

3B:12-54

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2003 **CHAPTER:** 258
NJSA: 3B:12-54 (Establishment of trusts – 9/11 beneficiaries)
BILL NO: S1926 (Substituted for A3559)

SPONSOR(S): Bennett and others

DATE INTRODUCED: September 30, 2002

COMMITTEE: **ASSEMBLY:** Judiciary

SENATE: Judiciary

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** January 12, 2004

SENATE: November 14, 2002

DATE OF APPROVAL: January 14, 2004

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (3rd reprint enacted)

S1926

[SPONSOR'S STATEMENT:](#) (Begins on page 3 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

[SENATE:](#) [Yes](#)

[FLOOR AMENDMENT STATEMENT:](#) [Yes](#)

LEGISLATIVE FISCAL ESTIMATE: No

A3559

[SPONSOR'S STATEMENT:](#) (Begins on page 3 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

P.L. 2003, CHAPTER 258, *approved January 14, 2004*
Senate, No. 1926 (*Third Reprint*)

1 AN ACT concerning certain trusts, amending N.J.S.3B:12-54 and
2 supplementing Title 3B of the New Jersey Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. N.J.S.3B:12-54 is amended to read as follows:

8 3B:12-54. **[When]** Except as provided in section 2 of P.L. , c.
9 (C.) (now pending before the Legislature as this bill), when a minor
10 who has not been adjudged a mental incompetent attains 18 years of
11 age, his guardian, after meeting all prior claims and expenses of
12 administration, shall pay over and distribute all funds and properties
13 to the former ward as soon as possible.

14 (cf: P.L.1981, c.405)

15

16 2. (New section) In the event that any part of ¹**[the]** an¹ intestate
17 estate ¹**[of a decedent who died as a result of the September 11, 2001**
18 **terrorist attacks on the United States]**¹ passes to the decedent's issue
19 pursuant to N.J.S.3B:5-4, and if any such issue shall not have attained
20 the age of 18 at the time such part of the intestate estate would pass
21 to such issue, such part may pass as follows:

22 a. The parent or guardian of such issue or any other individual with
23 standing may apply to the Superior Court, Chancery Division, Probate
24 Part in the county in which the decedent was domiciled ¹**[on**
25 **September 11, 2001]**¹ for permission to place all, or any part, of the
26 funds passing to such issue in a separate trust for the exclusive benefit
27 of such issue.

28 b. The terms of the trust may provide as follows:

29 (1) The trust assets and the income therefrom shall be used for the
30 exclusive benefit of the beneficiary, including but not limited to the
31 beneficiary's health, support, maintenance and education, including
32 college and post-graduate work, in the discretion of the trustees;

33 (2) The beneficiary shall have the right to request distributions of
34 trust principal as follows: one-third of the principal after attaining the
35 age of 25 years, one-half of the then balance after attaining the age of
36 30 years, and all of the then balance after attaining the age of 35 years;
37 or at such other ages as the court, in its discretion, shall determine;

38 (3) Should the beneficiary die prior to the termination of the trust,

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SJU committee amendments adopted October 28, 2002.

² Assembly AJU committee amendments adopted June 19, 2003.

³ Senate floor amendments adopted December 11, 2003.

1 the remaining trust principal and accrued income shall be distributed
2 to the beneficiary's estate;

3 (4) Two individual trustees, or one corporate trustee, or a
4 combination thereof, shall serve at all times, with or without bond, as
5 the court shall determine in its discretion; and

6 (5) Such other terms and conditions of the trust as the court shall
7 determine in its discretion.

8 c. ²In ruling on such an application, the court ³[shall]:

9 (1) may allow any award from the federal "September 11th Victim
10 Compensation Fund of 2001" to be the subject of a trust created
11 pursuant to this section or be included in such a trust, regardless of
12 whether such an award is found to pass to a minor issue of the
13 decedent pursuant to N.J.S.3B:5-4 or otherwise; and

14 (2)³ shall consider all relevant factors, including but not limited to
15 the amount of money involved, the availability of other resources for
16 current maintenance and support, the stability of the entity offering an
17 investment covered by the application, income tax consequences, any
18 special needs or vulnerabilities of the minor and the financial and
19 psychological consequences of putting all or a substantial part of the
20 minor's estate out of reach for a long period of time.

21 d.² The court shall retain jurisdiction of the trust until its
22 termination. The beneficiary's parent, guardian, trustee or other
23 individual with standing, including the beneficiary if he or she has
24 attained the age of 18 years, may apply to the court at any time for
25 modifications to the terms of the trust. Modifications may be made in
26 the court's discretion.

27

28 3. This act shall take effect immediately.

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33 Authorizes establishment of trusts for young beneficiaries providing
34 deferred distribution of funds.

SENATE, No. 1926

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED SEPTEMBER 30, 2002

Sponsored by:

Senator JOHN O. BENNETT

District 12 (Mercer and Monmouth)

Co-Sponsored by:

Senators Palaia and Allen

SYNOPSIS

Authorizes establishment of trusts providing for deferred distribution of funds for minor beneficiaries of certain victims of the 9/11 terrorism attacks.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/1/2002)

S1926 BENNETT

2

1 AN ACT concerning certain trusts, amending N.J.S.3B:12-54 and
2 supplementing Title 3B of the New Jersey Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. N.J.S.3B:12-54 is amended to read as follows:

8 3B:12-54. **[When]** Except as provided in section 2 of P.L. , c.
9 (C.) (now pending before the Legislature as this bill), when a minor
10 who has not been adjudged a mental incompetent attains 18 years of
11 age, his guardian, after meeting all prior claims and expenses of
12 administration, shall pay over and distribute all funds and properties
13 to the former ward as soon as possible.

14 (cf: P.L.1981, c. 405)

15

16 2. (New section) In the event that any part of the intestate estate
17 of a decedent who died as a result of the September 11, 2001 terrorist
18 attacks on the United States passes to the decedent's issue pursuant to
19 N.J.S.3B:5-4, and if any such issue shall not have attained the age of
20 18 at the time such part of the intestate estate would pass to such
21 issue, such part may pass as follows:

22 a. The parent or guardian of such issue or any other individual with
23 standing may apply to the Superior Court, Chancery Division, Probate
24 Part in the county in which the decedent was domiciled on September
25 11, 2001 for permission to place all, or any part, of the funds passing
26 to such issue in a separate trust for the exclusive benefit of such issue.

27 b. The terms of the trust may provide as follows:

28 (1) The trust assets and the income therefrom shall be used for the
29 exclusive benefit of the beneficiary, including but not limited to the
30 beneficiary's health, support, maintenance and education, including
31 college and post-graduate work, in the discretion of the trustees;

32 (2) The beneficiary shall have the right to request distributions of
33 trust principal as follows: one-third of the principal after attaining the
34 age of 25 years, one-half of the then balance after attaining the age of
35 30 years, and all of the then balance after attaining the age of 35 years;
36 or at such other ages as the court, in its discretion, shall determine;

37 (3) Should the beneficiary die prior to the termination of the trust,
38 the remaining trust principal and accrued income shall be distributed
39 to the beneficiary's estate;

40 (4) Two individual trustees, or one corporate trustee, or a
41 combination thereof, shall serve at all times, with or without bond, as
42 the court shall determine in its discretion; and

43 (5) Such other terms and conditions of the trust as the court shall

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

Matter underlined thus is new matter.

1 determine in its discretion.

2 c. The court shall retain jurisdiction of the trust until its
3 termination. The beneficiary's parent, guardian, trustee or other
4 individual with standing, including the beneficiary if he or she has
5 attained the age of 18 years, may apply to the court at any time for
6 modifications to the terms of the trust. Modifications may be made in
7 the court's discretion.

8

9 3. This act shall take effect immediately.

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STATEMENT

13

14 This bill would authorize the families of the victims of the 9/11
15 terrorist attacks who died without wills to establish certain trusts for
16 the benefit of the victims' minor children or other minor beneficiaries.

17 Under current law, when a minor is the intended beneficiary of
18 funds from an estate where the decedent died without a will, the funds
19 may be held in trust for the minor's benefit until he or she attains the
20 age of 18. Under the provisions of N.J.S.A.3B:12-54, once a minor
21 reaches age 18 the minor's guardian must "pay over and distribute all
22 funds and properties to the former ward as soon as possible." In the
23 case of the 9/11 victims, many minors will be receiving substantial
24 funds from the federal September 11th Victim Compensation Fund and
25 other sources. The intent of this bill is to protect a minor in this
26 situation from quickly dissipating these assets upon attaining the age
27 of 18.

28 Under the bill, the parent or guardian of a victim's minor child or
29 other minor beneficiary could apply to the court for permission to
30 place funds from the victim's estate into a trust that would authorize
31 delayed distribution of the funds. The trust assets and income would
32 be used for the beneficiary's health, support, maintenance and
33 education, in the discretion of the trustees. However, in contrast to
34 current law, which requires the beneficiary in such a situation to
35 receive all of the funds in a lump sum upon reaching age 18, the
36 beneficiary of this trust would receive periodic distributions of only
37 portions of the principal (for example, one-third of the principal at age
38 25, one-half at age 30, and the remainder at age 35, or whatever ages
39 the court may order).

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1926

with committee amendments

STATE OF NEW JERSEY

DATED: June 19, 2003

The Assembly Judiciary Committee reports favorably and with committee amendments Senate Bill No. 1926 (1R).

This bill would authorize the establishment of certain trusts for young beneficiaries in cases where the decedent died without a will.

Under current law, when a minor is the intended beneficiary of funds from an estate where the decedent died without a will, the funds may be held in trust for the minor's benefit until he or she attains the age of 18. Under the provisions of N.J.S.A.3B:12-54, once a minor reaches age 18 the minor's guardian must "pay over and distribute all funds and properties to the former ward as soon as possible." The intent of the bill is to protect a young person in this situation from dissipating these assets upon attaining the age of 18.

Under the bill, the parent or guardian of a minor child or other minor beneficiary could apply to the court for permission to place funds from the victim's estate into a trust that would authorize delayed distribution of the funds.

If the court approves the application, the funds would be placed in a trust and the trust assets and income would be used for the beneficiary's health, support, maintenance and education, in the discretion of the trustees. However, in contrast to current law, which requires the beneficiary in such a situation to receive all of the funds in a lump sum upon reaching age 18, the beneficiary of this trust would receive periodic distributions of only portions of the principal (for example, one-third of the principal at age 25, one-half at age 30, and the remainder at age 35, or whatever ages the court may order).

The committee amended the bill to provide that, in ruling on the application, the court would consider all relevant factors, including but not limited to the amount of money involved, the availability of other resources for current maintenance and support, the stability of the entity offering an investment covered by the application, income tax consequences, any special needs or vulnerabilities of the minor and the

financial and psychological consequences of putting all or a substantial part of the minor's estate out of reach for a long period of time.

The committee amendments make this bill identical to Assembly Bill No. 3559.

COMMITTEE AMENDMENTS:

Section 2 of the bill was amended by inserting new language in subsection c. and changing the bill's previous designation of subsection c. to subsection d. The new language in subsection c. provides that in ruling on the application to establish a trust the court shall consider all relevant factors, including but not limited to the amount of money involved, the availability of other resources for current maintenance and support, the stability of the entity offering an investment covered by the application, income tax consequences, any special needs or vulnerabilities of the minor and the financial and psychological consequences of putting all or a substantial part of the minor's estate out of reach for a long period of time.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1926

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 28, 2002

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 1926.

This bill would authorize the families of persons who die without wills to establish certain trusts for the benefit of the victims' minor children or other minor beneficiaries.

Under current law, when a minor is the intended beneficiary of funds from an estate where the decedent died without a will, the funds may be held in trust for the minor's benefit until he or she attains the age of 18. Under the provisions of N.J.S.A.3B:12-54, once a minor reaches age 18 the minor's guardian must "pay over and distribute all funds and properties to the former ward as soon as possible." The intent of this bill is to protect a minor in this situation from quickly dissipating these assets upon attaining the age of 18.

Under the bill, the parent or guardian of a victim's minor child or other minor beneficiary could apply to the court for permission to place funds from the victim's estate into a trust that would authorize delayed distribution of the funds. The trust assets and income would be used for the beneficiary's health, support, maintenance and education, in the discretion of the trustees. However, in contrast to current law, which requires the beneficiary in such a situation to receive all of the funds in a lump sum upon reaching age 18, the beneficiary of this trust would receive periodic distributions of only portions of the principal (for example, one-third of the principal at age 25, one-half at age 30, and the remainder at age 35, or whatever ages the court may order).

As originally introduced, this bill had applied only to families of victims of the September 11, 2001 terrorist attacks. The committee amended the bill to make it applicable to families of all persons who die without a will.

STATEMENT TO
[Second Reprint]
SENATE, No. 1926

with Senate Floor Amendments
(Proposed By Senator BENNETT)

ADOPTED: DECEMBER 11, 2003

These floor amendments clarify that awards from the federal "September 11th Victim Compensation Fund of 2001" may be included in a trust providing for deferred distribution of the trust funds, regardless of whether the awards from the fund are found to pass to a minor issue of the decedent under the intestacy statutes.

ASSEMBLY, No. 3559

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED MAY 8, 2003

Sponsored by:

Assemblywoman LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Assemblyman RICK MERKT

District 25 (Morris)

Assemblyman PATRICK DIEGNAN, JR.

District 18 (Middlesex)

Co-Sponsored by:

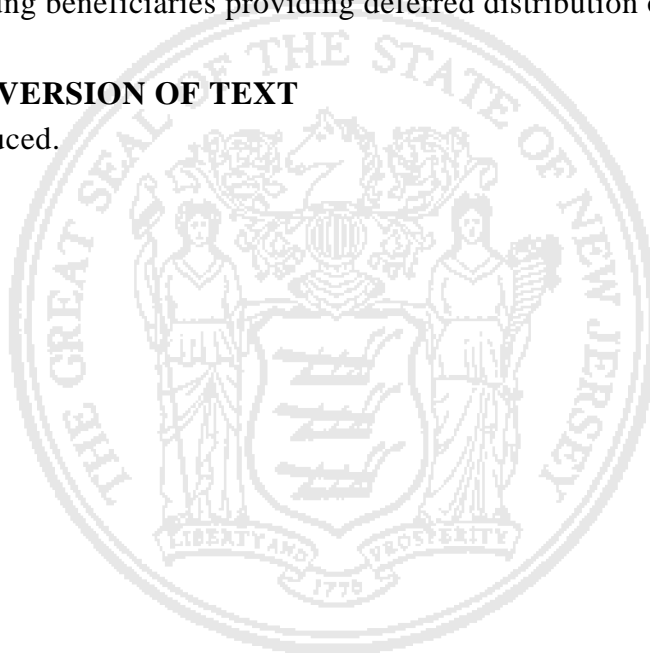
Assemblywoman Previte

SYNOPSIS

Authorizes, in cases where decedent died without a will, establishment of trusts for young beneficiaries providing deferred distribution of funds.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/13/2003)

A3559 GREENSTEIN, MERKT

2

1 AN ACT concerning certain trusts, amending N.J.S.3B:12-54 and
2 supplementing Title 3B of the New Jersey Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. N.J.S.3B:12-54 is amended to read as follows:

8 3B:12-54. **[When]** Except as provided in section 2 of P.L. , c.
9 (C.) (now pending before the Legislature as this bill), when a minor
10 who has not been adjudged a mental incompetent attains 18 years of
11 age, his guardian, after meeting all prior claims and expenses of
12 administration, shall pay over and distribute all funds and properties
13 to the former ward as soon as possible.

14 (cf: P.L.1981, c. 405)

15

16 2. (New section) In the event that any part of an intestate estate
17 passes to the decedent's issue pursuant to N.J.S.3B:5-4, and if any
18 such issue shall not have attained the age of 18 at the time such part
19 of the intestate estate would pass to such issue, such part may pass as
20 follows:

21 a. The parent or guardian of such issue or any other individual with
22 standing may apply to the Superior Court, Chancery Division, Probate
23 Part in the county in which the decedent was domiciled for permission
24 to place all, or any part, of the funds passing to such issue in a
25 separate trust for the exclusive benefit of such issue.

26 b. The terms of the trust may provide as follows:

27 (1) The trust assets and the income therefrom shall be used for the
28 exclusive benefit of the beneficiary, including but not limited to the
29 beneficiary's health, support, maintenance and education, including
30 college and post-graduate work, in the discretion of the trustees;

31 (2) The beneficiary shall have the right to request distributions of
32 trust principal as follows: one-third of the principal after attaining the
33 age of 25 years, one-half of the then balance after attaining the age of
34 30 years, and all of the then balance after attaining the age of 35 years;
35 or at such other ages as the court, in its discretion, shall determine;

36 (3) Should the beneficiary die prior to the termination of the trust,
37 the remaining trust principal and accrued income shall be distributed
38 to the beneficiary's estate;

39 (4) Two individual trustees, or one corporate trustee, or a
40 combination thereof, shall serve at all times, with or without bond, as
41 the court shall determine in its discretion; and

42 (5) Such other terms and conditions of the trust as the court shall
43 determine in its discretion.

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

Matter underlined thus is new matter.

1 c. In ruling on such an application, the court shall consider all
2 relevant factors, including but not limited to the amount of money
3 involved, the availability of other resources for current maintenance
4 and support, the stability of the entity offering an investment covered
5 by the application, income tax consequences, any special needs or
6 vulnerabilities of the minor and the financial and psychological
7 consequences of putting all or a substantial part of the minor's estate
8 out of reach for a long period of time.

9 d. The court shall retain jurisdiction of the trust until its
10 termination. The beneficiary's parent, guardian, trustee or other
11 individual with standing, including the beneficiary if he or she has
12 attained the age of 18 years, may apply to the court at any time for
13 modifications to the terms of the trust. Modifications may be made in
14 the court's discretion.

15
16 3. This act shall take effect immediately.

17
18
19 STATEMENT

20
21 This bill would authorize the establishment of certain trusts for
22 young beneficiaries in cases where the decedent died without a will.

23 Under current law, when a minor is the intended beneficiary of
24 funds from an estate where the decedent died without a will, the funds
25 may be held in trust for the minor's benefit until he or she attains the
26 age of 18. Under the provisions of N.J.S.A.3B:12-54, once a minor
27 reaches age 18 the minor's guardian must "pay over and distribute all
28 funds and properties to the former ward as soon as possible." The
29 intent of this bill is to protect a young person in this situation from
30 dissipating these assets upon attaining the age of 18.

31 Under the bill, the parent or guardian of a minor child or other
32 minor beneficiary could apply to the court for permission to place
33 funds from the victim's estate into a trust that would authorize delayed
34 distribution of the funds.

35 In ruling on the application, the court would consider all relevant
36 factors, including but not limited to the amount of money involved, the
37 availability of other resources for current maintenance and support, the
38 stability of the entity offering an investment covered by the
39 application, income tax consequences, any special needs or
40 vulnerabilities of the minor and the financial and psychological
41 consequences of putting all or a substantial part of the minor's estate
42 out of reach for a long period of time.

43 If the court approves the application, the funds would be placed in
44 a trust and the trust assets and income would be used for the
45 beneficiary's health, support, maintenance and education, in the
46 discretion of the trustees. However, in contrast to current law, which

1 requires the beneficiary in such a situation to receive all of the funds
2 in a lump sum upon reaching age 18, the beneficiary of this trust would
3 receive periodic distributions of only portions of the principal (for
4 example, one-third of the principal at age 25, one-half at age 30, and
5 the remainder at age 35, or whatever ages the court may order).

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3559

STATE OF NEW JERSEY

DATED: JUNE 19, 2003

The Assembly Judiciary Committee reports favorably Assembly Bill No. 3559.

This bill would authorize the establishment of certain trusts for young beneficiaries in cases where the decedent died without a will.

Under current law, when a minor is the intended beneficiary of funds from an estate where the decedent died without a will, the funds may be held in trust for the minor's benefit until he or she attains the age of 18. Under the provisions of N.J.S.A.3B:12-54, once a minor reaches age 18 the minor's guardian must "pay over and distribute all funds and properties to the former ward as soon as possible." The intent of this bill is to protect a young person in this situation from dissipating these assets upon attaining the age of 18.

Under the bill, the parent or guardian of a minor child or other minor beneficiary could apply to the court for permission to place funds from the victim's estate into a trust that would authorize delayed distribution of the funds.

If the court approves the application, the funds would be placed in a trust and the trust assets and income would be used for the beneficiary's health, support, maintenance and education, in the discretion of the trustees. However, in contrast to current law, which requires the beneficiary in such a situation to receive all of the funds in a lump sum upon reaching age 18, the beneficiary of this trust would receive periodic distributions of only portions of the principal (for example, one-third of the principal at age 25, one-half at age 30, and the remainder at age 35, or whatever ages the court may order).

In ruling on the application, the court would consider all relevant factors, including but not limited to the amount of money involved, the availability of other resources for current maintenance and support, the stability of the entity offering an investment covered by the application, income tax consequences, any special needs or vulnerabilities of the minor and the financial and psychological consequences of putting all or a substantial part of the minor's estate out of reach for a long period of time.

This bill is identical to Senate Bill No.1926 (2R).