

No. 355, S.]

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CHAPTER 467

AN ACT to repeal 319.60; and to create 319.61 to 319.71 of the statutes, relating to a uniform law relating to gifts of securities and money to minors.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 319.60 of the statutes is repealed.

SECTION 2. 319.61 to 319.71 of the statutes are created to read:

319.61 DEFINITIONS. In ss. 319.61 to 319.71 unless the context otherwise requires:

(1) An "adult" is a person who has attained the age of 21 years.

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

(4) "Court" means the county court.

(5) "The custodial property" includes:

(a) All securities, money and life insurance under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in s. 319.62.

(b) The income from the custodial property; and

(c) The proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment or other disposition of such securities, money and income.

(6) A "custodian" is a person so designated in a manner prescribed in ss. 319.62 and 319.67.

(7) A "guardian" of a minor means the guardian of his property or person.

(8) An "issuer" is a person who places or authorizes the placing of his name on a security (other than as a transfer agent) to evidence that it represents a share, participation or other interest in his property or in an

enterprise or to evidence his duty or undertaking to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person.

(9) A "legal representative" of a person is his executor or administrator or the guardian or conservator of his property or estate.

(9m) "Life insurance" shall be deemed to include only insurance on the life of a minor or a member of the minor's family as herein defined.

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

(11) A "minor" is a person who has not attained the age of 21 years.

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

(13) A "transfer agent" is a person who acts as authenticating trustee, transfer agent, registrar or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities.

(14) A "trust company" is an institution organized as such or is a bank authorized to exercise trust powers.

319.62 MANNER OF MAKING GIFT. (1) An adult person may, during his lifetime, make a gift of a security, money or life insurance to a person who is a minor on the date of the gift:

(a) If the subject of the gift is a security in registered form, by registering it in the name of the donor, an adult member of the minor's family, a guardian of the minor or a trust company, followed, in substance, by the words: "as custodian for _____ under the Wisconsin Uniform Gifts to Minors Act";

(b) If the subject of the gift is a security not in registered form, by delivering it to an adult member, other than the donor, of the minor's family, a guardian of the minor or a trust company, accompanied by a statement of gift in the following form, in substance, signed by the donor and the person designated as custodian:

"GIFT UNDER THE WISCONSIN UNIFORM GIFTS TO MINORS ACT

I, _____, hereby deliver to _____ as custodian
(name of donor) (name of custodian)
for _____ under the Wisconsin Uniform Gift to Minors
(name of minor)

Act, the following security (ies): (insert an appropriate description of the security or securities delivered sufficient to identify it or them)

(signature of donor)
_____ hereby acknowledges receipt of the above described
(name of custodian)

security (ies) as custodian for the above minor under the Wisconsin Uniform Gifts to Minors Act.

Dated -----";
(signature of custodian)

(c) If the subject of the gift is money, by paying or delivering it to a broker or a bank for credit to an account in the name of the donor, an adult member of the minor's family, a guardian of the minor or a trust company, followed, in substance, by the words: "as custodian for ----- under the Wisconsin Uniform Gifts to Minors Act".
(name of minor)

(d) If the subject of the gift is life insurance, the ownership of the policy of life insurance shall be registered by the donor of such policy in his own name or in the name of an adult member of the minor's family or in the name of any guardian of the minor, followed by the words "as custodian for -----, a minor under section
(name of minor)

319.62 of the Wisconsin Statutes", and such policy of life insurance shall be delivered to the person in whose name it is thus registered as custodian. If the policy is registered in the name of donor, as custodian, such registration shall of itself constitute the delivery required by this section.

(2) Any gift made in a manner prescribed in Sub. (1) may be made to only one minor and only one person may be the custodian.

(3) A donor who makes a gift to a minor in a manner prescribed in Sub. (1) shall promptly do all things within his power to put the subject of the gift in the possession and control of the custodian, but neither the donor's failure to comply with this subsection, nor his designation of an ineligible person as custodian, nor renunciation by the person designated as custodian affects the consummation of the gift.

319.63 EFFECT OF GIFT (1) A gift made in a manner prescribed in s. 319.62 is irrevocable and conveys to the minor indefeasibly vested legal title to the security, money or life insurance given, but no guardian of the minor has any right, power, duty or authority with respect to the custodial property except as provided in ss. 319.61 to 319.71.

(2) By making a gift in a manner prescribed in s. 319.62, the donor incorporates in his gift all the provisions of ss. 319.61 to 319.71 and grants to the custodian, and to any issuer, transfer agent, bank, broker or third person dealing with a person designated as custodian, the respective powers, rights and immunities provided in those sections.

319.64 DUTIES AND POWERS OF CUSTODIAN (1) The custodian shall collect, hold, manage, invest and reinvest the custodial property.

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

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

(4) To the extent that the custodial property is not so expended, the custodian shall deliver or pay it over to the minor on his attaining the age of 21 years or, if the minor dies before attaining the age of 21 years, he shall thereupon deliver or pay it over to the estate of the minor.

(5) The custodian, notwithstanding statutes restricting investments by fiduciaries, shall invest and reinvest the custodial property as would a prudent man of discretion and intelligence who is seeking a reasonable income and the preservation of his capital, except that he may, in his discretion and without liability to the minor or his estate, retain a security given to the minor in a manner prescribed in this act.

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

(7) The custodian shall register each security which is custodial property and in registered form in the name of the custodian, followed, in substance, by the words: "as custodian for _____ under the
(name of minor)

Wisconsin Uniform Gifts to Minors Act". If the custodian is a trust company it may hold and deposit money in the same manner as it does other trust funds held by it. All other custodians shall hold all money which is custodial property in an account with a broker or in a bank in the name of the custodian, followed, in substance, by the words: "as custodian for _____ under the Wisconsin Uniform Gifts to Minors Act".
(name of minor)

The custodian shall keep all other custodial property separate and distinct from his own property in a manner to identify it clearly as custodial property.

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

(9) A custodian has and holds as powers in trust, with respect to the custodial property, in addition to the rights and powers provided in subs. (1) to (8), all the rights and powers which a guardian has with respect to property not held as custodial property.

(10) If the subject of the gift is life insurance, the custodian shall have all of the incidents of ownership in the life insurance policies which he may hold as custodian to the same extent as if he were the owner thereof personally. The designated beneficiary of any such policy of insurance held by a custodian shall be the minor or, in the event of his death, the minor's estate.

319.65 CUSTODIAN'S EXPENSES, COMPENSATION, BOND AND LIABILITIES. (1) A custodian is entitled to reimbursement from the custodial property for his reasonable expenses incurred in the performance of his duties.

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

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

- (a) A direction by the donor when the gift is made;
- (b) An order of the court.

(4) Except as otherwise provided in ss. 319.61 to 319.71 a custodian shall not be required to give a bond for the performance of his duties.

(5) A custodian not compensated for his services is not liable for losses to the custodial property unless they result from his bad faith, intentional wrongdoing or gross negligence or from his failure to maintain the standard of prudence in investing the custodial property provided in ss. 319.61 to 319.71.

319.66 EXEMPTION OF THIRD PERSONS FROM LIABILITY.

No issuer, transfer agent, bank, broker or other person acting on the instructions of or otherwise dealing with any person purporting to act as a donor or in the capacity of a custodian is responsible for determining whether the person designated by the purported donor or purporting to act as a custodian has been duly designated or whether any purchase, sale or transfer to or by any other act of any person purporting to act in the capacity of custodian is in accordance with or authorized by ss. 319.61 to 319.71, or is obliged to inquire into the validity or propriety under those sections of any instrument or instructions executed or given by a person purporting to act as a donor or in the capacity of a custodian, or is bound to see to the application by any person purporting to act in the capacity of a custodian of any money or other property paid or delivered to him.

319.67 RESIGNATION, DEATH OR REMOVAL OF CUSTODIAN; BOND; APPOINTMENT OF SUCCESSOR CUSTODIAN. (1) Only an adult member of the minor's family, a guardian of the minor or a trust company is eligible to become successor custodian. A successor custodian has all the rights, powers, duties and immunities of a custodian designated in a manner prescribed by ss. 319.64 and 319.65.

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

(a) Executing an instrument of resignation designating the successor custodian; and

(b) Causing each security which is custodial property and in registered form to be registered in the name of the successor custodian followed, in substance, by the words: "as custodian for -----"

(name of minor)

under the Wisconsin Uniform Gifts to Minors Act"; and

(c) Delivering to the successor custodian the instrument of resignation, each security registered in the name of the successor custodian and all other custodial property, together with any additional instruments required for the transfer thereof.

(3) A custodian, whether or not a donor, may petition the court for permission to resign and for the designation of a successor custodian.

(4) If the person designated as custodian is not eligible, renounces or dies before the minor attains the age of 21 years, the guardian of the minor shall be successor custodian. If the minor has no guardian, a donor, his legal representative, the legal representative of the custodian, an adult member of the minor's family, or the minor, if he has attained the age of 14 years, may petition the court for the designation of a successor custodian.

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

(6) Upon the filing of a petition as provided in this section, the court shall grant such relief as it finds to be in the best interests of the minor.

319.68 ACCOUNTING BY CUSTODIAN. (1) The minor, if he has attained the age of 14 years, or the legal representative of the minor, an adult member of the minor's family, or a donor or his legal representative may petition the court for an accounting by the custodian or his legal representative.

(2) The court, in a proceeding under ss. 319.61 to 319.71 or otherwise, may require or permit the custodian or his legal representative to account and, if the custodian is removed, shall so require and order delivery of all custodial property to the successor custodian and the execution of all instruments required for the transfer thereof.

319.69 CONSTRUCTION. (1) Sections 319.61 to 319.71 shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

(2) Sections 319.61 to 319.71 shall not be construed as providing an exclusive method for making gifts to minors.

319.70 SHORT TITLE. Sections 319.61 to 319.71 may be cited as the "Wisconsin Uniform Gifts to Minors Act".

319.71 REPEAL. Section 319.60, Stats. 1955, is hereby repealed, but the repeal does not affect gifts made in a manner prescribed therein nor the powers, duties and immunities conferred by gifts in such manner upon custodians and persons dealing with custodians. Sections 319.61 to 319.70 henceforth apply, however, to all gifts made in a manner and form prescribed in s. 319.60, Stats. 1955, except insofar as such application impairs constitutionally vested rights. Sections 319.61 to 319.70 shall be construed as a continuation of s. 319.60, Stats. 1955, and not as a new enactment.

Approved July 25, 1957.
