



WHY STATES SHOULD ADOPT THE UNIFORM TRANSFERS TO MINORS ACT

The UGMA was a great success

The Uniform Gifts to Minors Act (UGMA) has been one of the ULC's most popular products. Every jurisdiction of the United States has enacted some form of it since it was completed in 1956 and revised in 1965 and 1966. The reason for UGMA's popularity is clear: it provides a simple, inexpensive means to a desirable end. The act allows an adult to bestow substantial gifts of property upon a child, without the child having to assume control of the property while he or she is still a minor.

Many states have found UGMA such a useful tool that they have gradually expanded the kinds of property that can be made the subject of a gift under the act, and have made other amendments to suit their needs.

Now the UTMA is needed

Because the states have significantly changed their versions of UGMA over the years, an important aim of the original act -- uniformity -- has been lost. This means persons making transfers under their state's UGMA can't be assured the transaction will be recognized and subject to the same rules everywhere.

The new Uniform Transfers to Minors Act solves the problem. It offers all states the expansive approach some of them have already taken and makes a variety of other improvements over the UGMA.

Under the UTMA, any kind of property -- real or personal, tangible or intangible -- can be transferred to a custodian for the benefit of a minor. The UGMA permitted only gifts of cash or securities. The UTMA covers not only outright gifts, but other transfers, such as payment of debts owed by a third party to a minor, and transfers of property from trusts or estates.

OTHER IMPROVEMENTS:

Protective measures

UTMA recognizes that increasing the kinds of property which can be transferred to a minor poses potentially greater liability problems for both minors and their custodians. To offset that possibility, UTMA insulates both custodian and minor from personal liability when a third party brings a claim against the custodial property -- provided neither was personally at fault, and the custodian is not found to have concealed his or her custodial role.

Flexible Guidelines

States will also find more flexibility in the transfer process outlined in UTMA. The act extends the range of persons who may be selected as successor custodians, and provides for nomination of a "future custodian" -- that is, someone to serve as custodian for a transfer not scheduled to occur until a later date, generally when the transferor dies.

The change-over will be simple

The flexibility of the UTMA will help smooth a state's transition from the old act to the new. The UTMA validates transfers attempted under the UGMA of another state which would not permit a transfer of that kind, and recognizes transfers which mistakenly refer to the UGMA after the effective date of the new act. The UTMA also provides continuity by validating gifts made previously under the enacting state's UGMA.

Adoption of the UTMA also will eliminate the conflict-of-law problems that have been created by the non-uniformity of the UGMA among the states.

Overall, the Uniform Transfers to Minors Act offers an updated, more complete approach to the goals the UGMA was originally created to achieve.

For further information about the UCRAA, please contact ULC Legislative Program Director Katie Robinson at krobinson@uniformlaws.org.