

- SUBJECT:** Enacting the Uniform Transfers to Minors Act
- COMMITTEE:** Civil Practices — favorable, with amendment
- VOTE:** 6 ayes — T. Hunter, Hilbert, Culberson, Hartnett, Moffat, Zbranek
0 nays
3 absent — Alvarado, Sadler, Tillery
- WITNESSES:** For — Alvin J. Golden, Texas Academy of Probate and Trust Lawyers
Against — None
- BACKGROUND:** The Uniform Gifts to Minors Act (UGMA), produced originally in 1956 and amended in 1966 by the National Conference of Commissioners on State Laws (NCCSL), has been part of Texas law since 1957, see ch. 141, Property Code. The law governs the gift of securities and money to minors by establishing conservatorships to manage those gifts. In 1983 the NCCSL revised the 1966 version and promulgated the Uniform Transfer to Minors Act (UTMA). The 1983 version of the uniform act has been adopted by 42 states and the District of Columbia.
- The UTMA allows any kind of property, real or personal, tangible or intangible, to be made the subject of a transfer to a custodian for the benefit of a minor. It also expands the custodian's powers and makes other changes to reflect the broadened types of property subject to transfer.
- DIGEST:** HB 2268, as amended, would adopt the provisions of the Uniform Transfers to Minors Act, replacing the previous Uniform Gifts to Minors Act. The major change from the UGMA to the UTMA would be the expansion of what sort of property may be transferred under the act and what the custodian may do with that property. The act would also expand who may transfer property to a minor. Rather than making a transfer to a minor only by gift, a transfer could be made by power of appointment, by will or by an obligor or other fiduciary.

Other substantive changes include:

- raising the age at which a person becomes an adult (and a custodianship automatically ends) under the statute from 18 to 21 years old;
- limiting the liability of a custodian and of a minor to third parties for both contracts and torts for which the custodian or the minor were not personally at fault;
- expanding the purposes for which a custodian may disperse money to a minor from a minor's support or education to any purpose that would benefit the minor; and
- allowing a custodianship to be created more easily, including allowing transferrors to designate themselves as custodian.

The bill would take effect on September 1, 1995 and apply to all transfers made after that date. Any transfers made before the effective date would also be construed according to the provisions of the new law, so long as the provisions did not impair the rights or extend the custodianships created under the previous statute.

**SUPPORTERS
SAY:**

The UTMA was adopted because many states, including Texas, had broadened the authority to transfer property to minors. These new laws were not uniform, so where a transfer was made could have significant repercussions if the minor or the custodian moved to a different jurisdiction. Incorporation of the UTMA into Texas law would place Texas

on an equal plane with the great majority of other states that have enacted the 1983 version of the UTMA.

Raising the age at the custodianship automatically ends from 18 to 21 is one of the most important aspects of the UTMA because it puts the custodianship provisions in synch with trust provisions and federal income and estate tax provisions. Because these custodianships can now encompass types of property (like real estate) usually reserved only for trusts, it was determined that the age generally used for termination of trusts should be used for custodianships as well. Only ten other states have left the age at 18 rather than changing it to 21.

**OPPONENTS
SAY:**

The age at which a custodianship automatically terminates should stay at 18 and not be raised to 21. One-quarter of the other states that have adopted the uniform law have changed the age of majority to 18. There is no reason to hold that these persons, who are old enough to vote, serve in the military or execute contracts on their own behalf should have their property held in custodianship.

NOTES:

The committee amendment would make technical corrections and clean-up changes.

The companion bill, SB 1068 by Whitmire, has been referred to the Senate Jurisprudence Committee.