

CHAPTER 258

AN ACT concerning certain trusts, amending N.J.S.3B:12-54 and supplementing Title 3B of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. N.J.S.3B:12-54 is amended to read as follows:

Duty of guardian to deliver property when minor attains 18 years of age.

3B:12-54. Except as provided in section 2 of P.L.2003, c.258 (C.3B:12-54.1), when a minor who has not been adjudged a mental incompetent attains 18 years of age, his guardian, after meeting all prior claims and expenses of administration, shall pay over and distribute all funds and properties to the former ward as soon as possible.

C.3B:12-54.1 Trusts for certain beneficiaries providing deferred distribution of funds.

2. In the event that any part of an intestate estate passes to the decedent's issue pursuant to N.J.S.3B:5-4, and if any such issue shall not have attained the age of 18 at the time such part of the intestate estate would pass to such issue, such part may pass as follows:

a. The parent or guardian of such issue or any other individual with standing may apply to the Superior Court, Chancery Division, Probate Part in the county in which the decedent was domiciled for permission to place all, or any part, of the funds passing to such issue in a separate trust for the exclusive benefit of such issue.

b. The terms of the trust may provide as follows:

(1) The trust assets and the income therefrom shall be used for the exclusive benefit of the beneficiary, including but not limited to the beneficiary's health, support, maintenance and education, including college and post-graduate work, in the discretion of the trustees;

(2) The beneficiary shall have the right to request distributions of trust principal as follows: one-third of the principal after attaining the age of 25 years, one-half of the then balance after attaining the age of 30 years, and all of the then balance after attaining the age of 35 years; or at such other ages as the court, in its discretion, shall determine;

(3) Should the beneficiary die prior to the termination of the trust, the remaining trust principal and accrued income shall be distributed to the beneficiary's estate;

(4) Two individual trustees, or one corporate trustee, or a combination thereof, shall serve at all times, with or without bond, as the court shall determine in its discretion; and

(5) Such other terms and conditions of the trust as the court shall determine in its discretion.

c. In ruling on such an application, the court:

(1) may allow any award from the federal "September 11th Victim Compensation Fund of 2001" to be the subject of a trust created pursuant to this section or be included in such a trust, regardless of whether such an award is found to pass to a minor issue of the decedent pursuant to N.J.S.3B:5-4 or otherwise; and

(2) shall consider all relevant factors, including but not limited to the amount of money involved, the availability of other resources for current maintenance and support, the stability of the entity offering an investment covered by the application, income tax consequences, any special needs or vulnerabilities of the minor and the financial and psychological consequences of putting all or a substantial part of the minor's estate out of reach for a long period of time.

d. The court shall retain jurisdiction of the trust until its termination. The beneficiary's parent, guardian, trustee or other individual with standing, including the beneficiary if he or she has attained the age of 18 years, may apply to the court at any time for modifications to the terms of the trust. Modifications may be made in the court's discretion.

3. This act shall take effect immediately.

Approved January 14, 2004.