



Judicial Impact Statement

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JUDICIAL IMPACT STATEMENT: TRUST TO AGE 25 IN MINOR SETTLEMENTS

DRAFT

Looking for sponsor

TITLE INFORMATION

To enact a new Revised Code Section 2111.182 to permit a trust up to age 25 in settlements or judgments involving minors, mirroring the authority the court has in wrongful death proceedings with minor beneficiaries pursuant to R.C. 2125.03.

IMPACT SUMMARY

This proposal, which is part of the Ohio Judicial Conference's 2017-18 Legislative Platform, will positively impact Ohio's probate courts by granting judges the additional discretion to create a trust for minor beneficiaries until the beneficiary reaches age 25 when the trust would be in the minor's best interest. The proposal would have a minor impact on judicial case load and work load, similar to a parallel procedure in current law for wrongful death trusts to age 25. In addition to granting judges additional discretion, the proposal will improve public confidence in the law by avoiding depletion of minor settlements or judgments for unintended purposes.

BACKGROUND

With the exception of wrongful death claims, current law allows a probate court to create a trust for a minor settlement beneficiary, but only up to age 18. Minor settlements involve significant money in some cases, and under current law, those proceeds are fully available to the beneficiary at age 18.

Under this proposal, a probate court would have continuing jurisdiction over a minor's settlement or judgment for injury or damaged property up to an additional seven years of maturation. The court would have discretion to release all or some of the funds before age 25 in certain situations, such as paying for college or a house. By granting the court continuing jurisdiction over the settlement, the court would prevent an 18-year-old beneficiary from using significant funds for unintended purposes.

The current wrongful death statutes grants probate court discretion to create a trust for a minor beneficiary that extends to age 25. R.C. 2125.03 provides in part:

“The court may create a trust for any beneficiary who is under twenty-five years of age by ordering that the portion of the amount received by the personal representative for that beneficiary be deposited in trust for the benefit of that beneficiary, until the beneficiary reaches twenty-five years of age, and order the distribution of the amount in accordance with the provisions of the trust.” (R.C. 2125.03(A)(2)).

What is a Judicial Impact Statement?

A Judicial Impact Statement describes as objectively and accurately as possible the probable, practical effects on Ohio's court system of the adoption of the particular bill. The court system includes people who use the courts (parties to suits, witnesses, attorneys and other deputies, probation officials, judges and others). The Ohio Judicial Conference prepares these statements pursuant to R.C. 105.911.

The probate court judges seek this same authority to create a trust for minor beneficiary settlements and judgments involving injury or damage to the minor's property.

RECOMMENDATION

The General Assembly should enact a new Revised Code Section 2111.182 to grant probate courts the discretion to order a trust up to age 25 in settlements involving minors, mirroring the authority the probate court has in wrongful death proceedings where a minor is the beneficiary pursuant to R.C. 2125.03.

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