

Offered: 1/18/90  
Referred: Rules

6-0510M

Original sponsor(s): Judiciary Committee

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE  
2 SENATE CS FOR CS FOR HOUSE BILL NO. 165 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL  
6 For an Act entitled: "An Act relating to the disposition of property,  
7 including the witnessing of gifts of anatomical parts  
8 of the body; and providing for an effective date."  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
10 \* Section 1. AS 13.11.305 is amended by adding a new subsection to  
11 read:  
12 (h) In the case of an unintentional felonious killing, a court  
13 may set aside the application of (a), (b), (c), or (d) of this section  
14 if the court makes special findings of fact and conclusions of law  
15 that the application of the subsection would result in a manifest  
16 injustice and that the subsection should not be applied.  
17 \* Sec. 2. AS 13 is amended by adding a new chapter to read:  
18 CHAPTER 46. ALASKA UNIFORM TRANSFERS TO MINORS ACT.  
19 Sec. 13.46.010. SCOPE AND JURISDICTION. (a) This chapter  
20 applies to a transfer that refers to this chapter in the designation  
21 under AS 13.46.080(a) by which the transfer is made, if at the time of  
22 the transfer, the transferor, the minor, or the custodian is a resi-  
23 dent of this state or the custodial property is located in this state.  
24 The custodianship so created remains subject to this chapter despite a  
25 subsequent change in residence of a transferor, the minor, or the  
26 custodian, or the removal of custodial property from this state.  
27 (b) A person designated as custodian under this chapter is  
28 subject to personal jurisdiction in this state with respect to a  
29 matter relating to the custodianship.

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 \$5,000 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 EF-  
24 FECTING 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 \_\_\_\_\_ (name of  
2 minor) under the Alaska Uniform Transfers to Minors Act"; or

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

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

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

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

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

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

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

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

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

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

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

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

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

28 "TRANSFER UNDER THE ALASKA UNIFORM  
29 TRANSFERS TO MINORS ACT

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

8 Dated: \_\_\_\_\_  
9 \_\_\_\_\_

10 (Signature)

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

15 Dated: \_\_\_\_\_  
16 \_\_\_\_\_ "

17 (Signature of Custodian)

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

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

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

28 The order of priority is:

29 (1) the legal guardian, if any, of the minor;

1           (2) a parent, if any, of the minor, as selected by the  
2 parents;

3           (3) an adult member of the minor's family; in this para-  
4 graph "member of the minor's family" has the meaning given in AS 13.-  
5 46.990, and may also include members of the family with whom the minor  
6 has customarily lived.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 Sec. 13.46.110. CARE OF CUSTODIAL PROPERTY. (a) A custodian

1 shall

2 (1) take control of custodial property;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (b) On petition of an interested person or the minor if the  
29 minor has attained the age of 14 years, the court may order the

1       custodian to deliver or pay to the minor or expend for the minor's  
2       benefit as much of the custodial property as the court considers  
3       advisable for the use and benefit of the minor.

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

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

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

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

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

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

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

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

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

28           (4) the propriety of the application of property of the  
29      minor delivered to the purported custodian.

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

8           (b) A custodian is not personally liable

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

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

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

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

1 kind of property under AS 13.46.080(a). The custodian so designated  
2 has the rights of a successor custodian.

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

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

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

28 (e) A custodian who declines to serve under (a) of this section  
29 or resigns under (c) of this section, or the legal representative of a

1       deceased or incapacitated custodian, as soon as practicable, shall put  
2       the custodial property and records in the possession and control of  
3       the successor custodian. The successor custodian by action may en-  
4       force the obligation to deliver custodial property and records and  
5       becomes responsible for each item as received.

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

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

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

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

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

27                      (c) The court, in a proceeding under this chapter or in another  
28      proceeding, may require or permit the custodian or the custodian's  
29      legal representative to account.

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

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

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

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

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

17 (4) minor's death.

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

24 (b) To specify a changed time for transfer to the minor of the  
25 custodial property under AS 13.46.030 except for the transfer by  
26 irrevocable gift, or under AS 13.46.040, the words "as custodian for  
27 \_\_\_\_\_ (name of minor) until age \_\_\_\_\_ (age for  
28 delivery of property to minor) under the Alaska Uniform Transfers to  
29 Minors Act" shall be substituted in substance for the words "as

1       custodian for \_\_\_\_\_ (name of minor) under the  
2       Alaska Uniform Transfers to Minors Act" in making the transfer under  
3       AS 13.46.080.

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

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

26           (e) The time for transfer to the minor of custodial property  
27       transferred under AS 13.46.030 may be changed under this section if  
28       the transfer under AS 13.46.080 provides in substance that the custo-  
29       dianship is to continue until the time the minor attains a specified

1 age. That time may not be earlier than the time the minor attains 18  
2 years of age or later than the time the minor attains 25 years of age.

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

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

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

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

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

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

27 (b) This chapter applies to all transfers that were made before  
28 January 1, 1990, and that were made in a manner and form prescribed in  
29 the Alaska Uniform Gifts to Minors Act, except insofar as the

1 application impairs constitutionally vested rights or extends the  
2 duration of custodianships in existence on January 1, 1990.

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

7 (1) 19 after June 12, 1967, and before September 17, 1980;  
8 or

9 (2) 18 after September 16, 1980, and before January 1,  
10 1990.

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

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

22 Sec. 13.46.990. DEFINITIONS. In this chapter

23 (1) "adult" means an individual who has attained the age of  
24 18 years;

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

27 (3) "broker" means a person lawfully engaged in the busi-  
28 ness of effecting transactions in securities or commodities for the  
29 person's own account or for the account of others;

- 1           (4) "conservator" means a person appointed or qualified by  
2 a court to act as general, limited, or temporary guardian of a minor's  
3 property or a person legally authorized to perform substantially the  
4 same functions;
- 5           (5) "court" means the superior court;
- 6           (6) "custodial property" means  
7           (A) an interest in property transferred to a custodian  
8           under this chapter; and  
9           (B) the income from and proceeds of that interest in  
10           property;
- 11           (7) "custodian" means a person designated under AS 13.-  
12 46.080 or a successor or substitute custodian designated under AS 13.-  
13 46.170;
- 14           (8) "financial institution" means a bank, trust company,  
15 savings institution, or credit union, chartered and supervised under  
16 state or federal law;
- 17           (9) "legal representative" means an individual's personal  
18 representative or conservator;
- 19           (10) "member of the minor's family" means the minor's par-  
20 ent, stepparent, spouse, grandparent, brother, sister, uncle, or aunt,  
21 whether of the whole or half blood or by adoption;
- 22           (11) "minor" means an individual who has not attained the  
23 age of 18 years, except that when used in reference to the beneficiary  
24 for whose benefit custodial property is held or to be held, "minor"  
25 means an individual who has not attained the age at which the custo-  
26 dian is required under AS 13.46.190 and 13.46.195 to transfer the  
27 custodial property to the beneficiary;
- 28           (12) "personal representative" means an executor, adminis-  
29 trator, successor personal representative, or special administrator of

1 a decedent's estate or a person legally authorized to perform substan-  
2 tially the same functions;

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

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

9 (15) "transferor" means a person who makes a transfer under  
10 this chapter;

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

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

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

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

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

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

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

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

25 \* Sec. 6. AS 45.60.011, 45.60.016, 45.60.021, 45.60.031, 45.60.041,  
26 45.60.051, 45.60.061, 45.60.071, 45.60.081, 45.60.091, and 45.60.101 are  
27 repealed.

28 \* Sec. 7. This Act takes effect January 1, 1991.