

633.2301 Spendthrift protection recognized.

Except as otherwise provided in section 633.2302, all of the following provisions shall apply:

1. A term of a trust providing that the interest of a beneficiary is held subject to a "spendthrift trust", or words of similar import, is sufficient to restrain both voluntary and involuntary transfers of the beneficiary's interest.

2. *a.* A creditor or assignee of a beneficiary may reach a mandatory distribution of income or principal, including a distribution upon termination of the trust, if the trustee has not made the distribution to the beneficiary within a reasonable time after the required distribution date.

b. For the purposes of this subsection, "*mandatory distribution*" means a distribution required by the express terms of the trust of any of the following:

(1) All of the income, net income, or principal of the trust.

(2) A fraction or percentage of the income or principal of the trust.

(3) A specific dollar amount from the trust.

c. A distribution that is subject to a condition shall not be considered a mandatory distribution.

3. If a creditor or assignee of a beneficiary is permitted to reach a mandatory distribution under this section, the sole remedy of the creditor or assignee shall be to apply to the court having jurisdiction of the trust after such reasonable period of time has expired for a judgment ordering the trustee to pay to the creditor or the assignee a sum of money equal to the lesser of the amount of the debt or assignment, or the amount of the mandatory distribution described in subsection 2. No other remedy, including but not limited to attachment or garnishment of any interest in the trust, recovery of court costs or attorney fees, or placing a lien of any type on any trust property or on the interest of any beneficiary in the trust, shall be permitted or ordered by any court. Any writing signed by the beneficiary, allowing any remedy other than payment of the mandatory distribution not made to the beneficiary within a reasonable time after the required distribution date, shall be void and shall not be enforced by any court.

4. A creditor or assignee of a beneficiary of a spendthrift trust shall not compel a distribution that is subject to the trustee's discretion if any of the following apply:

a. The distribution is expressed in the form of a standard of distribution.

b. The trustee has abused its discretion.

99 Acts, ch 125, §22, 109; 2004 Acts, ch 1015, §27