

3A:6-32.1 and 3A:6-32.2

LEGISLATIVE HISTORY CHECKLIST

WJSA 3A:6-32.1 and 3A:6-32.2 (Probate--Guardian's minor - Facility of

LAYS OF 1979 CHAPTER 494

Bill No. A6

Sponsor(s) Burstein and Bate

Date Introduced Pre-filed

Committee: Assembly Judiciary, Law, Public Safety and Defense

Senate Judiciary

Amended during passage Yes ~~xx~~ Amendments during passage denoted by asterisks.

Date of Passage: Assembly April 20, 1978

Senate May 21, 1979

Date of approval Feb. 28, 1980

Following statements are attached if available:

Sponsor statement	Yes	xx
Committee Statement:	Assembly	xx
	Senate	No
Fiscal Note	Yes	No
Veto message	Yes	No
Message on signing	Yes	xx
Following were printed.		
Reports	Yes	No
Hearings	Yes	No

Earlier proposed legislation:

- A.1697 (1976-77)
- S1015, A3144 (1975-76)
- S2329 (1972-73)

9/1/78
EU

(over)

Do Not Remove From Library
EXEMPT FROM COPY

Hearings and reports on earlier (i.e. similar) proposed legislation:

974.90 New Jersey. Division of Law Revision. Legislative
C866 Services Agency.
1973k 1972-73 legislation adapted from the proposed uniform
probate code: Trenton, 1973.

(See pp.78-93 re: S2329)

974.90 New Jersey. Senate. Judiciary Committee.
C866 Public hearing on uniform probate code
1973h bills, held 9-11-73. Trenton, 1973.

2-28-80

~~NEW LIBRARY COPY~~
~~DO NOT REMOVE~~

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 6

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1978 SESSION

By Assemblymen BURSTEIN and BATE

AN ACT concerning the estates of certain minors, supplementing Title 3A of the New Jersey Statutes and repealing N. J. S. 3A:6-31 and 3A:6-32.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Any person under a duty to pay or deliver money or personal
2 property to a minor may perform this duty, in amounts not
3 exceeding \$5,000.00 per annum, by paying or delivering the money
4 or property to, (a) the minor, if he is married; (b) a parent or
5 parents of the minor; (c) any person having the care and custody
6 of the minor with whom the minor resides; (d) a guardian of the
7 person of the minor; or (e) a financial institution incident to a
8 deposit in a Federally-insured savings account in the sole name of
9 the minor and giving notice of the deposit to the minor. This act
10 does not apply if the person making payment or delivery has actual
11 knowledge that a guardian of the estate of the minor has been ap-
12 pointed or that an action for the appointment of a guardian of the
13 estate of the minor is pending. The persons, other than the minor
14 or any financial institution under (e) above, receiving money or
15 property for a minor, are obligated to apply so much or all of the
16 money or the income or proceeds of the property for the support,
17 maintenance, education, general use and benefit of the minor in the
18 manner, at the time or times and to the extent that such persons, in
19 an exercise of reasonable discretion, deem suitable and proper, with
20 or without court order, with or without regard to the duty or ability
21 of themselves or of any other person to support the minor, and with
22 or without regard to any other funds, income or property which may
23 be available for any such purpose. But such persons may not pay
24 themselves except by way of reimbursement for out-of-pocket
25 expenses for goods and services necessary for the minor's support.
26 Any excess sums shall be preserved for future support of the

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

27 minor and any balance not so used and any property received for
28 the minor must be turned over to the minor when he attains 18 years
29 of age. Persons who pay or deliver in accordance with provisions
30 of this act are not responsible for the proper application thereof.

1 2. The persons making payment or delivery of **money or** per-
2 sonal property as provided in section 1 of this act shall obtain from
3 the recipient thereof an **[instrument]* affidavit** in writing
4 signed by the recipient acknowledging the receipt of the money or
5 personal property, **which affidavit shall set forth the recipient's*
6 *status in relation to the minor, and the purpose for which the*
7 *money or personal property are being used; * [and] * the * [written*
8 *instrument]* affidavit** shall be filed in the office of the surrogate
9 of the county wherein the minor resides.

1 3. N. J. S. 3A:6-31 and 3A:6-32 are hereby repealed.

1 4. This act shall take effect immediately.

27 minor and any balance not so used and any property received for
 28 the minor must be turned over to the minor when he attains 18 years
 29 of age. Persons who pay or deliver in accordance with provisions
 30 of this act are not responsible for the proper application thereof.

1 2. The persons making payment or delivery of personal property
 2 as provided in section 1 of this act shall obtain from the recipient
 3 thereof an instrument in writing signed by the recipient acknowl-
 4 edging the receipt of the money or personal property, and the
 5 written instrument shall be filed in the office of the surrogate of
 6 the county wherein the minor resides.

1 3. N. J. S. 3A:6-31 and 3A:6-32 are hereby repealed.

1 4. This act shall take effect immediately.

STATEMENT

This bill has been prepared by the Division of Law Revision of the Legislative Services Agency, and is one of a series of bills adapted from the Uniform Probate Code which has been approved by the National Conference of Commissioners on Uniform State Laws and by the American Bar Association.

This bill provides for "facility of payment." As provided therein any person under a duty to pay money or deliver personal property to a minor in amounts not exceeding \$5,000.00 per annum may do so by payment or delivery to: (a) the minor, if married; (b) a parent or parents of the minor; (c) the person having his care and custody; (d) a guardian of the person of the minor; or (e) a financial institution for deposit in a Federally-insured saving account in the name of the minor. Payment or delivery may not be made if the person doing so has knowledge of the appointment of the guardian of the minor's estate or that an action therefore is pending. The person to whom such payment or delivery is made must apply the same for the minor's support and education and may only reimburse himself for out-of-pocket expenses for goods and services necessary for the minor's support.

This bill will change the existing New Jersey law which limits the total value of property which may be received on a minor's behalf without a bond to \$3,000.00. This bill will raise the amount to \$5,000.00 per annum, paid by any person. This bill will avoid costs, legal expenses and surety bond premiums required for the appointment of a guardian, which would deplete the minor's property. The bill sets forth those persons to whom payment may be made, and requires written receipt by the recipient of the payment which must be filed in the office of the surrogate of the county where the minor resides.

AG (1979)

ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY
AND DEFENSE COMMITTEE

STATEMENT TO
ASSEMBLY, No. 6
with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 23, 1978

This bill has been prepared by the Division of Law Revision of the Legislative Services Agency, and is one of a series of bills adapted from the Uniform Probate Code which has been approved by the National Conference of Commissioners on Uniform State Laws and by the American Bar Association.

This bill provides for "facility of payment." As provided therein any person under a duty to pay money or deliver personal property to a minor in amounts not exceeding \$5,000.00 per annum may do so by payment or delivery to: (a) the minor, if married; (b) a parent or parents of the minor; (c) the person having his care and custody; (d) a guardian of the person of the minor; or (e) a financial institution for deposit in a Federally-insured saving account in the name of the minor. Payment or delivery may not be made if the person doing so has knowledge of the appointment of the guardian of the minor's estate or that an action therefore is pending. The person to whom such payment or delivery is made must apply the same for the minor's support and education and may only reimburse himself for out-of-pocket expenses for goods and services necessary for the minor's support.

This bill will change the existing New Jersey law which limits the total value of property which may be received on a minor's behalf without a bond to \$3,000.00. This bill will raise the amount to \$5,000.00 per annum, paid by any person. This bill will avoid costs, legal expenses and surety bond premiums required for the appointment of a guardian, which would deplete the minor's property. The bill sets forth those persons to whom payment may be made, and requires written receipt by the recipient of the payment which must be filed in the office of the surrogate of the county where the minor resides.

The committee amendments were designed to insure that the recipient of any funds must, by affidavit, set forth his relation to the minor on whose behalf the moneys are being paid, and state the purposes for which the funds are being withdrawn. These procedures will insure a better record of transaction occurring under the provisions of the act, and could result in the prosecution for perjury of any recipient who uses the funds in a manner inconsistent with his sworn statement.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

FEBRUARY 28, 1980

KATHRYN FORSYTH

Governor Brendan Byrne today signed eleven bills, all sponsored by Assemblyman Albert Burstein (D-Bergen), which constitute the final portion of New Jersey's probate reform package.

"The signing of these last eleven bills marks the culmination of a seven year effort to update New Jersey's probate law, making it one of the most modern and enlightened codes in the nation," said Byrne.

The first part of the probate reform program, also sponsored by Assemblyman Burstein, was enacted in 1977. The final step will be the reorganization of Title 3A, which contains the probate law, to make any necessary technical and minor substantive changes. This process should be completed by the end of the year.

Byrne said that in preparing the probate reform package, his staff and the legislature worked closely with the Committee of Real Property, Probate and Trust Law of the New Jersey State Bar Association.

He commended the efforts of Assemblyman Burstein, attorneys Alfred C. Clapp, Richard F. Lert and Harrison Durand of the New Jersey State Bar Association, and Maurice Gold of Legislative Services, "as well as the many other people whose talents contributed to this major revision of the New Jersey probate law."

These are the bills the Governor signed today:

A-18, which helps prevent the disinheritance of a husband or wife by allowing the surviving spouse to elect to take one-third of the deceased person's augmented estate.

Under prior law, New Jersey was one of the few states that allowed husbands and wives to disinherit each other.

An augmented estate is defined in the bill as being the deceased person's estate, minus administration and funeral costs, plus various kinds of property transfers made by the decedent and other types of interests.

The independent wealth of the surviving husband or wife is credited against the elective share, as is any property the surviving spouse received from the deceased person. Only the balance, if any, may be collected from the elective share.

A-8, which revises the New Jersey law governing the appointments, duties, rights and obligations of guardians for minors or mental incompetents.

The bill modernizes the definition of a mental incompetent to mean a person impaired by mental illness or mental deficiency or by a physical illness or disability, chronic use of drugs, chronic alcoholism or other cause "to the extent that he lacks sufficient capacity to govern himself or manage his affairs."

The bill sets forth rules and guidelines governing the powers and duties of the guardian of a minor or of a minor's estate and the powers of the courts in such cases.

A-6, which permits a sum of up to \$5,000 per year from an estate to be paid to or on behalf of a minor beneficiary without the necessity of formally appointing a guardian of the estate in certain cases.

The money, which can be paid to the parent, legal guardian of the minor, adult who has custody of the child and with whom he resides, or a financial institution, must be applied to the "support and educational needs of the minor."

Any excess in a given year must be preserved for the future support of the child, and any balance remaining must be delivered to the minor when he reaches the age of 18.

A-19, which clarifies the law governing disclaimers of testamentary and interstate transfers.

Clarification of the law was particularly important because of the federal gift tax consequences a beneficiary may face if he makes a disclaimer deemed untimely under the law.

A-20, which abolishes the ancient rights of dower and curtesy. Dower is the right of a surviving wife to possession for the rest of her life of one half the real estate owned in her husband's name. Curtesy is the corresponding right for surviving husbands.

A-21, which permits the court to authorize, direct or ratify transactions regarding the estate of a minor or mental incompetent in situations where the continuing services of a legal guardian are unnecessary.