

The House Special Committee on Access to the Civil Justice System offers the following substitute to HB 1108:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 3 of Title 29 of the Official Code of Georgia Annotated,
2 relating to property, so as to clarify and revise procedures and requirements for the payment
3 of certain settlements involving minors' claims; to revise and provide for definitions; to
4 provide for related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 1 of Chapter 3 of Title 29 of the Official Code of Georgia Annotated, relating to
8 property, is amended by revising subsections (b) and (c) of Code Section 29-3-1, relating
9 to "personal property" defined, natural guardian must qualify as conservator, and exception,
10 as follows:

11 "(b) The natural guardian of a minor may not receive the personal property of the minor
12 until the natural guardian becomes the legally qualified conservator of the minor; provided,
13 however, that when the total value of all personal property of the minor is ~~\$15,000.00~~
14 \$25,000.00 or less, the natural guardian may receive and shall thereafter hold and use all
15 or part of the personal property for the benefit of the minor and shall be accountable for the
16 personal property but shall not be required to become the legally qualified conservator as
17 to that personal property.

18 (c) Upon receiving an affidavit:

19 (1) That the value of all the personal property of a minor will not exceed ~~\$15,000.00~~
20 \$25,000.00 in value;

21 (2) That no conservator has been appointed for the minor's estate; and

22 (3) That the affiant is the natural guardian of the minor,

23 any person indebted to or holding personal property of the minor shall be authorized to pay
24 the amount of the indebtedness or to deliver the personal property to the affiant. In the
25 same manner and upon like proof, any person having the responsibility for the issuance or
26 transfer of stocks, bonds, or other personal property shall be authorized to issue or transfer

27 the stocks, bonds, or personal property to or in the name of the affiant. Upon such
 28 payment, delivery, transfer, or issuance pursuant to the affidavit, the person shall be
 29 released to the same extent as if the payment, delivery, transfer, or issuance had been made
 30 to the legally qualified conservator of the minor and shall not be required to see to the
 31 application or disposition of the personal property."

32 SECTION 2.

33 Said article is further amended by revising Code Section 29-3-3, relating to "gross
 34 settlement" defined, compromise of claim, and finality of settlement, as follows:

35 "29-3-3.

36 (a) For purposes of this Code section, the term:

37 (1) 'Gross 'gross settlement' means the present value of all amounts paid or to be paid in
 38 settlement of the claim, including cash, medical expenses, expenses of litigation,
 39 attorney's fees, and any amounts paid to purchase an annuity or other similar financial
 40 arrangement. Such term shall include the total amount paid or to be paid on behalf of all
 41 settling parties.

42 (2) 'Net settlement' means the gross settlement reduced by:

43 (A) Attorney's fees, expenses of litigation, and medical expenses which are to be paid
 44 from the settlement proceeds; and

45 (B) The present value of amounts to be received by the minor after reaching the age
 46 of majority.

47 (b) If the minor has a conservator, the only person who can compromise a minor's claim
 48 is the conservator.

49 (c) ~~Whether or not legal action has been initiated, if the~~ If the proposed gross settlement
 50 of a minor's claim is ~~\$15,000.00~~ \$25,000.00 or less, the natural guardian of the minor may
 51 compromise the claim without becoming the conservator of the minor and without any
 52 court approval. The natural guardian must qualify as the conservator of the minor in order
 53 to receive payment of the settlement if necessary to comply with Code Section 29-3-1.

54 (d) If no legal action has been initiated and the proposed gross settlement of a minor's
 55 claim is more than ~~\$15,000.00~~ \$25,000.00, the settlement must be submitted for approval
 56 to the probate court.

57 (e) If legal action has been initiated and the proposed gross settlement of a minor's claim
 58 is more than ~~\$15,000.00~~ \$25,000.00, the settlement must be submitted for approval to the
 59 court in which the action is pending. Probate court approval is not required. ~~The natural~~
 60 ~~guardian or conservator shall not be permitted to dismiss the action and present the~~
 61 ~~settlement to the court for approval without the approval of the court in which the action~~
 62 ~~is pending.~~

63 (f) If legal action has been initiated and the proposed gross settlement of a minor's claim
 64 is more than ~~\$15,000.00~~ \$25,000.00, but the ~~gross net~~ settlement reduced by:

65 (1) ~~Attorney's fees, expenses of litigation, and medical expenses which shall be paid~~
 66 ~~from the settlement proceeds; and~~

67 (2) ~~The present value of amounts to be received by the minor after reaching the age of~~
 68 ~~majority~~

69 is ~~\$15,000.00~~ \$25,000.00 or less, the settlement must be submitted for approval to natural
 70 guardian may seek approval of the proposed settlement from the appropriate court in which
 71 the action is pending, but no without becoming the conservator of the minor or approval
 72 of the probate court is required. The natural guardian must qualify as the conservator of
 73 the minor in order to receive payment of the settlement if necessary to comply with Code
 74 Section 29-3-1.

75 (g) If legal action has been initiated and the proposed gross settlement of a minor's claim
 76 is more than \$25,000.00 and the ~~the proposed gross net~~ settlement of a minor's claim is
 77 ~~more than \$15,000.00, but such gross settlement reduced by:~~

78 (1) ~~Attorney's fees, expenses of litigation, and medical expenses which shall be paid~~
 79 ~~from the settlement proceeds; and~~

80 (2) ~~The present value of amounts to be received by the minor after reaching the age of~~
 81 ~~majority~~

82 is also more than ~~\$15,000.00~~ \$25,000.00, the ~~natural guardian may not seek approval of~~
 83 ~~the proposed settlement~~ settlement must be submitted for approval to from the appropriate
 84 court in which the action is pending without becoming the conservator of the minor.

85 (h) If an order of approval is obtained from the probate court, or a court in which the
 86 action is pending, based upon the best interest of the minor, the natural guardian or
 87 conservator shall be authorized to compromise any contested or doubtful claim in favor of
 88 the minor without receiving consideration for such compromise as a lump sum. Without
 89 limiting the foregoing, the compromise may be in exchange for an arrangement that defers
 90 receipt of part, not to exceed a total distribution of ~~\$15,000.00~~ \$25,000.00 prior to a minor
 91 reaching the age of majority, or all of the consideration for the compromise until after the
 92 minor reaches the age of majority and may involve a structured settlement or creation of
 93 a trust on terms which the court approves.

94 (i) Any settlement entered consistent with the provisions of this Code section shall be final
 95 and binding upon all parties, including the minor.

96 (j) It shall be within the discretion of the court in which the action is pending to hold a
 97 hearing on compliance with the requirements of this Code section; provided, however, that
 98 a hearing shall not be required if compliance with such requirements is evident from the
 99 record."

100

SECTION 3.

101 All laws and parts of laws in conflict with this Act are repealed.