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Referred: Judiciary

6-0510E

Original sponsor: Judiciary Committee

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

CS FOR HOUSE BILL NO. 165 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the disposition of property,
including anatomical parts of the body; and providing
for an effective date."

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

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* Section 1. AS 13.11.305 is amended by adding a new subsection to
read:

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(h) In the case of an unintentional felonious killing, a court
may set aside the application of (a), (b), (c), or (d) of this section
if the court makes special findings of fact and conclusions of law
that the application of the subsection would result in a manifest
injustice and that the subsection should not be applied.

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* Sec. 2. AS 13 is amended by adding a new chapter to read:

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CHAPTER 46. ALASKA UNIFORM TRANSFERS TO MINORS ACT.

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Sec. 13.46.010. SCOPE AND JURISDICTION. (a) This chapter

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applies to a transfer that refers to this chapter in the designation
under AS 13.46.080(a) by which the transfer is made, if at the time of
the transfer, the transferor, the minor, or the custodian is a resi-
dent of this state or the custodial property is located in this state.
The custodianship so created remains subject to this chapter despite a
subsequent change in residence of a transferor, the minor, or the
custodian, or the removal of custodial property from this state.

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(b) A person designated as custodian under this chapter is
subject to personal jurisdiction in this state with respect to a
matter relating to the custodianship.

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1 (c) A transfer that purports to be made and that is valid under
2 the Uniform Transfers to Minors Act, the Uniform Gifts to Minors Act,
3 or a substantially similar act of another state is governed by the law
4 of the designated state.

5 Sec. 13.46.020. NOMINATION OF CUSTODIAN. (a) A person having
6 the right to designate the recipient of property transferable upon the
7 occurrence of a future event may revocably nominate a custodian to
8 receive the property for a minor beneficiary upon the occurrence of
9 the event by naming the custodian followed in substance by the words:
10 "as custodian for _____ (name of minor) under the
11 Alaska Uniform Transfers to Minors Act." The nomination may name one
12 or more persons as substitute custodians to whom the property must be
13 transferred, in the order named, if the first nominated custodian dies
14 before the transfer or is unable, declines, or is ineligible to serve.
15 The nomination may be made in a will, a trust, a deed, an instrument
16 exercising a power of appointment, or a writing designating a benefi-
17 ciary of contractual rights that is registered with or delivered to
18 the payor, issuer, or other obligor of the contractual rights.

19 (b) A custodian nominated under this section must be a person to
20 whom a transfer of property of that kind may be made under AS 13.46.-
21 080(a).

22 (c) The nomination of a custodian under this section does not
23 create custodial property until the nominating instrument becomes
24 irrevocable or a transfer to the nominated custodian is completed
25 under AS 13.46.080. Unless the nomination of a custodian has been
26 revoked, upon the occurrence of the future event the custodianship
27 becomes effective and the custodian shall enforce a transfer of the
28 custodial property under AS 13.46.080.

29 Sec. 13.46.030. TRANSFER BY GIFT OR EXERCISE OF POWER OF

1 APPOINTMENT. A person may make a transfer by irrevocable gift to, or
2 the irrevocable exercise of a power of appointment in favor of, a
3 custodian for the benefit of a minor under AS 13.46.080.

4 Sec. 13.46.040. TRANSFER AUTHORIZED BY WILL OR TRUST. (a) A
5 personal representative or trustee may make an irrevocable transfer
6 under AS 13.46.080 to a custodian for the benefit of a minor as au-
7 thorized in the governing will or trust.

8 (b) If the testator or settlor has nominated a custodian under
9 AS 13.46.020 to receive the custodial property, the transfer must be
10 made to that person.

11 (c) If the testator or settlor has not nominated a custodian
12 under AS 13.46.020, or all persons so nominated as custodian die
13 before the transfer or are unable, decline, or are ineligible to
14 serve, the personal representative or the trustee, as the case may be,
15 shall designate the custodian from among those eligible to serve as
16 custodian for property of that kind under AS 13.46.080(a).

17 Sec. 13.46.050. OTHER TRANSFER BY FIDUCIARY. (a) Subject to
18 (c) of this section, a personal representative or trustee may make an
19 irrevocable transfer to another adult or trust company as custodian
20 for the benefit of a minor under AS 13.46.080, in the absence of a
21 will or under a will or trust that does not contain an authorization
22 to do so.

23 (b) Subject to (c) of this section, a conservator may make an
24 irrevocable transfer to another adult or trust company as custodian
25 for the benefit of the minor under AS 13.46.080.

26 (c) A transfer under (a) or (b) of this section may be made only
27 if

28 (1) the personal representative, trustee, or conservator
29 considers the transfer to be in the best interest of the minor;

1 (2) the transfer is not prohibited by or inconsistent with
2 provisions of the applicable will, trust, agreement, or other govern-
3 ing instrument; and

4 (3) the transfer is authorized by the court if it exceeds
5 \$25,000 in value.

6 Sec. 13.46.060. TRANSFER BY OBLIGOR. (a) Subject to (b) and
7 (c) of this section, a person not subject to AS 13.46.040 or 13.46.050
8 who holds property of or owes a liquidated debt to a minor not having
9 a conservator may make an irrevocable transfer to a custodian for the
10 benefit of the minor under AS 13.46.080.

11 (b) If a person having the right to do so under AS 13.46.020 has
12 nominated a custodian under that section to receive the custodial
13 property, the transfer must be made to that person.

14 (c) If a custodian has not been nominated under AS 13.46.020, or
15 all persons nominated as custodian die before the transfer or are
16 unable, decline, or are ineligible to serve, a transfer under this
17 section may be made to an adult member of the minor's family or to a
18 trust company unless the property exceeds \$25,000 in value.

19 Sec. 13.46.070. RECEIPT FOR CUSTODIAL PROPERTY. A written
20 receipt by a custodian constitutes a sufficient receipt and discharge
21 for custodial property transferred to the custodian under this chap-
22 ter.

23 Sec. 13.46.080. MANNER OF CREATING CUSTODIAL PROPERTY AND
24 EFFECTING TRANSFER; DESIGNATION OF INITIAL CUSTODIAN; CONTROL. (a)
25 Custodial property is created and a transfer is made when

26 (1) an uncertificated security or a certificated security
27 in registered form is either

28 (A) registered in the name of the transferor, an adult
29 other than the transferor, or a trust company, followed in

1 substance by the words: "as custodian for
2 (name of minor) under the Alaska Uniform Transfers to Minors
3 Act"; or

4 (B) delivered if in certificated form, or a document
5 necessary for the transfer of an uncertificated security is
6 delivered, together with any necessary endorsement to an adult
7 other than the transferor or to a trust company as custodian,
8 accompanied by an instrument in substantially the form set out in
9 (b) of this section;

10 (2) money is paid or delivered to a broker or financial
11 institution for credit to an account in the name of the transferor, an
12 adult other than the transferor, or a trust company, followed in
13 substance by the words: "as custodian for _____ (name
14 of minor) under the Alaska Uniform Transfers to Minors Act";

15 (3) the ownership of a life or endowment insurance policy
16 or annuity contract is either

17 (A) registered with the issuer in the name of the
18 transferor, an adult other than the transferor, or a trust com-
19 pany, followed in substance by the words: "as custodian for
20 _____ (name of minor) under the Alaska Uniform
21 Transfers to Minors Act"; or

22 (B) assigned in a writing delivered to an adult other
23 than the transferor or to a trust company whose name in the
24 assignment is followed in substance by the words: "as custodian
25 for _____ (name of minor) under the Alaska Uniform
26 Transfers to Minors Act";

27 (4) an irrevocable exercise of a power of appointment or an
28 irrevocable present right to future payment under a contract is the
29 subject of a written notification delivered to the payor, issuer, or

1 other obligor that the right is transferred to the transferor, an
2 adult other than the transferor, or a trust company, whose name in the
3 notification is followed in substance by the words: "as custodian for
4 _____ (name of minor) under the Alaska Uniform Trans-
5 fers to Minors Act";

6 (5) an interest in real property is recorded in the name of
7 the transferor, an adult other than the transferor, or a trust com-
8 pany, followed in substance by the words: "as custodian for
9 _____ (name of minor) under the Alaska Uniform Transfers to
10 Minors Act";

11 (6) a certificate of title issued by a department or agency
12 of a state or of the United States that evidences title to tangible
13 personal property is either

14 (A) issued in the name of the transferor, an adult
15 other than the transferor, or a trust company, followed in sub-
16 stance by the words: "as custodian for
17 (name of minor) under the Alaska Uniform Transfers to Minors
18 Act"; or

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

23 (7) an interest in property not described in (1) - (6) of
24 this subsection is transferred to an adult other than the transferor
25 or to a trust company by a written instrument in substantially the
26 form set out in (b) of this section.

27 (b) An instrument in the following form satisfies the require-
28 ments of (a)(1)(B) and (a)(7) of this section:

29 "TRANSFER UNDER THE ALASKA UNIFORM

1 TRANSFERS TO MINORS ACT

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

9 Dated: _____

10 _____

11 (Signature)

12 _____ (name of custodian) has received
13 the property described above as custodian for the
14 minor named above under the Alaska Uniform Transfers to
15 Minors Act.

16 Dated: _____

17 _____"

18 (Signature of Custodian)

19 (c) A transferor shall place the custodian in control of the
20 custodial property as soon as practicable.

21 Sec. 13.46.085. NATIVE CORPORATIONS; CUSTODIANS. (a) Stock or
22 membership in a corporation organized under the law of this state
23 under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 -
24 1629(e)) that a minor is entitled to receive under that Act shall be
25 issued by the corporation to a custodian.

26 (b) The custodian shall be determined under the order of priori-
27 ty set out below. The appointment becomes effective upon the corpora-
28 tion's receipt of the custodian's written consent to the appointment.

29 The order of priority is:

- 1 (1) the legal guardian, if any, of the minor;
2 (2) a parent, if any, of the minor, as selected by the
3 parents;
4 (3) an adult member of the minor's family; in this para-
5 graph "member of the minor's family" has the meaning given in AS 13.-
6 46.990, and may also include members of the family with whom the minor
7 has customarily lived.

8 (c) For good cause, a district court or the superior court may
9 vary the order of priority set out in (b) of this section or appoint
10 another suitable person as custodian.

11 (d) The custodianship is governed by this chapter, as modified
12 by the following:

13 (1) in AS 13.46.190, a transfer to the minor's estate
14 includes delivery to the heirs by intestate succession or custodians
15 for the heirs;

16 (2) under AS 13.46.150, a third person is responsible for
17 determining whether stock is inalienable under the Act;

18 (3) the custodian shall give an appropriate receipt for
19 property received for the minor;

20 (4) the custodian may not alienate inalienable property
21 except within the limits provided by law;

22 (5) the form of registration or title shall be "as custo-
23 dian for _____ (name of minor) under the Alaska
24 Native Claims Settlement Act";

25 (6) a custodian may not receive compensation except, upon
26 application to and approval by the superior court, for unusual and
27 extraordinary services;

28 (7) custodial property includes securities, money, and
29 other real and personal property under supervision as a consequence of

1 the Act.

2 (e) In this section, "Act" means the Alaska Native Claims
3 Settlement Act (43 U.S.C. 1601 - 1629(e)).

4 Sec. 13.46.090. SINGLE CUSTODIANSHIP. A transfer may be made
5 only for one minor, and only one person may be the custodian. All
6 custodial property held under this chapter by the same custodian for
7 the benefit of the same minor constitutes a single custodianship.

8 Sec. 13.46.100. VALIDITY AND EFFECT OF TRANSFER. (a) The
9 validity of a transfer made in a manner prescribed in this chapter is
10 not affected by

11 (1) failure of the transferor to comply with AS 13.46.-
12 080(c) concerning possession and control;

13 (2) designation of an ineligible custodian, except desig-
14 nation of the transferor in the case of property for which the trans-
15 feror is ineligible to serve as custodian under AS 13.46.080(a); or

16 (3) death or incapacity of a person nominated under AS 13.-
17 46.020 or designated under AS 13.46.080 as custodian or the disclaimer
18 of the office by that person.

19 (b) A transfer made under AS 13.46.080 is irrevocable, and the
20 custodial property is indefeasibly vested in the minor, but the custo-
21 dian has all the rights, powers, duties, and authority provided in
22 this chapter, and neither the minor nor the minor's legal representa-
23 tive has any right, power, duty, or authority with respect to the
24 custodial property except as provided in this chapter.

25 (c) By making a transfer, the transferor incorporates in the
26 disposition all the provisions of this chapter and grants to the
27 custodian, and to a third person dealing with a person designated as
28 custodian, the respective powers, rights, and immunities provided in
29 this chapter.

1 Sec. 13.46.110. CARE OF CUSTODIAL PROPERTY. (a) A custodian
2 shall

3 (1) take control of custodial property;

4 (2) register or record title to custodial property if
5 appropriate; and

6 (3) collect, hold, manage, invest, and reinvest custodial
7 property.

8 (b) In dealing with custodial property, a custodian shall ob-
9 serve the standard of care that would be observed by a prudent person
10 dealing with property of another and is not limited by any other
11 statute restricting investments by fiduciaries. If a custodian has a
12 special skill or expertise or is named custodian on the basis of
13 representations of a special skill or expertise, the custodian shall
14 use that skill or expertise. However, a custodian, in the custodian's
15 discretion and without liability to the minor or the minor's estate,
16 may retain custodial property received from a transferor.

17 (c) A custodian may invest in or pay premiums on life insurance
18 or endowment policies on

19 (1) the life of the minor only if the minor or the minor's
20 estate is the sole beneficiary; or

21 (2) the life of another person in whom the minor has an
22 insurable interest only to the extent that the minor, the minor's
23 estate, or the custodian in the capacity of custodian, is the irrevoc-
24 able beneficiary.

25 (d) A custodian at all times shall keep custodial property
26 separate and distinct from all other property in a manner sufficient
27 to identify it clearly as custodial property of the minor. Custodial
28 property consisting of an undivided interest is so identified if the
29 minor's interest is held as a tenant in common and is fixed.

1 Custodial property subject to recordation is so identified if it is
2 recorded, and custodial property subject to registration is so identi-
3 fied if it is either registered, or held in an account designated, in
4 the name of the custodian, followed in substance by the words: "as a
5 custodian for _____ (name of minor) under the
6 Alaska Uniform Transfers to Minors Act."

7 (e) A custodian shall keep records of all transactions with
8 respect to custodial property, including information necessary for the
9 preparation of the minor's tax returns, and shall make them available
10 for inspection at reasonable intervals by a parent or legal represen-
11 tative of the minor or by the minor if the minor has attained the age
12 of 14 years.

13 Sec. 13.46.120. POWERS OF CUSTODIAN. (a) A custodian, acting
14 in a custodial capacity, has all the rights, powers, and authority
15 over custodial property that unmarried adult owners have over their
16 own property, but a custodian may exercise those rights, powers, and
17 authority in that capacity only.

18 (b) This section does not relieve a custodian from liability for
19 breach of AS 13.46.110.

20 Sec. 13.46.130. USE OF CUSTODIAL PROPERTY. (a) A custodian may
21 deliver or pay to the minor or expend for the minor's benefit as much
22 of the custodial property as the custodian considers advisable for the
23 use and benefit of the minor, without court order and without regard
24 to

25 (1) the duty or ability of the custodian personally or of
26 another person to support the minor; or

27 (2) other income or property of the minor that may be
28 applicable or available for that purpose.

29 (b) On petition of an interested person or the minor if the

1 minor has attained the age of 14 years, the court may order the custo-
2 dian to deliver or pay to the minor or expend for the minor's benefit
3 as much of the custodial property as the court considers advisable for
4 the use and benefit of the minor.

5 (c) A delivery, payment, or expenditure under this section is in
6 addition to, not in substitution for, and does not affect an obliga-
7 tion of a person to support the minor.

8 Sec. 13.46.140. CUSTODIAN'S EXPENSES, COMPENSATION, AND BOND.

9 (a) A custodian is entitled to reimbursement from custodial property
10 for reasonable expenses incurred in the performance of the custodian's
11 duties.

12 (b) Except for one who is a transferor under AS 13.46.030, a
13 custodian has a noncumulative election during each calendar year to
14 charge reasonable compensation for services performed during that
15 year.

16 (c) Except as provided in AS 13.46.170(f), a custodian is not
17 required to give a bond.

18 Sec. 13.46.150. EXEMPTION OF THIRD PERSON FROM LIABILITY. A
19 third person in good faith and without court order may act on the
20 instructions of or otherwise deal with a person purporting to make a
21 transfer or purporting to act in the capacity of a custodian and, in
22 the absence of knowledge, is not responsible for determining

23 (1) the validity of the purported custodian's designation;

24 (2) the propriety of, or the authority under this chapter
25 for, an act of the purported custodian;

26 (3) the validity or propriety under this chapter of an
27 instrument or instructions executed or given either by the person
28 purporting to make a transfer or by the purported custodian; or

29 (4) the propriety of the application of property of the

1 minor delivered to the purported custodian.

2 Sec. 13.46.160. LIABILITY TO THIRD PERSONS. (a) A claim based
3 on (1) a contract entered into by a custodian acting in a custodial
4 capacity, (2) an obligation arising from the ownership or control of
5 custodial property, or (3) a tort committed during the custodianship,
6 may be asserted against the custodial property by proceeding against
7 the custodian in the custodial capacity, whether or not the custodian
8 or the minor is personally liable.

9 (b) A custodian is not personally liable

10 (1) on a contract properly entered into in the custodial
11 capacity unless the custodian fails to reveal that capacity and to
12 identify the custodianship in the contract; or

13 (2) for an obligation arising from control of custodial
14 property or for a tort committed during the custodianship unless the
15 custodian is personally at fault.

16 (c) A minor is not personally liable for an obligation arising
17 from ownership of custodial property or for a tort committed during
18 the custodianship unless the minor is personally at fault.

19 Sec. 13.46.170. RENUNCIATION, RESIGNATION, DEATH, OR REMOVAL OF
20 CUSTODIAN; DESIGNATION OF SUCCESSOR CUSTODIAN. (a) A person nomi-
21 nated under AS 13.46.020 or designated under AS 13.46.080 as custodian
22 may decline to serve by delivering a valid disclaimer to the person
23 who made the nomination or to the transferor or the transferor's legal
24 representative. If the event giving rise to a transfer has not oc-
25 curred and a substitute custodian able, willing, and eligible to serve
26 was not nominated under AS 13.46.020, the person who made the nomina-
27 tion may nominate a substitute custodian under AS 13.46.020; otherwise
28 the transferor or the transferor's legal representative shall desig-
29 nate a substitute custodian at the time of the transfer, in either

1 case from among the persons eligible to serve as custodian for that
2 kind of property under AS 13.46.080(a). The custodian so designated
3 has the rights of a successor custodian.

4 (b) A custodian at any time may designate a trust company or an
5 adult other than a transferor under AS 13.46.030 as successor custo-
6 dian by executing and dating an instrument of designation before a
7 subscribing witness other than the successor. If the instrument of
8 designation does not contain or is not accompanied by the resignation
9 of the custodian, the designation of the successor does not take
10 effect until the custodian resigns, dies, becomes incapacitated, or is
11 removed.

12 (c) A custodian may resign at any time by delivering written
13 notice to the minor if the minor has attained the age of 14 years and
14 to the successor custodian and by delivering the custodial property to
15 the successor custodian.

16 (d) If a custodian is ineligible, dies, or becomes incapacitated
17 without having effectively designated a successor and the minor has
18 attained the age of 14 years, the minor may designate as successor
19 custodian, in the manner prescribed in (b) of this section, an adult
20 member of the minor's family, a conservator of the minor, or a trust
21 company. If the minor has not attained the age of 14 years or fails
22 to act within 60 days after the ineligibility, death, or incapacity,
23 the conservator of the minor becomes successor custodian. If the
24 minor has no conservator or the conservator declines to act, the
25 transferor, the legal representative of the transferor or of the
26 custodian, an adult member of the minor's family, or another inter-
27 ested person may petition the court to designate a successor custo-
28 dian.

29 (e) A custodian who declines to serve under (a) of this section

1 or resigns under (c) of this section, or the legal representative of a
2 deceased or incapacitated custodian, as soon as practicable, shall put
3 the custodial property and records in the possession and control of
4 the successor custodian. The successor custodian by action may en-
5 force the obligation to deliver custodial property and records and
6 becomes responsible for each item as received.

7 (f) A transferor, the legal representative of a transferor, an
8 adult member of the minor's family, a guardian of the person of the
9 minor, the conservator of the minor, or the minor if the minor has
10 attained the age of 14 years may petition the court to remove the
11 custodian for cause and to designate a successor custodian other than
12 a transferor under AS 13.46.030 or to require the custodian to give
13 appropriate bond.

14 Sec. 13.46.180. ACCOUNTING BY AND DETERMINATION OF LIABILITY OF
15 CUSTODIAN. (a) A minor who has attained the age of 14 years, the
16 minor's guardian of the person or legal representative, an adult
17 member of the minor's family, a transferor, or a transferor's legal
18 representative may petition the court for

19 (1) an accounting by the custodian or the custodian's legal
20 representative; or

21 (2) a determination of responsibility, as between the
22 custodial property and the custodian personally, for claims against
23 the custodial property unless the responsibility has been adjudicated
24 in an action under AS 13.46.160 to which the minor or the minor's
25 legal representative was a party.

26 (b) A successor custodian may petition the court for an account-
27 ing by the predecessor custodian.

28 (c) The court, in a proceeding under this chapter or in another
29 proceeding, may require or permit the custodian or the custodian's

1 legal representative to account.

2 (d) If a custodian is removed under AS 13.46.170(f), the court
3 shall require an accounting and order delivery of the custodial prop-
4 erty and records to the successor custodian and the execution of all
5 instruments required for transfer of the custodial property.

6 Sec. 13.46.190. TERMINATION OF CUSTODIANSHIP. The custodian
7 shall transfer in an appropriate manner the custodial property to the
8 minor or to the minor's estate upon the earlier of the

9 (1) minor's attainment of 21 years of age with respect to
10 property transferred under AS 13.46.030 or 13.46.040 unless the time
11 of transfer of the custodial property to the minor is changed under
12 AS 13.46.195;

13 (2) minor's attainment of 18 years of age with respect to
14 property transferred under AS 13.46.050 or 13.46.060;

15 (3) time specified in the transfer under AS 13.46.080 if
16 the time of transfer of the custodial property to the minor is changed
17 under AS 13.46.195; or

18 (4) minor's death.

19 Sec. 13.46.195. CHANGING THE TIME FOR TRANSFER OF CUSTODIAL
20 PROPERTY. (a) Subject to the requirements and limitations of this
21 section, the time for transfer to the minor of custodial property
22 transferred under AS 13.46.030 or 13.46.040 may be changed to a spec-
23 ified time other than the time the minor attains the age of 21 years.
24 That time shall be specified in the transfer under AS 13.46.080.

25 (b) To specify a changed time for transfer to the minor of the
26 custodial property under AS 13.46.030 except for the transfer by
27 irrevocable gift, or under AS 13.46.040, the words "as custodian for
28 _____ (name of minor) until age _____ (age for
29 delivery of property to minor) under the Alaska Uniform Transfers to

1 Minors Act" shall be substituted in substance for the words "as custo-
2 dian for _____ (name of minor) under the Alaska
3 Uniform Transfers to Minors Act" in making the transfer under AS 13.-
4 46.080.

5 (c) To specify a changed time for transfer to the minor of the
6 custodial property under AS 13.46.030 by irrevocable gift, the words
7 "as custodian for _____ (name of minor) until age
8 (age for delivery of property to minor) under the Alaska Uniform
9 Transfers to Minors Act" or "as custodian for _____ (name of
10 minor) until age _____ (age for delivery of property to minor)
11 under the Alaska Uniform Transfers to Minors Act, subject to the
12 minor's right to compel immediate distribution of the property by
13 giving written notice to the custodian during the six-month period
14 beginning on the minor's 21st birthday" shall be substituted in sub-
15 stance for the words "as custodian for _____ (name of
16 minor) under the Alaska Uniform Transfers to Minors Act" in making the
17 transfer under AS 13.46.080.

18 (d) The time for transfer to the minor of custodial property
19 transferred under AS 13.46.040 may be changed under this section if
20 the governing will or trust or nomination provides in substance that
21 the custodianship is to continue until the time the minor attains a
22 specified age. That time may not be earlier than the time the minor
23 attains 18 years of age or later than the time the minor attains 25
24 years of age, and in that case the governing will or trust or nomina-
25 tion shall determine the time to be specified in the transfer under
26 AS 13.46.080.

27 (e) The time for transfer to the minor of custodial property
28 transferred under AS 13.46.030 may be changed under this section if
29 the transfer under AS 13.46.080 provides in substance that the

1 custodianship is to continue until the time the minor attains a
2 specified age. That time may not be earlier than the time the minor
3 attains 18 years of age or later than the time the minor attains 25
4 years of age.

5 (f) If the transfer under AS 13.46.080 does not specify an age,
6 the time for the transfer of the custodial property to the minor under
7 AS 13.46.190 is the time when the minor attains 21 years of age.

8 (g) If the transfer under AS 13.46.080 provides in substance
9 that the duration of the custodianship is for a time longer than the
10 maximum time permitted by this section for that type of transfer, the
11 custodianship may continue until the minor attains the maximum age
12 permitted by this section for that type of transfer.

13 Sec. 13.46.200. APPLICABILITY. This chapter applies to a trans-
14 fer within the scope of AS 13.46.010 made after December 31, 1989, if
15 the

16 (1) transfer purports to have been made under the Alaska
17 Uniform Gifts to Minors Act; or

18 (2) instrument by which the transfer purports to have been
19 made uses in substance the designation "as custodian under the Uniform
20 Gifts to Minors Act" or "as custodian under the Uniform Transfers to
21 Minors Act" of another state, and the application of this chapter is
22 necessary to validate the transfer.

23 Sec. 13.46.210. EFFECT ON EXISTING CUSTODIANSHIPS. (a) A
24 transfer of custodial property as defined in this chapter made before
25 January 1, 1990, is validated notwithstanding that there was not
26 specific authority in the Alaska Uniform Gifts to Minors Act for the
27 coverage of custodial property of that kind or for a transfer from
28 that source at the time the transfer was made.

29 (b) This chapter applies to all transfers that were made before

1 January 1, 1990, and that were made in a manner and form prescribed in
2 the Alaska Uniform Gifts to Minors Act, except insofar as the applica-
3 tion impairs constitutionally vested rights or extends the duration of
4 custodianships in existence on January 1, 1990.

5 (c) AS 13.46.190, 13.46.195, and 13.46.995, with respect to the
6 age of a minor for whom custodial property is held under this chapter,
7 do not apply to custodial property held in a custodianship that ter-
8 minated because of the minor's attainment of the age of

9 (1) 19 after June 12, 1967, and before September 17, 1980;
10 or

11 (2) 18 after September 16, 1980, and before January 1,
12 1990.

13 (d) To the extent that this chapter, by virtue of (b) of this
14 section, does not apply to transfers made in a manner prescribed under
15 former AS 45.60 (Alaska Uniform Gifts to Minors Act) or to the powers,
16 duties, and immunities conferred by transfers in that manner upon
17 custodians and persons dealing with custodians, the repeal of AS 45.60
18 (Alaska Uniform Gifts to Minors Act) does not affect those transfers
19 or those powers, duties, and immunities.

20 Sec. 13.46.220. UNIFORMITY OF APPLICATION AND CONSTRUCTION.
21 This chapter shall be applied and construed to effectuate its general
22 purpose to make uniform the law with respect to the subject of this
23 chapter among states enacting it.

24 Sec. 13.46.990. DEFINITIONS. In this chapter

25 (1) "adult" means an individual who has attained the age of
26 18 years;

27 (2) "benefit plan" means an employer's plan for the benefit
28 of an employee or partner;

29 (3) "broker" means a person lawfully engaged in the

1 business of effecting transactions in securities or commodities for
2 the person's own account or for the account of others;

3 (4) "conservator" means a person appointed or qualified by
4 a court to act as general, limited, or temporary guardian of a minor's
5 property or a person legally authorized to perform substantially the
6 same functions;

7 (5) "court" means the superior court;

8 (6) "custodial property" means

9 (A) an interest in property transferred to a custodian
10 under this chapter; and

11 (B) the income from and proceeds of that interest in
12 property;

13 (7) "custodian" means a person designated under AS 13.-
14 46.080 or a successor or substitute custodian designated under AS 13.-
15 46.170;

16 (8) "financial institution" means a bank, trust company,
17 savings institution, or credit union, chartered and supervised under
18 state or federal law;

19 (9) "legal representative" means an individual's personal
20 representative or conservator;

21 (10) "member of the minor's family" means the minor's par-
22 ent, stepparent, spouse, grandparent, brother, sister, uncle, or aunt,
23 whether of the whole or half blood or by adoption;

24 (11) "minor" means an individual who has not attained the
25 age of 18 years, except that when used in reference to the beneficiary
26 for whose benefit custodial property is held or to be held, "minor"
27 means an individual who has not attained the age at which the custo-
28 dian is required under AS 13.46.190 and 13.46.195 to transfer the
29 custodial property to the beneficiary;

1 (12) "personal representative" means an executor, adminis-
2 trator, successor personal representative, or special administrator of
3 a decedent's estate or a person legally authorized to perform substan-
4 tially the same functions;

5 (13) "state" includes a state of the United States, the
6 District of Columbia, the Commonwealth of Puerto Rico, and any terri-
7 tory or possession subject to the legislative authority of the United
8 States;

9 (14) "transfer" means a transaction that creates custodial
10 property under AS 13.46.080;

11 (15) "transferor" means a person who makes a transfer under
12 this chapter;

13 (16) "trust company" means a financial institution, corpora-
14 tion, or other legal entity, authorized to exercise general trust
15 powers.

16 Sec. 13.46.999. SHORT TITLE. This chapter may be cited as the
17 Alaska Uniform Transfers to Minors Act.

18 * Sec. 3. AS 13.06.050(45) is amended to read:

19 (45) "trust" includes any express trust, private or charit-
20 able, with additions to it, wherever and however created; it also
21 includes a trust created or determined by judgment or decree under
22 which the trust is to be administered in the manner of an express
23 trust; "trust" excludes other constructive trusts, and it excludes
24 resulting trusts, conservatorships, personal representatives, trust
25 accounts as defined in AS 13.31, custodial arrangements under AS 13.46
26 [AS 45.60], business trusts providing for certificates to be issued to
27 beneficiaries, common trust funds, voting trusts, security arrange-
28 ments, liquidation trusts, and trusts for the primary purpose of
29 paying debts, dividends, interest, salaries, wages, profits, pensions,

1 or employee benefits of any kind, and any arrangement under which a
2 person is nominee or escrowee for another;

3 * Sec. 4. AS 13.50.030(b) is amended to read:

4 (b) A gift of all or a part of the body under AS 13.50.010(a)
5 may be made by a document other than a will. The gift takes effect
6 upon the death of the donor. The document, which may be a card de-
7 signed to be carried on the person, shall be signed by the donor [IN
8 THE PRESENCE OF TWO WITNESSES WHO SHALL SIGN THE DOCUMENT IN THE
9 DONOR'S PRESENCE]. If the donor cannot sign, the document may be
10 signed for the donor at the donor's direction and in the donor's
11 presence in the presence of two witnesses who must sign the document
12 in the donor's presence. Delivery of the document of gift during the
13 donor's lifetime is not necessary to make the gift valid.

14 * Sec. 5. AS 18.65.311(a) is amended to read:

15 (a) The department shall provide, at the time that an identi-
16 fication card is issued, a form for a document by which the card
17 holder may make an anatomical gift under AS 13.50 (Uniform Anatomical
18 Gifts Act). The document (1) may not be larger than an identification
19 card, (2) must contain sufficient space for the signature of two
20 witnesses to the donor's act if the donor cannot sign [OF EXECUTION OF
21 THE DOCUMENT], and (3) must provide a means by which the donor may
22 cancel the gift. If the document making an anatomical gift is executed
23 by the applicant, it shall be sealed in plastic and attached to the
24 identification card. A symbol indicating the existence of the anatom-
25 ical gift document must be displayed in the lower right-hand corner on
26 the face of the identification card.

27 * Sec. 6. AS 45.60.011, 45.60.016, 45.60.021, 45.60.031, 45.60.041,
28 45.60.051, 45.60.061, 45.60.071, 45.60.081, 45.60.091, and 45.60.101 are
29 repealed.

1 * Sec. 7. This Act takes effect January 1, 1990.