

FIRST REGULAR SESSION

SENATE BILL NO. 295

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR CRAWFORD.

1163S.02I

ADRIANE D. CROUSE, Secretary

AN ACT

To amend chapter 436, RSMo, by adding thereto one new section relating to settlements involving minors.

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

Section A. Chapter 436, RSMo, is amended by adding thereto
2 one new section, to be known as section 436.700, to read as
3 follows:

436.700. 1. The provisions of this section shall be
2 known and cited as the "Missouri Statutory Thresholds for
3 Settlements Involving Minors Act".

4 2. A person having legal custody of a minor may enter
5 into a settlement agreement with any person or entity
6 against whom the minor has a claim if:

7 (1) A conservator or guardian ad litem has not been
8 appointed for the minor;

9 (2) The total amount of the claim, not including
10 reimbursement of medical expenses, liens, reasonable
11 attorney's fees, and costs, is twenty-five thousand dollars
12 or less if paid in cash or if paid by the purchase of a
13 premium for an annuity;

14 (3) The moneys paid pursuant to the settlement
15 agreement will be paid as set forth in subsections 4 and 5
16 of this section; and

17 (4) The person entering into the settlement agreement
18 on behalf of the minor completes an affidavit or verified

19 statement that attests that the person has made a reasonable
20 inquiry and that:

21 (a) To the best of the person's knowledge, the minor
22 will be fully compensated by the settlement; or

23 (b) There is no practical way to obtain additional
24 amounts from the person or entity entering into the
25 settlement agreement with the minor.

26 3. The attorney representing the person entering into
27 the settlement agreement on behalf of the minor, if any,
28 shall maintain the affidavit or verified statement completed
29 pursuant to subdivision (4) of subsection 2 of this section
30 in the attorney's file for at least two years after the
31 minor attains twenty-one years of age.

32 4. The moneys payable in the settlement agreement
33 shall be paid as follows:

34 (1) If the minor or person entering into the
35 settlement agreement on behalf of the minor is represented
36 by an attorney and the settlement is paid in cash, by draft,
37 or by direct deposit into the attorney's trust account
38 maintained pursuant to supreme court rules to be held for
39 the benefit of the minor, the attorney shall deposit the
40 moneys received on behalf of the minor directly into a
41 federally insured savings account that earns interest in the
42 sole name of the minor. The attorney shall provide notice
43 of the deposit to the minor and the person entering into the
44 settlement agreement on behalf of the minor. Notice shall
45 be delivered by personal service or first class mail;

46 (2) If the minor or person entering into the
47 settlement agreement on behalf of the minor is not
48 represented by an attorney and the settlement is paid:

49 (a) In cash or by draft, the person entering into the
50 settlement agreement on behalf of the minor shall deposit

51 the moneys directly into a federally insured savings account
52 that earns interest in the sole name of the minor; or

53 (b) By direct deposit, the person entering into the
54 settlement agreement on behalf of the minor shall provide
55 the person or entity with whom the minor has settled the
56 claim with information sufficient to complete an electronic
57 transfer of settlement funds within ten business days of the
58 settlement into a federally insured savings account that
59 earns interest in the sole name of the minor and the person
60 or entity with whom the minor has settled shall provide
61 notice of the electronic transfer by personal service or
62 first-class mail to the minor and the person entering the
63 settlement agreement on behalf of the minor;

64 (3) If paid by purchase of an annuity, the moneys
65 shall be paid by direct payment to the provider of the
66 annuity with the minor designated as the sole beneficiary of
67 the annuity; or

68 (4) If the minor is in the custody of the state and
69 the settlement is paid in cash, the moneys shall be
70 deposited directly into a trust account or subaccount of a
71 trust account established by the children's division of the
72 department of social services for the purpose of receiving
73 moneys payable to the minor in the custody of the state
74 under the settlement agreement and that earns interest for
75 the benefit of the minor in the custody of the state.

76 5. The moneys in the minor's savings account, trust
77 account, or trust subaccount established in subsection 4 of
78 this section may not be withdrawn, removed, paid out, or
79 transferred to any person, including the minor, except as
80 follows:

81 (1) Pursuant to a court order;

82 (2) Upon the minor's attainment of eighteen years of
83 age; or

84 (3) Upon the minor's death.

85 6. If a settlement agreement is entered into in
86 compliance with subsection 2 of this section, the signature
87 of the person entering into the settlement agreement on
88 behalf of the minor is binding on the minor without the need
89 for further court approval or review and has the same force
90 and effect as if the minor were a competent adult entering
91 into the settlement agreement.

92 7. A person acting in good faith in entering into a
93 settlement agreement on behalf of a minor pursuant to this
94 section shall not be liable to the minor for the moneys paid
95 in the settlement or for any other claims arising out of the
96 settlement of the claim.

97 8. Any person or entity against whom a minor has a
98 claim that settles the claim with the minor in good faith
99 pursuant to this section shall not be liable to the minor
100 for any claims arising from the settlement of the claim.

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