MICHIGAN UNIFORM TRANSFERS TO MINORS ACT

Act 433 of 1998

AN ACT to regulate certain transfers of property to minors; to make uniform the law regulating certain transfers of property to minors; and to repeal acts and parts of acts.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

The People of the State of Michigan enact:

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554.521 Short title.

Sec. 1.

This act shall be known and may be cited as the "Michigan uniform transfers to minors act".

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

554.522 Meanings of words and phrases.

Sec. 2.

For the purposes of this act, the words and phrases defined in sections 3 to 5 have the meanings ascribed to them in those sections.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

554.523 Definitions; A to C.

Sec. 3.

(1) "Adult" means an individual who is 18 years of age or older.

(2) "Benefit plan" means an employer's plan for the benefit of an employee or partner.

(3) "Broker" means a person lawfully engaged in the business of effecting transactions in securities or commodity contracts for the person's own account or for the account of others.

(4) "Conservator" means a person appointed or qualified by a court to act as a conservator, special conservator, guardian, limited guardian, or temporary guardian of a minor's property or a person legally authorized to perform substantially the same functions.

(5) "Court" means the probate court for the county in which a minor resides.

(6) "Custodial property" means an interest in property transferred to a custodian under this act and the income from, and proceeds of, that interest in property.

(7) "Custodian" means a person so designated pursuant to section 13 or a successor or substitute custodian designated under section 7, 23, or 24.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

554.524 Definitions; F to P.

Sec. 4.

(1) "Financial institution" means a bank, trust company, savings and loan association, or credit union chartered and supervised under state or federal law.

(2) "Legal representative" means an individual's personal representative or conservator.

(3) "Member of the minor's family" means the minor's parent, stepparent, spouse, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption.

(4) "Minor" means an individual who is less than 18 years of age.

(5) "Person" means an individual, partnership, corporation, limited liability company, association, or other legal entity.

(6) "Personal representative" means a personal representative, independent personal representative, or special fiduciary of a decedent's estate or a person legally authorized to perform substantially the same functions.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

554.525 Definitions; S to T.

Sec. 5.

(1) "State" includes a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

(2) "Transfer" means a transaction that creates custodial property under section 13.

(3) "Transferor" means a person who makes a transfer under this act.

(4) "Trust company" means a financial institution, corporation, or other legal entity, authorized to exercise general trust powers.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

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554.526 Change in residence of transferor, minor, or custodian, or removal of custodial property from state; jurisdiction; governing laws.

Sec. 6.

(1) This act applies to a transfer that refers to this act in the designation by which the transfer is made as provided in section 13 if, at the time of the transfer, the transferor, the minor, or the custodian is a resident of this state or the custodial property is located in this state. The custodianship so created remains subject to this act despite a subsequent change in residence of the transferor, the minor, or the custodian, or the removal of custodial property from this state.

(2) A person designated as custodian under this act is subject to personal jurisdiction in this state with respect to any matter relating to the custodianship.

(3) A transfer that purports to be made and that is valid under the uniform transfers to minors act, the uniform gifts to minors act, or a substantially similar act of another state is governed by the law of the designated state and may be executed and is enforceable in this state if, at the time of the transfer, the transferor, the minor, or the custodian is a resident of the designated state or the custodial property is located in the designated state.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

554.527 Custodian to receive property upon occurrence of future event; nomination; creation of custodial property.

Sec. 7.

(1) A person having the right to designate the recipient of property transferable upon the occurrence of a future event may revocably nominate a custodian to receive the property for a minor beneficiary upon the occurrence of the future event by naming the custodian followed in substance by the words: "as custodian for _____ (name of minor) under the Michigan uniform transfers to minors act". The nomination may name 1 or more persons as substitute custodians to whom the property must be transferred, in the order named, if the first nominated custodian dies before the transfer or is unable, declines, or is ineligible to serve. The nomination may be made in a will, trust, deed, instrument exercising a power of appointment, or writing designating a beneficiary of contractual rights that is registered with or delivered to the payor, issuer, or other obligor of the contractual rights.

(2) A custodian nominated under this section shall be a person to whom a transfer of property of that kind may be made under section 13.

(3) The nomination of a custodian under this section does not create custodial property until the nominating instrument becomes irrevocable or a transfer to the nominated custodian is completed under section 13. Unless the nomination of a custodian has been revoked, upon the occurrence of the future event the custodianship becomes effective and the custodian shall enforce a transfer of the custodial property pursuant to section 13.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

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554.528 Transfer by irrevocable gift or power of appointment in custodian.

Sec. 8.

A person may make a transfer by irrevocable gift to, or the irrevocable exercise of a power of appointment in favor of, a custodian for the benefit of a minor pursuant to section 13.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

554.529 Irrevocable transfer by personal representative or trustee; designation of custodian.

Sec. 9.

(1) A personal representative or trustee may make an irrevocable transfer pursuant to section 13 to a custodian for the benefit of a minor as authorized in the governing will or trust. If the testator or grantor has nominated a custodian under section 7 to receive the custodial property, the transfer shall be made to the custodian.

(2) If the testator or grantor has not nominated a custodian under section 7, or all persons so nominated as custodian die before the transfer or are unable, decline, or are ineligible to serve, the personal representative or the trustee shall designate the custodian from among those eligible to serve as custodian for property of that kind under section 13.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

554.530 Absence of will or authorization to make irrevocable transfer; transfer by personal representative, trustee, or conservator; conditions.

Sec. 10.

(1) Subject to subsection (3), a personal representative or trustee may make an irrevocable transfer to another adult or trust company as custodian for the benefit of a minor under section 13 in the absence of a will or under a will or trust that does not contain an authorization to make the irrevocable transfer.

(2) Subject to subsection (3), a conservator may make an irrevocable transfer to another adult or trust company as custodian for the benefit of the minor under section 13.

(3) A transfer under subsection (1) or (2) may be made only if all of the following apply:

(a) The personal representative, trustee, or conservator considers the transfer to be in the best interest of the minor.

(b) The transfer is not prohibited by or inconsistent with provisions of the applicable will, trust agreement, or other governing instrument.

(c) If the transfer exceeds $50,000.00 in value, the transfer is authorized by the court.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998 ;-- Am. 2024, Act 3, Imd. Eff. Feb. 21, 2024

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554.531 Minor not having conservator; transfer by person holding property or owing liquidated debt.

Sec. 11.

(1) Subject to subsections (2) and (3), a person not subject to section 9 or 10 who holds property of, or owes a liquidated debt to, a minor who does not have a conservator may make an irrevocable transfer to a custodian for the benefit of the minor under section 13.

(2) If a person having the right to do so under section 7 has nominated a custodian under section 7 to receive the custodial property, the transfer must be made to the person.

(3) If a custodian has not been nominated under section 7, or all persons nominated as custodian under section 7 die before the transfer or are unable, decline, or are ineligible to serve, a transfer under this section may be made to an adult member of the minor's family or to a trust company. However, if the value of the property exceeds $50,000.00, a transfer under this subsection may be made only if authorized by the court.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998 ;-- Am. 2024, Act 3, Imd. Eff. Feb. 21, 2024

554.532 Custodial property; receipt and discharge.

Sec. 12.

A written acknowledgment of delivery by a custodian constitutes a sufficient receipt and discharge for custodial property transferred to the custodian pursuant to this act.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

554.533 Creation and transfer of custodial property; actions.

Sec. 13.

(1) Custodial property is created and a transfer is made whenever an action described in subsections (2) to (8) is taken.

(2) A certificated or uncertificated security in registered form is either of the following:

(a) Registered in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for _____ (name of minor) under the Michigan uniform transfers to minors act".

(b) Delivered if in certificated form, or any document necessary for the transfer of an uncertificated security is delivered, together with any necessary endorsement to an adult other than the transferor or to a trust company as custodian, accompanied by an instrument in substantially the form set forth in section 14.

(3) Money is paid or delivered to a broker or financial institution for credit to an account in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for _____ (name of minor) under the Michigan uniform transfers to minors act".

(4) The ownership of a life or endowment insurance policy or annuity contract is either of the following:

(a) Registered with the issuer in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for _____ (name of minor) under the Michigan uniform transfers to minors act".

(b) Assigned in a writing delivered to an adult other than the transferor or to a trust company whose name in the assignment is followed in substance by the words: "as custodian for _____ (name of minor) under the Michigan uniform transfers to minors act".

(5) An irrevocable exercise of a power of appointment or an irrevocable present right to future payment under a contract is the subject of a written notification delivered to the payor, issuer, or other obligor that the right is transferred to the transferor, an adult other than the transferor, or a trust company, whose name in the notification is followed in substance by the words: "as custodian for _____ (name of minor) under the Michigan uniform transfers to minors act".

(6) An interest in real property is recorded in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for _____ (name of minor) under the Michigan uniform transfers to minors act".

(7) A certificate of title issued by a department or agency of a state or of the United States that evidences title to tangible personal property is either of the following:

(a) Issued in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for _____ (name of minor) under the Michigan uniform transfers to minors act".

(b) Delivered to an adult other than the transferor or to a trust company, endorsed to that person followed in substance by the words: "as custodian for _____ (name of minor) under the Michigan uniform transfers to minors act".

(8) An interest in any property not described in subsections (2) to (7) is transferred to an adult other than the transferor or to a trust company by a written instrument in substantially the form set forth in section 14.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

554.534 Instrument; form.

Sec. 14.

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An instrument in substantially the following form satisfies the requirements of section 13(2)(b) and 13(8):

"TRANSFER UNDER THE MICHIGAN UNIFORM TRANSFERS TO MINORS ACT

I, _____ (name of transferor or name and representative capacity, if a fiduciary) transfer to _____ (name of custodian), as custodian for _____ (name of minor) under the Michigan uniform transfers to minors act, the following:

(insert a description of the custodial property sufficient to identify it).

Dated: _____

_____

(Signature)

_____ (name of custodian) acknowledges receipt of the property described above as custodian for the minor named above under the Michigan uniform transfers to minors act.

Dated: _____

_____"

(Signature of Custodian)

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

554.535 Time of control; holding constituting single custodianship.

Sec. 15.

(1) A transferor shall place the custodian in control of the custodial property as soon as practicable.

(2) A transfer shall be made only for 1 minor, and only 1 person shall be the custodian. Custodial property held under this act by the same custodian for the benefit of the same minor constitutes a single custodianship.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

554.536 Conditions not affecting validity of transfer; transfer as irrevocable; property indefeasibly vested in minor; powers, rights, and immunities.

Sec. 16.

(1) The validity of a transfer made in a manner prescribed in this act is not affected by any of the following:

(a) Failure of the transferor to comply with section 15 concerning control.

(b) Designation of an ineligible custodian, except the transfer is invalidated by designation of a transferor for property for which the transferor is ineligible to serve as custodian under section 13.

(c) Death or incapacity of a person nominated under section 7 or designated under section 13 as custodian or the declination of the office by that person.

(2) A transfer made pursuant to section 13 is irrevocable, and the custodial property is indefeasibly vested in the minor, but the custodian has the rights, powers, duties, and authority provided in this act, and neither the minor nor the minor's legal representative has any right, power, duty, or authority with respect to the custodial property except as provided in this act.

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(3) By making a transfer, the transferor incorporates in the disposition the provisions of this act and grants to the custodian, and to any third person dealing with a person designated as custodian, the respective powers, rights, and immunities provided in this act.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

554.537 Duties of custodian.

Sec. 17.

(1) A custodian shall do all of the following:
(a) Take control of custodial property.
(b) Register or record title to custodial property if appropriate.
(c) Collect, hold, manage, invest, and reinvest custodial property.
(2) In dealing with custodial property, a custodian shall observe the standard of care that would be observed by a prudent person dealing with property of another. If a custodian has a special skill or expertise or is named custodian on the basis of representations of a special skill or expertise, the custodian shall use that skill or expertise. However, in the custodian's discretion and without liability to the minor or the minor's estate, a custodian may retain any custodial property received from a transferor.
(3) A custodian may invest in or pay premiums on life insurance or endowment policies on the life of the minor only if the minor or the minor's estate is the sole beneficiary, or the life of another person in whom the minor has an insurable interest only to the extent that the minor, the minor's estate, or the custodian in the capacity of custodian is the irrevocable beneficiary.
(4) A custodian at all times shall keep custodial property separate and distinct from other property in a manner sufficient to identify it clearly as custodial property of the minor. Custodial property consisting of an undivided interest is so identified if the minor's interest is held as a tenant in common and is fixed. Custodial property subject to recordation is so identified if it is recorded. Custodial property subject to registration is so identified if it is either registered or held in an account designated in the name of the custodian, followed in substance by the words: "as custodian for _____ (name of minor) under the Michigan uniform transfers to minors act".
(5) A custodian shall keep a record of each transaction with respect to custodial property, including information necessary for the preparation of the minor's tax return, and shall make the records available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor if the minor is at least 14 years of age.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

554.538 Rights, powers, and authority over custodial property; limitation.

Sec. 18.

A custodian, acting in a custodial capacity, has the rights, powers, and authority over custodial property that an unmarried adult owner has over his or her own property, but a custodian may exercise those rights, powers, and authority in that capacity only. This section does not relieve a custodian from liability for breach of section 17.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

554.539 Delivery, payment, or expenditure by custodian.

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Sec. 19.

(1) A custodian may deliver or pay to the minor or expend for the minor's benefit so much of the custodial property as the custodian considers advisable for the use and benefit of the minor without court order, without regard to the duty or ability of the custodian personally or of any other person to support the minor, and without regard to other income or property of the minor that may be applicable or available for that purpose.

(2) On petition of an interested person or the minor if the minor is at least 14 years of age, the court may order the custodian to deliver or pay to the minor or expend for the minor's benefit so much of the custodial property as the court considers advisable for the use and benefit of the minor.

(3) A delivery, payment, or expenditure under this section is in addition to, is not in substitution for, and does not affect an obligation of a person to support the minor.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

554.540 Custodian; expenses; compensation; bond.

Sec. 20.

(1) A custodian is entitled to reimbursement from custodial property for reasonable expenses incurred in the performance of the custodian's duties. Except for a person who is a transferor under section 8, a custodian has a noncumulative election during each calendar year to charge reasonable compensation for services performed during that year.

(2) Except as provided in section 24, a custodian need not give a bond.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

554.541 Responsibility of third person.

Sec. 21.

A third person in good faith and without court order may act on the instructions of or otherwise deal with any person purporting to make a transfer or purporting to act in the capacity of a custodian and, in the absence of knowledge, is not responsible for determining any of the following:

(a) The validity of the purported custodian's designation.

(b) The propriety of, or the authority under this act for, an act of the purported custodian.

(c) The validity or propriety under this act of an instrument executed or given either by the person purporting to make a transfer or by the purported custodian.

(d) The propriety of the application of property of the minor delivered to the purported custodian.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

554.542 Liability of custodian or minor.

Sec. 22.

(1) A claim based on a contract entered into by a custodian acting in a custodial capacity, an obligation arising from the ownership or control of custodial property, or a tort committed during the custodianship may be asserted against the custodial property by proceeding against

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the custodian in the custodial capacity, whether or not the custodian or the minor is personally liable for the contract, obligation, or tort.

(2) A custodian is not personally liable in any of the following situations:

(a) On a contract properly entered into in the custodial capacity unless the custodian fails to reveal that capacity and fails to identify the custodianship in the contract.

(b) For an obligation arising from control of custodial property or for a tort committed during the custodianship unless the custodian is personally at fault.

(3) A minor is not personally liable for an obligation arising from ownership of custodial property or for a tort committed during the custodianship unless the minor is personally at fault.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

554.543 Service as custodian; declination; substitute; successor.

Sec. 23.

(1) A person nominated under section 7 or designated pursuant to section 13 as custodian may decline to serve by delivering a written declination to the person who made the nomination or to the transferor or the transferor's legal representative. The declination shall describe the custodianship being declined and shall be signed by the person declining.

(2) If the event giving rise to a transfer has not occurred and no substitute custodian able, willing, and eligible to serve was nominated under section 7, the person who made the nomination may nominate a substitute custodian under section 7. If a substitute custodian is not nominated, the transferor or the transferor's legal representative shall designate a substitute custodian at the time of the transfer. A substitute custodian shall be nominated or designated from among the persons eligible to serve as custodian for that kind of property under section 13. The custodian so designated has the rights of a successor custodian.

(3) A custodian at any time may designate a trust company or an adult other than a transferor under section 8 as successor custodian by executing and dating an instrument of designation before a subscribing witness other than the successor. If the instrument of designation does not contain, or is not accompanied by, the resignation of the custodian, the designation of the successor does not take effect until the custodian resigns, dies, becomes incapacitated, or is removed.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

554.544 Resignation, ineligibility, death, or incapacitation of custodian; possession and control of property and records; petition for removal of custodian.

Sec. 24.

(1) A custodian may resign at any time by delivering written notice to the minor if the minor has attained the age of 14 years and to the successor custodian and by delivering the custodial property to the successor custodian.

(2) If a custodian is ineligible, dies, or becomes incapacitated without having effectively designated a successor and the minor is not less than 14 years of age, the minor may designate as successor custodian, in the manner prescribed in section 23(3), an adult member of the minor's family, a conservator of the minor, or a trust company. If the minor is less than 14 years of age or fails to act within 60 days after the ineligibility, death, or incapacity, the conservator of the minor becomes successor custodian. If the minor has no conservator or the

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conservator declines to act, the transferor, the legal representative of the transferor or of the custodian, an adult member of the minor's family, or another interested person may petition the court to designate a successor custodian.

(3) A custodian who declines to serve or resigns, or the legal representative of a deceased or incapacitated custodian, as soon as practicable, shall put the custodial property and records in the possession and control of the successor custodian. The successor custodian may bring an action to enforce the obligation to deliver custodial property and records and becomes responsible for each item as received.

(4) A transferor, the legal representative of a transferor, an adult member of the minor's family, the conservator of the minor, or the minor if the minor is not less than 14 years of age may petition the court to remove the custodian for cause and designate a successor custodian other than a transferor under section 8, or to require the custodian to give appropriate bond.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

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554.545 Accounting.

Sec. 25.

(1) A minor who is not less than 14 years of age, the minor's legal representative, an adult member of the minor's family, a transferor, or a transferor's legal representative may petition the court for either of the following:

(a) An accounting by the custodian or the custodian's legal representative.

(b) A determination of responsibility, as between the custodial property and the custodian personally, for claims against the custodial property, unless the responsibility has been adjudicated in an action under section 22 to which the minor or the minor's legal representative was a party.

(2) A successor custodian may petition the court for an accounting by the predecessor custodian.

(3) In a proceeding under this act or in any other proceeding, the court may require or permit a custodian or the custodian's legal representative to account.

(4) If a custodian is removed under section 24, the court shall require an accounting and order delivery of the custodial property and records to the successor custodian and the execution of all instruments required for transfer of the custodial property.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

554.546 Transfer of property to minor; time.

Sec. 26.

Except as provided in section 27, the custodian shall transfer in an appropriate manner the custodial property to the minor or to the minor's estate upon the earlier of the following:

(a) The minor becoming 18 years of age with respect to custodial property transferred under section 8, 9, 10, or 11.

(b) The minor's death.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

554.547 Transfer of property to minor; delay.

Sec. 27.

(1) Transfer of custodial property to the minor that is transferred to the custodian under section 8 or 9 may be delayed as provided in this section until a specified time after the minor is 18 years of age. The time of transfer to the minor shall be specified in the transfer executed under section 13 by using the words "as custodian for (name of minor) until age _____ under the Michigan uniform transfers to minors act".

(2) Transfer to the minor of custodial property transferred to the custodian under section 8 shall not be delayed later than the minor's twenty-first birthday. Transfer to the minor of custodial property transferred to the custodian under section 9 shall not be delayed unless the governing will or trust provides in substance that the custodianship continues until the minor is a specified age, not later than the minor's twenty-first birthday and that the will or trust determines the time to be specified in the transfer.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

554.548 Applicability of act to transfer described in MCL 554.526.

Sec. 28.

This act applies to a transfer described in section 6 made after the effective date of this act if either of the following is true:

(a) The transfer purports to have been made under former 1959 PA 172.

(b) The instrument by which the transfer purports to have been made uses in substance the designation "as custodian under the uniform gifts to minors act" or "as custodian under the uniform transfers to minors act" of any other state, and the application of this act is necessary to validate the transfer.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

554.549 Applicability of act to transfer made before effective date.

Sec. 29.

(1) Transfer of custodial property made before the effective date of this act is validated notwithstanding that there was no specific authority in former 1959 PA 172 for the coverage of custodial property of that kind or for a transfer from that source at the time the transfer was made.

(2) This act applies to a transfer made before the effective date of this act in a manner and form prescribed in former 1959 PA 172, except insofar as the application impairs constitutionally vested rights or extends the duration of custodianships in existence on the effective date of this act.

(3) With respect to the age of a minor for whom custodial property is held under this act, sections 3, 4, and 26 do not apply to custodial property held in a custodianship that terminated because the minor becomes 18 years of age after December 31, 1971, and before the effective date of this act.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

554.550 Construction of act.

Sec. 30.

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This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

554.551 Repeal of former 1959 PA 172; effect.

Sec. 31.

To the extent that this act by virtue of section 29(2) does not apply to a transfer made in a manner prescribed in former 1959 PA 172, or to the powers, duties, and immunities conferred by a transfer in that manner upon a custodian or a person dealing with a custodian, the repeal of former 1959 PA 172 does not affect that transfer or those powers, duties, and immunities.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

554.552 Repeal of MCL 554.451 to 554.461.

Sec. 32.

The Michigan uniform gifts to minors act, 1959 PA 172, MCL 554.451 to 554.461, is repealed.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998

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