

By: Oliverson

H.B. No. 903

A BILL TO BE ENTITLED

AN ACT

relating to the settlement of certain claims on behalf of a minor.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 6, Civil Practice and Remedies Code, is amended by adding Chapter 150D to read as follows:

CHAPTER 150D. SETTLEMENT OF CLAIMS INVOLVING MINORS

Sec. 150D.001. AUTHORITY TO SETTLE CLAIM; SETTLEMENT REQUIREMENTS. (a) A person having legal custody of a minor may enter into a settlement agreement with a person against whom the minor has a claim if:

(1) a guardian or guardian ad litem has not been appointed for the minor;

(2) the total amount of the claim, not including reimbursement of medical expenses, liens, and reasonable attorney's fees and other litigation costs, is \$25,000 or less if paid in cash or if paid by the payment of premium to purchase an annuity;

(3) the money to be paid under the settlement agreement is to be paid as provided by this chapter; and

(4) the person entering into the settlement agreement on behalf of the minor completes an affidavit or verified statement that attests that the person has made a reasonable inquiry and that:

(A) to the best of the person's knowledge, the minor will be fully compensated by the settlement; or

1 (B) there is no practical way to obtain
2 additional amounts from the party entering into the settlement
3 agreement with the minor.

4 (b) The attorney representing the person entering into the
5 settlement agreement on behalf of the minor, if any, shall maintain
6 the affidavit or verified statement completed under Subsection
7 (a)(4) in the attorney's file until the second anniversary of the
8 date the minor attains the age of 21 years.

9 Sec. 150D.002. PAYMENT: CASH SETTLEMENT WITH ATTORNEY. (a)
10 If the minor or the person entering into the settlement agreement on
11 behalf of the minor is represented by an attorney and the money
12 payable under the settlement agreement is paid in cash, the payment
13 must be made by direct deposit into the attorney's trust account
14 maintained under the Texas Disciplinary Rules of Professional
15 Conduct to be held for the benefit of the minor.

16 (b) The attorney shall:

17 (1) deposit the money received on behalf of the minor
18 directly into a federally insured savings account that earns
19 interest and is in the sole name of the minor; and

20 (2) provide written notice of the deposit to the minor
21 and the person entering into the settlement agreement on behalf of
22 the minor, delivered by personal service or first-class mail.

23 Sec. 150D.003. PAYMENT: CASH SETTLEMENT WITHOUT ATTORNEY.

24 (a) If the minor or the person entering into the settlement
25 agreement on behalf of the minor is not represented by an attorney
26 and the money payable under the settlement agreement is paid in
27 cash, the payment must be made directly into a federally insured

1 savings account that earns interest and is in the sole name of the
2 minor.

3 (b) The person making the deposit shall provide written
4 notice of the deposit to the minor and the person entering into the
5 settlement agreement on behalf of the minor, delivered by personal
6 service or first-class mail.

7 (c) The minor or person entering into the settlement
8 agreement on behalf of the minor shall open the federally insured
9 savings account and provide the person with whom the minor has
10 settled the claim with information sufficient to complete an
11 electronic transfer of settlement funds not later than the 10th
12 business day after the date of the settlement.

13 Sec. 150D.004. PAYMENT: CASH SETTLEMENT TO MINOR UNDER
14 PERMANENT MANAGING CONSERVATORSHIP. If the minor is in the
15 permanent managing conservatorship of the Department of Family and
16 Protective Services and money payable under the settlement is paid
17 in cash, the payment must be made directly into a trust account, or
18 subaccount of a trust account, that:

19 (1) is established by the department for the purpose
20 of receiving money payable to the minor under the settlement
21 agreement; and

22 (2) earns interest for the benefit of the minor.

23 Sec. 150D.005. PAYMENT BY ANNUITY PURCHASE. If the money
24 payable under the settlement agreement is to be paid by the payment
25 of premium to purchase an annuity, the payment must be made by
26 direct payment to the provider of the annuity with the minor
27 designated as the sole beneficiary of the annuity.

1 Sec. 150D.006. WITHDRAWAL OF MONEY. Money in a minor's
2 savings account, trust account, or trust subaccount established
3 under this chapter may not be withdrawn, removed, paid out, or
4 transferred to any person, including the minor, except:

5 (1) pursuant to a court order;

6 (2) on the minor's attainment of 18 years of age; or

7 (3) on the minor's death.

8 Sec. 150D.007. BINDING EFFECT OF SETTLEMENT. If a
9 settlement agreement is entered into in compliance with Section
10 150D.001, the signature of the person entering into the settlement
11 agreement on behalf of the minor is binding on the minor without the
12 need for further court approval or review and has the same force and
13 effect as if the minor were a competent adult entering into the
14 settlement agreement.

15 Sec. 150D.008. LIABILITY FOR SETTLEMENT. (a) A person
16 acting in good faith on behalf of a minor under this chapter is not
17 liable to the minor for the money paid in settlement or for any
18 other claim arising out of the settlement.

19 (b) A person against whom a minor has a claim that settles
20 the claim with the minor in good faith under this chapter is not
21 liable to the minor for any claim arising from the settlement of the
22 claim.

23 SECTION 2. Section 141.008, Property Code, is amended by
24 amending Subsection (a) and adding Subsection (d) to read as
25 follows:

26 (a) Subject to Subsections (b), ~~and~~ (c), and (d), a person
27 who is not subject to Section 141.006 or 141.007 and who holds

1 property, including a benefit plan of a minor who does not have a
2 guardian, or who owes a liquidated debt to a minor who does not have
3 a guardian may make an irrevocable transfer to a custodian for the
4 benefit of the minor under Section [141.010](#).

5 (d) This section does not apply to a debt incurred under a
6 settlement agreement governed by Chapter 150D, Civil Practice and
7 Remedies Code.

8 SECTION 3. The change in law made by this Act applies only
9 to a settlement agreement entered into on or after the effective
10 date of this Act.

11 SECTION 4. This Act takes effect September 1, 2021.