

THE 1986 AMENDMENT TO SECTION 9 (a)(2)
OF THE UNIFORM TRANSFERS TO MINORS ACT

The transfer of property to minors was meant to be even more attractive with the Uniform Transfers to Minors Act (UTMA) than under the old Uniform Gifts to Minors Act (UGMA). The UGMA provided a simple way for an adult to give money and certain kinds of property to minors, without giving that minor control of the property.

The original UGMA permitted gifts of securities only, although money and insurance contracts were added later. The UTMA goes one step further. It allows any kind of property to be transferred to a minor, whether real or personal, tangible or intangible. It also attempts to solve a modern problem with gifts or transfers of securities, a return to origins in a sense. UGMA did not address the problem because there was no problem when it was promulgated. Transfers in securities were paper transfers, by certificate, with registration of transfer on the books of corporate issuers. Gifts to minors of securities were registered with corporate issuers in the name of custodians on behalf of minors. That was the only way it could be done.

Today the requirement of registration hampers brokerage firms and other financial institutions, in which the customer's name is no longer registered with the corporate issuer. Customers have accounts with brokers. The securities remain registered in the name of the broker. A requirement that a custodian be registered, therefore, precludes the use of brokerage accounts.

UTMA allows securities to be transferred to minors without registration in Section 9(a)(1)(ii). However, the language in Section 9(a)(1)(ii) does not make it wholly clear that brokerage accounts can be used to create custodianships. In 1986 the ULC added an amendment to Section 9 (a)(2) which allows a custodianship to be created in a brokerage account or its equivalent. The amendment should conclusively resolve any doubt over the use of such accounts.