

By Senator Joyner

19-00594-15

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1 A bill to be entitled
2 An act relating to transfers to minors; amending s.
3 710.102, F.S.; defining the term "general power of
4 appointment"; amending s. 710.105, F.S.; specifying
5 that certain transfers from a trust are considered as
6 having been made directly by the grantor of the trust;
7 amending s. 710.123, F.S.; authorizing custodianships
8 established by irrevocable gift and by irrevocable
9 exercise of power of appointment to terminate when a
10 minor attains the age of 25, subject to the minor's
11 right in such custodianships to compel distribution of
12 the property upon attaining the age of 21; limiting
13 liability of financial institutions for certain
14 distributions of custodial property; reenacting ss.
15 710.117(2) and 710.121(2) and (6), F.S., to
16 incorporate the amendment made to s. 710.105, F.S., in
17 references thereto; providing an effective date.

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19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Subsections (9) through (18) of section 710.102,
22 Florida Statutes, are renumbered as subsections (10) through
23 (19), respectively, and a new subsection (9) is added to that
24 section, to read:

25 710.102 Definitions.—As used in this act, the term:
26 (9) "General power of appointment" means a power of
27 appointment as defined in s. 732.2025(3).

28 Section 2. Section 710.105, Florida Statutes, is amended to
29 read:

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30 710.105 Transfer by gift or exercise of power of
31 appointment.—A person may make a transfer by irrevocable gift
32 to, or the irrevocable exercise of a power of appointment in
33 favor of, a custodian for the benefit of a minor pursuant to s.
34 710.111. Notwithstanding s. 710.106, a transfer by irrevocable
35 gift from a trust over which the grantor has at the time of
36 transfer a right of revocation, as defined in s. 733.707(3)(e),
37 shall be treated for all purposes under this act as a transfer
38 made directly by the grantor of the trust.

39 Section 3. Section 710.123, Florida Statutes, is amended to
40 read:

41 710.123 Termination of custodianship.—

42 (1) The custodian shall transfer in an appropriate manner
43 the custodial property to the minor or to the minor's estate
44 upon the earlier of:

45 (a) ~~(1)~~ The minor's attainment of 21 years of age with
46 respect to custodial property transferred under s. 710.105 or s.
47 710.106. However, a transferor may, with respect to such
48 custodial property, create the custodianship so that it
49 terminates when the minor attains 25 years of age;

50 (b) ~~(2)~~ The minor's attainment of ~~age~~ 18 years of age with
51 respect to custodial property transferred under s. 710.107 or s.
52 710.108; or

53 (c) ~~(3)~~ The minor's death.

54 (2) If the transferor of a custodianship under paragraph
55 (1)(a) creates the custodianship to terminate when the minor
56 attains 25 years of age, in the case of a custodianship created
57 by irrevocable gift or by irrevocable inter vivos exercise of a
58 general power of appointment, the minor nevertheless has the

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59 absolute right to compel immediate distribution of the entire
60 custodial property when the minor attains 21 years of age.

61 (3) As to a custodianship described in subsection (2), a
62 transferor may provide, by delivery of a written instrument to
63 the custodian upon the creation of such custodianship, that the
64 minor's right to compel immediate distribution of the entire
65 custodial property will terminate upon the expiration of a fixed
66 period that begins with the custodian's delivery of a written
67 notice to the minor of the existence of such right. To be
68 effective to terminate the minor's right to compel an immediate
69 distribution of the entire custodial property when the minor
70 attains 21 years of age, the custodian's written notice must be
71 delivered at least 30 days before, and not later than 30 days
72 after, the date upon which the minor attains 21 years of age,
73 and the fixed period specified in the notice for the termination
74 of such right may not expire before the later of 30 days after
75 the minor attains 21 years of age or 30 days after the custodian
76 delivers such notice.

77 (4) Notwithstanding s. 710.102(12), if the transferor
78 creates the custodianship to terminate when the minor attains 25
79 years of age, solely for purposes of the application of the
80 termination provisions of this section, the term "minor" means
81 an individual who has not attained 25 years of age.

82 (5) A financial institution has no liability to a custodian
83 or minor for distribution of custodial property to, or for the
84 benefit of, the minor in a custodianship created by irrevocable
85 gift or by irrevocable exercise of a general power of
86 appointment when the minor attains 21 years of age.

87 Section 4. Subsection (2) of s. 710.117 and subsections (2)

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88 and (6) of s. 710.121, Florida Statutes, are reenacted for the
89 purpose of incorporating the amendments made by this act to s.
90 710.105, Florida Statutes, in references thereto.

91 Section 5. This act shall take effect July 1, 2015.