

FIRST REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
CONFERENCE COMMITTEE SUBSTITUTE FOR  
SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 70

96TH GENERAL ASSEMBLY  
2011

0089S.07T

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## AN ACT

To repeal sections 402.199, 402.200, 402.205, 402.210, 402.215, 402.217, 402.220, 473.657, and 475.093, RSMo, and section 402.210 as truly agreed to and finally passed by senate substitute no. 2 for house bill no. 648, ninety-sixth general assembly, first regular session, and to enact in lieu thereof twelve new sections relating to the Missouri family trust.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 402.199, 402.200, 402.205, 402.210, 402.215, 402.217, 402.220, 473.657, and 475.093, RSMo, and section 402.210 as truly agreed to and finally passed by senate substitute no. 2 for house bill no. 648, ninety-sixth general assembly, first regular session, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 402.199, 402.200, 402.201, 402.202, 402.203, 402.204, 402.205, 402.206, 402.207, 402.208, 473.657, and 475.093, to read as follows:

402.199. 1. The general assembly hereby finds and declares the following:

(1) It is an essential function of state government to provide basic support **and services for certain** persons with [a mental or physical impairment that substantially limits one or more major life activities, whether the impairment is congenital or acquired by accident, injury or disease] **disabilities**;

(2) [The cost of providing basic support for persons with a mental or physical impairment is difficult for many to afford and they are forced to] **Many persons with disabilities lack financial resources and must** rely upon the

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

9 government to provide [such] **services and** support; **and**

10 (3) [Families and friends of persons with a mental or physical impairment  
11 desire to supplement, but not replace, the basic support provided by state  
12 government and other governmental programs;

13 (4) The cost of medical, social or other supplemental services is often  
14 provided by families and friends of persons with mental or physical impairments,  
15 for the lifetime of such persons;

16 (5) It is in the best interest of the [people of this] state **and is**  
17 **necessary and desirable for the public health, safety, and welfare** to  
18 encourage, enhance and foster the ability of [families and friends of Missouri  
19 residents and residents of adjacent states with mental or physical impairments  
20 to supplement, but not to replace, the basic support provided by state government  
21 and other governmental programs and to provide for medical, social or other  
22 supplemental services for such persons;

23 (6) Permitting and assisting families and friends of Missouri residents  
24 and residents of adjacent states with mental or physical impairments to  
25 supplement, but not to replace, the basic support provided by state government  
26 and other governmental programs and to provide medical, social or other  
27 supplemental services for such persons as necessary and desirable for the public  
28 health, safety and welfare of this state] **individuals with disabilities who**  
29 **reside in Missouri or who reside in one of the eight states adjacent to**  
30 **Missouri, and in the best interests of their families and friends to**  
31 **supplement, but not replace, the services and support provided by state**  
32 **government and other governmental programs.**

33 2. In light of the findings and declarations described in subsection 1 of  
34 this section, the general assembly **hereby** declares [the purpose of the Missouri  
35 family trust to be the encouragement, enhancement and fostering of the provision  
36 of medical, social or other supplemental services for persons with a mental or  
37 physical impairment by family and friends of such persons] **that contributions**  
38 **to a trust account administered as part of the Missouri family trust by**  
39 **the Missouri family trust board of trustees as authorized in sections**  
40 **402.199 to 402.208, shall in no way reduce, impair, or diminish the**  
41 **benefits to which the beneficiary of the trust account is otherwise**  
42 **entitled by law, nor shall the administration of the Missouri family**  
43 **trust or any trust account therein be taken into consideration in**  
44 **determining appropriations for programs or services for persons with**

45 **disabilities, and unless otherwise prohibited by federal statutes or**  
46 **regulations, all state agencies shall disregard the trust account as a**  
47 **resource when determining the eligibility of a resident for assistance**  
48 **under chapter 208.**

402.200. As used in sections 402.199 to [402.220] **402.208**, the following  
2 terms mean:

3 (1) **"Beneficiary", also referred to as "life beneficiary", a person**  
4 **who:**

5 (a) **Has been determined to have a disability or to be a disabled**  
6 **person;**

7 (b) **Is a resident of Missouri or one of the eight states adjacent**  
8 **to Missouri; and**

9 (c) **Is the person designated as the sole, primary beneficiary of**  
10 **a trust account administrated as part of the Missouri family trust by**  
11 **the board of trustees;**

12 (2) **"Board of trustees", [the] "board", or "Missouri family trust board of**  
13 **trustees", the body corporate and instrumentality of the state,**  
14 **established as the Missouri family trust board of trustees pursuant to**  
15 **section 402.201;**

16 [(2)] (3) **"Charitable trust", [the trust to provide benefits for] an**  
17 **account established and administered as part of the Missouri family trust**  
18 **for the benefit of disabled individuals, as [set forth] provided in section**  
19 **[402.215] 402.207;**

20 (4) **"Co-trustee", that person designated by the settlor to act**  
21 **together with the trustee as co-trustee of a trust account;**

22 [(3)] (5) **"Department", the department of mental health;**

23 [(4)] (6) **"Disability"[,]:**

24 (a) **A mental or physical impairment that substantially limits one or more**  
25 **major life activities, whether the impairment is congenital or acquired by**  
26 **accident, injury or disease, and where the impairment is verified by medical**  
27 **findings; or**

28 (b) **As is defined in section 1614(a)(3) of the Social Security Act,**  
29 **42 U.S.C. 1382c(a)(3);**

30 [(5)] **"Life beneficiary" or "beneficiary", a designated beneficiary of the**  
31 **Missouri family trust;**

32 [(6)] (7) **"Missouri family trust" or "trust", the trust established**

33 **pursuant to section 402.202 and administered by the board of trustees,**  
34 **as trustee, pursuant to sections 402.199 to 402.208;**

35 (8) "Net income", the earnings received on investments less  
36 administrative expenses and fees;

37 [(7)] (9) "Principal balance", the fair market value of all contributions  
38 made to a particular account, less distributions, determined as of the end of the  
39 calendar month immediately preceding the occurrence giving rise to any  
40 determination of principal balance;

41 [(8)] "Requesting party", the party desiring arbitration;

42 (9) "Responding party", the other party in arbitration of a dispute  
43 regarding benefits to be provided by the trust;]

44 (10) "Remainder beneficiaries", the person or persons designated  
45 to receive the applicable portion of the principal balance of a trust  
46 account remaining after the death of the beneficiary;

47 (11) "Restricted account", an account established and  
48 administered as part of the trust for the benefit of persons with  
49 disabilities as provided in section 402.206;

50 (12) "[Successor] Standby trust", the trust established upon distribution  
51 of a trust account by the board of trustees pursuant to notice of withdrawal or  
52 termination and administered as set forth in subsection 3 of section [402.215]  
53 402.205;

54 [(11)] (13) "Trust account", an account established and  
55 administered as part of the Missouri family trust [established pursuant to]  
56 for the benefit of a beneficiary as provided in sections [402.200 to 402.220]  
57 402.203 and 402.204;

58 [(12)] (14) "Trustee", [a member of the Missouri family trust] the board  
59 of trustees acting in its capacity as trustee of a trust account, the  
60 charitable trust, or a restricted account as used in section 402.201.

402.201. 1. There is hereby created the "Missouri Family Trust  
2 Board of Trustees", which shall be a body corporate and an  
3 instrumentality of the state, and which shall be incorporated as a  
4 Missouri general not-for-profit corporation. The board of trustees is  
5 authorized to apply for and qualify for recognition as an exempt  
6 organization pursuant to section 501(c)(3) of the United States Internal  
7 Revenue Code of 1986, as amended.

8 2. The board of trustees shall consist of nine members who are

9 natural persons appointed by the governor with the advice and consent  
10 of the senate. The members' terms of office shall be three years and  
11 until their successors are appointed and qualified. The members shall  
12 be persons who are not prohibited from serving by sections 105.450 to  
13 105.482. The board shall be composed of the following:

14 (1) Three members of the immediate family of persons who have  
15 a disability of mental illness. The department's state advisory council  
16 for comprehensive psychiatric services, created pursuant to section  
17 632.020, shall submit a panel of nine proposed members of the board to  
18 the governor, from which the governor shall appoint three. One shall  
19 be appointed for a term of one year, one for two years, and one for  
20 three years. Thereafter, as the term of a member of the board  
21 appointed under this subdivision expires each year, the state advisory  
22 council for comprehensive psychiatric services shall submit to the  
23 governor a panel of not less than three nor more than five proposed  
24 members of the board of trustees, and the governor shall appoint one  
25 member from such panel for a term of three years;

26 (2) Three members of the immediate family of persons who have  
27 a developmental disability. The department's Missouri planning  
28 council for developmental disabilities, created pursuant to section  
29 633.020, shall submit a panel of nine proposed members of the board to  
30 the governor, from which the governor shall appoint three. One shall  
31 be appointed for a term of one year, one for two years, and one for  
32 three years. Thereafter, as the term of a member of the board  
33 appointed under this subdivision expires each year, the Missouri  
34 planning council for developmental disabilities shall submit to the  
35 governor a panel of not less than three nor more than five proposed  
36 members of the board of trustees, and the governor shall appoint one  
37 member from such panel for a term of three years; and

38 (3) Three persons recognized for their expertise in general  
39 business matters and procedures. Of the three business persons to be  
40 appointed by the governor, one shall be appointed for one year, one for  
41 two years, and one for three years. Thereafter, as the term of a member  
42 of the board of trustees appointed under this subdivision expires each  
43 year, the governor shall appoint one business person as member for a  
44 term of three years.

45 3. As used in subdivisions (1) and (2) of subsection 2 of this

46 section, "immediate family" includes spouse, parents, parents of spouse,  
47 children, spouses of children, and siblings.

48 4. No member of the board of trustees shall receive compensation  
49 for services as a member of the board. The board shall reimburse the  
50 members of the board for necessary expenses actually incurred in the  
51 performance of their duties.

52 5. The board of trustees shall be subject to the provisions of  
53 sections 610.010 to 610.029 and is considered a public governmental  
54 body under section 610.010.

55 6. The board of trustees shall annually prepare or cause to be  
56 prepared an accounting of funds administered by the board and shall  
57 transmit a copy of the accounting to the governor, the president pro  
58 tempore of the senate and the speaker of the house of representatives.

59 7. The board of trustees shall establish policies, procedures, and  
60 other rules and regulations necessary to implement the provisions of  
61 sections 402.199 to 402.208.

62 8. The board of trustees is authorized to advise, consult with,  
63 coordinate and render services to those departments, agencies, political  
64 subdivisions, and governmental instrumentalities of Missouri and of the  
65 states adjacent to Missouri, and those not-for-profit organizations that  
66 qualify as organizations pursuant to Section 501(c)(3) of the United  
67 States Internal Revenue Code of 1986, as amended, that provide  
68 services or support to persons with disabilities who are residents of  
69 Missouri or one of the states adjacent to Missouri.

70 9. The assets of the board of trustees shall not be considered  
71 state money, assets of the state or revenue for any purposes of the state  
72 constitution or statutes. The property of the board of trustees and its  
73 income and operations shall be exempt from all taxation by the state or  
74 any of its political subdivisions.

75 10. No trustee or any member of the board of trustees, co-trustee,  
76 or successor co-trustee serving pursuant to the provisions of sections  
77 402.200 to 402.208 shall at any time be held liable for any mistake of law  
78 or fact, or of both law and fact, or errors of judgment, nor for any loss  
79 sustained as a result thereof, unless such trustee, co-trustee, or  
80 successor co-trustee acted in bad faith or with reckless indifference to  
81 the terms of the trust or the interest of the beneficiary.

402.202. 1. Trust accounts, restricted trust accounts, and the

2 charitable trust shall be held and administered in trust as the Missouri  
3 family trust. The charitable trust, the restricted accounts and the trust  
4 accounts shall each be maintained in trust as separate accounts, but  
5 may be pooled for purposes of investment and management. Assets of  
6 the Missouri family trust shall not be considered state money, assets of  
7 the state or revenue for any purposes of the state constitution or  
8 statutes.

9       2. The board of trustees shall act as the trustee of the Missouri  
10 family trust. The board of trustees, as trustee, shall administer the  
11 Missouri family trust pursuant to the provisions of sections 402.199 to  
12 402.208 and pursuant to the policies, procedures, rules, and regulations  
13 of the board of trustees.

14       3. In addition to the powers and duties granted to the board  
15 pursuant to sections 402.199 to 402.208, in its capacity as trustee of the  
16 trust the board shall have all powers granted to trustees acting under  
17 chapter 456, as now in effect or hereafter amended; provided, that  
18 section 456.8-813 regarding the duty to inform and report to the  
19 beneficiaries shall not apply to the trust, except as mandated under  
20 section 456.1-105.

402.203. 1. A beneficiary who is a person with disabilities as  
2 defined in Section 1614(a)(3) of the Social Security Act 42 U.S.C.  
3 1382c(a)(3), or the parent, grandparent, or legal guardian of a  
4 beneficiary, or a court, as settlor, may contribute assets of the  
5 beneficiary in trust to the board as trustee, for the benefit of the  
6 beneficiary as part of a pooled trust described by 42 U.S.C. Section  
7 1396p(d)(4)(C). Upon such contribution, the settlor's completion and  
8 execution of trust documents provided by the trustee, and the trustee's  
9 review, approval and execution of the trust documents, a trust account  
10 for the beneficiary shall thereby be created. A trust account to which  
11 the assets of a beneficiary are contributed shall be referred to as a  
12 "first party trust account" and shall be held and administered in trust  
13 for the benefit of the beneficiary as provided in this section.

14       2. The settlor may designate a co-trustee, and a successor or  
15 successors to the co-trustee, to act together with the trustee as trustees  
16 of the first-party trust account; provided that the beneficiary may not  
17 act as a co-trustee or successor co-trustee; and provided further that  
18 court approval of the beneficiary, co-trustee or successor trustee shall

19 be required in connection with any first party trust account created  
20 pursuant to section 473.657 or section 475.093.

21 3. If the board determines, in its good faith judgment, that a co-  
22 trustee has breached his or her fiduciary duties, either as a result of an  
23 act of commission or omission, then the board may seek removal of  
24 such co-trustee and the appointment of a successor co-trustee upon  
25 application to a court of competent jurisdiction.

26 4. At the death of the beneficiary, the board of trustees shall  
27 provide notice that the trust account has terminated to each state of  
28 which the board of trustees has knowledge that such state has provided  
29 medical assistance on behalf of the beneficiary under a state plan for  
30 medical assistance under Title 42 of the United States Code. After  
31 distribution of twenty-five percent of the principal balance of the trust  
32 account to the charitable trust, the board of trustees shall pay over and  
33 distribute to such states all amounts remaining in the trust account up  
34 to an amount equal to the total medical assistance paid by such states  
35 on behalf of the beneficiary under the state plan for medical assistance  
36 under Title 42 of the United States Code. In the event that the  
37 beneficiary has received medical assistance from more than one state  
38 with claims on the proceeds for reimbursement of medical assistance  
39 payments under Title 42 of the United States Code and there are  
40 insufficient assets to pay the entire balance due to each state then the  
41 proceeds shall be distributed to each state on a pro rata basis based  
42 upon each state's proportionate share of the total medical assistance  
43 paid by all states.

44 5. To the extent any amounts remain in the trust account after  
45 distribution to the charitable trust and the state or states for state  
46 reimbursement claims, the remainder shall be distributed to such  
47 person, entities, or organizations designated as remainder beneficiaries  
48 by the settlor in the trust documents. If any individual remainder  
49 beneficiary named by the settlor is not then living, then in the absence  
50 of contrary instruction in the trust documents completed by the settlor,  
51 such remainder beneficiary's distribution shall be made to such  
52 remainder beneficiary's heirs at law, as determined by the laws of the  
53 state of the beneficiary's residence at the time of the beneficiary's  
54 death.

402.204. 1. Any person, as settlor, except a beneficiary or a



2 beneficiary's spouse, may contribute assets not including assets of the  
3 beneficiary or the beneficiary's spouse in trust to the board as trustee,  
4 for the benefit of the beneficiary. Upon such contribution, the settlor's  
5 completion and execution of trust documents provided by the trustee,  
6 and the trustee's review, approval and execution of the trust  
7 documents, a trust account for the beneficiary shall thereby be created.  
8 A trust account to which assets that do not include assets of a  
9 beneficiary or of a beneficiary's spouse are contributed shall be  
10 referred to as a "third party trust account", and shall be held and  
11 administered in trust for the benefit of the beneficiary as provided in  
12 this section.

13 2. The settlor may designate a co-trustee, and a successor or  
14 successors to the co-trustee, to act together with the trustee as trustees  
15 of the third party trust account; provided that the beneficiary or the  
16 beneficiary's spouse may not act as co-trustee or successor co-trustee;  
17 and provided further that court approval of the beneficiary, co-trustee  
18 or successor trustee shall be required in connection with any third  
19 party trust account created pursuant to subsection 2 of section 473.657.

20 3. If the board determines, in its good faith judgment, that a co-  
21 trustee has breached his or her fiduciary duties, either as a result of an  
22 act of commission or omission, then the board may, by written notice  
23 to such co-trustee, remove such co-trustee, appoint a successor co-  
24 trustee, or serve as sole trustee.

25 4. At the death of the beneficiary, the board of trustees shall  
26 promptly determine the principal balance of the trust account and,  
27 after payment of any expenses of the beneficiary as the board may  
28 authorize and all fees and expenses of the board, shall distribute to the  
29 persons, entities, or organizations designated by the settlor as  
30 remainder beneficiaries in the trust documents:

31 (1) An amount equal to one hundred percent of the principal  
32 balance if the beneficiary shall not have received any benefits provided  
33 by use of trust account income or principal; or

34 (2) An amount equal to seventy-five percent of the principal  
35 balance if the beneficiary shall have received any benefits provided by  
36 use of trust account income or principal; and

37 (3) Any principal not distributed pursuant to the provisions of  
38 subdivision (2) of this subsection, and any undistributed income shall

39 **be distributed to the charitable trust established pursuant to the**  
40 **provisions of section 402.207;**

41 **(4) If any individual remainder beneficiary named by the settlor**  
42 **is not then living, then in the absence of contrary instructions in the**  
43 **trust documents completed by the settlor, such remainder beneficiary's**  
44 **share shall be distributed to such remainder beneficiary's heirs at law,**  
45 **as determined by the laws of the state of the beneficiary's residence at**  
46 **the time of the beneficiary's death.**

47 **5. Notwithstanding the provisions of subsection 4 of this section**  
48 **to the contrary, the settlor may voluntarily agree that a smaller**  
49 **percentage of the principal balance in any trust account established by**  
50 **such settlor than is provided in subsection 4 of this section be**  
51 **distributed to the remainder beneficiaries designated in the trust**  
52 **documents; and that a corresponding larger percentage of the principal**  
53 **balance in such trust account be distributed either to the charitable**  
54 **trust or to a designated restricted account within the charitable trust.**

402.205. 1. [The families, friends and guardians of persons who have a  
2 disability or are eligible for services provided by the department of mental health,  
3 or both, may participate in a trust which may supplement the care, support, and  
4 treatment of such persons pursuant to the provisions of sections 402.199 to  
5 402.220. Neither the contribution to the trust for the benefit of a life beneficiary  
6 nor the use of trust income to provide benefits shall in any way reduce, impair or  
7 diminish the benefits to which such person is otherwise entitled by law; and the  
8 administration of the trust shall not be taken into consideration in appropriations  
9 for the department of mental health to render services required by law.

10 2. Unless otherwise prohibited by federal statutes or regulations, all state  
11 agencies shall disregard the trust as a resource when determining eligibility of  
12 Missouri residents for assistance under chapter 208.

13 3. The assets of the board of trustees and assets held in trust pursuant  
14 to the provisions of sections 402.199 to 402.220 shall not be considered state  
15 money, assets of the state or revenue for any purposes of the state constitution  
16 or statutes. The property of the board of trustees and its income and operations  
17 shall be exempt from all taxation by the state or any of its political subdivisions.]  
18 **The settlor of a revocable third party trust account or the co-trustee of**  
19 **a revocable third party trust account if authorized by the settlor in the**  
20 **trust documents, upon written notice to the board and with the board's**

21 consent may, from time to time, withdraw such part of the trust  
22 account as the settlor or such authorized co-trustee may determine;  
23 provided, however, neither the settlor nor such authorized co-trustee  
24 may withdraw an amount that when aggregated with all withdrawals  
25 within the prior twelve months shall reduce the remaining principal  
26 balance of the trust account below the greater of the amount due the  
27 board, if the trust account had terminated at the time of such  
28 withdrawal or the minimum amount required by the board, from time  
29 to time, for an account.

30 2. The settlor of a revocable third party trust account or the co-  
31 trustee of a revocable third party trust account if authorized by the  
32 settlor in the trust documents, upon written notice to the board and  
33 with the board's consent may revoke and terminate the trust  
34 account. Upon receipt of such notice, the board shall promptly  
35 determine the principal balance of the trust account and after payment  
36 of all fees and expenses of the board shall distribute:

37 (1) In the case of revocation and termination by the settlor:

38 (a) An amount equal to one hundred percent of the principal  
39 balance to the settlor if the beneficiary shall not have received any  
40 benefits provided by use of trust account income or principal; or

41 (b) An amount equal to seventy-five percent of the principal  
42 balance to the settlor if the beneficiary shall have received any benefits  
43 provided by use of trust account income or principal; and

44 (c) Any principal not distributed pursuant to the provisions of  
45 paragraph (b) of this subdivision, and any undistributed income to the  
46 charitable trust;

47 (2) In the case of revocation and termination by an authorized  
48 co-trustee:

49 (a) An amount equal to one hundred percent of the principal  
50 balance shall be distributed to the trustees of the standby trust, if the  
51 beneficiary shall not have received any benefits provided by use of  
52 trust account income or principal, to be held, administered, and  
53 distributed in accordance with the provisions of subsection 3 of this  
54 section; or

55 (b) An amount equal to seventy-five percent of the then principal  
56 balance shall be distributed to the trustees of the standby trust, if the  
57 beneficiary shall have received any benefits provided by use of trust

58 account income or principal, to be held, administered, and distributed  
59 in accordance with the provisions of subsection 3 of this section; and

60 (c) Any principal not distributed pursuant to the provisions of  
61 paragraph (b) of this subdivision, and any undistributed income shall  
62 be distributed to the charitable trust.

63 3. The trustee or trustees of the standby trust shall hold,  
64 administer, and distribute the principal and income of the standby  
65 trust, in the discretion of such trustee, for the support, health,  
66 education, and general well-being of the beneficiary during the  
67 beneficiary's life, recognizing that it is the purpose of the standby trust  
68 to supplement, not replace, any government benefits for the  
69 beneficiary's basic support to which such beneficiary may be entitled  
70 and to increase the quality of such beneficiary's life by providing the  
71 beneficiary those amenities which cannot otherwise be provided by  
72 public assistance or entitlements or other available  
73 sources. Permissible expenditures include, but are not limited to, those  
74 described in subdivision (2) of section 402.206.

402.206. Each first party trust account and third party trust  
2 account shall be held and administered in trust as follows:

3 (1) The board of trustees shall hold, administer, and distribute  
4 the principal and income of the trust account, in the discretion of the  
5 trustee, in consultation with the co-trustee, for the health, education,  
6 and general well-being of the beneficiary, recognizing that the purpose  
7 of the trust account is to supplement, not replace, any government  
8 benefits for the beneficiary's basic support to which such beneficiary  
9 may be entitled;

10 (2) Expenditure of trust account funds shall be made solely for  
11 benefit of the beneficiary, to increase the quality of the beneficiary's  
12 life by providing those amenities that cannot otherwise be provided by  
13 public assistance or entitlements or other available  
14 sources. Permissible expenditures include, but are not limited to,  
15 dental, medical, and diagnostic work or treatment that is not otherwise  
16 available from public benefits or assistance; private rehabilitative  
17 training; supplementary education aid; entertainment; periodic  
18 vacations and outings; expenditures to foster the interests, talents, and  
19 hobbies of the beneficiary; and expenditures to purchase personal  
20 property and services that will make life more comfortable and

21 enjoyable for the beneficiary but that will not defeat his or her  
22 eligibility for public benefits or assistance. The trustee, with  
23 consultation of the co-trustee, may make payments for a person to  
24 accompany the beneficiary on vacations and outings and for the  
25 transportation of the beneficiary or of friends and relatives of the  
26 beneficiary to visit the beneficiary;

27 (3) Expenditures of trust account funds shall not be made for the  
28 primary support or maintenance of the beneficiary, including basic  
29 food or shelter, if, as a result, the beneficiary would no longer be  
30 eligible to receive public benefits or assistance to which the beneficiary  
31 is then entitled;

32 (4) The co-trustee, with consent of the trustee, shall not less  
33 frequently than annually determine the amount of income or principal  
34 or income and principal which may be used to provide noncash benefits  
35 and the nature and type of benefits to be provided for the  
36 beneficiary. Any net income which is not used shall be added to the  
37 principal annually;

38 (5) In the event that the trustee and the co-trustee shall be  
39 unable to agree either on:

40 (a) The amount of income or principal to be used;

41 (b) The benefits to be provided; or

42 (c) The administration of the trust account,

43 then the co-trustee shall have the right to appeal the decision of the  
44 trustee in accordance with the rules and regulations established by the  
45 board.

402.207. 1. The board of trustees shall establish a charitable  
2 trust for the benefit of individuals with disabilities.

3 2. The board of trustees shall accept contributions to the  
4 charitable trust at the termination of trust accounts and other  
5 contributions from donors in accordance with policies and procedures  
6 adopted by the board of trustees.

7 3. The trustees shall as necessary determine the amount of  
8 income and principal of the charitable trust to be used to provide  
9 benefits for individuals with disabilities. Benefits provided shall only  
10 be those that have no negative effect on the individual's entitlement to  
11 government benefits. Any income not used to provide benefits shall be  
12 added to the principal annually.

13           4. Any person with the consent of the board of trustees may  
14 establish a restricted account within the charitable trust and may  
15 determine, with the consent of the board of trustees, the class of  
16 individuals eligible to be recipients of funds from the restricted  
17 account, so long as the eligible recipients are individuals with  
18 disabilities as set forth in section 402.200.

          402.208. 1. The board may establish and collect fees for  
2 administering trust accounts established pursuant to the provisions of  
3 sections 402.199 to 402.220.

4           2. The board shall establish policies and procedures for  
5 providing periodic reports to the co-trustees of each trust account  
6 established pursuant to the provisions of sections 402.199 to 402.220.

7           3. (1) No beneficiary shall have any vested or property rights or  
8 interests in any trust account, nor shall any beneficiary have the power  
9 to anticipate, assign, convey, alienate, or otherwise encumber any  
10 interest in the income or principal of any trust account.

11           (2) The income or the principal or any interest of any beneficiary  
12 in the trust account shall not be liable for any debt incurred by such  
13 beneficiary, nor shall the principal or income of any trust account be  
14 subject to seizure by any creditor or any beneficiary under any writ or  
15 proceeding in law or in equity.

16           4. Except for the right of a settlor to withdraw from or revoke  
17 any revocable trust account under section 402.205, and the right of any  
18 acting co-trustee, other than the original settlor, to withdraw all or a  
19 portion of the principal balance of a revocable trust account under  
20 section 402.205, neither the settlor nor any acting co-trustee shall have  
21 the right to sell, assign, convey, alienate, or otherwise encumber, for  
22 consideration or otherwise, any interest in the income or principal of  
23 the trust account. The income or the principal or any interest of any  
24 beneficiary of a revocable trust account shall not be liable for any debt  
25 incurred by the settlor or any acting co-trustee, nor shall the principal  
26 or income of the trust account be subject to seizure by any creditor of  
27 any settlor or any acting co-trustee under any writ or proceeding in  
28 law or in equity.

          473.657. 1. Distribution to a distributee may be made to the distributee  
2 or to a person holding a power of attorney properly executed by the distributee  
3 in accordance with the law of the place of execution, or to the distributee's

4 personal representative, guardian, or conservator.

5           2. Distribution may be made to the trustees of a trust **account**  
6 established pursuant to sections 402.199 to [402.225] **402.208** if the court finds  
7 that [such distribution] **the distributee qualifies as a life beneficiary**  
8 **under subdivision (1) of section 402.200 and that such distribution** would  
9 be in the best interest of the distributee as prescribed by section 475.093.

          475.093. 1. If the court finds that the establishment of a trust would be  
2 in the protectee's best interest, the court may authorize the establishment of a  
3 trust **account** for the benefit of a protectee pursuant to sections 402.199 to  
4 [402.255] **402.208**, if it finds that the protectee qualifies as a life beneficiary  
5 pursuant to **subdivision (1) of section [402.205] 402.200**, or the court may  
6 authorize the establishment of such trust for the benefit of a protectee pursuant  
7 to section 475.092.

8           2. A trust **account** established pursuant to sections 402.199 to [402.225]  
9 **402.208** will be in the best interest of the protectee, notwithstanding the fact that  
10 a sum not exceeding twenty-five percent of the principal balance as defined in  
11 subdivision [(7)] **(9)** of section 402.200 will be distributed to the charitable trust  
12 **of the Missouri family trust** as prescribed by section [402.215] **402.203**.

          [402.210. 1. There is hereby created the "Missouri Family  
2 Trust Board of Trustees", which shall be a body corporate and an  
3 instrumentality of the state. The board of trustees shall consist of  
4 nine persons appointed by the governor with the advice and  
5 consent of the senate. The members' terms of office shall be three  
6 years and until their successors are appointed and qualified. The  
7 trustees shall be persons who are not prohibited from serving by  
8 sections 105.450 to 105.482 and who are not otherwise employed by  
9 the department of mental health. The board of trustees shall be  
10 composed of the following:

11           (1) Three members of the immediate family of persons who  
12 have a disability or are the recipients of services provided by the  
13 department in the treatment of mental illness. The advisory  
14 council for comprehensive psychiatric services, created pursuant to  
15 section 632.020, shall submit a panel of nine names to the  
16 governor, from which he shall appoint three. One shall be  
17 appointed for a term of one year, one for two years, and one for  
18 three years. Thereafter, as the term of a trustee expires each year,

19 the Missouri advisory council for comprehensive psychiatric  
20 services shall submit to the governor a panel of not less than three  
21 nor more than five proposed trustees, and the governor shall  
22 appoint one trustee from such panel for a term of three years;

23 (2) Three members of the immediate family of persons who  
24 are recipients of services provided by the department in the  
25 habilitation of the mentally retarded or developmentally  
26 disabled. The Missouri advisory council on mental retardation and  
27 developmental disabilities, created pursuant to section 633.020,  
28 shall submit a panel of nine names to the governor, from which he  
29 shall appoint three. One shall be appointed for one year, one for  
30 two years and one for three years. Thereafter, as the term of a  
31 trustee expires each year, the Missouri advisory council on mental  
32 retardation and developmental disabilities shall submit to the  
33 governor a panel of not less than three nor more than five proposed  
34 trustees, and the governor shall appoint one trustee from such  
35 panel for a term of three years;

36 (3) Three persons who are recognized for their expertise in  
37 general business matters and procedures. Of the three business  
38 people to be appointed by the governor, one shall be appointed for  
39 one year, one for two years and one for three years. Thereafter, as  
40 the term of a trustee expires each year, the governor shall appoint  
41 one business person as trustee for a term of three years.

42 2. The trustees shall receive no compensation for their  
43 services. The trust shall reimburse the trustees for necessary  
44 expenses actually incurred in the performance of their duties.

45 3. As used in this section, the term "immediate family"  
46 includes spouse, parents, parents of spouse, children, spouses of  
47 children and siblings.

48 4. The board of trustees shall be subject to the provisions  
49 of sections 610.010 to 610.120.

50 5. The board of trustees shall annually prepare or cause to  
51 be prepared an accounting of the trust funds and shall transmit a  
52 copy of the accounting to the governor, the president pro tempore  
53 of the senate and the speaker of the house of representatives.

54 6. The board of trustees shall establish policies, procedures



55 and other rules and regulations necessary to implement the  
56 provisions of sections 402.199 to 402.220.]

[402.210. 1. There is hereby created the "Missouri Family  
2 Trust Board of Trustees", which shall be a body corporate and an  
3 instrumentality of the state. The board of trustees shall consist of  
4 nine persons appointed by the governor with the advice and  
5 consent of the senate. The members' terms of office shall be three  
6 years and until their successors are appointed and qualified. The  
7 trustees shall be persons who are not prohibited from serving by  
8 sections 105.450 to 105.482 and who are not otherwise employed by  
9 the department of mental health. The board of trustees shall be  
10 composed of the following:

11 (1) Three members of the immediate family of persons who  
12 have a disability or are the recipients of services provided by the  
13 department in the treatment of mental illness. The advisory  
14 council for comprehensive psychiatric services, created pursuant to  
15 section 632.020, shall submit a panel of nine names to the  
16 governor, from which he shall appoint three. One shall be  
17 appointed for a term of one year, one for two years, and one for  
18 three years. Thereafter, as the term of a trustee expires each year,  
19 the Missouri advisory council for comprehensive psychiatric  
20 services shall submit to the governor a panel of not less than three  
21 nor more than five proposed trustees, and the governor shall  
22 appoint one trustee from such panel for a term of three years;

23 (2) Three members of the immediate family of persons who  
24 are recipients of services provided by the department in the  
25 habilitation of [the mentally retarded or developmentally disabled]  
26 persons with intellectual disabilities or developmental  
27 disabilities. The Missouri [advisory council on mental retardation  
28 and] developmental disabilities **council**, created pursuant to  
29 section 633.020, shall submit a panel of nine names to the  
30 governor, from which he shall appoint three. One shall be  
31 appointed for one year, one for two years and one for three  
32 years. Thereafter, as the term of a trustee expires each year, the  
33 Missouri [advisory council on mental retardation and]  
34 developmental disabilities **council** shall submit to the governor a

35 panel of not less than three nor more than five proposed trustees,  
36 and the governor shall appoint one trustee from such panel for a  
37 term of three years;

38 (3) Three persons who are recognized for their expertise in  
39 general business matters and procedures. Of the three business  
40 people to be appointed by the governor, one shall be appointed for  
41 one year, one for two years and one for three years. Thereafter, as  
42 the term of a trustee expires each year, the governor shall appoint  
43 one business person as trustee for a term of three years.

44 2. The trustees shall receive no compensation for their  
45 services. The trust shall reimburse the trustees for necessary  
46 expenses actually incurred in the performance of their duties.

47 3. As used in this section, the term "immediate family"  
48 includes spouse, parents, parents of spouse, children, spouses of  
49 children and siblings.

50 4. The board of trustees shall be subject to the provisions  
51 of sections 610.010 to 610.120.

52 5. The board of trustees shall annually prepare or cause to  
53 be prepared an accounting of the trust funds and shall transmit a  
54 copy of the accounting to the governor, the president pro tempore  
55 of the senate and the speaker of the house of representatives.

56 6. The board of trustees shall establish policies, procedures  
57 and other rules and regulations necessary to implement the  
58 provisions of sections 402.199 to 402.220.]

[402.215. 1. The board of trustees is authorized and  
2 directed to establish and administer the Missouri family trust and  
3 to advise, consult with, and render services to departments and  
4 agencies of the state of Missouri and to other nonprofit  
5 organizations which qualify as organizations pursuant to Section  
6 501(c)(3) of the United States Internal Revenue Code of 1986, as  
7 amended, and which provide services to Missouri residents with a  
8 disability. The board shall be authorized to execute all documents  
9 necessary to establish and administer the trust including the  
10 formation of a not-for-profit corporation created pursuant to  
11 chapter 355 and to qualify as an organization pursuant to Section  
12 501(c)(3) of the United States Internal Revenue Code of 1986, as

13 amended.

14 2. The trust documents shall include and be limited by the  
15 following provisions:

16 (1) The Missouri family trust shall be authorized to accept  
17 contributions from any source including trustees, personal  
18 representatives, personal custodians pursuant to chapter 404, and  
19 other fiduciaries, and, subject to the provisions of subdivision (11)  
20 of this subsection, from the life beneficiaries and their respective  
21 spouses, to be held, administered, managed, invested and  
22 distributed in order to facilitate the coordination and integration  
23 of private financing for individuals who have a disability or are  
24 eligible for services provided by the Missouri department of mental  
25 health, or both, while maintaining the eligibility of such  
26 individuals for government entitlement funding. All contributions,  
27 and the earnings thereon, shall be administered as one trust fund;  
28 however, separate accounts shall be established for each designated  
29 beneficiary. The income earned, after deducting administrative  
30 expenses, shall be credited to the accounts of the respective life  
31 beneficiaries in proportion to the principal balance in the account  
32 for each such life beneficiary, to the total principal balances in the  
33 accounts for all life beneficiaries;

34 (2) Every donor may designate a specific person as the life  
35 beneficiary of the contribution made by such donor. In addition,  
36 each donor may name a cotrustee, including the donor, and a  
37 successor or successors to the cotrustee, to act with the trustees of  
38 the trust on behalf of the designated life beneficiary; provided,  
39 however, a life beneficiary shall not be eligible to be a cotrustee or  
40 a successor cotrustee; provided, however, that court approval of the  
41 specific person designated as life beneficiary and as cotrustee or  
42 successor trustee shall be required in connection with any trust  
43 created pursuant to section 473.657 or section 475.093;

44 (3) The cotrustee, with the consent of the trust, shall from  
45 time to time but not less frequently than annually determine the  
46 amount of income or principal or income and principal to be used  
47 to provide noncash benefits and the nature and type of benefits to  
48 be provided for the life beneficiary. Any net income which is not

49 used shall be added to principal annually. In the event that the  
50 trust and the cotrustee shall be unable to agree either on the  
51 amount of income or principal or income and principal to be used  
52 or the benefits to be provided, then either the trust or the cotrustee  
53 shall have the right to request that the matter be resolved by  
54 arbitration which shall be conducted in accordance with the  
55 Commercial Arbitration Rules of the American Arbitration  
56 Association. The requesting party shall send a written request for  
57 arbitration to the responding party and shall in such request set  
58 forth the name, address and telephone number of such requesting  
59 party's arbitrator. The responding party shall, within ten days  
60 after receipt of the request for arbitration, set forth in writing to  
61 the requesting party the name, address and telephone number of  
62 the responding party's arbitrator. Copies of the request for  
63 arbitration and response shall be sent to the director of the  
64 department. If the two designated arbitrators shall be unable to  
65 agree upon a third arbitrator within ten days after the responding  
66 party shall have identified such party's arbitrator, then the director  
67 of the department shall designate the third arbitrator by written  
68 notice to the requesting and responding parties' arbitrators. The  
69 three arbitrators shall meet, conduct a hearing, and render a  
70 decision within thirty days after the appointment of the third  
71 arbitrator. A decision of a majority of the arbitrators shall be  
72 binding upon the requesting and responding parties. Each party  
73 shall pay the fees and expenses of such party's arbitrator and the  
74 fees and expenses of the third arbitrator shall be borne equally by  
75 the parties. Judgment on the arbitrators' award may be entered in  
76 any court of competent jurisdiction;

77 (4) Any donor, during his or her lifetime, except for a trust  
78 created pursuant to section 473.657 or section 475.093, may revoke  
79 any gift made to the trust; provided, however, any donor may, at  
80 any time, voluntarily waive the right to revoke. In the event that  
81 at the time the donor shall have revoked his or her gift to the trust  
82 the life beneficiary shall not have received any benefits provided by  
83 use of trust income or principal, then an amount equal to one  
84 hundred percent of the principal balance shall be returned to the

85 donor. Any undistributed net income shall be distributed to the  
86 charitable trust. In the event that at the time the donor shall have  
87 revoked his or her gift to the trust the life beneficiary shall have  
88 received any benefits provided by the use of trust income or  
89 principal, then an amount equal to ninety percent of the principal  
90 balance shall be returned to the donor. The balance of the  
91 principal balance together with all undistributed net income shall  
92 be distributed to the charitable trust;

93 (5) Any acting cotrustee, except a cotrustee of a trust  
94 created pursuant to section 473.657 or section 475.093, other than  
95 the original donor of a life beneficiary's account, shall have the  
96 right, for good and sufficient reason upon written notice to the  
97 trust and the department stating such reason, to withdraw all or  
98 a portion of the principal balance. In such event, the applicable  
99 portion, as set forth in subdivision (7) of this subsection, of the  
100 principal balance shall then be distributed to the successor trust  
101 and the balance of the principal balance together with any  
102 undistributed net income shall be distributed to the charitable  
103 trust;

104 (6) In the event that a life beneficiary for whose benefit a  
105 contribution or contributions shall have been made to the family  
106 trust shall cease to be eligible for services provided by the  
107 department of mental health and neither the donor nor the then  
108 acting cotrustee, except a cotrustee of a trust created pursuant to  
109 section 473.657 or section 475.093, shall revoke or withdraw the  
110 applicable portion, as set for in subdivision (7) of this subsection,  
111 of the principal balance, then the board of trustees may, by written  
112 notice to such donor or acting cotrustee, terminate the trust as to  
113 such beneficiary and thereupon shall distribute the applicable  
114 portion, as set forth in subdivision (7) of this subsection, of the  
115 principal balance, to the trustee of the successor trust to be held,  
116 administered and distributed by such trustee in accordance with  
117 the provisions of the successor trust described in subdivision (12)  
118 of this subsection;

119 (7) If at the time of withdrawal or termination as provided  
120 in subdivision (6) of this subsection of a life beneficiary's account

121 from the trust either the life beneficiary shall not have received  
122 any benefits provided by the use of the trust income or principal or  
123 the life beneficiary shall have received benefits provided by the use  
124 of trust income or principal for a period of not more than five years  
125 from the date a contribution shall have first been made to the trust  
126 for such life beneficiary, then an amount equal to ninety percent of  
127 the principal balance shall be distributed to the successor trust,  
128 and the balance of the principal balance together with all  
129 undistributed net income shall be distributed to the charitable  
130 trust; provided, however, if the life beneficiary at the time of such  
131 withdrawal by the cotrustee or termination as provided above shall  
132 have received any benefits provided by the use of trust income or  
133 principal for a period of more than five years from the date a  
134 contribution shall have first been made to the trust for such life  
135 beneficiary, then an amount equal to seventy-five percent of the  
136 principal balance shall be distributed to the successor trust, and  
137 the balance of the principal balance together with all undistributed  
138 net income shall be distributed to the charitable trust;

139 (8) Subject to the provisions of subdivision (9) of this  
140 subsection, if the life beneficiary dies before receiving any benefits  
141 provided by the use of trust income or principal, then an amount  
142 equal to one hundred percent of the principal balance shall be  
143 distributed to such person or persons as the donor shall have  
144 designated. Any undistributed net income shall be distributed to  
145 the charitable trust. If at the time of death of the life beneficiary,  
146 the life beneficiary shall have been receiving benefits provided by  
147 the use of trust income or principal or income and principal, then,  
148 in such event, an amount equal to seventy-five percent of the  
149 principal balance shall be distributed to such person or persons as  
150 the donor designated, and the balance of the principal balance,  
151 together with all undistributed net income, shall be distributed to  
152 the charitable trust;

153 (9) In the event the trust is created as a result of a  
154 distribution from a personal representative of an estate of which  
155 the life beneficiary is a distributee, then if the life beneficiary dies  
156 before receiving any benefits provided by the use of trust income or

157 principal, an amount equal to one hundred percent of the principal  
158 balance shall be distributed to such person or persons who are the  
159 life beneficiary's heirs at law. Any undistributed income shall be  
160 distributed to the charitable trust. If at the time of death of the  
161 life beneficiary the life beneficiary shall have been receiving  
162 benefits provided by the use of trust income or principal or income  
163 and principal, then, an amount equal to seventy-five percent of the  
164 principal balance shall be distributed to such person or persons  
165 who are the life beneficiary's heirs at law. The balance of the  
166 principal balance together with all undistributed income shall be  
167 distributed to the charitable trust. If there are no heirs at the time  
168 of either such distribution, the then-principal balance together with  
169 all undistributed income shall be distributed to the charitable  
170 trust;

171 (10) In the event the trust is created as a result of the  
172 recovery of damages by reason of a personal injury to the life  
173 beneficiary, then if the life beneficiary dies before receiving any  
174 benefits provided by the use of trust income or principal, the state  
175 of Missouri shall receive all amounts remaining in the life  
176 beneficiary's account up to an amount equal to the total medical  
177 assistance paid on behalf of such life beneficiary under a state plan  
178 under Title 42 of the United States Code, and then to the extent  
179 there is any amount remaining in the life beneficiary's account, an  
180 amount equal to one hundred percent of the principal balance shall  
181 be distributed to such person or persons who are the life  
182 beneficiary's heirs at law. If there are no heirs, the balance, if any,  
183 of the principal balance together with all undistributed income  
184 shall be distributed to the charitable trust. If at the time of death  
185 of the life beneficiary the life beneficiary should have been  
186 receiving benefits provided by the use of trust income or principal  
187 or income and principal then the state of Missouri shall receive all  
188 amounts remaining in the life beneficiary's account up to an  
189 amount equal to the total medical assistance paid on behalf of such  
190 life beneficiary under a state plan under Title 42 of the United  
191 States Code, and then to the extent there is any amount remaining  
192 in the life beneficiary's account, an amount equal to seventy-five

193 percent of the principal balance shall be distributed to such person  
194 or persons who are the life beneficiary's heirs at law and the  
195 balance of the principal balance together with all undistributed  
196 income shall be distributed to the charitable trust. If there are no  
197 heirs, the balance of the principal balance, together with all  
198 undistributed income, shall be distributed to the charitable trust;

199 (11) In the event an account is established with the assets  
200 of the beneficiary by the beneficiary, a family member, the  
201 beneficiary's guardian, or pursuant to a court order, all in  
202 accordance with Title 42 of the United States Code Section  
203 1396p(d)(4)(C), then upon the death of the life beneficiary the state  
204 of Missouri shall receive all amounts remaining in the life  
205 beneficiary's account up to an amount equal to the total medical  
206 assistance paid on behalf of such life beneficiary under a state plan  
207 under Title 42 of the United States Code, and then to the extent  
208 there is any amount remaining in the life beneficiary's account, an  
209 amount equal to seventy-five percent of the principal balance shall  
210 be distributed to such person or persons who are the life  
211 beneficiary's heirs at law and the balance of the principal balance  
212 together with all undistributed income shall be distributed to the  
213 charitable trust. If there are no heirs, the balance of the principal  
214 balance together with all undistributed income shall be distributed  
215 to the charitable trust;

216 (12) Notwithstanding the provisions of subdivisions (4) to  
217 (8) of this subsection to the contrary, the donor may voluntarily  
218 agree to a smaller percentage of the principal balance in any  
219 account established by such donor than is provided in this  
220 subsection to be returned to the donor or distributed to the  
221 successor trust, as the case may be; and a corresponding larger  
222 percentage of the principal balance in such account to be  
223 distributed either to the charitable trust or to a designated  
224 restricted account within the charitable trust;

225 (13) Upon receipt of a notice of withdrawal from a  
226 designated cotrustee, other than the original donor, and a  
227 determination by the board of trustees that the reason for such  
228 withdrawal is good and sufficient, or upon the issuance of notice of



229 termination by the board of trustees, the board of trustees shall  
230 distribute and pay over to the designated trustee of the successor  
231 trust the applicable portion of the principal balance as set forth in  
232 subdivision (7) of this subsection; provided, however, that court  
233 approval of distribution to a successor trustee shall be required in  
234 connection with any trust created pursuant to section 473.657 or  
235 section 475.093. The designated trustee of the successor trust shall  
236 hold, administer and distribute the principal and income of the  
237 successor trust, in the discretion of such trustee, for the  
238 maintenance, support, health, education and general well-being of  
239 the beneficiary, recognizing that it is the purpose of the successor  
240 trust to supplement, not replace, any government benefits for the  
241 beneficiary's basic support to which such beneficiary may be  
242 entitled and to increase the quality of such beneficiary's life by  
243 providing the beneficiary with those amenities which cannot  
244 otherwise be provided by public assistance or entitlements or other  
245 available sources. Permissible expenditures include, but are not  
246 limited to, more sophisticated dental, medical and diagnostic work  
247 or treatment than is otherwise available from public assistance,  
248 private rehabilitative training, supplementary education aid,  
249 entertainment, periodic vacations and outings, expenditures to  
250 foster the interests, talents and hobbies of the beneficiary, and  
251 expenditures to purchase personal property and services which will  
252 make life more comfortable and enjoyable for the beneficiary but  
253 which will not defeat his or her eligibility for public  
254 assistance. Expenditures may include payment of the funeral and  
255 burial costs of the beneficiary. The designated trustee, in his or  
256 her discretion, may make payments from time to time for a person  
257 to accompany the beneficiary on vacations and outings and for the  
258 transportation of the beneficiary or of friends and relatives of the  
259 beneficiary to visit the beneficiary. Any undistributed income shall  
260 be added to the principal from time to time. Expenditures shall  
261 not be made for the primary support or maintenance of the  
262 beneficiary, including basic food, shelter and clothing, if, as a  
263 result, the beneficiary would no longer be eligible to receive public  
264 benefits or assistance to which the beneficiary is then

265 entitled. After the death and burial of the beneficiary, the  
266 remaining balance of the successor trust shall be distributed to  
267 such person or persons as the donor shall have designated;

268 (14) The charitable trust shall be administered as part of  
269 the family trust, but as a separate account. The income  
270 attributable to the charitable trust shall be used to provide benefits  
271 for individuals who have a disability or who are eligible for services  
272 provided by or through the department and who either have no  
273 immediate family or whose immediate family, in the reasonable  
274 opinion of the trustees, is financially unable to make a contribution  
275 to the trust sufficient to provide benefits for such individuals, while  
276 maintaining such individuals' eligibility for government  
277 entitlement funding. The trustees may from time to time  
278 determine to use part of the principal of the charitable trust to  
279 provide such benefits. As used in this section, the term "immediate  
280 family" includes parents, children and siblings. The individuals to  
281 be beneficiaries of the charitable trust shall be recommended to the  
282 trustees by the department and others from time to time. The  
283 trustees shall annually determine the amount of charitable trust  
284 income or principal to be used to provide benefits and the nature  
285 and type of benefits to be provided for each identified beneficiary  
286 of the charitable trust. Any income not used shall be added to  
287 principal annually;

288 (15) Any person, with the consent of the board of trustees,  
289 may establish a restricted account within the charitable trust and  
290 shall be permitted to determine, with the consent of the board of  
291 trustees, the beneficiaries of such restricted account provided such  
292 beneficiaries qualify as participants of the trust as set forth in  
293 subsection 1 of section 402.205.]

[402.217. 1. No beneficiary shall have any vested or  
2 property rights or interests in the family trust, nor shall any  
3 beneficiary have the power to anticipate, assign, convey, alienate,  
4 or otherwise encumber any interest in the income or principal of  
5 the family trust, nor shall such income or the principal or any  
6 interest of any beneficiary thereunder be liable for any debt  
7 incurred by such beneficiary, nor shall the principal or income of

8 the family trust be subject to seizure by any creditor or any  
9 beneficiary under any writ or proceeding in law or in equity.

10 2. Except for the right of a donor to revoke any gift made  
11 to the trust, pursuant to subdivision (4) of subsection 2 of section  
12 402.215, and the right of any acting cotrustee, other than the  
13 original donor, to withdraw all or a portion of the principal balance,  
14 pursuant to subdivision (5) of subsection 2 of section 402.215,  
15 neither the donor nor any acting cotrustee shall have the right to  
16 sell, assign, convey, alienate or otherwise encumber, for  
17 consideration or otherwise, any interest in the income or principal  
18 of the family trust, nor shall such income or the principal or any  
19 interest of any beneficiary thereunder be liable for any debt  
20 incurred by the donor or any acting cotrustee, nor shall the  
21 principal or income of the family trust be subject to seizure by any  
22 creditor of any donor or any acting cotrustee under any writ or  
23 proceeding in law or in equity.]

[402.220. No trustee, cotrustee or successor cotrustee  
2 serving pursuant to the provisions of sections 402.200 to 402.220  
3 shall at any time be held liable for any mistake of law or fact, or of  
4 both law and fact, or errors of judgment, nor for any loss sustained  
5 by the trust estate or by any beneficiary under the provisions of  
6 sections 402.200 to 402.220, or by any other person, except through  
7 actual fraud or willful misconduct on the part of such trustee,  
8 cotrustee or successor cotrustee.]

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