

Sen. Judiciary 4/14/81
To Pass 4/16 (p. 1314)

HOUSE FILE 802

Judiciary
Murray, Chairperson
Rush
Doyle

BT

HOUSE FILE 802

BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

Place On Calendar

(Formerly Study Bill 155)

Passed House, Date 4-10-81 (p. 1153) Passed Senate, Date 4-24-81 (p. 1421)

Vote: Ayes 94 Nays 0 Vote: Ayes 43 Nays 0

Approved May 5, 1981

A BILL FOR

1 An Act relating to gifts allowed under the uniform gifts to
2 minors Act.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 565A.1, subsection 5, paragraph a,
2 Code 1981, is amended to read as follows:

3 a. All securities ~~and~~, money, life or endowment insurance
4 policies, and annuity contracts under the supervision of the
5 same custodian for the same minor as a consequence of a gift
6 or gifts made to the minor in a manner prescribed in this
7 chapter;

8 Sec. 2. Section 565A.1, subsection 5, paragraph c, Code
9 1981, is amended to read as follows:

10 c. The proceeds, immediate and remote, from the sale,
11 exchange, conversion, investment, reinvestment or other dis-
12 position of ~~such~~ the securities, money, life or endowment
13 insurance policies, annuity contracts, and income.

14 Sec. 3. Section 565A.1, subsection 12, Code 1981, is
15 amended to read as follows:

16 12. A "security" ~~shall include~~ includes any note, stock,
17 treasury stock, bond, debenture, evidence of indebtedness,
18 certificate of interest in an oil, gas, or mining lease,
19 collateral trust certificate, preorganization certificate,
20 preorganization subscription, any transferable share,
21 investment contract, or beneficial interest in title to
22 property, interest in or under a profit-sharing or
23 participating agreement or scheme, or shares invested in
24 savings and loan associations, or invested in a credit union
25 account, or any other instrument commonly known as a security.
26 The term does not include a security of which the donor is
27 the issuer. A security is in "registered form" when it
28 specifies a person entitled to it or to the rights it evidences
29 and its transfer may be registered upon books maintained for
30 that purpose by or on behalf of the issuer.

31 Sec. 4. Section 565A.1, Code 1981, is amended by adding
32 the following new subsection:

33 NEW SUBSECTION. "Life or endowment insurance policy" or
34 "annuity contract" means a life or endowment insurance policy
35 or annuity contract issued by an insurance company on the

1 life of a minor or on the life of a member of the minor's
2 family if the gift of the policy or contract is made to the
3 minor in the manner prescribed in this chapter.

4 Sec. 5. Section 565A.2, subsection 1, unnumbered paragraph
5 1, Code 1981, is amended to read as follows:

6 An adult person may, during ~~his~~ the person's lifetime,
7 make a gift of a security, life or endowment insurance policy,
8 annuity contract, or money to a person who is a minor on the
9 date of the gift.

10 Sec. 6. Section 565A.2, subsection 1, Code 1981, is amended
11 by adding the following new paragraph:

12 NEW PARAGRAPH. If the subject of the gift is a life or
13 endowment insurance policy or annuity contract, by causing
14 the ownership of the policy or contract to be registered with
15 the issuing insurance company in the name of the donor, another
16 adult, or a trust company, followed by the words: "as
17 custodian for (name of minor) under the Iowa Uniform
18 Gifts to Minors Act."

19 Sec. 7. Section 565A.2, Code 1981, is amended by adding
20 the following new subsection:

21 NEW SUBSECTION.

22 a. A will or other disposing instrument may authorize
23 or direct a fiduciary acting under it, or, in the absence
24 of a direction to the contrary in the instrument, a fiduciary
25 acting under it may elect to distribute benefits required
26 to be distributed to a minor under the terms of the instrument
27 by making the distribution to a custodian in accordance with
28 this chapter.

29 b. Only property which can be the subject of a lifetime
30 gift under this chapter may be distributed under this
31 subsection.

32 c. A fiduciary making a distribution under this subsection
33 may select the custodian, and may elect to serve as custodian.
34 However, the disposing instrument may name the custodian or
35 otherwise restrict this power.

1 d. This chapter is applicable to distributions by a
2 fiduciary under this subsection in the same manner as it would
3 be applicable if the fiduciary were a donor making a lifetime
4 gift under this chapter.

5 e. A fiduciary making a distribution under this subsection
6 may do so without court order and, after effecting the
7 distribution, is relieved of all accountability as a fiduciary
8 with respect to the property distributed.

9 f. This subsection applies to instruments executed before
10 or after the effective date of this Act and even if a person
11 who executed an instrument is not now living.

12 Sec. 8. Section 565A.3, subsections 1 and 2, Code 1981,
13 are amended to read as follows:

14 1. A gift made in a manner prescribed in this chapter
15 is irrevocable and conveys to the minor indefeasibly vested
16 legal title to the security, life or endowment insurance
17 policy, annuity contract, or money given, but no guardian
18 of the minor has any right, power, duty or authority with
19 respect to the custodial property except as provided in this
20 chapter.

21 2. By making a gift in a manner prescribed in this chapter,
22 the donor incorporates in ~~his~~ the gift all the provisions
23 of this chapter and grants to the custodian, and to any issuer,
24 transfer agent, bank, insurance company, broker, or third
25 person dealing with a person designated as custodian, the
26 respective powers, rights and immunities provided in this
27 chapter.

28 Sec. 9. Section 565A.4, Code 1981, is amended by adding
29 the following new subsection:

30 NEW SUBSECTION. If the subject of the gift is a life or
31 endowment insurance policy or annuity contract, the custodian
32 has all the incidents of ownership in the policy or contract
33 to the same extent as if the custodian were the owner, except
34 that the designated beneficiary of any policy or contract
35 on the life of the minor shall be the minor's estate and the

1 designated beneficiary of any policy or contract on the life
2 of a person other than the minor shall be the custodian as
3 custodian for the minor for whom the custodian is acting.
4 The custodian may pay premiums on the policy or contract out
5 of the custodial property.

6 Sec. 10. Section 565A.6, Code 1981, is amended by striking
7 the section and inserting in lieu thereof the following:

8 565A.6 RELIEF FROM RESPONSIBILITY. An issuer, transfer
9 agent, insurance company, bank, broker, or other person acting
10 on the instructions of or otherwise dealing with a person
11 purporting to act as a donor or a custodian is not responsible
12 for any of the following:

13 1. Determining whether the person designated by the
14 purported donor or purporting to act as a custodian has been
15 duly designated.

16 2. Determining whether any act of a person purporting
17 to act as a custodian is in accordance with this chapter,
18 including but not limited to the following:

19 a. A purchase, sale, or transfer to or by the person.

20 b. The application by the person of money or other property
21 delivered to the person.

22 3. Inquiring into the validity or property under this
23 chapter of an instrument or instructions executed or given
24 by a person purporting to act as a donor or custodian.

25 Sec. 11. Section 565A.11, Code 1981, is amended to read
26 as follows:

27 565A.11 LAWS NOT APPLICABLE. ~~Section-668-3~~ Chapter 633
28 and all other laws of this state contrary to ~~the-provisions~~
29 ~~of~~ this chapter, ~~shall~~ do not apply to the custodial property
30 of a minor held by the custodian under this chapter.

31 EXPLANATION

32 This bill allows life and endowment insurance policies
33 and annuity contracts to be given to a minor under the Iowa
34 uniform gifts to minors Act. It also allows testators and
35 fiduciaries to use the uniform Act when bequeathing and

1 distributing gifts to minors. Distribution under the uniform
2 Act avoids the need of court supervised conservatorships or
3 trusts.

4 Under the bill, a testator can provide by will for gifts
5 under the uniform Act, or, at the fiduciary's discretion,
6 gifts can be made under instruments providing for distributions
7 to minors if the will, trust agreement, or other disposing
8 instruments does not contain a contrary direction. Only
9 property which could be the subject of a lifetime gift may
10 be given by a testator or fiduciary. A fiduciary will be
11 relieved of accountability as a fiduciary with respect to
12 property distributed after the property has been distributed
13 pursuant to the bill's provisions.

14 Section 565A.6 which is rewritten in the bill remains
15 basically the same as in the present Code except for the
16 addition of "insurance agent" to the list of persons whose
17 responsibility in dealing with a donor or custodian is limited.

18 Section 3 of the bill amends the definition of "security"
19 under the uniform act to include shares invested in a credit
20 union account.

21 This bill takes effect July 1 following its enactment.

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HOUSE FILE 802

AN ACT

RELATING TO GIFTS ALLOWED UNDER THE UNIFORM GIFTS TO MINORS ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 565A.1, subsection 5, paragraph a, Code 1981, is amended to read as follows:

a. All securities ~~and, money, life or endowment insurance policies, and annuity contracts~~ under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in this chapter;

Sec. 2. Section 565A.1, subsection 5, paragraph c, Code 1981, is amended to read as follows:

c. The proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment or other disposition of ~~such the securities, money, life or endowment insurance policies, annuity contracts, and income.~~

Sec. 3. Section 565A.1, subsection 12, Code 1981, is amended to read as follows:

12. A "security" ~~shall include~~ includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest in an oil, gas, or mining lease, collateral trust certificate, preorganization certificate, preorganization subscription, any transferable share, investment contract, or beneficial interest in title to property, interest in or under a profit-sharing or participating agreement or scheme, or shares invested in savings and loan associations, or invested in a credit union account, or any other instrument commonly known as a security. The term does not include a security of which the donor is the issuer. A security is in "registered form" when it

specifies a person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer.

Sec. 4. Section 565A.1, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. "Life or endowment insurance policy" or "annuity contract" means a life or endowment insurance policy or annuity contract issued by an insurance company on the life of a minor or on the life of a member of the minor's family if the gift of the policy or contract is made to the minor in the manner prescribed in this chapter.

Sec. 5. Section 565A.2, subsection 1, unnumbered paragraph 1, Code 1981, is amended to read as follows:

An adult person may, during ~~his~~ the person's lifetime, make a gift of a security, life or endowment insurance policy, annuity contract, or money to a person who is a minor on the date of the gift.

Sec. 6. Section 565A.2, subsection 1, Code 1981, is amended by adding the following new paragraph:

NEW PARAGRAPH. If the subject of the gift is a life or endowment insurance policy or annuity contract, by causing the ownership of the policy or contract to be registered with the issuing insurance company in the name of the donor, another adult, or a trust company, followed by the words: "as custodian for (name of minor) under the Iowa Uniform Gifts to Minors Act."

Sec. 7. Section 565A.2, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION.

a. A will or other disposing instrument may authorize or direct a fiduciary acting under it, or, in the absence of a direction to the contrary in the instrument, a fiduciary acting under it may elect to distribute benefits required to be distributed to a minor under the terms of the instrument by making the distribution to a custodian in accordance with this chapter.

b. Only property which can be the subject of a lifetime gift under this chapter may be distributed under this subsection.

c. A fiduciary making a distribution under this subsection may select the custodian, and may elect to serve as custodian. However, the disposing instrument may name the custodian or otherwise restrict this power.

d. This chapter is applicable to distributions by a fiduciary under this subsection in the same manner as it would be applicable if the fiduciary were a donor making a lifetime gift under this chapter.

e. A fiduciary making a distribution under this subsection may do so without court order and, after effecting the distribution, is relieved of all accountability as a fiduciary with respect to the property distributed.

f. This subsection applies to instruments executed before or after the effective date of this Act and even if a person who executed an instrument is not now living.

Sec. 8. Section 565A.3, subsections 1 and 2, Code 1981, are amended to read as follows:

1. A gift made in a manner prescribed in this chapter is irrevocable and conveys to the minor indefeasibly vested legal title to the security, life or endowment insurance policy, annuity contract, or money given, but no guardian of the minor has any right, power, duty or authority with respect to the custodial property except as provided in this chapter.

2. By making a gift in a manner prescribed in this chapter, the donor incorporates in ~~his~~ the gift all the provisions of this chapter and grants to the custodian, and to any issuer, transfer agent, bank, insurance company, broker, or third person dealing with a person designated as custodian, the respective powers, rights and immunities provided in this chapter.

Sec. 9. Section 565A.4, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. If the subject of the gift is a life or endowment insurance policy or annuity contract, the custodian has all the incidents of ownership in the policy or contract to the same extent as if the custodian were the owner, except that the designated beneficiary of any policy or contract on the life of the minor shall be the minor's estate and the designated beneficiary of any policy or contract on the life of a person other than the minor shall be the custodian as custodian for the minor for whom the custodian is acting. The custodian may pay premiums on the policy or contract out of the custodial property.

Sec. 10. Section 565A.6, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

565A.6 RELIEF FROM RESPONSIBILITY. An issuer, transfer agent, insurance company, bank, broker, or other person acting on the instructions of or otherwise dealing with a person purporting to act as a donor or a custodian is not responsible for any of the following:

1. Determining whether the person designated by the purported donor or purporting to act as a custodian has been duly designated.
2. Determining whether any act of a person purporting to act as a custodian is in accordance with this chapter, including but not limited to the following:
 - a. A purchase, sale, or transfer to or by the person.
 - b. The application by the person of money or other property delivered to the person.
3. Inquiring into the validity or property under this chapter of an instrument or instructions executed or given by a person purporting to act as a donor or custodian.

Sec. 11. Section 565A.11, Code 1981, is amended to read as follows:

565A.11 LAWS NOT APPLICABLE. ~~Section-668-3~~ Chapter 633
and all other laws of this state contrary to ~~the-provisions~~
of this chapter, shall do not apply to the custodial property
of a minor held by the custodian under this chapter.

DELWYN STROMER
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and
is known as House File 802, Sixty-ninth General Assembly.

PAT H. HARPER
Chief Clerk of the House

Approved 5/5, 1981

ROBERT D. RAY
Governor