       and if the minor has a guardian, the guardian of the minor shall be  
3       successor custodian. If the minor has no guardian and if no successor  
4       custodian who is eligible and has not died or become legally incapacitated  
5       has been designated as provided in (a) of this section, a donor,  
6       his legal representative, the legal representative of the custodian or  
7       an adult member of the minor's family may petition the court for the  
8       designation of a successor custodian.

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

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

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

26       (b) The court, in a proceeding under this chapter or otherwise,  
27       may require or permit the custodian or his legal representative to  
28       account and, if the custodian is removed, shall so require and order  
29       delivery of all custodial property to the successor custodian and the

1 execution of all instruments required for the transfer.

2       Sec. 45.60.081. CONSTRUCTION. (a) This chapter shall be so con-  
3       strued as to effectuate its general purpose to make uniform the law  
4       of those states which enact it.

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

7       Sec. 45.60.091. DEFINITIONS. In this chapter

8           (1) an "adult" is a person who has attained the age of 19  
9       years;

10          (2) "bank" means a bank, trust company, national banking as-  
11       sociation, savings bank, industrial bank or savings association;

12          (3) "broker" means a person lawfully engaged in the business  
13       of effecting transactions in securities for the account of others. The  
14       term includes a bank which effects such transactions. The term also  
15       includes a person lawfully engaged in buying and selling securities  
16       for his own account, through a broker or otherwise, as a part of a  
17       regular business;

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

19          (5) "custodial property" means

20           (A) all securities, life insurance policies, annuity  
21       contracts and money under the supervision of the same custodian  
22       for the same minor as a consequence of a gift or gifts made to  
23       the minor in a manner prescribed in this chapter;

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

25           (C) the proceeds, immediate and remote, from the sale,  
26       exchange, conversion, investment, reinvestment, surrender or  
27       other disposition of such securities, money, life insurance poli-  
28       cies, annuity contracts and income;

29          (6) "custodian" means a person so designated in a manner

1 prescribed in this chapter; the term includes a successor custodian;

2 (7) "financial institution" means a bank, a federal savings  
3 and loan association, a savings institution chartered and supervised  
4 as a savings and loan or similar institution under federal law or the  
5 laws of a state, an "insured financial institution" is one, deposits  
6 (including a savings, share, certificate or deposit account) in which  
7 are, in whole or in part, insured by the federal deposit insurance  
8 corporation, by the federal savings and loan insurance corporation, or  
9 by a fund approved by the state;

10 (8) "guardian" of a minor means the general guardian,  
11 guardian, tutor or curator of his property or estate appointed or quali-  
12 fied by a court of this state or another state;

13 (9) "issuer" means a person who places or authorizes the  
14 placing of his name on a security (other than as a transfer agent) to  
15 evidence that it represents a share, participation or other interest  
16 in his property or in an enterprise or to evidence his duty or under-  
17 taking to perform an obligation evidenced by the security, or who  
18 becomes responsible for or in place of any such person;

19 (10) a "legal representative" of a person is his executor or  
20 the administrator, general guardian, guardian, committee, conservator,  
21 tutor or curator of his property or estate;

22 (11) "life insurance policy or annuity contract" means a life  
23 insurance policy or annuity contract, issued by an insurance company  
24 on the life of a minor to whom a gift of the policy or contract is made  
25 in the manner prescribed in this chapter or on the life of a member  
26 of the minor's family;

27 (12) "member" of a "minor's family" means any of the minor's  
28 parents, grandparents, brothers, sisters, uncles and aunts, whether of  
29 the whole blood or the half blood, or by or through legal adoption;

1 (13) "minor" means a person who has not attained the age of  
2 19 years;

3 (14) "security" means a note, stock, treasury stock, bond,  
4 debenture, evidence of indebtedness, certificate of interest or partici-  
5 pation in an oil, gas or mining title or lease in payments out of pro-  
6 duction under such a title or lease, collateral trust certificate,  
7 transferable share, voting trust certificate or, in general, any inter-  
8 est or instrument commonly known as a security, or any certificate of  
9 interest or participation in, any temporary or interim certificate,  
10 receipt or certificate of deposit for, or any warrant or right to sub-  
11 scribe to or purchase, any of the foregoing; the term does not include  
12 a security of which the donor is the issuer; a security is in "regis-  
13 tered form" when it specifies a person entitled to it or to the rights  
14 it evidences and its transfer may be registered upon books maintained  
15 for that purpose by or on behalf of the issuer;

16 (15) "transfer agent" means a person who acts as authenti-  
17 cating trustee, transfer agent, registrar or other agent for an issuer  
18 in the registration of transfers of its securities or in the issue of  
19 new securities or in the cancellation of surrendered securities;

20 (16) "trust company" means a bank, corporation or other  
21 legal entity authorized to exercise trust powers.

22 Sec. 45.60.101. SHORT TITLE. This chapter may be cited as the  
23 Alaska Uniform Gifts to Minors Act.  
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