

## CHAPTER 319.

## GUARDIANS AND WARDS.

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**319.01 Definitions.** For the purpose of this chapter, unless the context otherwise requires:

(1) "Guardian" means one appointed by a court to have care, custody and control of the person of a minor or an incompetent or the management of the estate of a minor, an incompetent or a spendthrift.

(2) "Minor" means a person who has not attained the age of 21 years.

(3) "Incompetent" means a person incapable of managing his property or caring for himself by reason of mental illness, deficiency or infirmity, chronic inebriety, drug addiction or other like incapacity.

(4) "Spendthrift" means a person who because of the use of intoxicants or drugs or of gambling, idleness or debauchery or other wasteful course of conduct is unable to attend to business or thereby is likely to affect the health, life or property of himself or others so as to endanger the support of himself and his dependents or expose the public to such support.

(5) "Ward" means a subject for whom a guardian has been appointed.

**319.02 Jurisdiction in county court.** The county court shall have exclusive jurisdiction over all petitions for guardianship except guardianships of the person under ch. 48. A guardianship of the estate of any person, once granted, shall extend to all his estate in this state and shall exclude the jurisdiction of every other county court, except as provided in ch. 296.

**319.03 Persons and estates subject to guardianship.** All minors, incompetents and spendthrifts are subject to guardianship. The court may appoint a guardian of the person of anyone subject to guardianship who is also a resident of the county, or of a nonresident found in the county, under extraordinary circumstances requiring medical aid or the prevention of harm to his person or property found in the county. The court may appoint a guardian of the estate of anyone subject to guardianship, whether a resident of the state or not, if any of the estate is located within the county. Separate guardians of the person and of the estate of a ward may be appointed.

**319.04 Exceptions.** (1) **EMANCIPATION OF MARRIED MINORS.** Upon marriage, a minor shall no longer be a proper subject for guardianship of the person and a guardianship of the person is revoked by the marriage of a minor ward. Upon application, the court may release in whole or in part the estate of a minor ward to him upon his marriage.

(2) **SMALL ESTATES.** If a minor or an incompetent, except for his incapacity, is entitled to possession of personal property of a value of \$1,500 or less, any court wherein an action or proceeding involving said property is pending may, in its discretion, without requiring the appointment of a guardian, order one of the following:

(a) Deposit in a savings account in a bank, the payment of whose accounts in cash immediately upon default of such bank are insured by the federal deposit insurance corporation; or invest in the stock of a savings and loan association, payment of whose stock by substitution of stock in another and similar savings and loan association is insured by the federal savings and loan insurance corporation, in case of default in payment.

(b) Payment to the natural guardian of the minor or to the person having actual custody of the minor.

(c) Payment to the minor.

(d) Payment to the person having actual or legal custody of the incompetent or to the person providing for his care and maintenance for the benefit of the incompetent.

**History:** 1961 c. 33; 1963 c. 541.

**319.05 Venue.** All petitions for guardianship of residents of the state shall be directed to the county court of the county of residence of the person subject to guardianship. A petition for guardianship of the person or estate of a nonresident may be directed to the county court of any county wherein he or any of his property may be found.

**319.06 Change of venue.** (1) **ORIGINAL PROCEEDING.** The court wherein a petition is first filed shall determine venue. If it is determined that venue lies in another county, the court shall order the entire record certified to the proper court. A court wherein a subsequent petition is filed shall, upon being satisfied of an earlier filing in another court, summarily dismiss such petition.

(2) **CHANGE OF RESIDENCE OF WARD OR GUARDIAN.** When a guardian removes from the county where appointed to another county within the state, or a ward removes from the county in which he has resided to another county within the state, the county court in which the ward resides may appoint a new guardian as provided by law for the appointment of a guardian. Upon verified petition of the new guardian, accompanied by a certified copy of his appointment and bond if the appointment is in another county, and upon the notice prescribed by s. 324.18 to the originally appointed guardian (unless he is the same person), and to such other persons as the court shall order, the court of original appointment may order the guardianship accounts settled and the property delivered to the new guardian.

**319.07 Petition.** Any relative, public official or other person, may petition for the appointment of a guardian of a person subject to guardianship. Such petition shall state, so far as may be known:

(1) The name, date of birth, residence and post-office address of the proposed ward.

(2) The nature of his incapacity with specification of the incompetency or spendthrift habits.

(3) The approximate value of his property and a general description of its nature.

(4) Any assets previously derived from or benefits now due and payable from the veterans administration.

(5) Any other claim, income, compensation, pension, insurance or allowance to which he may be entitled.

(6) Whether the proposed ward has any guardian presently.

(7) The name and post-office address of any person nominated as guardian by the petitioner.

(8) The names and post-office addresses of the spouse and presumptive or apparent adult heirs of the proposed ward, and all other persons believed by the petitioner to be interested.

(9) The name and post-office address of the person or institution having the care and custody of the proposed ward.

(10) The interest of the petitioner, and if a public official or creditor is the petitioner, then the fact of indebtedness or continuing liability for maintenance or continuing breach of the public peace as well as the authority of the petitioner to act.

If a petitioner knowingly fails to state names and addresses of heirs and interested persons under (8), the court is without jurisdiction, but this is not true if the omission was due to lack of knowledge. *Guardianship of Nelson*, 21 W (2d) 24, 123 NW (2d) 505.

**319.08 Notice of hearing for appointments and rehearings.** Upon the filing of a petition for guardianship, and the court being satisfied as to compliance with s. 319.07, the court shall order notice of the time and place of hearing as follows:

(1) **INCOMPETENTS.** Notice shall be served upon the proposed incompetent ward by personal service at least 10 days before the time set for hearing, or if such proposed incompetent ward is in custody or confinement, such service shall be made by registered or certified mail on the proposed incompetent's custodian who shall forthwith serve the same on the proposed incompetent and make return thereon to the county judge. The court shall cause the proposed incompetent, if able to attend, to be produced at the hearing. Such notice shall also be given by mail at least 10 days before the hearing to his presumptive or apparent adult heirs whose names and addresses are known to the petitioner or can with reasonable diligence be ascertained and to such other persons or entities as the court orders. Notice shall be given to the proposed incompetent, as herein provided, and to such others as the court orders before appointment of a successor guardian.

(2) **SPENDTHRIFTS.** Notice shall be served personally upon the proposed spendthrift ward at least 10 days before the time set for hearing but he may enter a general appearance and thereupon the matter may be heard forthwith.

(3) **MINORS.** When the proposed ward is a minor, notice shall be given as provided in s. 324.18 to the following persons:

- (a) To his spouse;
- (b) To parents;
- (c) To a minor over 14 years of age unless the minor appears at the hearing;
- (d) To any other person, agency, institution, welfare department or other entity having the legal or actual custody of the minor.

(e) No notice need be given to parents whose rights have been judicially terminated.

(4) **REHEARINGS.** Notice of a rehearing to determine if a ward is a proper subject to continue under guardianship shall be given as required for the appointment of a guardian.

**History:** 1961 c. 105.

(1) places on the court an affirmative burden to produce the person unless such appearance is wholly impossible because of the proposed incompetent's disordered condition; and failure to take such affirmative steps will deprive the court of a jurisdiction to make a determination of incompetency; but such failure could not be raised in a collateral attack on the original appointment attempted during this proceeding on the guardian's final account. Guardianship of Nelson, 21 W (2d) 24, 123 NW (2d) 505.

**319.09 Nomination; selection of guardians.** The court shall consider nominations made by any interested person and, in its discretion, shall appoint a proper guardian, having due regard for the following:

(1) **NOMINATION BY MINOR.** A minor over 14 years may in writing in county court nominate his own guardian, but whenever the minor is in the armed service, or is without the state, or if other good reason exists, the court may dispense with the right of nomination.

(2) **PARENTS OF MINORS PREFERRED.** If one or both of the parents of a minor are suitable and willing, the court shall appoint one or both of them as guardian.

(3) **EFFECT OF NOMINATION BY MINOR.** If neither parent is suitable and willing, the court may appoint the nominee of a minor.

(4) **GUARDIAN OF THE PERSON NOMINATED BY WILL.** Subject to the rights of a surviving parent, a parent may by will nominate a guardian of the person of his minor child.

(5) **GUARDIAN OF THE ESTATE NOMINATED BY WILL.** A parent may by will nominate a guardian of the estate of his minor child and may waive the requirement of a bond as to such estate derived through the will.

**319.10 Notice of appointment.** If for any reason the court fails to appoint as guardian the nominee of the minor, the guardian who qualifies shall give notice of his appointment to the minor by certified mail addressed to his last known post-office address and an affidavit of such mailing shall be filed with the court within 10 days after the issuance of letters.

**319.11 Guardian ad litem.** At any time during the proceeding the court may appoint a guardian ad litem for the ward or proposed ward. If the court is satisfied that the estate of such person is unable to compensate the guardian ad litem for his services and expenses the court shall order his fees and expenses paid as provided in s. 957.26.

A guardian ad litem should be appointed when the alleged incompetent is unable to be present at guardianship proceedings. Guardianship of Nelson, 21 W (2d) 24, 123 NW (2d) 505.

**319.12 Determination and order appointing guardian.** The court shall after hearing determine whether the person is a proper subject for guardianship. If the person is found to be in need of a guardian, the court shall appoint one or more guardians but not

more than one guardian of the person shall be appointed unless they be husband and wife. The order shall specify the amount of the bond, if any, to be given.

**319.125 Approval of bond.** In any action or proceeding wherein funds are to be paid to a guardian, the trial court or court approving disbursement of such funds shall, prior to payment or approval, be satisfied as to the sufficiency of the penal sum of the guardian's bond.

**History:** 1964 Sup. Ct. Order, 25 W (2d) ix.

**319.13 Bond.** (1) **FORM OF BOND.** Upon the appointment of a guardian of the estate of a ward, the court shall require a bond given in accordance with ch. 321 and s. 895.345, conditioned upon the faithful performance of the duties of the guardian.

(2) **WAIVER OF BOND.** (a) The court may waive the requirement of a bond if so requested in a will wherein a nomination appears, but this shall extend only to property derived through the will.

(b) Whenever a guardian has or will have in his possession total funds of a value of \$10,000 or less, the court may direct deposit of such funds in an insured account of a bank or savings and loan association in the name of the guardian and the ward and payable only upon further order of the court. In such event the court may waive the requirement of a bond.

(3) **BLANKET BOND FOR EMPLOYE GUARDIAN OR CONSERVATOR.** The county court may designate one or more persons who are county institutional employees, whose duty it is to act as guardian of one or more estates of incompetent persons upon appointment by the court, or as conservator for the estates of persons making application therefor, who are residents of the county home, patients of the county hospitals or county mental hospitals. Such appointments shall be made subject to this chapter. Such person, before entering upon his duties, shall take an official oath and give bond, with sufficient sureties, to the judge of said court, in a sum not less than \$1,000 subject to court approval. Such bond shall cover the person so designated and appointed in all guardianships and conservatorships to which he has been or shall be appointed by the court. Additional bonds may be required from time to time. The expense of surety upon such bonds shall be paid by the county treasurer on the order of the county judge. The term of the person appointed shall terminate upon his resignation or removal and approval of his accounts by the county court.

**History:** 1961 c. 390.

**319.14 When letters to be issued.** When a guardian has given bond as required and the bond has been approved by the judge, letters under the seal of the court shall be issued to him.

**319.15 Temporary guardian.** (1) **APPOINTMENT.** If the court finds that the welfare of a minor, spendthrift or an incompetent requires the immediate appointment of a guardian of his person or of his estate, or of both, it may, with or without notice appoint a temporary guardian for him for a period not to exceed 60 days unless further extended by order of the court. The authority of the temporary guardian may be limited to the performance of duties respecting specific property, or to the performance of particular acts, as stated in the order of appointment. All provisions of the statutes concerning the powers and duties of guardians shall apply to temporary guardians except as limited by the order of appointment. The temporary guardian shall make such reports as the court directs, and shall account to the court upon termination of his authority. No appeal may be taken from the order of appointment of a temporary guardian.

(2) **BOND OF TEMPORARY GUARDIAN.** Every such temporary guardian shall before entering upon the duties of his trust give bond to the judge of the county court in such sum and with such sureties as the court may designate and approve.

(3) **CESSATION OF POWERS.** If such temporary guardianship shall not be sooner terminated the duties and powers of the temporary guardian shall cease upon the issuing of letters of guardianship to the guardian of his ward, or, if the ward be a minor, upon his becoming of age, or when it shall be judicially determined that any other disability of the ward which was the cause of the guardianship has terminated; and such temporary guardian shall upon termination of his duties and powers account to the court and forthwith deliver to the person or persons entitled thereto, all the estate of the ward in his hands; and any action which may have been commenced by such temporary guardian may be prosecuted to final judgment by his successor or successors in interest.

**319.16 When a guardian may be removed.** (1) **NOMINATION BY MINOR.** When a minor ward has attained the age of 14 years a guardian of his person, upon notice as required by the court, may be removed on petition of the ward for the purpose of having another person appointed guardian if it is for the best interest of the ward.

(2) **REMOVAL FOR CAUSE.** When any guardian fails or neglects to discharge his trust the court may remove him after such notice as the court shall direct to such guardian and all others interested.

(3) **CITATION TO GUARDIAN.** (a) A citation to a guardian to appear in county court may be served in the manner provided for substituted service for summons in circuit court when such guardian has absconded or keeps himself concealed so as to avoid personal service or when he is a nonresident of this state or has absented himself therefrom for a period of one year.

(b) Upon filing proof of service and at the time fixed in the citation such court shall consider such matter and take proof and grant such relief as shall be just; and any order or judgment made in said proceedings shall be binding upon such guardian and shall be prima facie evidence of all facts therein recited.

(4) **FRAUD AS TO WARD'S ESTATE.** Upon complaint made to the county court by any guardian or ward, or by any creditor or other person interested in the estate, or by any person having any prospective interest therein, as heir or otherwise, against any person suspected of having concealed, stolen or conveyed away any of the money, goods, effects or instruments in writing belonging to the ward the court may cite and examine such suspected person and proceed with him as to such charge in the same manner as is provided with respect to persons suspected of concealing or stealing the effects of a deceased person in ss. 312.06 and 312.07.

**319.17 Appointment of successor guardian.** When a guardian dies, is removed by order of the court, or resigns and such resignation is accepted by the court, the court may appoint another guardian in his place in the same manner and subject to the same requirements as are herein provided for an original appointment of a guardian.

**319.18 Inventory.** When a guardian of the estate has been appointed an inventory shall be made in the same manner and subject to the same requirements as are provided for the inventory of a decedent's estate. An appraisal of all or any part of the ward's estate shall be made when ordered by the court.

**319.19 Management of ward's estate.** (1) **GENERAL DUTIES.** The guardian of the estate shall take possession of all of the ward's real and personal property, and of rents, income, issues and benefits therefrom, whether accruing before or after his appointment, and of the proceeds arising from the sale, mortgage, lease or exchange thereof. Subject to such possession the title of all such estate and to the increment and proceeds thereof shall be in the ward and not in the guardian. It is the duty of the guardian of the estate to protect and preserve it, to retain, sell and invest it as hereinafter provided, to account for it faithfully, to perform all other duties required of him by law and at the termination of the guardianship to deliver the assets of the ward to the persons entitled thereto.

(2) **RETENTION OF ASSETS.** (a) The guardian of the estate may, without the approval of the court, retain any real or personal property possessed by the ward at the time of appointment of the guardian or subsequently acquired by the ward by gift or inheritance without regard to ch. 320, so long as such retention constitutes the exercise of the judgment and care under the circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.

(b) The guardian of the estate may, with the approval of the court, after such notice as the court directs, retain any real or personal property possessed by the ward at the time of the appointment of the guardian or subsequently acquired by the ward by gift or inheritance for such period of time as shall be designated in the order of the court approving such retention, without regard to ch. 320.

(3) **CONTINUATION OF BUSINESS.** In all cases where the court deems it advantageous to continue the business of a ward, such business may be continued by the guardian of the estate on such terms and conditions as may be specified in the order of the court.

(4) **INVESTMENTS.** (a) The guardian of the estate may, without approval of the court, invest and reinvest the proceeds of sale of any guardianship assets and any other moneys in his possession in accordance with ch. 320.

(b) The guardian of the estate may, with the approval of the court, after such notice as the court directs, invest the proceeds of sale of any guardianship assets and any other moneys in his possession in such real or personal property as the court determines to be in the best interests of the guardianship estate, without regard to ch. 320.

(c) No guardian shall lend guardianship funds to himself.

(5) **SALES AND OTHER DISPOSITIONS.** (a) The guardian of the estate may, without

approval of the court, sell any property of the guardianship estate acquired by the guardian pursuant to sub. (4).

(b) The court, on the application of the guardian of the estate or of any other person interested in the estate of any ward, after such notice if any, as the court directs, may authorize or require the guardian to sell, mortgage, pledge, lease or exchange any property of the guardianship estate upon such terms as the court may order, for the purpose of paying the ward's debts, providing for his care, maintenance and education and the care, maintenance and education of his dependents, investing the proceeds or for any other purpose which is in the best interest of the ward.

(c) No guardian shall purchase property of the ward, unless sold at public sale with the approval of the court, and then only if the guardian is a spouse, parent, child, brother or sister of the ward or is a cotenant with the ward in the property.

(d) The provisions of this subsection insofar as they apply to real estate shall be subject to ch. 296.

Notice to interested parties is not a sale is a matter within the discretion of the jurisdictional requirement for a valid sale court. Guardianship of Breault, 22 W (2d) of a ward's real estate, since, under (5) (b) 114, 125 NW (2d) 397. notice to interested parties of a pending

**319.195 Transfer of Menomonees guardianship funds to trust.** The county court which shall have appointed a guardian of the estate of any minor or incompetent who is a member of the Menominee Indian tribe as defined in s. 49.085 or a lawful distributee thereof may direct such guardian to transfer the assets of such minor or incompetent in his possession to the trustees of the trust created by the secretary of interior or his delegate which receives property of such minors or incompetents transferred from the United States or any agency thereof as provided by P. L. 83-399, as amended, and such assets shall thereafter be held, administered and distributed in accordance with the terms and conditions of such trust.

**319.21 Use of estate for benefit of wards.** (1) APPLICATION OF PERSONAL PROPERTY AND INCOME. Every guardian shall apply the personal property or the income therefrom or from the real estate, as far as may be necessary for the suitable education, maintenance and support of the ward and of his family, if there be any legally dependent upon him for support, and for the care and protection of his real estate. The parents, brothers and sisters of incompetent veterans of all wars are declared members of his family, and all payments heretofore made pursuant to court order to any dependent member of the family of any such incompetent, as herein defined, are ratified and approved.

(2) FOR SUPPLEMENTING PARENT'S SUPPORT OF MINOR. If any minor has property which is sufficient for his maintenance and education in a manner more expensive than his parents can reasonably afford, regard being had to the situation and circumstances of the family the expenses of his education and maintenance may be defrayed out of his property in whole or in part, as shall be judged reasonable and be directed by the county court.

**319.215 Lis pendens, void contracts.** A copy of the petition and order for hearing provided for in ss. 319.07 and 319.08 may be filed in the office of the register of deeds for the county; and if a guardian shall be appointed upon such application all contracts, except for necessities at reasonable prices, and all gifts, sales and transfers of property made by such insane or incompetent person or spendthrift, after the filing of a copy of such petition and order as aforesaid, shall be void.

**319.22 Claims.** (1) PAYMENT. Every general guardian shall pay the just debts of the ward out of the ward's personal estate and the income of his real estate, if sufficient, and if not, then out of his real estate upon selling the same as provided by law. But a temporary guardian shall pay the debts of his ward only on order of the court.

(2) PROCEEDINGS TO ADJUST CLAIMS. The guardian or a creditor of any ward may apply to the court for adjustment of claims against such ward incurred prior to entry of the order appointing the guardian or the filing of a lis pendens as provided in s. 319.215. The court shall by order fix the time and place it will adjust claims and the time within which all claims must be presented or be barred. Notice of the time and place so fixed and limited shall be given by publication as in estates of decedents; and all statutes relating to claims against and in favor of estates of decedents shall apply. As in the settlement of estates of deceased persons, after the court has made such order no action or proceeding shall be commenced or maintained in any court against such ward upon any claim of which the county court has jurisdiction.

Where an order entered in a guardianship proceeding fixed the time within which to file claims against the ward at less than the required minimum of 3 months [313.03], a subsequent ex parte order extending the time, made without any notice to the guardian or creditors or any other interested party as required by 313.03, could not cure

the defect in the original order; and hence, as to an unpaid promissory note executed by the ward prior to guardianship, the holder was not barred from bringing an action to recover thereon by the fact that he had not filed a claim in the guardianship proceeding. *Liberty v. Breault*, 10 W (2d) 193, 102 NW (2d) 115.

The adjudication of claims filed against

a ward's estate was not required by statute as a prerequisite to the approval of a sale of the ward's real estate, where the guardian had not challenged any such claim prior to the proposed sale and the court could properly assume that they would be allowed. *Guardianship of Breault*, 22 W (2d) 114, 125 NW (2d) 397.

**319.23 Actions.** Such guardian shall settle all accounts of the ward and may demand, sue for, collect and receive all debts and claims for damages due him, or may, with the approval of the county court, compound and discharge the same, and shall appear for and represent his ward in all actions and proceedings except where another person is appointed for that purpose.

**319.24 Compensation allowed from estate.** (1) **FEEs AND EXPENSES OF GUARDIAN.** Every guardian shall be allowed the amount of his reasonable expenses incurred in the execution of his trust including necessary compensation paid to attorneys, accountants, brokers and other agents and servants. He shall also have such compensation for his services as the court, in which his accounts are settled, deems to be just and reasonable.

(2) **WARD'S EXPENSES IN PROCEEDINGS.** When a guardian is appointed the court may allow reasonable expenses incurred by the ward in contesting the appointment.

In a guardianship, a contingent fee, regardless of the percentage, must be tested for reasonableness in view of the actual circumstances under which the successful services were rendered and to some extent by the various elements which go into determining a reasonable fee. *Guardianship of Schott*, 23 W (2d) 213, 127 NW (2d) 19.

**319.25 Accounting.** (1) **ANNUAL REPORTS.** Every guardian shall prior to March of each year file an account under oath and specify therein the amount of property received by him and remaining in his hands or invested by him, and the nature and manner of such investment, and his receipts and expenditures during the preceding calendar year and whenever ordered by the court, he shall, within 30 days, render and file a like account for any shorter term. In lieu of the filing of such accounts before March of each year, the court may, by appropriate order upon motion of the guardian, direct the guardian of an estate to thereafter render and file such annual accountings within 60 days after the anniversary date of the guardian's qualification as such guardian, with the accounting period from the anniversary date of qualification to the ensuing annual anniversary date. When any guardian of a minor has the custody of his ward and the care of his education he shall state in his report the time his ward attended school (naming the school) during the time for which the account is rendered, and shall also report any change in the status of the surety upon his bond.

(2) **DISPLAY OF ASSETS.** Upon rendering any such account the guardian shall produce for examination by the court, or some person satisfactory to the court, all securities, evidences of deposit and investments reported by him, which shall be described in such account in sufficient detail so that the same may be readily identified. It shall be ascertained whether such securities, evidences of deposit and investments correspond with such account. But such court may by a general or special order exempt any trust company bank, or any bank with trust powers, which has made the deposit required by s. 223.02 from the requirements of this section, if such bank within 30 days after each examination by its proper supervisory banking authority files in such court a certificate of the examiner in charge, that at such examination the securities, evidences of deposits and investments of all trust accounts of such bank were examined and compared with the records of the several trusts and found to be correct. Notwithstanding any such order of exemption the court may at any time require the guardian to produce all securities, evidences of debt and investments for examination as provided in this section.

(3) **SMALL ESTATES.** When the whole estate of a ward or of several wards jointly, under the same guardianship, does not exceed \$1,000 in value, the guardian shall be required to render account only upon the termination of his guardianship, unless otherwise ordered by the court.

(4) **EXAMINATION OF ACCOUNTS.** The account shall be promptly examined under the court's direction and if it is not satisfactory it shall be examined on 8 days' notice and the court shall make such order thereon as justice requires. Notice to the guardian may be served personally or by certified mail as the court directs. When the examination of a guardian's account is upon notice a guardian ad litem of the ward may be appointed.

(5) **NOTICE.** No action by the court upon any account shall be final unless it is upon notice.

**History:** 1961 c. 65; 1965 c. 48.

**319.26 Termination of guardianship.** (1) **GUARDIANSHIP OF THE PERSON.** A guardianship of the person shall terminate:

- (a) When a minor ward attains his majority.
- (b) When a minor ward lawfully marries.
- (c) When the court adjudicates a former incompetent to be competent.

(2) **GUARDIANSHIP OF THE ESTATE.** A guardianship of the estate shall terminate:

- (a) When a minor ward attains his majority.
- (b) When a minor ward lawfully marries and the court approves such termination.
- (c) When the court adjudicates a former incompetent or a spendthrift to be capable of handling his property.

(d) When a ward dies (unless the estate can be settled as provided by s. 319.28).

(3) **DEPLETED GUARDIANSHIPS.** When the court determines that the estate of the ward is below \$1,500 and reduced to a point where it is to the advantage of the ward to dispense with the guardianship, the court may terminate the guardianship and authorize disposition of the remaining assets as provided by s. 319.04 (2); and the court as a part of such disposition may order a suitable amount paid to the county treasurer under order of the court or reserved in the guardianship to assure the ward a decent burial, a marker, and perpetual care for the grave; and in case of an insolvent guardianship the court may order an amount not exceeding \$300 reserved in the guardianship or paid to the county treasurer under order of the court to assure such ward a decent burial.

**History:** 1961 c. 622.

**319.27 Settlement of accounts.** Upon termination of a guardianship, or upon resignation, removal or death of a guardian, such guardian or his personal representative shall forthwith render his final account to the court and to the former ward, the successor guardian or the deceased ward's personal representative as the case may be. Upon approval of the account and filing proper receipts the guardian shall be discharged and his bond released.

In a proceeding to settle the final account of a guardian an interested party may not challenge collaterally the jurisdiction of the court that made the initial guardianship appointment nor the sufficiency of the evidence supporting the finding of incompetency in the initial proceeding which led to the appointment of the guardian. *Guardianship of Nelson, 21 W (2d) 24, 123 NW (2d) 505.*

**319.28 Summary settlement of small estates.** When a ward dies leaving an estate which can be settled summarily under s. 311.05, the court may approve such settlement and distribution by the guardian, without the necessity of appointing an administrator or executor.

**319.29 Delivery of property to foreign guardian.** When property of a nonresident ward is in the possession of or due from a guardian, administrator or executor appointed in this state, the appointing court may order such property delivered to the foreign guardian upon filing his verified petition, accompanied by a copy of his appointment and bond, authenticated so as to be admissible in evidence, and upon 10 days' notice to the resident guardian, administrator or executor. Such petition shall be denied if granting it shall appear to be against the interests of the ward. The receipt of the foreign guardian for the property so delivered shall be taken and filed with the other papers in the proceeding, and a certified copy thereof shall be sent to the court which appointed such guardian.

**319.295 Guardian for mentally ill patient or conservator for county hospital patient or county home resident.** (1) When a patient in any state or county hospital or mental hospital or in any state institution for the mentally deficient, or a resident of the county home or infirmary, appears to have property in this state, and does not have a guardian, the state department of public welfare by its collection and deportation counsel, and in counties having a population of 100,000 or more, any corporation counsel or district attorney if there is no corporation counsel, may apply to the county court of the county in which such patient resided at the time of his commitment for the appointment of a guardian of his person and estate, or either, or for the appointment of a conservator of his estate, and the court, upon such application, shall appoint such guardian or conservator in the manner provided for the appointment of guardians under s. 319.08 (1) or for the appointment of conservators under s. 319.31, but no notice shall be required for the appointment of a successor guardian. Where application is made by a corporation counsel or district attorney if such be the case for appointment of a guardian of the estate of such patient or resident, or by such patient or resident for appointment of a conservator of his estate, the court may designate the county as guardian or conservator and the county shall not be required to make or file any oath or give any bond or security, except in the discretion of the court making such appoint-

ment, as similarly provided under s. 223.03 (8) in the case of the appointment of a trust company bank corporation. Before any county employe administers the funds of a person's estate of which the county has been appointed guardian or conservator, such employe must be designated as securities agent in the classified service of the county, and such employe's designation as securities agent shall appear on all court papers which he signs in the name of the county as guardian or conservator. Such securities agent, before entering upon his duties, shall also furnish an official bond in such amount and with such sureties as the county board determines, subject to the prior approval of such amount by the judges of the probate division of the county court. Such bond shall be filed in the office of the register in probate, and a duplicate original thereof filed in the office of the county clerk.

(2) Any guardian heretofore or hereafter appointed for any such inmate, who, having property of his ward in his possession or control exceeding \$200 in value, fails to pay within 3 months after receipt of any bill thereof for the ward's care and support from the state department of public welfare or the agency established pursuant to s. 46.21, shall, upon application of the collection and deportation counsel of said department or in counties having a population of 500,000 or more, the district attorney, forthwith be removed.

**History:** 1963 c. 222.

**319.31 Voluntary proceedings; conservators.** (1) Any adult resident who believes that he is unable properly to manage his property or income may voluntarily apply to the county court of the county of his residence for appointment of a conservator of his estate. Upon receipt of such application the court shall fix a time and place for hearing the same and direct to whom and in what manner notice of such hearing shall be given.

(2) At the time of such hearing the applicant shall be personally examined and if the court is satisfied that the applicant desires a conservator and that the fiduciary nominated is suitable, the court may appoint him as such and issue letters of conservatorship to him upon the filing of a bond in the amount fixed by the court.

(3) A conservator shall have all the powers and duties of a guardian of the estate of an incompetent person. His powers shall cease upon being removed by the court or upon death of the person whose estate is being conserved.

(4) Any person whose estate is under conservatorship may apply to the court at any time for termination thereof. Upon such application, the court shall fix a time and place for hearing and direct that 10 days' notice by mail be given to the conservator and the presumptive heirs of the applicant. Upon such hearing, the court shall, if satisfied that the applicant is competent, remove the conservator and order the property restored to the applicant, or if the applicant so desires and the nominee is suitable, the court may appoint a successor conservator.

(5) If the court shall upon such hearing determine that the person whose estate is administered by a conservator may be incapable of handling his estate, the court shall order the conservatorship continued, or if the applicant so desires and the nominee is suitable, the court may appoint a successor conservator.

(6) Appointment of a conservator shall not be evidence of the competency or incompetency of the person whose estate is being administered.

**319.32 Notes and mortgages of minor veterans.** Notwithstanding any provision of this chapter or any other provision of law to the contrary, any minor who served in the active armed forces of the United States at any time between August 27, 1940, and the termination of World War II as proclaimed by the President or the Congress and the husband or wife of such minor may execute in his or her own right, notes or mortgages, the payment of which is guaranteed or insured by the administrator of veterans' affairs or the federal housing administrator under the provisions of the Servicemen's Readjustment Act of 1944 or the National Housing Act or under the provisions of acts supplementary thereto or amendatory thereof. In connection with such transactions, such minors may sell, release or convey such mortgaged property or any interest therein, and litigate or settle controversies arising therefrom, including the execution of releases, deeds and other necessary papers or instruments. Such notes, mortgages, releases, deeds and other necessary papers or instruments when so executed shall not be subject to avoidance by such minor or the husband or wife of such minor upon either or both of them attaining the age of 21 because of the minority of either or both of them at the time of the execution thereof.

**319.33 United States uniform veterans' guardianship act.** (1) DEFINITIONS. As used in this section:

(a) "Veterans' administration" means the veterans' administration, its predecessors or successors.

(b) "Income" means moneys received from the veterans' administration and revenue or profit from any property wholly or partially acquired therewith.

(c) "Estate" means income on hand and assets acquired partially or wholly with "Income."

(d) "Benefits" means all moneys paid or payable by the United States through the veterans' administration.

(e) "Administrator" means the administrator of veterans' affairs of the United States or his successor.

(f) "Ward" means a beneficiary of the veterans' administration.

(g) "Guardian" means any fiduciary for the person or estate of a ward.

(2) ADMINISTRATOR AS PARTY IN INTEREST. The administrator shall be a party in interest in any proceeding for the appointment or removal of a guardian or for the removal of the disability of minority or mental incapacity of a ward, and in any suit or other proceeding affecting in any manner the administration by the guardian of the estate of any present or former ward whose estate includes assets derived in whole or in part from benefits heretofore or hereafter paid by the veterans' administration. Not less than 15 days prior to hearing in such matter notice in writing of the time and place thereof shall be given by mail (unless waived in writing) to the office of the veterans' administration having jurisdiction over the area in which any such suit or any such proceeding is pending.

(3) APPLICATION. Whenever, pursuant to any law of the United States or regulation of the veterans' administration, it is necessary, prior to payment of benefits, that a guardian be appointed, the appointment may be made in the manner hereinafter provided.

(4) LIMITATION ON NUMBER OF WARDS. No person or corporate entity other than a county having a population of 100,000 or more, a bank or trust company or the commandant of the Grand Army home for veterans at King shall be guardian of more than 5 wards at one time, unless all the wards are members of one family. Such county shall act only for patients in its county hospital or mental hospital and for residents of its county home or infirmary, and shall serve without fee. The commandant shall act only for members of the Grand Army home for veterans and shall serve without fee. Upon presentation of a petition by an attorney of the veterans administration or other interested person, alleging that a guardian is acting in a fiduciary capacity for more than 5 wards as herein provided and requesting his discharge for that reason, the court, upon proof substantiating the petition, shall require a final accounting forthwith from such guardian and shall discharge him from guardianship in excess of 5 and forthwith appoint a successor.

(5) APPOINTMENT OF GUARDIANS. (a) A petition for the appointment of a guardian may be filed by any relative or friend of the ward or by any person who is authorized by law to file such a petition. If there is no person so authorized or if the person so authorized refuses or fails to file such a petition within 30 days after mailing of notice by the veterans' administration to the last known address of the person, if any, indicating the necessity for the same, a petition for appointment may be filed by any resident of the state.

(b) The petition for appointment shall set forth the name, age, place of residence of the ward, the name and place of residence of the nearest relative, if known, and the fact that the ward is entitled to receive benefits payable by or through the veterans' administration and shall set forth the amount of moneys then due and the amount of probable future payments.

(c) The petition shall also set forth the name and address of the person or institution, if any, having actual custody of the ward and the name, age, relationship, if any, occupation and address of the proposed guardian and if the nominee is a natural person, the number of wards for whom the nominee is presently acting as guardian. Notwithstanding any law as to priority of persons entitled to appointment, or the nomination in the petition, the court may appoint some other individual or a bank or trust company as guardian, if the court determines it is for the best interest of the ward.

(d) In the case of a mentally incompetent ward the petition shall show that such ward has been rated incompetent by the veterans' administration on examination in accordance with the laws and regulations governing the veterans' administration.

(6) EVIDENCE OF NECESSITY FOR GUARDIAN OF INFANT. Where a petition is filed for the appointment of a guardian for a minor, a certificate of the administrator or his authorized representative, setting forth the age of such minor as shown by the records of the veterans' administration and the fact that the appointment of a guardian is a condition precedent to the payment of any moneys due the minor by the veterans' administration shall be prima facie evidence of the necessity for such appointment.

(7) EVIDENCE OF NECESSITY FOR GUARDIAN FOR INCOMPETENT. Where a petition is

filed for the appointment of a guardian for a mentally incompetent ward, a certificate of the administrator or his duly authorized representative, that such person has been rated incompetent by the veterans' administration on examination in accordance with the laws and regulations governing such veterans' administration and that the appointment of a guardian is a condition precedent to the payment of any moneys due such ward by the veterans' administration, shall be prima facie evidence of the necessity for such appointment.

(8) NOTICE. Upon the filing of a petition for the appointment of a guardian under this section, notice shall be given to the ward, to such other persons, and in such manner as is provided by statute, and also to the veterans' administration as provided by this section.

(9) BOND. (a) Upon the appointment of a guardian, he shall execute and file a bond to be approved by the court in an amount not less than the estimated value of the personal estate and anticipated income of the ward during the ensuing year. The bond shall be in the form and be conditioned as required of guardians appointed under the general guardianship law. The court may from time to time require the guardian to file an additional bond.

(b) Where a bond is tendered by a guardian with personal sureties, there shall be at least 2 such sureties and they shall file with the court a certificate under oath which shall describe the property owned, both real and personal, and shall state that each is worth the sum named in the bond as the penalty thereof over and above all his debts and liabilities and the aggregate of other bonds on which he is principal or surety and exclusive of property exempt from execution. The court may require additional security or may require a corporate surety bond, the premium thereon to be paid from the ward's estate.

(10) PETITIONS AND ACCOUNTS; NOTICES AND HEARINGS. (a) Every guardian shall file his accounts as required by ch. 319 and shall be excused from filing accounts in the case as provided by s. 319.25 (3).

(b) The guardian, at the time of filing any account, shall exhibit all securities or investments held by him to an officer of the bank or other depository wherein said securities or investments are held for safekeeping or to an authorized representative of the corporation which is surety on his bond, or to the judge or clerk of a court of record, or, upon request of the guardian or other interested party, to any other reputable person designated by the court, who shall certify in writing that he has examined the securities or investments and identified them with those described in the account, and shall note any omissions or discrepancies. If the depository is the guardian, the certifying officer shall not be the officer verifying the account. The guardian may exhibit the securities or investments to the judge of the court, who shall indorse on the account and copy thereof a certificate that the securities or investments shown therein as held by the guardian were each in fact exhibited to him and that those exhibited to him were the same as those shown in the account, and noting any omission or discrepancy. That certificate and the certificate of an official of the bank in which are deposited any funds for which the guardian is accountable, showing the amount on deposit, shall be prepared and signed in duplicate and one of each be filed by the guardian with his account.

(c) At the time of filing in the court any account, a certified copy thereof shall be sent by the guardian to the office of the veterans' administration having jurisdiction over the area in which the court is located. A signed duplicate or a certified copy of any petition, motion or other pleading pertaining to an account, or to any matter other than an account, and which is filed in the guardianship proceedings or in any proceeding for the purpose of removing the disability of minority or mental incapacity, shall be furnished by the person filing the same to the proper office of the veterans' administration. Unless waived in writing, written notice of the time and place of any hearing shall be given the veterans' administration office concerned and the guardian and any others entitled to notice not less than 15 days prior to the date fixed for the hearing. The notice may be given by mail in which event it shall be deposited in the mails not less than 15 days prior to said date. The court, or clerk thereof, shall mail to said veterans' administration office a copy of each order entered in any guardianship proceeding wherein the administrator is an interested party.

(d) If the guardian is accountable for property derived from sources other than the veterans' administration, he shall be accountable as required under the applicable law of this state pertaining to the property of minors or persons of unsound mind who are not beneficiaries of the veterans' administration, and as to such other property shall be entitled to the compensation provided by such law. The account for other property may be combined with the account filed in accordance with this section.

(11) PENALTY FOR FAILURE TO ACCOUNT. If any guardian shall fail to file with the court any account as required by this section, or by an order of the court, when any ac-

count is due or within 30 days after citation issues as provided by law, or shall fail to furnish the veterans' administration a true copy of any account, petition or pleading as required by this section, such failure may in the discretion of the court be ground for his removal.

(12) COMPENSATION OF GUARDIANS. Guardians shall be compensated as provided in s. 319.24 (1).

(13) INVESTMENTS. Every guardian shall invest the surplus funds of his ward's estate in such securities or property as authorized under the laws of this state but only upon prior order of the court; except that the funds may be invested, without prior court authorization, in direct unconditional interest-bearing obligations of the United States and in obligations the interest and principal of which are unconditionally guaranteed by the United States. A signed duplicate or certified copy of the petition for authority to invest shall be furnished the proper office of the veterans' administration, and notice of hearing thereon shall be given said office as provided in the case of hearing on a guardian's account.

(14) MAINTENANCE AND SUPPORT. A guardian shall not apply any portion of the income or the estate for the support or maintenance of any person other than the ward, the spouse and the minor children of the ward, except upon petition to and prior order of the court after a hearing. A signed duplicate or certified copy of said petition shall be furnished the proper office of the veterans' administration and notice of hearing thereon shall be given said office as provided in the case of hearing on a guardian's account or other pleading.

(15) PURCHASE OF HOME FOR WARD. (a) The court may authorize the purchase of the entire fee simple title to real estate in this state in which the guardian has no interest, but only as a home for the ward, or to protect his interest, or, if he is not a minor as a home for his dependent family. Such purchase of real estate shall not be made except upon the entry of an order of the court after hearing upon verified petition. A copy of the petition shall be furnished the proper office of the veterans' administration and notice of hearing thereon shall be given said office as provided in the case of hearing on a guardian's account.

(b) Before authorizing such investment the court shall require written evidence of value and of title and of the advisability of acquiring such real estate. Title shall be taken in the ward's name. This subsection does not limit the right of the guardian on behalf of his ward to bid and to become the purchaser of real estate at a sale thereof pursuant to decree of foreclosure of lien held by the ward, or at a trustee's sale, to protect the ward's right in the property so foreclosed or sold; nor does it limit the right of the guardian, if such be necessary to protect the ward's interest and upon prior order of the court in which the guardianship is pending, to agree with cotenants of the ward for a partition in kind, or to purchase from cotenants the entire undivided interests held by them, or to bid and purchase the same at a sale under a partition decree, or to compromise adverse claims of title to the ward's realty.

(16) COPIES OF PUBLIC RECORDS TO BE FURNISHED. When a copy of any public record is required by the veterans' administration to be used in determining the eligibility of any person to participate in benefits made available by the veterans' administration, the official custodian of such public record shall without charge provide the applicant for such benefits or any person acting on his behalf or the authorized representative of the veteran's administration with a certified copy of such record.

(17) DISCHARGE OF GUARDIAN AND RELEASE OF SURETIES. In addition to any other provisions of law relating to judicial restoration and discharge of guardian, a certificate by the veterans' administration showing that a minor ward has attained majority, or that an incompetent ward has been rated competent by the veterans' administration upon examination in accordance with law shall be prima facie evidence that the ward has attained majority, or has recovered his competency. Upon hearing after notice as provided by this section and the determination by the court that the ward has attained majority or has recovered his competency, an order shall be entered to that effect, and the guardian shall file a final account. Upon hearing after notice to the former ward and to the veterans' administration as in case of other accounts, upon approval of the final account, and upon delivery to the ward of the assets due him from the guardian, the guardian shall be discharged and his sureties released.

(18) LIBERAL CONSTRUCTION. This section shall be so construed to make uniform the law of those states which enact it.

(19) SHORT TITLE. This section may be cited as the "Uniform Veterans' Guardianship Act."

(20) MODIFICATION OF OTHER STATUTES. Except where inconsistent with this section, the statutes relating to guardian and ward and the judicial practice relating thereto, in-

cluding the right to trial by jury and the right of appeal, shall be applicable to beneficiaries and their estates.

(21) APPLICATION OF ACT. The provisions of this section relating to surety bonds and the administration of estates of wards shall apply to all "income" and "estate" as defined in sub. (1) whether the guardian shall have been appointed under this section or under any other law of this state, special or general, prior or subsequent to June 5, 1947.

History: 1963 c. 222.

**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 (name of minor) 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 for . . . . . under the Wisconsin Uniform Gift to Minors 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 security (ies) as custodian  
(name of 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 s. 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 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  
(name of minor)

Gifts to Minors Act". 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 . . . . under the Wisconsin Uniform Gifts to Minors Act"; and  
 (name of minor)

(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.

**319.75 Uniform securities ownership by minors act.** (1) **DEFINITIONS.** In this section, unless the context otherwise requires:

(a) "Bank" is a bank, trust company, national banking association, savings bank, industrial bank or any banking institution incorporated under the laws of this state.

(b) "Broker" means the same as defined in s. 319.61.

(c) "Issuer" means the same as defined in s. 319.61.

(d) "Person" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, 2 or more persons having a joint or common interest, or any other legal or commercial entity.

(e) "Security" means the same as defined in s. 319.61.

(f) "Third-party" is a person other than a bank, broker, transfer agent or issuer who with respect to a security held by a minor effects a transaction otherwise than

directly with the minor.

(g) "Transfer agent" means the same as defined in s. 319.61.

(2) SECURITY TRANSACTIONS INVOLVING MINORS; LIABILITY. A bank, broker, issuer, third-party or transfer agent incurs no liability by reason of his treating a minor as having capacity to transfer a security, to receive or to empower others to receive dividends, interest, principal, or other payments or distributions, to vote or give consent in person or by proxy, or to make elections or exercise rights relating to the security, unless prior to acting in the transaction the bank, broker, issuer, third-party or transfer agent had received written notice in the office acting in the transaction that the specific security is held by a minor or unless an individual conducting the transaction for the bank, broker, issuer, third-party or transfer agent had actual knowledge of the minority of the holder of the security. Except as otherwise provided in this section, such a bank, broker, issuer, third-party or transfer agent may assume without inquiry that the holder of a security is not a minor.

(3) ACTS OF MINORS NOT SUBJECT TO DISAFFIRMANCE OR AVOIDANCE. A minor, who has transferred a security, received or empowered others to receive dividends, interest, principal, or other payments or distributions, voted or given consent in person or by proxy, or made an election or exercised rights relating to the security, has no right thereafter, as against a bank, broker, issuer, third-party or transfer agent to disaffirm or avoid the transaction, unless prior to acting in the transaction the bank, broker, issuer, third-party or transfer agent against whom the transaction is sought to be disaffirmed or avoided had received notice in the office acting in the transaction that the specific security is held by a minor or unless an individual conducting the transaction for the bank, broker, issuer, third-party or transfer agent had actual knowledge of the minority of the holder.

(4) CONSTRUCTION. This section shall be so construed as to effectuate its general purpose to make uniform the laws of those states which enact it.

(5) INTERPRETATION. This section shall supersede any provision of law in conflict therewith.

(6) TITLE. This section may be cited as the "Uniform Securities Ownership by Minors Act".

**History:** 1961 c. 424.

**319.76 Securities ownership by incompetents and spendthrifts.** (1) DEFINITIONS. All definitions in s. 319.75 (1) (a) to (e) and (g) shall apply in this section, unless the context otherwise requires. "Third party" is a person other than a bank, broker, transfer agent or issuer who with respect to a security held by an incompetent or spendthrift effects a transaction otherwise than directly with the incompetent or spendthrift.

(2) SECURITY TRANSACTIONS INVOLVING INCOMPETENT OR SPENDTHRIFT; LIABILITY. A bank, broker, issuer, third-party or transfer agent incurs no liability by reason of his treating an incompetent or spendthrift as having capacity to transfer a security, to receive or to empower others to receive dividends, interest, principal, or other payments or distributions, to vote or give consent in person or by proxy, or to make elections or exercise rights relating to the security, unless prior to acting in the transaction the bank, broker, issuer, third-party or transfer agent had received written notice in the office acting in the transaction that the specific security is held by a person who has been adjudicated an incompetent or a spendthrift or unless an individual conducting the transaction for the bank, broker, issuer, third-party or transfer agent had actual knowledge that the holder of the security is a person who has been adjudicated an incompetent or a spendthrift, or actual knowledge of filing of his pendens as provided in s. 319.215. Except as otherwise provided in this section, such a bank, broker, issuer, third-party or transfer agent may assume without inquiry that the holder of a security is not an incompetent or spendthrift.

(3) ACTS NOT SUBJECT TO DISAFFIRMANCE OR AVOIDANCE. An incompetent or spendthrift, who has transferred a security, received or empowered others to receive dividends, interest, principal, or other payments or distributions, voted or given consent in person or by proxy, or made an election or exercised rights relating to the security, has no right thereafter, as against a bank, broker, issuer, third-party or transfer agent to disaffirm or avoid the transaction, unless prior to acting in the transaction the bank, broker, issuer, third-party or transfer agent against whom the transaction is sought to be disaffirmed or avoided had received notice in the office acting in the transaction that the specific security is held by a person who has been adjudicated an incompetent or a spendthrift or unless an individual conducting the transaction for the bank, broker, issuer, third-party or transfer agent had actual knowledge that the holder is a person

who has been adjudicated an incompetent or a spendthrift, or actual knowledge of filing of lis pendens as provided in s. 319.215.

(4) INTERPRETATION. This section shall supersede any provision of law in conflict therewith.

**History:** 1965 c. 53.