

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

SENATE BILL 342

5 By: Senator G. Stubblefield
6 By: Representative Maddox
7

For An Act To Be Entitled

9 AN ACT TO CREATE THE ARKANSAS STATUTORY THRESHOLDS
10 FOR SETTLEMENT AGREEMENTS INVOLVING MINORS ACT; AND
11 FOR OTHER PURPOSES.
12
13

Subtitle

15 TO CREATE THE ARKANSAS STATUTORY
16 THRESHOLDS FOR SETTLEMENT AGREEMENTS
17 INVOLVING MINORS ACT.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code Title 16, is amended to add an additional
23 chapter to read as follows:

CHAPTER 131

SETTLEMENT AGREEMENTS

Subchapter 1 – General Provisions [Reserved]

Subchapter 2 – Arkansas Statutory Thresholds for Settlement Agreements

Involving Minors Act

16-131-201. Title.

33 This subchapter shall be known and may be cited as the "Arkansas
34 Statutory Thresholds for Settlement Agreements Involving Minors Act".
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16-131-202. Purpose.

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1 The purpose of this subchapter is to establish standards and procedures
2 for settling claims through settlement agreements involving minors.

3
4 16-131-203. Definitions.

5 As used in this subchapter:

6 (1) "Annuity" means a fixed and periodic amount of moneys
7 payable throughout the life of a person or for a temporary period;

8 (2) "Claim" means a civil cause of action and includes a claim
9 made by or on behalf of a minor;

10 (3) "Conservator" means a person appointed or qualified by a
11 court to manage the estate of an individual;

12 (4) "Guardian" means an individual who has legal custody of a
13 minor or the state if the minor is in state custody;

14 (5) "Guardian ad litem" means an individual appointed by a court
15 in which a particular proceeding is pending to represent a minor in that
16 proceeding;

17 (6) "Minor" means an individual under eighteen (18) years of
18 age;

19 (7) "Settlement" means an arrangement for payment of damages for
20 personal injuries or sickness established by a settlement agreement or
21 judgment in resolution of a claim; and

22 (8) "Settlement agreement" means an agreement, judgment,
23 stipulation, or release embodying the terms of a settlement.

24
25 16-131-204. Procedures for settling claim involving minor.

26 (a) On behalf of a minor, the minor's guardian may enter into a
27 settlement agreement with a person or party against whom the minor has a
28 claim if:

29 (1) A conservator or guardian ad litem has not been appointed
30 for the minor;

31 (2) The total amount of the claim is twenty-five thousand
32 dollars (\$25,000) or less, excluding reimbursement of medical expenses,
33 liens, reasonable attorney's fees, and costs of the claim, if paid in cash,
34 by draft, or by the purchase of a premium for an annuity;

35 (3) The moneys paid under the settlement agreement are paid
36 according to § 16-131-205; and

1 (4) The guardian completes an affidavit or verified statement
2 that attests that:

3 (A) The guardian has made a reasonable inquiry into the
4 matter;

5 (B) To the best of the guardian’s knowledge:

6 (i) The minor will be fully compensated by the
7 settlement agreement; or

8 (ii) There is no practical way to obtain additional
9 amounts from the person or party entering into the settlement agreement with
10 the minor; and

11 (C) Understands and acknowledges that the guardian is
12 obligated by law to deposit the settlement directly into a restricted savings
13 account or other restricted investment account, or purchase an annuity, as
14 required under subdivision (a)(3) of this section.

15 (b) An attorney representing the guardian or minor, if any, shall
16 maintain the affidavit or verified statement completed under subdivision
17 (a)(4) of this section in the attorney’s file for two (2) years after the
18 minor:

19 (1) Attains twenty-one (21) years of age; or

20 (2) Dies, if the minor does not attain twenty-one (21) years of
21 age.

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23 16-131-205. Disbursements under settlement agreements.

24 (a) Any moneys payable under a settlement agreement entered into under
25 § 16-131-204 shall be paid as follows:

26 (1) If the minor or guardian is represented by an attorney and
27 the settlement is paid in cash, by draft, or by direct deposit into the
28 attorney’s trust account that is maintained pursuant to Supreme Court rule,
29 to be held for the benefit of the minor, the attorney shall:

30 (A) Deposit the moneys received on behalf of the minor
31 directly into a federally insured savings account that earns interest in the
32 sole name of the minor; and

33 (B) Provide notice of the deposit to the minor and the
34 guardian by personal service or first class mail;

35 (2) If the minor or guardian is not represented by an attorney
36 and the settlement is paid:

1 (A) In cash or by draft, the moneys shall be deposited by
2 the guardian directly into a federally insured savings account that earns
3 interest in the sole name of the minor; or

4 (B)(i) By direct deposit, the moneys shall be deposited
5 directly into a federally insured savings account that earns interest in the
6 sole name of the minor.

7 (ii) The guardian shall provide the person or entity
8 with whom the minor has settled the claim with the information necessary to
9 complete an electronic transfer of settlement funds into a federally insured
10 savings account that earns interest in the sole name of the minor within ten
11 (10) business days of the settlement.

12 (iii) Notice of the deposit of the electronic
13 transfer of funds shall be delivered by personal service or first class mail
14 to the minor and guardian by the person or entity against whom a minor has a
15 claim that settles the claim with the minor;

16 (3) If paid by purchase of an annuity, the moneys shall be paid
17 by direct payment to the provider of the annuity with the minor designated as
18 the sole beneficiary of the annuity; or

19 (4) If the minor is in state custody and the settlement is paid
20 in cash or by draft, the moneys shall be deposited directly into a trust
21 account established by the Department of Human Services for receiving moneys
22 payable to the minor under the settlement agreement and that earns interest
23 for the benefit of the minor.

24 (b) The moneys in the minor's savings account or trust account
25 established under subsection (a) of this section shall not be withdrawn,
26 removed, paid out, or transferred to any person, including the minor, except:

27 (1) Pursuant to a court order;

28 (2) Upon the minor's attainment of eighteen (18) years of age or
29 being otherwise emancipated; or

30 (3) Upon the death of the minor.

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32 16-131-206. Liability – Good faith actions.

33 (a) If a settlement agreement is entered into in compliance with § 16-
34 131-204, the signature of the guardian:

35 (1) Is binding on the minor without the need for further court
36 approval or review; and

1 (2) Has the same force and effect as if the minor were a
2 competent adult entering into the settlement agreement.

3 (b) A guardian acting in good faith on behalf of the minor under this
4 subchapter is not liable to the minor for the moneys paid in settlement or
5 for any other claim arising out of the settlement.

6 (c) A person or entity against whom a minor has a claim that settles
7 the claim with a minor in good faith under this subchapter with the minor's
8 guardian is not liable to the minor for any claims arising from the
9 settlement of the claim.

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