

MARYLAND STATE BAR
ASSOCIATION. SECTION ON
ESTATES AND TRUSTS.

REPORT OF THE SECTION ON
ESTATES AND TRUSTS ...
ON GUARDIANSHIP AND ...

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MARYLAND STATE BAR ASSOCIATION. SECTION
ON ESTATES AND TRUSTS

Report of the Section...on guardianship
and other protective devices for persons
under disability

Winston T. Brundige, Chair

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REPORT

OF THE

SECTION ON ESTATES AND TRUSTS

OF THE

MARYLAND STATE BAR ASSOCIATION

ON

GUARDIANSHIP AND OTHER PROTECTIVE

DEVICES FOR PERSONS UNDER DISABILITY

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Introduction

This Report recommends a complete revision of the Maryland law relating to guardianship and other devices (such as committees) for the protection of persons under a disability.

There are several major reasons for the appearance of this Report at this time.

1. There is a growing displeasure and dissatisfaction by both the bar and the public with the current law on these subjects. The appointment of a guardian for a minor or a committee for an incompetent is generally looked upon with horror because of the archaic expensive procedures which the appointment inevitably sets in motion.

2. The General Assembly has reacted to this situation by creating many new techniques for avoiding the appointment of a guardian or a committee. This reaction has greatly accelerated in the last eleven years. In 1957, for example, the Uniform Gifts to Minors Act authorized inter vivos gifts to a custodian for the benefit of a minor. The custodianship proved to be such a sensible device for avoiding the expense of guardianship that the General Assembly subsequently (in 1962, 1965, and 1967) broadened the scope of the Act beyond its original intent, which was to permit only inter vivos gifts of securities and cash to a custodian. Today, the Act permits gifts of life insurance policies; it permits testamentary gifts to a custodian; it permits transfers to a custodian upon the termination of a trust, inter vivos or testamentary. The Act

is found at §§213-222 of Article 16.

In 1963, the General Assembly passed a statute authorizing minors' recoveries in tort to be paid to a statutory trustee, who need not be bonded and need not file annual reports. The purpose of the new procedure was simply to avoid a cumbersome and expensive guardianship proceeding. This statute is found in §§223-230 of Article 16.

A reaction to the appointment of committees for incompetents was the 1957 statute authorizing the appointment of conservators for persons who were not mentally incompetent but who needed a statutory agent to handle their property. This Act is found at §§149-151 of Article 16. Subtitle L of the Maryland Rules also deals exclusively with this subject.

The Maryland Rules have also reflected the disenchantment with the existing law on guardians and committees. Although the practice, until recent years, had been to require every guardian and committee to be bonded, the Rules have recently been amended to exempt certain estates whose value is less than \$10,000. See Rule V73.

Notwithstanding the excellence of these modern statutes and rules, to date, no frontal attack has been made in Maryland on the major corpus of law relating to guardians and committees.

3. The National Conference of Commissioners on Uniform State Laws, as part of its project to draft a Uniform Probate Code, has written a statute dealing with this subject. Certain portions of this Committee's recommended statute are derived from the draft of the Uniform Probate Code, although to a large extent, the Committee

has simplified the procedures recommended by the National Conference, especially in Subtitle 7.

4. The Governor's Commission to Revise the Testamentary Laws of Maryland, appointed by the Governor in 1965, (commonly known as The Henderson Commission) brought to the attention of the Committee the need for complete revision of the laws on guardianship. The Governor's Commission was charged only with revising those parts of Article 93 (and other parts of the Maryland Code) dealing with testamentary law. Accordingly, although a great deal of the guardianship law is weaved throughout Article 93, the Governor's Commission could only lay those provisions to the side, but in doing so, it emphasized the need to revise the rest of Article 93 dealing with guardianship.

5. Most of the laws relating to guardians and committees were enacted in an era whose legal realities had little relevance to current problems. The basic structure of these laws was created in the eighteenth century. Guardians and committees were given almost no authority to perform even the most ministerial acts without the formal approval of a court. A partial explanation of the desire to straight-jacket guardians and committees may lie in the fact that in the eighteenth century, the sophisticated notions of fiduciary responsibility with which we are familiar today were practically unknown. Today, in Maryland, there are thousands of trusts, both inter vivos and testamentary, for minors as well as adults, by the terms of which the trustees may exercise any reasonable power without judicial approval, the trustees are not bonded, and

the trustees need not file accountings in any court. A guardian, or a committee, is nothing more than a trustee. It may validly be asked, therefore, why one set of rules should govern over 99% of the trustees in Maryland and another set should govern the other cases.

It is a fact that under Maryland practice both guardianship and committees can presently be avoided through the artful use of trusts and custodianships, which are simple and inexpensive to administer. Therefore, it is a fair question to ask whether it is appropriate to permit those persons who are knowledgeable enough to avoid guardianship and committees (by means of a properly drawn trust instrument) to save the expenses of those proceedings, but to impose these expenses on those who did not plan for the contingencies of a minor's ownership of property or of incompetency.

Proposed new Article 93A, entitled "Protection of Persons under Disability and Their Property", is intended to simplify and standardize the laws of Maryland with respect to persons under disability. These laws are now scattered throughout the Maryland Code. The more important parts of the Maryland law dealing with these subjects may be found in the following sources:

Incompetency (Non Compos Mentis)

Article 16, Sections 111-113, 132-145, 147. Subtitles R and V of the Maryland Rules. Article 96-1/2, Sections 19-41 (Uniform Veterans' Guardianship Act).

Conservatorship Proceedings (Persons under a Disability who are not incompetent)

Article 16, Sections 149-151. Subtitle L of the Maryland Rules.

Habitual Drunkards

Article 16, Sections 43-48, 50. Subtitle R of the Maryland Rules.

Minors and Guardianship Proceedings

Article 16, Sections 15A, 51, 53-66, 72, 110-113, 184 and 198 (miscellaneous provisions). Article 16, Sections 213-222 (Uniform Gifts to Minors Act). Article 16, Sections 223-230 (Minors' Recoveries in Tort). Article 25, Section 64 (appointment of guardian to protect minor with interest in a swamp). Article 48A, Sections 367(d), 370 and 383 (provisions dealing with minors and insurance). Article 88, Section 3 (action of slander may be brought by next friend of female under 18). Article 88A, Section 12A (appointment of guardian to receive welfare benefits). Article 90, Section 3 (revocation of bond for failure to give countersecurity). Article 93, Sections 44, 164-224, 263, 274-276, 285-286. Article 96-1/2, Sections 19-41 (Uniform Veterans' Guardianship Act).

In addition to the above provisions, the repeal or amendment of all of which is recommended by the Committee, Article 37A, which consists of the Uniform Fiduciaries Act and the Uniform Act for the Simplification of Fiduciary Security Transfers, and Article 27, Section 132, which provides criminal penalties for misappropriation of assets, are applicable to guardians and committees. No change is recommended in Article 37A or Article 27, Section 132. The Uniform Absence as Evidence of Death and Absentees' Property Act (Article 16, Sections 200-212) has been retained to provide a procedure to protect the property of persons who have disappeared.

Maryland has adopted the Uniform Veterans Guardianship Act (Article 96-1/2). We now have two systems for protection of the property of minors and disabled persons, one of which applies if the property was derived, in whole or in part, from benefits paid by the Veterans Administration and its minor or disabled owner is or has been a beneficiary of the Veterans Administration, and the other of which applies to all other property. It is sometimes difficult to ascertain whether a person has ever received a benefit from the Veterans Administration and commonly impossible to determine whether property was derived in part from benefits paid by the Veterans Administration. Article 93A would provide a single system for the protection of property of minors and others unable to manage their own property, thus superseding the Uniform Veterans Guardianship Act. It would preserve the right of the Veterans Administration to appear in protective proceedings involving the property of its beneficiaries and would permit the imposition of the same safeguards provided by the superseded Uniform Veterans Guardianship Act.

Proposed Article 93A brings together into one place the subjects contained in all the diverse statutes and rules mentioned in this Introduction. It offers primarily a system of protective

proceedings to provide for the management of property of persons who are, for one reason or another, including minority, mental incapacity, habitual drunkenness, and senility not amounting to mental incompetency, unable to manage their property. No attempt has been made to deal with those statutes dealing with the physical commitment of anyone's person other than very brief provisions in Subtitle 7 relating to the appointment of the guardian of the person of a minor.

The basic outline of new Article 93A is as follows:

Subtitle 1: This subtitle contains general definitions, jurisdictional provisions, and procedural matters relating to the Orphans' Courts.

Subtitle 2: This subtitle deals with protection of the property of any minor or other disabled person. It provides generally for the appointment of a guardian who is given broad powers over the management of the estate of the minor or disabled person so that he does not have to file legal papers and obtain ministerial orders every time he wants to sell a security or pay for the necessities of his minor or disabled person.

Subtitle 3: This is the present Maryland Uniform Gifts to Minors Act, amended now only (i) to permit any type of property, including real estate, to be "custodial property" and subject to the Act, (ii) to permit custodians to be named as beneficiaries of insurance policies, and (iii) to expand the category of persons eligible to become a successor custodian to include anyone eligible to be designated an original custodian.

Subtitle 4: Is the present statutory plan for "Minors' Recoveries in Tort". No substantive changes have been made.

Subtitle 5: Collects miscellaneous statutory provisions relating to minors, such as (i) the power of minors to receive directly, without the appointment of a guardian, limited sums of money or chattels, (ii) the power of married female minors to execute conveyances, (iii) the power of minors in the armed forces to execute conveyances, (iv) and the power of minors to buy insurance.

Subtitle 6: Introduces a new concept in the Maryland law: viz., the power of attorney that is not revoked upon the disability of the principal.

Subtitle 7: Contains a brief set of rules for the appointment of the guardian of the person of a minor, and a summary of the existing statutes in Article 16 relating to the general power of the Circuit Courts to direct the care of the person of a disabled person. No extensive attempt is made, unlike the Uniform Probate Code, to deal with this type of guardian, whether for a minor or an adult. Commitment and release procedures already are detailed in Article 59.

This Report was prepared primarily by a Committee of the Section on Estates and Trusts of the Maryland State Bar Association consisting of Winston T. Brundige, Chairman, Shale D. Stiller, Robert M. Thomas, and C. M. Zacharski, Jr.

Statutory Provisions to be Repealed

Article 10, Section 42

Article 16, Section 15A, 43-48, 50-51, 53-65, 110-113, 132-145,
147-151, 213-230.

Article 21, Sections 3-4.

Article 23, Section 148.

Article 25, Section 64.

Article 48A, Sections 370 and 383.

Article 88, Section 3.

Article 88A, Section 12A.

Article 90, Section 3.

Article 93, Sections 164-224, 264.

Article 96-1/2, Sections 19-41.

Statutes to be Amended to Reflect New Terminology or Concepts

Article 48A, Section 367(d).

Article 81, Section 294(c).

Article 93, Sections 263, 274-276, 285-286.

Rules to be Amended or Repealed

Rules H, L, R, and V

Rules 5m, 179, and 205.

The remaining pages of this Report consist of a table of contents to the proposed statute and the Committee's comments to each section in the statute. The statute itself is being printed separately.

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COMMENT to Section 101

Section 101 contains the basic definitions of certain terms used from time to time throughout Article 93A, which apply unless otherwise apparent from the context.

The term "guardian" is a generic term used to describe a person or institution appointed by the Court to manage the property of a minor or a disabled person. It includes the terms "committee" and "conservator" used in present Maryland practice. The rules relating to guardians are set forth in Subtitle 2 of Article 93A.

The definition of "interested persons" in subsection (f) is of considerable importance in many sections of this Article where provision is made for the guardian to give notice of various actions to "interested persons".

Article 93A contains only brief mention of guardians of the person. See Subtitle 7 of this Article. The general provisions of Article 1 of the Maryland Code are, of course, fully applicable to Article 93A, such as, for example, the definition of "County", which includes Baltimore City, and the rules that the masculine includes the feminine and neuter, and the singular includes the plural.

COMMENT to Section 102

In the last four years the General Assembly has abolished the requirement of affidavits in corporate papers filed with the State Department of Assessments and Taxation and in documents perfecting a security interest in personal property. See §127B of Article 23 and §9-401 of Article 95B. In doing so the General Assembly has recognized that the requirement of one's taking an oath before a Notary Public or other officer is a burdensome anachronism. Cf. §9 of Article 1 stating that under certain circumstances an affirmation may be substituted for the taking of an oath.

The second sentence provides a standard method of verification, which follows substantially the provisions of Rule 21 of the Maryland Rules for swearing witnesses. Nothing in this Section is intended to relax the substantive law of perjury as applied to verification required under this Article, whether in the form of the traditional oath or the less rigorous form permitted by this Section.

COMMENT to Section 103

The provisions of Maryland Rule 104 b 2 with reference to service of process by registered mail in lieu of personal delivery would seem reasonable with respect to the first notice sent to a particular person under this Article, but too onerous as to subsequent notices of which there are likely to be many. Therefore, all notices subsequent to the first would be sufficient

if sent by ordinary mail to the address at which the first notice was received, or to a new address if requested by the addressee in writing.

COMMENT to Section 105

The jurisdictional provisions are patterned to a large extent on present law. Presently, the equity courts and Orphans' Courts have concurrent jurisdiction to protect the property of infants. See §§164-165, 259 and 263 of Article 93 for the jurisdiction of the Orphans' Courts and §25 (divorce proceedings) and §66 of Article 16 for the jurisdiction of the equity courts. In addition, §64 of Article 25 gives the Orphans' Courts the power to appoint a guardian to protect a minor who has an interest in a swamp; §12A of Article 88A gives the Circuit Courts the power to appoint a guardian for anyone (including a minor) to receive welfare benefits; and §23 of Article 96-1/2 gives concurrent jurisdiction to both courts to appoint guardians under the Uniform Veterans Guardianship Act.

The equity courts also have jurisdiction over "incompetents" §132 and 135 of Article 16, over "habitual drunkards", §43 of Article 16, and over persons having various incapacities not amounting to "incompetency", §149 of Article 16.

The Committee proposes to eliminate all of these scattered jurisdictional provisions, except for §§25 and 66 of Article 16, and to combine them in Section 105.

Under Section 105, the equity courts will have exclusive jurisdiction where a minor is not involved. The equity courts and Orphans' courts will have concurrent jurisdiction where a minor is involved, thus retaining the present system. However, once the proceeding has been initiated in the Circuit Court, or transferred to the Circuit Court, the Circuit Court shall thereafter have exclusive jurisdiction.

COMMENT to Section 106

This Section is derived from §§259 and 287 of Article 93. The Committee does not intend to change the existing powers of the Orphans' Court except in one instance. The guardian will have title to all of the minor's real estate, and the Orphans' Court's jurisdiction over real estate will be the same as its jurisdiction over personal property.

The Committee did not feel that it was necessary to describe in detail all of the rules which the Court of Appeals of Maryland has developed in setting forth those areas in which the

Orphans' Court does not have jurisdiction. These rules, for example, prohibit the Orphans' Court from exercising jurisdiction over questions of title. The Committee does, however, intend that all of the rules which have been developed by the Court of Appeals for determining whether the Court has jurisdiction over any particular matter will continue to be the law. These rules shall not, however, affect the Court's general jurisdiction if the court is a court which has general equity jurisdiction.

The Committee felt that the general statement of power, to wit, that the Court "shall have full power to secure the rights of minors" is sufficiently broad so that it is not necessary to itemize separate powers, such as to examine, hear, and decree upon accounts, claims, and demands (§263 of Article 93), and to authorize the compromise of any claim (§286 of Article 93).

COMMENT to Section 107

The present law provides for power in the Orphans' Court to summons witnesses [§265 (Md)] and extends the deposition procedure set forth in the Maryland Rules to the Orphans' Court [§279 (Md)]. The Committee's recommendation would continue these powers. In addition, the Commission felt that the general rule for the summoning of witnesses and for all discovery and not merely depositions, should be applicable to the Orphans' Court.

The Orphans' Court may prescribe such other rules as it deems advisable, not inconsistent with the Maryland Rules. See §27 of Article 26. The Court of Appeals may also prescribe rules for the Orphans' Courts. See §18 of Article IV of the Maryland Constitution. Compensation of witnesses in the Orphans' Courts will continue to be governed by §18 of Article 35.

COMMENT to Section 108

This Section is intended to continue the present practice now set forth in §§278, 280 and 281 of Article 93. See Sykes, Maryland Probate Law and Practice (2d ed. 1956), §§221-229. No substantive changes are intended.

Provisions for the taking of an appeal from a decision of the Court are contained in §§9 through 11 (appeal to Court of Appeals) and §§25 and 26 (appeal to Circuit Court) of Article 5.

COMMENT to Section 201

This is the basic section of Subtitle 2, which provides for guardianship proceedings for the property of minors and disabled persons. "Protective proceedings" is a generic term used to describe proceedings to establish guardianship and obtain protective orders. "Disabled persons" is used in this section to include a broad

category of persons who, for a variety of different reasons, may be unable to manage their own property. This term replaces the present Maryland procedures for protecting the property of incompetents, drunkards, persons unable to manage their own affairs, etc. Since the problems of property management are generally the same for minors and disabled persons, it is not necessary to treat these problems in separate statutes. Where there are differences these have been separately treated in separate sections of Article 93A. Where a person has disappeared, proceedings should be instituted under the Uniform Absence as Evidence of Death and Absentees' Property Act, contained in Sections 200-212 of Article 16.

COMMENT to Section 202

Venue for protective proceedings lies in the county of residence (rather than domicile) or, in the case of the non-resident, where his property is located. Unitary management of the property is obtainable through easy transfer of proceedings (section 202(d)). See also §§164-165 of Article 93, and Rules L 70b., R71, and R72, dealing with venue in certain proceedings, all of which can be repealed.

COMMENT to Section 203

The court which is supervising a guardianship is given all the powers which the individual would have if he were of full capacity, subject, of course, to the limitations on the powers of the Orphans' Court contained in Section 106. In an emergency, the Court may, subject to these limitations, pass appropriate orders before the appointment of a guardian is made; however, this practice should occur only where, in similar circumstances, an equity court would be authorized to issue an ex parte injunction. See Maryland Rule BB72.

The powers are broad enough to include the powers presently given to the Maryland courts to direct any third party to turn over to the guardian any property belonging to the minor (§179 of Article 93), to order the guardian to sell any asset (§§187-189 and 191 of Article 93), to order the guardian to invest funds (§§190, 192-193 of Article 93), to proceed against the guardian in cases of waste (§213 of Article 93), to summons a guardian in default (§285 of Article 93), to order the sale, mortgage, lease, or exchange of property (§§51 and 53-63 of Article 16), and to exercise various other powers with respect to the protected person's property (§110-113 of Article 16). The powers are also broad* to include all the powers *enough of the equity courts over the property of incompetents (§§111-113 and §§132-147 of Article 16) and of persons under conservatorship (§150 of Article 16). With respect to the*last sentence of Section next-203, cf. §4 of Article 31A, concerning the right to declaratory relief.

COMMENT to Section 204

It is important that provision be made for the approval of single transactions or the establishment of protective arrangements as alternatives to full guardianship. Under present law, a guardian or committee often must be appointed simply to make possible a valid transfer of land or securities. This section eliminates the necessity of the establishment of long-term arrangements in this situation.

Courts of equity in Maryland have had the power, among other things, to make the appointment of a guardian for an infant, to order the sale, mortgage, lease or exchange of an infant's property. See §51-63 of Article 16. In view of Section 204, these provisions will no longer be necessary. Because only the equity courts have had these powers in Maryland, Section 204 is limited to the Circuit Courts.

COMMENT to Section 205

Many persons who are in need of a guardianship or other protective arrangement may be completely competent insofar as the care of their own person is concerned. This is presently recognized in Maryland in §§149-151 of Article 16 and Subtitle L of the Maryland Rules, all of which would now be repealed.

COMMENT to Section 206

This section permits independent administration of the property of minors or disabled persons once the appointment of a guardian has been obtained. Any interested person may require the guardian to account in accordance with Sections 209(b). As a trustee, a guardian holds title to the property of the minor or disabled person. The appointment of a guardian is a serious matter and the court must select him with great care. Once appointed, he is free to carry on his fiduciary responsibilities. If he should default in these in any way, he may be made to account to the court. The second sentence of Section 206 is similar to §170 of Article 93. As to the eligibility of certain corporations to be a guardian, see also §58 of Article 11.

COMMENT to Section 207

This section provides a flexible system of priorities for appointment as conservator. In addition to naming the guardian of a person in his will (Section 701), a parent may name a guardian of property for his minor children in his will if he deems this desirable. The Committee has also, in subparagraph (b), authorized a healthy person, by inter vivos written instrument, to designate a guardian in the event he becomes disabled. Subparagraph (d), permitting parents to be named, continues the present Maryland practice with respect to minors. See §166 of Article 93. Finally, Section 207 is also intended to complement the provisions of §25 of Article 16, which gives the divorce court the power to determine the guardian of the person of any child. It is recommended that §25 of Article 16 be broadened to give the divorce court the power to appoint a guardian also. The last sentence of Section 207 will reverse the rule in §133 of Article 16.

COMMENT to Section 208

Section 208 represents a substantial departure from the present Maryland law which requires a bond for all guardians or committees where the estate exceeds \$10,000. See §175 of Article 93 and Rule V73. Section 208 gives the Court discretion to waive the requirement of a bond in all instances; moreover, subparagraph (a) states that no bond shall be required where the guardian is a corporation - see Rule V73 f, where the instrument appointing the guardian under Section 207(b) or 207(f) excused the guardian from bond, where the estate is less than \$10,000 - See Rule V73d, or in any other case which the Court deems appropriate.

The last sentence of subparagraph (b) ~~xxxxxxx~~ is derived from §178 of Article 93. The provisions of §177 of Article 93, which authorize a person who is a guardian for more than one minor to furnish only one bond is unnecessary in view of the Court's broad control over the nature of the bond and the fact that the corporate guardian (for whom §177 of Article 93 was primarily directed) no longer has to furnish any bond.

Another major change in the Maryland law will be the reduction in the amount of the bond. Generally, the bond was in an amount equal to the value of the estate. See, e.g., Rule V73c. This is often a needless expense. Subparagraph (b) will permit the amount of the bond to be reduced by the amount of any securities or cash deposited with a bank requiring a court order for their removal and by the value of any real estate which the guardian agrees not to sell without court approval. *The terms of bond for the guardian of a minor presently appointed by the Orphans' Court are set forth in §176 of Article 93. See also Subtitle H of the Maryland Rules. The Commission recommends the adoption of rules dealing with the terms and requirements of bonds, including provisions for counter-security, if necessary. *Cf. §44 of Article 93.

Even without a bond, the defaulting guardian is liable under both the civil law (Section 216 of this Article) and the criminal law (§132 of Article 27).

COMMENT to Section 209

Interested persons are entitled to copies of the inventory of the estate of the protected person. They may appeal to the court if there is any question as to the management of the estate. A final accounting is required upon termination. The requirement of annual accounting reflects the present Maryland practice. See §186 of Article 93 and Rule V74e. The account need not be filed in court, however, if it is given to the minor or disabled person (if he is over 16 and has sufficient mental capacity to understand the account) and to any parent or guardian with whom he resides. The advantage of filing the account with the Court is that it removes the guardian's liabilities to the minor or disabled person as to matters disclosed in the account.

fully

The provisions of the present law relating to inventories and accountings are found in §§180, 183, 185, 186, 197, 199-200, 204, 210, and 211 of Article 93 and Rule V74. The detailed requirements, both as to the contents of the account and appraisals, contained in these provisions are unnecessary. The Committee recommends the adoption of a rule which will set forth the form of an account and the manner of valuation of assets and which will enable these to be done with a minimum of expense and red tape. On a final distribution, the Court's order will release the guardian from any further liability. Therefore, those provisions of Article 79 and Rule V78 dealing with guardians and committees can be eliminated. The Committee has not retained §202 of Article 93, the effect of which was to excuse a guardian from filing an account where the annual income is less than \$50.00.

COMMENT to Section 210

Once a guardian has been appointed, the Court supervising the estate acts only upon the request of some moving party. Under Subsection (a) any interested person may petition the Court for relief, and under Subsection (b), the guardian may ask the Court for instructions in a matter relating to the administration of the estate. In view of the paucity of authority in Maryland as to the effect of a court order in providing protection to a fiduciary who wishes to perform an act not authorized by a governing instrument [see Goldsborough v. DeWitt, 175 Md. 225 (1937)], the Committee takes no position as to the effect of a petition by the guardian and an order of Court thereon giving judicial approval of the manner in which he proposes to exercise the power. See also Section 216 (civil liability) and §132 of Article 27 (criminal liability). See also §4 of Article 31A, permitting declaratory relief.

COMMENT to Section 211

Jury trials have been abolished in proceedings involving the property of a disabled person. See §135 of Article 16. In re Easton, 214 Md. 126 (1957).

COMMENT to Section 212

The guardian owes the same duties to the protected person that a trustee of a private trust owes to his beneficiary.

COMMENT to Section 213

Section 213(a) is intended to give to guardians a broad catalogue of powers. The Committee felt that the granting of these powers would permit the prompt and inexpensive administration of the estates of minors and disabled persons. The traditional "safeguard" of a Court order is generally a perfunctory device leading to unnecessary and undesired expense and delay which in recent years have come more and more within the justified criticism, if not suspicion in some cases, of the general public. If a power is improperly exercised, relief may be obtained under Section 216.

The rule of §194 of Article 93, which invalidated sales made by a guardian of a minor without prior judicial approval, is, of course, eliminated. Section 213 reflects the theory of §196 of Article 93 which states that §194 is not applicable where a guardian appointed by will is given the authority to sell without court approval. Other unnecessary provisions, in view of the breadth of Section 213, are §186 of Article 93, requiring the approval of the circuit court and the orphans' court before a guardian of a minor can sell real estate, §181 of Article 93, dealing with the power to cut down and sell wood, §182 of Article 93, dealing with the power

to cultivate and lease real estate. See also §§137, 139-141, 143, and 149 of Article 16, all of which can be eliminated. Article 48A, §367(d), dealing with the insurable interest of a guardian, can be retained, but it is recommended that the requirement of prior judicial approval to purchase insurance be deleted.

The power to hold assets in the name of a nominee continues the rule of §198 of Article 16 and Rule V76, which can now be modified to eliminate references to guardians and committees, the power to effect compromises will mean that Rule V77 will be applicable only where the guardian wants judicial approval of a compromise, and the power to prosecute suits will result in the elimination of §212 of Article 93, a curious provision which allowed treble damages against a trespasser on a ward's property.

Subparagraph (b) of Section 213 is derived from §138(a) of Article 16.

COMMENT to Section 214

This section sets out those situations wherein the guardian may, without court approval, distribute property or disburse funds during the continuance of or on termination of the estate. Basically, the guardian may pay out or apply income and principal for the benefit of the minor or the disabled person, for the benefit of persons legally dependent on the minor or disabled person, or, with the approval of the Court, for the benefit of persons who the disabled person was supporting before disability. The money may be paid directly to the minor or disabled person or, as will happen in most instances, may be paid directly to the person who furnishes the care or other service to the minor or disabled person.

The requirements of court approval to spend money for maintenance and education of a minor contained in §§186 and 198 of Article 93 and §110 of Article 16 are, if Section 214 is adopted, unnecessary and can be eliminated. The third sentence of subsection (b) is similar to, though broader than, §135A of Article 16, which can also be eliminated.

COMMENT to Section 215

This section makes it possible to appoint a fiduciary whose powers are limited to part of the estate or who may conduct important transactions, such as sales and mortgages of land, only with special court authorization. In the latter case, a guardian would be in much the position of a guardian of property under the law currently in force in Maryland.

In order to reduce the amount of the bond under Section 209(b), the guardian himself may want to limit his powers to sell land or withdraw securities or funds from a bank.

The court may not only limit the powers of the guardian but may expand his powers so as to make it possible for him to act as the court itself might act.

As to the Orphans' Courts, the powers given to the Court by this Section will, of course, be limited by Section 106.

COMMENT to Section 217

In order to protect the chain of title to land of a minor or disabled person, provision is made for recordation of letters and court orders affecting the guardianship.

COMMENT to Section 218

§198 of Article 93 and §142 of Article 16 allow guardians and committees a commission not to exceed ten percent of the income (and expenses, in the case of a committee). The Committee felt that the standard of "reasonable" compensation was preferable.

COMMENT to Section 219

This provision broadens the effect of §209 of Article 93, which contained protection for third parties who dealt, in good faith, with a guardian who was irregularly appointed. The latter provision will no longer be necessary.

COMMENT to Section 220

The duty to deliver the protected person's estate to a successor guardian is derived from §§206-208 of Article 93. Subparagraph (b) (2) states the same idea as §207 of Article 93 and §184 of Article 16. The present rules with respect to the duties of the personal representatives of a deceased guardian are set forth in §§169 and 203 of Article 93. Provisions for the appointment of successor guardians are contained in §169 of Article 93. The reasons for removal of a guardian, set forth in §§194-195, relating to sales made by guardians without an order of court, are no longer applicable in view of Section 213. A guardian may be removed by the Orphans' Court under §§264 and 274 of Article 93. The requirement of subparagraph (c) (4) is similar to the requirement in §276 of Article 93. All of these provisions can be eliminated, except that §184 of Article 16 applies to fiduciaries other than conservators.

The Committee also recommends that the procedure set forth in Rule V81, relating to resignation of fiduciaries, be repealed as to guardians. The rule is unnecessarily complex as to guardians. The Committee also recommends that Rules V82 and V84 (appointment of successor guardians and removal of guardians) be rewritten to conform to Section 220. Finally, the Committee recommends that §275 of Article 93 and Rule V83, dealing with guardians and committees in the military service, be repealed as to guardians under Article 93A.

COMMENT to Section 221

Any interested person may seek the termination of a guardianship when there is some question as to whether it is still needed. In some situations (e.g., the individual who returns after being missing), it may be perfectly clear that he is no longer in need of a guardianship. Upon termination, the guardians should file a final account pursuant to Section 210.

COMMENT to Section 222

The purpose of this provision is to permit a foreign guardian easily to obtain any property located in Maryland and to take it to the residence of the protected person for management or to deal with the property in Maryland without the necessity of instituting a separate guardianship proceeding in Maryland. This notion is also present in §§215-222 of Article 93, and in §148 of Article 16, but the requirement in §148 of Article 16 of notice to creditors has been eliminated. The procedure of Rule 179, dealing with sales of Maryland real estate by foreign fiduciaries, can be amended to delete any reference to guardians.

Section 207 gives a foreign guardian of property appointed by the state where the disabled person resides first priority for appointment as guardian in Maryland, if for any reason he desires to be appointed as a guardian in Maryland. If there be no foreign guardian, one must be appointed in the foreign jurisdiction or in Maryland to exercise the powers given in Section 222. This procedure is authorized in §223 of present Article 93. See also Section 202.

COMMENT to Subtitle 3.

This Subtitle is derived from §§213-222 of Article 16. The only substantive changes are (i) to permit any type of property to be given to a custodian, including partnership interests, interests in real estate, and tangible personal property, and (ii) to permit a custodian to be designated as the beneficiary of any life insurance policy, and (iii) to broaden the class of people who can be successor custodians. With respect to the first change, the revisions also give the custodian the power to deal with real estate, if an interest in real estate is transferred to the custodian.

COMMENT to Subtitle 4

This Subtitle is derived from §§223-230 of Article 16 with no substantive change.

COMMENT to Section 501

Subsection (a) is derived from §383 of Article 48A, which will no longer be necessary. The present provision in Article 48A deals only with payments by insurance companies. The Committee felt, however, that it would be desirable to broaden the statute to deal with payments made by anyone to a minor.

The theory of Subsection (a) is that where a minor ~~or incompetent person~~ has only a small amount of property, it would be wasteful to require protective proceedings to deal with the property. This subsection makes it possible to handle the less complicated property affairs of the minor without the appointment of a guardian. The present provision in Article 48A has also been broadened in the following manner: (a) the \$3,000 annual limit has been increased to \$5,000, (b) Section 501 also applies to tangible chattels, (c) the distribution may be made to any parent or grandparent with whom the minor resides, or to a financial institution.

Subsection (b) is derived from §15A of Article 16 and §172(b) of Article 93 (Chapter 51 of the Acts of 1958).

COMMENT to Section 502

Subsection (a) is derived from §3 of Article 21; subsection (b) is derived from §4 of Article 21; subsection (c) is derived from §370(b)-(e) of Article 48A; and subsection (d) is new and is self-explanatory. The cited provisions of the present law can be repealed.

COMMENT to Section 503

This provision is derived from §148 of Article 23, which should now be repealed.

COMMENT to Section 601

This section permits a person who is sui juris to execute a power of attorney which will become or remain effective in the event he should later become disabled. If the court should subsequently appoint a guardian, the latter may either permit the attorney in fact to continue to act or revoke the power of attorney. This section is derived from Code of Va. (1950) (1964 Replacement Volume), Sec. 11-9.1.

COMMENT to Section 602

This section adopts the civil law rule that powers of attorney are not revoked on death or disability until the attorney in fact has actual knowledge of the death or disability. Provision is made for proving lack of knowledge by affidavit and the recording of the affidavit to protect transactions that might otherwise be invalidated at common law. This section is derived from Code of Va. (1950) (1964 Replacement Volume), Sec. 11-9.2. This provision is similar to §42 of Article 10, which can be repealed.

COMMENT to Section 603

Most members of the armed services who are sent overseas are requested by the Department of Defense to sign "powers of attorney". Section 603 will prevent the revocation of the power if they are reported to be missing in action. This Section is derived from Code of Va. (1950) (1964 Replacement Volume), Sec. 11-9.3.

COMMENT to Sections 701-703

The Committee recommends the continuation of the very simple procedures in Maryland with respect to guardians of the person of a minor. The rules set forth in Sections 701-703 are intended to reflect the current Maryland practice.

Testamentary appointment of guardians has been a common practice in Maryland. Both §4 of Article 72A and §163 of Article 93 authorize the practice, although the relationship between these statutes has never been clear. Both of these statutes can be repealed if Section 701 is adopted. Where there is no testamentary appointment, a judicial proceeding for the appointment of a guardian of the person will ordinarily be unnecessary unless there is a family squabble over the guardian.

The Committee rejected the view that this Article should indicate priorities for appointment among relatives of the minor for whom a guardian is sought. Rather, it was felt that the only priority should be for the person nominated by the minor. The important point is to locate someone whose appointment will be in the best interests of the minor. If there is contention among relatives over who should be named, it is not likely that a statutory priority keyed to degrees of kinship would help resolve the matter. For example, if the argument involved a squabble between relatives of the child's father and relative of its mother, priority in terms of degrees of kinship would be useless.

The Committee also considered, but rejected, a proposal to define the powers, rights, and responsibilities of a guardian of the person; the Committee concluded that the common law on the subject was adequate and was not susceptible of statutory treatment. No change is recommended in §180 of Article 23 relating to institutions for the protection of minors.

COMMENT to Section 704

This Section is derived from §§132 and 144 of Article 16. It is also intended to replace §§43-48 and 50, relating to the commitment of habitual drunkards, which are generally archaic. No change in the law with respect to commitment of the person of incompetents is intended. See also Article 59 and Chasanow, "Civil and Criminal Commitment of the Mentally Ill in Maryland", 21 Md. L. Rev. 279 (1961). The Committee also recommends the repeal of §§134 and 145 of Article 16, relating to the use of jury trials in sanity proceedings, because Article 59 already covers this subject in a more complete manner

House of Delegates

No. 558

BY DELEGATE KIRCHER—Judiciary

By order, JAMES P. MAUSE, Chief Clerk.

Introduced, read first time and referred to the Committee on Judiciary.

By the HOUSE OF DELEGATES, February 4, 1969.

A BILL

ENTITLED

AN ACT to repeal Sections 164 to 214, inclusive, of Article 93 of the Annotated Code of Maryland (1964 Replacement Volume and 1968 Supplement), title "Testamentary Law," subtitle "Guardian and Ward," Sections 215 to 224, inclusive, of said Article 93, subtitle "Guardians and Infants Not Residing in this State," and Section 264 of said Article 93, subtitle "Orphans' Court," and to enact a new Article 93A, title "Protection of Minors and Other Persons Under Disability" in place of the sections so repealed; to follow immediately after Article 93 of the Code; to repeal the following sections of the Annotated Code of Maryland (1957 Edition, as from time to time replaced, amended and supplemented) (all section references being inclusive): Section 42 of Article 10 of the Code (1968 Replacement Volume), title "Attorneys at Law and Attorneys in Fact," subtitle "Attorneys in Fact"; Section 15A of Article 16 of the Code (1966 Replacement Volume), title "Chancery," subtitle "Distribution"; Sections 43 to 48 and Section 50 of said Article 16, subtitle "Inebriates"; Sections 51 and 53 to 65 of said Article 16, subtitle "Infants"; Sections 110 to 113 of said Article 16, subtitle "Jurisdiction"; Sections 132 to 145, and 147 of said Article 16, subtitle "Non Compos Mentis"; Section 148 of said Article 16, subtitle "Nonresidents"; Sections 149 to 151 of said Article 16, subtitle "Conservators"; Sections 213 to 222 of said Article 16, subtitle "Uniform Gifts to Minors Act"; Sections 223 to 230 of said Article 16, subtitle "Minors' Recoveries in Tort"; Sections 3 to 4 of Article 21 of the Code (1966 Replacement Volume), title "Conveyancing," subtitle "Conveyances in General"; Section 148 of Article 23 of the Code (1966 Replacement Volume), title "Corporation," subtitle "Building or Homestead Associations"; Section 64 of Article 25 of the Code (1966 Replacement Volume), title "County Commissioners," subtitle "Draining Lands"; Sections 370 and 383 of Article 48A of the Code (1968 Replacement Volume), title "Insurance Code," subtitle "Insurance Contracts Generally"; Section 3 of Article 88 of the Code (1964 Replacement Volume), title "Slander of

EXPLANATION: *Italics indicate new matter added to existing law.*
[Brackets] indicate matter stricken from existing law.

Females"; Section 12A of Article 88A of the Code (1964 Replacement Volume), title "State Department of Public Welfare," subtitle "In General"; Section 3 of Article 90 of the Code (1964 Replacement Volume), title "Sureties," subtitle "Countersecurity"; Sections 19 to 41 of Article 96½ of the Code (1964 Replacement Volume), title "Veterans," subtitle "Veterans' Guardianship"; to repeal and re-enact, with amendments, Section 367(d) of Article 48A of the Code (1968 Replacement Volume), title "Insurance Code," subtitle "Insurance Contracts Generally"; to repeal and re-enact, with amendments, Section 294(c) of Article 81 of the Code (1965 Replacement Volume), title "Revenue and Taxes," subtitle "Income Tax"; providing for the revision and recodification, in a uniform structure, of the laws relating to guardians, committees, conservators, and the protection of property of minors, incompetents, drunkards, senile persons, and other persons generally unable to manage their affairs and property; providing for revisions of the Uniform Gifts to Minors Act with respect to the type of property which may be owned by custodians, to the qualifications of successor custodians, and to the designations of custodians as beneficiaries of insurance policies; providing for payment to trustees of tort recoveries on behalf of minors; giving minors the power to receive certain property directly, to execute deeds in certain circumstances, and to purchase insurance; providing rules relating to powers of attorney, including certain provisions that enable powers of attorney to remain in effect notwithstanding the disability of the principal; and providing rules relating to guardians of the person of minors and other disabled persons.

SECTION 1. *Be it enacted by the General Assembly of Maryland,*
That Sections 164 to 214, inclusive, of Article 93 of the Annotated
Code of Maryland (1964 Replacement Volume and 1968 Supplement),
title "Testamentary Law," subtitle "Guardian and Ward, Sections
215 to 224, inclusive, of said Article 93, subtitle "Guardians and
Infants Not Residing in this State," and Section 264 of said Article
93, subtitle "Orphans' Court," be and they are hereby repealed, and
that a new Article 93A, title "Protection of Minors and Other
Persons Under Disability" be and it is hereby enacted in place of the
sections so repealed, to follow immediately after Article 93 of the
Code to read as follows:

ARTICLE 93A

PROTECTION OF MINORS AND OTHER PERSONS UNDER DISABILITY

Subtitle 1

General Provisions

101. *Definitions and Use of Terms.*

When used in this Article, unless otherwise apparent from the context:

(a) a "disabled person" is (a) one who, for reasons listed in Section 201 other than minority, has been judged by a Court to be unable to manage his property effectively, and (b) for whose estate a guardian has been appointed;

(b) "Court" means the Court having jurisdiction under Section 105;

(c) "estate" is the property of a disabled person or minor which is subject to a protective proceeding;

(d) a "guardian" (unless succeeded by the words "of the person") is one appointed by a court under Subtitle 2 to manage the property of a disabled person or a minor;

15 (e) "heirs" denotes those persons who would be entitled under
 16 the laws of Maryland to the property of protected persons as if, at
 17 the applicable time, he had died intestate;

18 (f) "interested persons" shall mean the guardian, the heirs of
 19 the minor or disabled person, the minor or disabled person, and any
 20 governmental agency paying benefits to the minor or disabled per-
 21 son; if any interested person is also a minor or disabled person,
 22 "interested persons" shall also include any judicially appointed
 23 guardian, committee, conservator, or trustee for such person, if any,
 24 and if none, then the parent or other person having assumed respon-
 25 sibility for such person;

26 (g) "Maryland Rules" means the Rules promulgated by the
 27 Court of Appeals of Maryland under the authority of the Constitu-
 28 tion and Laws of Maryland;

29 (h) a "minor" is a person who has not reached his twenty-first
 30 birthday;

31 (i) "property" includes both real and personal property;

32 (j) a "protective proceeding" is a proceeding in accordance with
 33 Subtitle 2.

34 102. Verification under this Article.

35 When a writing is required by this Article to be verified, verifica-
 36 tion shall be sufficient if the writing is signed by the person required
 37 to make the verification and contains the following representation:

38 I do solemnly declare and affirm under the penalties of perjury
 39 that the contents of the foregoing document are true and correct to
 40 the best of my knowledge, information, and belief.

1 103. Notice.

2 Unless personal service or notice by publication is expressly re-
 3 quired in this Article or by the Maryland Rules, the first notice re-
 4 quired or permitted to be given to any person under this Article
 5 shall be sufficient if deposited as registered or certified mail, postage
 6 prepaid, return receipt requested, addressed to the addressee at the
 7 address last known to the sender, with delivery restricted to the ad-
 8 dressee. Any subsequent notice to such person in accordance with
 9 this Article shall be sufficient if deposited as ordinary mail, postage
 10 prepaid, addressed to the same address at which the first notice was
 11 received, as evidenced by return through the post office of the return
 12 receipt for such notice, or, after notice in writing from the said ad-
 13 dressee of a change of address, to his new address. If no return re-
 14 ceipt is received apparently signed by the addressee, and there is
 15 no proof of actual notice, no action taken in any proceeding under
 16 this Article shall prejudice the rights of the person entitled to notice
 17 unless proof is made by verified writing to the satisfaction of the
 18 Court or Register that reasonable efforts to locate the addressee and
 19 warn him of the pendency of the action have been made.

20 104. Construction of Article.

21 (a) Purposes. The purposes of this Article are to simplify the
 22 administration of the estates of minors and disabled persons, to re-
 23 duce the expenses of administration, to clarify the law governing the
 24 estates of minors and disabled persons, and to eliminate certain pro-
 25 visions of existing law which are archaic, often meaningless under
 26 modern procedures, and no longer useful. This Article shall be lib-
 27 erally construed and applied to promote its underlying purposes.

28 (b) Severability. If any provision or clause of this Article, or
 29 application thereof, to any person or circumstance is held invalid,

30 such invalidity shall not affect other provisions or applications of
 31 the Article which can be given effect without the invalid provision
 32 or application, and to this end the provisions of this Article are de-
 33 clared to be severable.

34 105. *Jurisdiction of Subject Matter.*

35 (a) *Minors*—The Orphans' Courts and the Circuit Courts shall
 36 have concurrent jurisdiction over guardians of the person of any
 37 minor and over protective proceedings for minors. Any matter initi-
 38 ated in the Orphans' Court may, upon petition of any interested per-
 39 son, be transferred to the Circuit Court.

40 (b) *Disabled Persons*—The Circuit Courts shall have exclusive
 41 jurisdiction over protective proceedings for disabled persons.

42 106. *Powers of the Orphans' Courts.*

43 The Orphans' Court shall have full power to secure the rights of
 44 minors whose estates are being administered under its jurisdiction
 45 by a guardian. The Orphans' Court shall not, under the pretext of
 46 incidental power or constructive authority, exercise any jurisdiction
 47 not expressly conferred by law.

48 107. *Enforcement; Rules of Court.*

49 The Orphans' Court shall have the same legal and equitable powers
 50 under this Article to effectuate its jurisdiction, punish contempts,
 51 and carry out its orders, judgments and decrees as it has under Arti-
 52 cle 93. The Maryland Rules for the summoning of a witness, and for
 53 depositions and discovery, shall apply to all actions and proceedings
 54 of the Orphans' Court in the same manner and with like effect as
 55 they apply to the law and equity courts of this State.

1 108. *Plenary proceeding.*

2 In any controversy in the Orphans' Court, issues of fact may be
 3 determined by the Orphans' Court or, at the request of any interested
 4 person made within such time as may be determined by the Orphans'
 5 Court, by a court of law. Where such request is made before the Or-
 6 phans' Court has determined the issue of fact, the Orphans' Court
 7 shall transmit the issues to a court of law. After the determination
 8 of the issue, whether by the Orphans' Court or after transmission
 9 to a court of law, the Orphans' Court shall enter an appropriate
 10 judgment or decree. This Section shall not apply where the estate is
 11 administered under the jurisdiction of a court having general equity
 12 jurisdiction.

13 109. *Register of Wills.*

14 The powers and duties of the Register of Wills in proceedings in
 15 the Orphans' Courts under this Article shall be the same, where ap-
 16 propriate to proceedings under this Article, as the powers and duties
 17 of the Registers under Article 93. The Register shall also maintain
 18 such record books as may be desirable.

19 Subtitle 2

20 *Protection of Property of Minors and Disabled Persons*

21 201. *Appointment of Guardian.*

22 Upon petition, and after such notice as may be prescribed by law
 23 or the Maryland Rules, and hearing, the Court may appoint a guard-
 24 ian of the property of a minor or a disabled person.

25 (a) *Minors.* Appointment of a guardian shall be made with re-
 26 spect to the estate of a minor if the Court determines (a) that a
 27 minor owns or is entitled to property that requires management or

28 protection, or (b) that funds are needed for his support, care, wel-
 29 fare, and education and that protection is necessary or desirable to
 30 obtain or provide funds.

31 (b) Disability other than minority. Appointment of a guardian
 32 shall be made with respect to the estate of a person if the court de-
 33 termines that (a) the person is unable to manage his property and
 34 affairs effectively because of physical or mental disability, senility,
 35 or other mental weakness, disease, habitual drunkenness, addiction
 36 to drugs, imprisonment, compulsory hospitalization, confinement, de-
 37 tention by a foreign power, or disappearance; and (b) the person
 38 has property which may be wasted or dissipated unless proper man-
 39 agement is provided, or that funds are needed for the support, care,
 40 welfare, and education of the person or those entitled to be supported
 41 by him and that protection is necessary or desirable to obtain or pro-
 42 vide funds.

1 202. Venue.

2 Venue for proceedings under this Subtitle shall be:

3 (a) Resident: In the county in this State where the alleged dis-
 4 abled person or minor resides;

5 (b) Non-resident: If the alleged disabled person or minor does
 6 not reside in this state, in any county where he is physically present
 7 or he has property. For purposes of determining the situs of prop-
 8 erty, the situs of tangible personal property is its location; the situs
 9 of intangible personal property is the location of the instrument, if
 10 any, evidencing a debt, obligation, stock or chose in action, or the
 11 residence of the debtor if there is no instrument evidencing a debt,
 12 obligation, stock, or chose in action; and the situs of an interest in
 13 property held in trust is located where the trustee may be sued.

14 (c) Proceedings in more than one county. If proceedings are
 15 commenced in more than one county, they shall be stayed except in
 16 the county where first commenced until final determination of venue
 17 is made there. In the case of a non-resident, the protective proceed-
 18 ings first commenced in a proper county shall extend to all of the
 19 property of the minor or disabled person in this state.

20 (d) Transfer of proceedings. Upon petition of any interested
 21 person, if it appears to the court at any time after the adjudication
 22 of need for protection that it would be for the best interest of the
 23 minor or disabled person and his estate, the court, in its discretion,
 24 may order the proceedings and files transferred to the equivalent
 25 court of another county in this state or any other state.

1 203. Permissible Court Orders.

2 While a petition for appointment of a guardian or other protec-
 3 tive order is pending, the Court, without notice to others, shall have
 4 the power to preserve and apply the property of the alleged disabled
 5 person or minor as may be required. The Court shall not exercise
 6 such power unless it appears from specific facts shown by affidavit
 7 that immediate, substantial, and irreparable injury will result to the
 8 applicant before an adversary hearing can be had. The Court may,
 9 in its discretion, communicate informally with the minor or disabled
 10 person prior to taking action. Any order shall be served forthwith
 11 on the minor or disabled person by the quickest possible means.
 12 After appointment of the guardian, the Court shall have all those
 13 powers over the property of the minor or disabled person which he
 14 could exercise if he was not disabled or a minor, except that the pow-
 15 ers of the Orphans' Courts shall be limited by Section 106 hereof. A
 16 guardian or any other interested person may at any time invoke the
 17 jurisdiction of the Court to resolve questions concerning the estate
 18 or its administration.

19 204. *Authorization of Single Transactions Without Appointment.*

20 When it has been established in a proper proceeding that a basis
 21 exists as described in Section 201 for assuming jurisdiction over the
 22 property of a minor or disabled person, the Circuit Court, without
 23 appointing a guardian, may authorize or direct any transaction with
 24 respect to the property of the minor or disabled person or any serv-
 25 ice or care arrangement with respect to the minor or disabled per-
 26 son. Such transactions include, but are not limited to, payment, de-
 27 livery, deposit or retention of funds or property, sale, mortgage,
 28 lease or other transfer of property, purchase of contracts for an an-
 29 nuity, for life care, for training, or for education. Before approving
 30 a transaction or arrangement under this section, the Court shall
 31 consider the interests of creditors and dependents of the minor or
 32 disabled person and, in view of his disability, whether the property
 33 of minor or disabled person needs the continuing protection provided
 34 by a guardian.

35 205. *Significance of Adjudication Concerning Need for Protection.*

36 Adjudications under this Subtitle shall have no bearing on the
 37 issue of capacity of the alleged disabled person to care for his own
 38 person.

39 206. *Guardians.*

40 The court may appoint a natural person or a corporation with
 41 power to serve as a trustee as guardian of the property of the minor
 42 or disabled person. The appointment of a guardian vests in him title
 43 to all property of the minor or protected person, presently held or
 44 thereafter acquired. The appointment of a guardian is not a trans-
 45 fer or alienation within the meaning of the provisions of any federal
 46 or state statute or regulation, insurance policy, pension plan, con-
 47 tract, will or trust instrument, imposing restrictions upon or penal-
 48 ties for transfer or alienation by the minor or disabled person of his
 49 rights or interest. A guardian holds title to property under a statu-
 50 tory power and shall utilize powers conferred by this Subtitle to
 51 perform the services, exercise the discretion and discharge the
 52 duties herein described for the best interests of the minor or dis-
 53 abled person and his dependents. The guardian shall be deemed to
 54 be the statutory agent of the minor or disabled person for the pur-
 55 pose of filing all government reports and returns, including, but not
 56 limited to, income and other tax returns.

1 207. *Priorities for Appointment as Guardian.*

2 The following, in the order listed, are entitled to priority for ap-
 3 pointment as guardian for a minor or disabled person:

4 (a) a conservator, committee, guardian of property or other like
 5 fiduciary appointed by any appropriate court of any foreign juris-
 6 diction in which the minor or disabled person resides;

7 (b) a person or corporation nominated by the minor or disabled
 8 person if such designation was signed by the minor or disabled per-
 9 son after his sixteenth (16th) birthday, and, in the opinion of the
 10 court, he had sufficient mental capacity to make an intelligent choice
 11 at the time he executed such designation;

12 (c) his spouse;

13 (d) his parents;

14 (e) a person or corporation nominated by the will of a deceased
 15 parent;

16 (f) his children;

17 (g) the persons who would be his heirs if he were dead;

18 (h) a person or corporation nominated by a person who, or in-
19 stitution, organization, or public agency which, is caring for him;

20 (i) a person or corporation nominated by a governmental agency
21 which is paying benefits to him.

22 A person in priorities (a), (c), (d), (f), or (g) may nominate in
23 writing a person or corporation to serve in his stead. As among per-
24 sons with equal priority, the court shall select the one who is best
25 qualified of those willing to serve. The court may, for good cause,
26 pass over a person with priority and appoint a person with less pri-
27 ority or no priority. Non-residence in Maryland shall not disqualify
28 any person from serving as guardian.

29 208. Bond.

30 (a) Not mandatory. The court may, but need not, require a nat-
31 ural person appointed guardian to furnish a bond conditioned upon
32 faithful discharge of all duties of the guardianship according to law,
33 with sureties as it shall specify. No bond or other security shall be
34 required of (i) a corporate guardian, (ii) a guardian named in a will
35 or inter vivos instrument where the instrument excuses the guard-
36 ian from giving bond, (iii) a guardian where the estate is less than
37 \$10,000, or (iv) in any other case which the court deems appropriate.

38 (b) Amount. If a bond is required, the penal sum shall not be
39 greater than the aggregate value of the property of the estate in the
40 guardian's control, less the value of securities or money deposited
41 with a financial institution, as defined in Section 301 (g) of this
42 Article, under arrangements requiring an order of the Court for their
43 removal, and the value of any land which the guardian, by express
44 limitation of power, lacks powers to sell or convey without court au-
45 thorization. The Court may, in lieu of sureties on a bond, accept
46 other security for the performance of the bond, including a pledge
47 of securities or a mortgage of land. The Court may at any time re-
48 quire the amount of the bond, or the type or value of security, to be
49 changed. Bond premiums shall be charged against the property of
50 the minor or disabled person.

51 (c) Terms. The terms of any bond shall be prescribed by the
52 Maryland Rules.

1 209. Inventory and Accounting.

2 (a) Inventory. Every guardian, within sixty days after his ap-
3 pointment, shall prepare and file with the Court a complete inven-
4 tory of the estate of the minor or disabled person together with his
5 verification that it is complete and accurate so far as he is informed.
6 He shall provide a copy thereof to the minor or disabled person, if he
7 can be located, has reached his sixteenth (16th) birthday, and has
8 sufficient mental capacity to understand these matters, and to any
9 parent or guardian of the person with whom the minor or disabled
10 person resides.

11 (b) Accounts. The guardian shall keep suitable records of his
12 administration and exhibit the same on request of any interested
13 person. He shall also file annual accountings with each interested
14 person or with the Court. If he does not file an accounting with the
15 Court, he shall file with the Court a written verification that he
16 has delivered the accounting to each interested person. Every
17 guardian shall account to the Court for his administration upon his
18 resignation or removal, upon the termination of the minority or dis-
19 ability, and at other times as the Court may direct. On termination,
20 in lieu of accounting to the Court, he may account to the former
21 minor or disabled person or his personal representative and shall file
22 with the Court a written verification that he has so accounted.

23 (c) Protection of Court order if accounts are filed. Subject to
 24 appeal or vacation within the time permitted, an order, after notice
 25 and hearing, allowing an account of a guardian is conclusive as to
 26 his liabilities concerning the matters disclosed in connection there-
 27 with and an order, after notice and hearing, allowing a final account
 28 is conclusive as to all previously unsettled liabilities of the guardian
 29 to the minor or disabled person or his successors relating to the
 30 guardianship. Releases from the minor or disabled person or his
 31 successors may, but need not, be filed at the termination of the
 32 guardianship. The Court may require, at the time of making or fil-
 33 ing any account, a guardian to submit to a physical check of the
 34 property in his control, to be made in any manner the Court may
 35 specify.

36 (d) Forms. The form and content of inventories and accounts
 37 shall be prescribed by the Maryland Rules.

38 210. Petitions for Orders Subsequent to Appointment.

39 (a) Any interested person may file a petition for an order (i)
 40 requiring bond or security or additional bond or security in those
 41 estates where bond can be required, (ii) requiring an accounting of
 42 the administration of the estate, (iii) directing distribution, (iv)
 43 removing the guardian and appointing a successor guardian, or (v)
 44 granting other appropriate relief.

45 (b) A guardian may petition the appointing Court for permis-
 46 sion to act in any matter relating to the administration of the estate.

47 (c) On hearing after notice, the Court may, upon good cause
 48 shown, issue an appropriate order.

49 211. Procedure in Protective Proceedings.

50 There shall be no jury trial in protective proceedings. Procedures
 51 for notice to interested persons, the forms of petitions, and the con-
 52 duct of and requirements at hearings shall be prescribed by the
 53 Maryland Rules.

1 212. Duties of Guardian in Administration.

2 In the administration of the estate and the exercise of his powers,
 3 a guardian is under a duty to exercise the care and skill of a man of
 4 ordinary prudence dealing with his own property.

5 213. Powers of Guardian in Administration.

6 (a) In general. Without application to, or approval of, or the
 7 ratification by the Court (except as extended or limited under Sec-
 8 tion 215 or under any instrument which appointed the guardian),
 9 a guardian may, in addition to any other common law or statutory
 10 power, properly:

11 (1) invest in, sell, mortgage, exchange or lease any property;

12 (2) borrow money for the purpose of protecting property and
 13 pledge property as security for such loan;

14 (3) effect a fair and reasonable compromise with any debtor,
 15 obligor, creditor or obligee, or extend or renew any obligation owing
 16 by or to the estate;

17 (4) retain assets owned by the minor or disabled person, or
 18 otherwise coming into the hands of the guardian, pending distribu-
 19 tion or liquidation, including those in which the guardian is person-
 20 ally interested or which are otherwise improper for trust investment;

21 (5) receive assets from fiduciaries or other sources;

22 (6) perform the contracts of the disabled person that continue
 23 as obligations of the estate. In performing an enforceable contract
 24 to convey or lease land the guardian may execute and deliver a deed
 25 of conveyance for cash payment of all sums remaining due, or for the
 26 purchaser's note for the sum remaining due secured by a mortgage
 27 or deed of trust on the land, as the contract may provide;

28 (7) satisfy written charitable pledges of the disabled person;

29 (8) deposit funds for the account of the estate in checking ac-
 30 counts, in insured interest-bearing accounts, or in short-term loan
 31 arrangements;

32 (9) vote stocks or other securities in person or by general or lim-
 33 ited proxy, or enter into or participate in a voting trust or share-
 34 holders' agreement;

35 (10) hold a security in the name of a nominee or in other form
 36 without disclosure of the interest of the estate but the guardian shall
 37 be liable for any act of the nominee in connection with the security
 38 so held;

39 (11) insure the property of the estate against damage, loss and
 40 liability, and himself, as guardian against liability in respect to
 41 third persons;

42 (12) pay taxes, assessments and other expenses incident to the
 43 administration of the estate;

44 (13) sell or exercise stock subscription, conversion or option
 45 rights; consent to or oppose, directly or through a committee or
 46 other agent, the reorganization, consolidation, merger, dissolution or
 47 liquidation of a corporation or other business enterprise;

48 (14) employ for reasonable compensation agents, attorneys,
 49 auditors, investment advisors or other persons with special skills, to
 50 advise or assist the guardian in the performance of his administra-
 51 tive duties;

52 (15) prosecute, defend, or submit to arbitration any actions,
 53 claims, or proceedings in any jurisdiction for the protection of the
 54 estate;

55 (16) continue as or become a limited partner in any partnership;

56 (17) incorporate any business or venture in which the minor or
 57 disabled person was engaged;

58 (18) exercise any options, rights and privileges contained in any
 59 life insurance policy, annuity, or endowment contract constituting
 60 property of the estate, including the right to obtain the cash sur-
 61 render value, convert any such policy to any other type of policy, re-
 62 voke any mode of settlement, and pay any part or all of the premiums
 63 on any such policy or contract;

64 (19) pay any valid claim;

66 (20) when any assets of the estate are encumbered by mortgage,
 67 pledge, lien, or other security interest, pay the encumbrance or any
 68 part thereof, renew, or extend any obligation secured by the encum-
 69 brance, or convey or transfer the assets to the creditor in satisfac-
 70 tion of his security interest, in whole or in part, if any such act ap-
 71 pears to be in the best interests of the estate; and

72 (21) release or terminate any mortgage or security interest, if
 73 the obligation secured by the mortgage or security interest has been
 74 fully satisfied.

75 (b) *Tenancies by the entirety.* When property is held as ten-
 76 ants by the entirety and a guardian is appointed for either spouse,
 77 the Court, upon petition of the guardian, the other spouse, or both,
 78 may order a sale and a division of the proceeds in such manner as
 79 the Court may deem appropriate.

1 214. *Duties and Powers of Guardian in Distribution.*

2 (a) *In general.* A guardian may distribute or disburse property
 3 without court authorization or confirmation in accordance with this
 4 Section.

5 (b) *Support.* A guardian of a minor may pay or apply income
 6 and principal from the estate as needed for the minor's clothing,
 7 support, care, protection, welfare, and education.

8 A guardian of a disabled person may pay or apply sums from in-
 9 come and principal from the estate as needed for the clothing, sup-
 10 port, care, protection, welfare, and rehabilitation of the disabled
 11 person, giving consideration to the support and care of the disabled
 12 person during the probable period of the estate, and the needs of
 13 persons dependent upon the disabled person. Income and principal
 14 may also be paid or applied for such purposes for the benefit of per-
 15 sons legally dependent upon the minor or disabled person and, with
 16 the approval of the Court, for the benefit of other persons who had
 17 been maintained and supported in whole or in part by the disabled
 18 person prior to the appointment of a guardian.

19 (c) *Other distributions.*

20 (1) *On attainment of majority.* When a minor, who has not been
 21 adjudged unable properly to manage his property and affairs for
 22 reasons other than his minority, attains his majority, his guardian,
 23 after meeting all prior claims and expenses of administration, shall
 24 distribute the estate to the former minor as soon as possible. The
 25 distribution normally shall be in kind.

26 (2) *On cessation of disability.* When the guardian is satisfied
 27 that the disability of the disabled person has ceased or when the
 28 court has found in a proceeding under Section 221 that the disability
 29 has ceased, the guardian, after meeting all prior claims and expenses
 30 of administration, shall distribute the estate to the former disabled
 31 person as soon as possible. The distribution normally shall be in
 32 kind.

33 (3) *On death.* When a minor or disabled person dies, the
 34 guardian shall deliver to the appropriate probate court for safekeep-
 35 ing any will of the deceased person which may have come into his
 36 possession, inform the personal representative or a beneficiary
 37 named therein that he has done so, and retain the estate for delivery
 38 to a duly appointed personal representative of the decedent or other
 39 persons entitled thereto.

40 (4) *On other termination.* If a guardianship is terminated for
 41 reasons other than the attainment of majority, cessation of dis-
 42 ability, or death of the protected person, the guardian shall distrib-
 43 ute the estate in accordance with the order of the court terminating
 44 the guardianship.

1 215. *Enlargement or Limitation of Powers of Guardian.*

2 The Court may confer on a guardian at the time of appointment
 3 or later, in addition to the powers conferred on him by Sections 213
 4 and 214, any other power. The Court may, at the time of appoint-
 5 ment or later, limit the powers of a guardian otherwise conferred
 6 by Sections 213 and 214, or previously conferred by the Court, and
 7 may at any time relieve him of each limitation. Any limitation on

8 the powers of a guardian contained in a will or other instrument
 9 which appointed a guardian should ordinarily be imposed by the
 10 Court on the guardian. If the Court limits any power conferred on
 11 the guardian by Section 213 or Section 214, the limitation shall be
 12 endorsed upon his letters of appointment.

13 216. *Improper Exercise of power; breach of fiduciary duty.*

14 If the exercise of power conferring the estate is improper, the
 15 guardian shall be liable for breach of his fiduciary duty to the minor
 16 or disabled person or to interested persons for resulting damage or
 17 loss to the same extent as a trustee of an express trust. The rights
 18 of purchasers and others dealing with a guardian shall be de-
 19 termined as provided in Section 219 and may not necessarily be af-
 20 fected by the fact that the guardian breached his fiduciary duty in
 21 the transaction.

22 217. *Recording of Letters and Orders.*

23 Letters of guardianship may be recorded in the land records of
 24 the county of residence of the minor or disabled person and of any
 25 other county where there is real estate in which the estate has an
 26 interest and, when so recorded, shall have the same effect as notice
 27 as would the recording of a conveyance from the minor or disabled
 28 person to the guardian.

29 Orders of the Court modifying or terminating letters of guardian-
 30 ship or authorizing the making of a conveyance or the doing of any
 31 other act with respect to interests in real estate constituting part of
 32 the estate may be recorded in like manner and with like effect.

33 218. *Compensation and Expenses.*

34 The court shall allow reasonable compensation from the estate to
 35 any guardian who has not waived his right to compensation. A
 36 guardian is entitled to be reimbursed from the estate for his actual
 37 and necessary expenses in managing the estate.

38 219. *Protection of Person dealing with Guardian.*

39 In the absence of actual knowledge or of reasonable cause to in-
 40 quire as to whether the guardian is improperly exercising his
 41 power, a person dealing with the guardian is not bound to inquire
 42 whether the guardian is properly exercising his power, and is pro-
 43 tected as if the guardian properly exercised the power, except that
 44 every person shall be deemed to have actual knowledge of any lim-
 45 itations endorsed on the letters of guardianship. A person is not
 46 bound to see to the proper application of estate assets paid or de-
 47 livered to a guardian.

1 220. *Termination of Appointment.*

2 (a) Generally. The appointment of a guardian shall be termi-
 3 nated in accordance with Section 221 and may be sooner terminated
 4 by his death, disability, resignation or removal.

5 (b) Effect.

6 (1) Powers and duties. Termination ends the right and power
 7 pertaining to the office of guardian. However, a guardian whose ap-
 8 pointment has been terminated shall (a) unless otherwise ordered
 9 by the Court, perform acts necessary to protect the estate and (b)
 10 deliver the property to the successor guardian.

11 (2) Liability. Subject to the provisions of Section 209 (c),
 12 termination does not discharge a guardian from liability for trans-
 13 actions or omissions occurring before termination, or relieve him of

14 the duty to preserve property subject to his control, to account
15 therefor and to deliver such property to his successor.

16 (3) Acts prior to termination. All lawful acts of a personal
17 representative before the termination of his appointment shall re-
18 main valid and effective.

19 (c) Death or disability. The death of a guardian or the decree
20 of a court of competent jurisdiction that he is under legal disability
21 shall terminate his appointment. The personal representative of a
22 deceased guardian or the person appointed to protect the estate of a
23 guardian under legal disability shall have the duty to protect prop-
24 erty belonging to the estate being administered by the deceased or
25 disabled guardian, shall have the power to perform acts necessary
26 for the protection of property, shall immediately account for and
27 deliver the property to a successor guardian, and shall immediately
28 apply to the Court for the appointment of a successor guardian to
29 carry on the administration of the estate which was being admin-
30 istered by the deceased or disabled guardian.

31 (d) Resignation. A guardian may resign his position by filing
32 a written statement of resignation with the Clerk or the Register
33 after he has given at least 15 days written notice to all interested
34 persons of his intention to resign. If no one applies for the appoint-
35 ment of a successor guardian, or if no appointment is made, within
36 such period, the resigning guardian may apply to the Court for the
37 appointment of his successor. Upon the appointment of such suc-
38 cessor, the resignation shall be effective and the resigning guardian
39 shall immediately account for and deliver the property belonging to
40 the estate to such successor. The resignation of a co-guardian shall
41 be effective upon the giving of notice and the filing of the statement
42 of resignation as provided herein.

43 (e) Removal.

44 (1) Cause for removal. A guardian shall be removed from office
45 upon a finding by the Court that he (a) misrepresented material
46 facts in the proceedings leading to his appointment, (b) willfully
47 disregarded an order of the Court, (c) is unable or incapable, with
48 or without his own fault, to discharge his duties and powers effec-
49 tively, (d) has mismanaged property, or (e) has failed to perform
50 any duty pertaining to the office. Notwithstanding the existence of
51 cause for removal for failure to perform any duty pertaining to the
52 office, the Court may continue the guardian in office if it finds that
53 such continuance would be in the best interests of the estate and
54 would not adversely affect the right of interested persons.

55 (2) Hearing. A hearing shall be conducted by the Court prior to
56 the removal of any guardian. Such hearing may be held on its own
57 motion, or on written petition of any interested person. Notice of
58 such hearing shall be given by the Clerk or Register to all interested
59 persons.

60 (3) Appointment of successor. Upon the removal of a guardian
61 the Court shall, at the same time, appoint a successor guardian.

62 (4) Duty of removed guardian. A guardian who is removed
63 from office shall, within the time designated by the Court, account
64 for and deliver the property belonging to the estate to such successor
65 guardian.

221. Termination of Proceeding.

2 The minor or disabled person, his personal representative, the
3 guardian, or any other interested person may petition the Court to
4 terminate the guardianship. The Court, upon determining, after
5 notice and hearing, that the minority or disability has ceased, that
6 the minor or disabled person is presumptively dead, or that he has

died, shall terminate the guardianship proceeding. Upon termination, title to the estate property shall pass to the former minor or disabled person, or to his personal representatives. A minor or disabled person seeking termination is entitled to the same rights, protections, and procedures as in an original proceeding for the appointment of a guardian. If a minor or disabled person resides in or changes his residence to another jurisdiction, the court may authorize the guardian to transfer all movable property of the estate to a guardian, committee, conservator, or like fiduciary appointed by the appropriate court of the state of residence of the minor or disabled person. The transfer will terminate the guardianship in this State.

222. Powers of Foreign Fiduciaries.

When no guardianship proceeding is pending in this state, a guardian, conservator, committee, or other like fiduciary appointed by the appropriate court of another jurisdiction to manage the property of a protected person who is a resident of that jurisdiction may exercise in Maryland all powers of his office, including the power to sell or otherwise deal with real estate in Maryland, to collect, receipt for, and take possession of money due, tangible personal property, or an instrument evidencing a debt, obligation, stock or chose in action located in this state, and remove it to the other jurisdiction. He may also sue and be sued in Maryland, subject to any statute or rule relating to nonresidents. No person who, before receiving actual notice of the pendency of a guardianship proceeding in this state, has changed his position by relying on the powers herein granted shall be prejudiced by the pendency of the proceeding.

Subtitle 3

Uniform Gifts To Minors Act

301. Definitions.

In this subtitle, unless the context otherwise requires:

(a) **Adult.**—An “adult” is a person who has attained the age of twenty-one years.

(b) **Bank.**—A “bank” is any banking institution formed pursuant to Article 11 of the Annotated Code, title “Banks and Trust Companies,” or pursuant to the laws of another state or pursuant to the laws of the United States as a national bank.

(c) **Broker.**—A “broker” is a person lawfully engaged in the business of effecting transactions in securities for the account of others. The term includes a bank which effects such transactions. The term also includes a person lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as a part of a regular business.

(d) **Court.**—“Court” means the circuit courts.

(e) **Custodial property.**—The “custodial property” includes:

(1) All securities, life insurance policies, annuity contracts, real estate, tangible personal property, money, and any other type of property under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in this subtitle; and (2) the income therefrom, and the proceeds, from the sale, exchange, conversion, investment, reinvestment, surrender or other disposition of such securities, money, life insurance policies, annuity contracts, real estate, tangible personal property, and other property.

(f) **Custodian.**—A “custodian” is a person designated in a manner prescribed in this subtitle; the term includes a successor custodian.

31 (g) *Financial institution.*—A “financial institution” is a bank, a
 32 federal savings and loan association, a savings institution chartered
 33 and supervised as a savings and loan or similar institution under
 34 federal law or the laws of a state or a federal credit union or a credit
 35 union chartered and supervised under the laws of a state; a “domes-
 36 tic financial institution” is one chartered and supervised under the
 37 laws of this State or a bank chartered and supervised under federal
 38 law and having its principal office in this State; an “insured financial
 39 institution” is one, deposits (including a savings, share, certificate
 40 or deposit account) in which are, in whole or in part, insured by the
 41 Federal Deposit Insurance Corporation, the Federal Savings and
 42 Loan Insurance Corporation, the Maryland Savings-Share Insurance
 43 Corporation or a similar institution organized under the laws of an-
 44 other state.

45 (h) *Guardian.*—A “guardian” of a minor means the general
 46 guardian, guardian, tutor or curator of his property or estate ap-
 47 pointed or qualified by a court of this State or another state.

48 (i) *Issuer.*—An “issuer” is a person who places or authorizes
 49 the placing of his name on a security (other than as a transfer
 50 agent) to evidence that it represents a share, participation or other
 51 interest in his property or in an enterprise or to evidence his duty
 52 or undertaking to perform an obligation evidenced by the security,
 53 or who becomes responsible for or in place of any such person.

54 (j) *Legal representative.*—A “legal representative” of a person
 55 is his personal representative or the general guardian, guardian,
 56 committee, conservator, tutor or curator of his property or estate.

57 (k) *Life insurance policy or annuity contract.*—A “life insur-
 58 ance policy or annuity contract” means a life insurance policy or
 59 annuity contract as those terms are defined in Article 48A of this
 60 Code, title “Insurance,” issued by an insurance company on the life
 61 of a minor to whom a gift of the policy or contract is made in the
 62 manner prescribed in this subtitle or on the life of a member of the
 63 minor’s family.

64 (l) *Member of a minor’s family.*—A “member” of a “minor’s
 65 family” means any of the minor’s parents, grandparents, brothers,
 66 sisters, uncles and aunts, whether of the whole blood or the half
 67 blood, or by or through legal adoption.

68 (m) *Minor.*—A “minor” is a person who has not attained the
 69 age of twenty-one years.

70 (n) *Security.*—A “security” includes any note, stock, treasury
 71 stock, bond, debenture, evidence of indebtedness, interest in a part-
 72 nership or limited partnership, collateral trust certificate, transfer-
 73 able share, voting trust certificate or, in general, any interest or in-
 74 strument commonly known as a security, or any certificate of inter-
 75 est or participation, in, any temporary or interim certificate, receipt
 76 or certificate of deposit for, or any warrant for, right to subscribe
 77 to or purchase, any of the foregoing. The term does not include a
 78 security of which the donor is the issuer. A security is in “registered
 79 form” when it specifies a person entitled to it or to the rights it evi-
 80 dences and its transfer may be registered upon books maintained for
 81 that purpose by or on behalf of the issuer.

82 (o) *Transfer agent.*—A “transfer agent” is a person who acts as
 83 authenticating trustee, transfer agent, registrar or other agent for
 84 an issuer in the registration of transfers of its securities or in the
 85 issue of new securities or in the cancellation of surrendered securi-
 86 ties.

87 (p) *Trust company.*—A “trust company” is a bank, corporation
 88 or other legal entity authorized to exercise trust powers.

1 302. *Manner of making gift.*

2 (a) *Methods enumerated.*—An adult may, during his lifetime or
3 by will, make a gift of a security, a life insurance policy or annuity
4 contract or money to a person who is a minor on the date of the gift
5 or distribution:

6 (1) If the subject of the gift is a security in registered form, by
7 registering it in the name of the donor, another adult, a guardian of
8 the minor or a trust company, followed, in substance, by the words:
9 “as custodian for under the Maryland Uniform
10 (name of minor)
11 Gifts to Minors Act”;

12 (2) If the subject of the gift is a security not in registered
13 form, by delivering it to an adult other than the donor, a guardian
14 of the minor or a trust company, accompanied by a statement of
15 gift in the following form, in substance, signed by the donor and the
16 person designated as custodian:

17 “Gift Under the Maryland Uniform Gifts to Minors Act
18 I, hereby deliver to as
19 (name of donor) (name of custodian)
20 custodian for under the Maryland Uniform
21 (name of minor)
22 Gifts to Minors Act, the following security (ies): (insert an appro-
23 priate description of the security or securities delivered sufficient to
24 identify it or them)

25
26 (signature of donor)
27 hereby acknowledges receipt of the above
28 (name of custodian)
29 described security (ies) as custodian for the above minor under the
30 Maryland Uniform Gifts to Minors Act.

31 Dated:
32 (signature of custodian)”

33 (3) If the subject of the gift is money, by paying or delivering
34 it to a broker or a financial institution, for credit to an account in
35 the name of the donor, another adult, a guardian of the minor or a
36 trust company, followed, in substance, by the words: “as custodian
37 for under the Maryland Uniform Gifts to
38 (name of minor)
39 Minors Act.”

40 (4) If the subject of the gift is a life insurance policy or an-
41 nuity contract, by causing the ownership of the policy or contract
42 to be registered with the issuing insurance company in the name
43 of the donor, another adult, a guardian of the minor or a trust com-
44 pany, followed, in substance, by the words: “as custodian for
45 under the Maryland Uniform Gifts to Minors
46 (name of minor)
47 Act.”

48 (5) If the subject of the gift is an interest in real estate, by
49 executing and delivering in the appropriate manner a deed, assign-
50 ment, or similar instrument in the name of the donor, another adult,
51 or guardian of the minor, or a trust company, followed, in substance,
52 by the words: “as custodian for under the Mary-
53 (name of minor)
54 land Uniform Gifts to Minors Act.”

55 (6) If the subject of the gift is an interest in any property not
56 described in subsections (1)—(5), above, inclusive, by causing the
57 ownership of the property to be transferred by any written docu-
58 ment in the name of the donor, another adult, a guardian of the
59 minor or a trust company, following, in substance, by the words:

60 "as custodian for under the Maryland Uniform
 61 (name of minor)
 62 Gifts to Minors Act."

63 (7) If the gift is by will, by stating in the will that the bequest
 64 or devise is made under the Maryland Uniform Gifts to Minors Act.
 65 Unless the testator in his will designates the custodian, who shall
 66 be an adult, a guardian of the minor or a trust company, his personal
 67 representative shall, subject to any limitations contained within the
 68 will, have the power to name as the custodian an adult, a guardian
 69 of the minor or a trust company, and shall distribute the subject of
 70 the gift by transferring it in the manner and form provided in the
 71 preceding paragraphs of this subsection.

72 (8) If the gift is preceded by a gift in trust to some other person
 73 or persons, by stating in the will or living trust instrument that it is
 74 made under the Maryland Uniform Gifts to Minors Act. Unless the
 75 custodian, who shall be an adult, a guardian of the minor or a trust
 76 company, is designated in the will or living trust instrument, the
 77 trustee shall, subject to any limitations contained within the will or
 78 living trust instrument, have the power to name as custodian an
 79 adult, a guardian of the minor or a trust company and shall distrib-
 80 ute the subject of the gift by transferring it in the manner and form
 81 provided in the preceding paragraphs of this subsection.

82 (b) Gift limited to one minor; one custodian only.—Any gift
 83 made in a manner prescribed in subsection (a) may be made to only
 84 one minor and only one person may be the custodian.

85 (c) Matters not affecting consummation of gift.—A donor who
 86 makes a gift to a minor in a manner prescribed in subsection (a)
 87 shall promptly do all things within his power to put the subject of
 88 the gift in the possession and control of the custodian, but neither
 89 the donor's failure to comply with this subsection, nor his designa-
 90 tion of an ineligible person as custodian nor renunciation by the per-
 91 son designated as custodian affects the consummation of the gift.

92 (d) Designation of custodian as beneficiary of life insurance
 93 policy or annuity contract.—Whether or not a gift of the ownership
 94 of a life insurance policy or annuity contract has been made, the
 95 owner of such a policy or contract may designate a custodian (or a
 96 successor custodian) as the beneficiary of any such policy or con-
 97 tract. When the custodian receives any proceeds of such policy or
 98 contract, the proceeds shall at that time become custodial property.

1 303. Effect of gift.

2 (a) Gift irrevocable; title conveyed; powers, etc., of guardian.—
 3 A gift made in a manner prescribed in this subtitle is irrevocable
 4 and conveys to the minor indefeasibly vested legal title to the
 5 security, life insurance policy, annuity contract, real estate, money,
 6 or any other property, but no guardian of the minor has any right,
 7 power, duty or authority with respect to the custodial property ex-
 8 cept as provided in this subtitle.

9 (b) Incorporation of provisions of subtitle.—By making a gift
 10 in a manner prescribed in this subtitle, the donor incorporates in his
 11 gift, living trust instrument or will all the provisions of this subtitle
 12 and grants to the custodian, and to any issuer, transfer agent, finan-
 13 cial institution, life insurance company, broker or third person deal-
 14 ing with a person designated as custodian, the respective powers,
 15 rights and immunities provided in this subtitle.

1 304. Duties and powers of custodian.

2 (a) Management of custodial property.—The custodian shall col-
 3 lect, hold, manage, invest and reinvest the custodial property.

4 (b) *Expenditures within custodian's discretion.*—The custodian
 5 shall pay over to the minor for expenditure by him, or expend for
 6 the minor's benefit, so much of or all the custodial property as the
 7 custodian deems advisable for the support, maintenance, education
 8 and benefit of the minor in the manner, at the time or times, and
 9 to the extent that the custodian in his discretion deems suitable and
 10 proper, with or without court order, with or without regard to the
 11 duty of himself or of any other person to support the minor or his
 12 ability to do so, and with or without regard to any other income or
 13 property of the minor which may be applicable or available for any
 14 such purpose.

15 (c) *Court order directing expenditure.*—The court, on the peti-
 16 tion of a parent or guardian of the minor or of the minor, if he has
 17 attained the age of fourteen years, may order the custodian to pay
 18 over to the minor for expenditure by him or to expend so much of
 19 or all the custodial property as is necessary for the minor's support,
 20 maintenance or education.

21 (d) *Duty to deliver, convey, or pay over unexpended custodial*
 22 *property.*—To the extent that the custodial property is not expended,
 23 the custodian shall deliver, convey, or pay it over to the minor on his
 24 attaining the age of twenty-one years or, if the minor dies before
 25 attaining the age of twenty-one years, he shall thereupon deliver or
 26 pay it over to the estate of the minor.

27 (e) *Investments; retention of security.*—The custodian, not-
 28 withstanding statutes restricting investments by fiduciaries, shall
 29 invest and reinvest the custodial property as would a prudent man
 30 of discretion and intelligence who is seeking a reasonable income
 31 and the preservation of his capital, except that he may, in his dis-
 32 cretion and without liability to the minor or his estate, retain a se-
 33 curity given to the minor in a manner prescribed in this subtitle or
 34 hold money so given in an account in the financial institution to
 35 which it was paid or delivered by the donor.

36 (f) *Powers as to custodial property generally.*—The custodian
 37 may sell, exchange, convert, surrender or otherwise dispose of cus-
 38 todial property in the manner, at the time or times, for the price or
 39 prices and upon the terms he deems advisable. He may vote in per-
 40 son or by general or limited proxy a security which is custodial prop-
 41 erty. He may consent, directly or through a committee or other
 42 agent, to the reorganization, consolidation, merger, dissolution or
 43 liquidation of an issuer, a security of which is custodial property,
 44 and to the sale, lease, pledge or mortgage of any property by or to
 45 such an issuer, and to any other action by such an issuer. He may
 46 execute and deliver any and all instruments in writing which he
 47 deems advisable to carry out any of his powers as custodian.
 48 With respect to any interest in real estate, he may perform the same
 49 acts that any unmarried adult could perform, including, but not
 50 limited to, the power to, buy, sell, assign, transfer, convey, dedicate,
 51 partition, exchange, mortgage, create or redeem ground rents, deed,
 52 grant or exercise options, effect and keep in force fire, rent, liability,
 53 casualty, and other insurance; make, execute, acknowledge, and de-
 54 liver deeds, conveyances, mortgages, releases, leases, including leases
 55 for ninety-nine years renewable forever, and leases extending
 56 beyond the minority of the minor; collect rents; improve, subdivide,
 57 or develop property; construct, alter, demolish, or repair property;
 58 settle boundary lines and easements; pay taxes; and protect assess-
 59 ments.

60 (g) *Duty to register security and keep custodial property sepa-*
 61 *rate.*—The custodian shall register each security which is custodial
 62 property and in registered form in the name of the custodian, fol-
 63 lowed, in substance, by the words: "As custodian for
 64 (name of minor)"

65 under the Maryland Uniform Gifts to Minors Act." The custodian
 66 shall hold all money which is custodial property in an account with
 67 a broker or in an insured financial institution in the name of the
 68 custodian, followed, in substance, by the words: "as custodian
 69 for under the Maryland Uniform Gifts to
 70 (name of minor)
 71 Minors Act." The custodian shall keep all other custodial property
 72 separate and distinct from his own property in a manner to identify
 73 it clearly as custodial property.

74 (h) Records.—The custodian shall keep records of all transac-
 75 tions with respect to the custodial property and make them available
 76 for inspection at reasonable intervals by a parent or legal representa-
 77 tive of the minor, if he has attained the age of fourteen years.

78 (i) Rights and powers of guardian.—A custodian has with re-
 79 spect to the custodial property, in addition to the rights and powers
 80 provided in this subtitle, all the rights and powers which a guardian
 81 has with respect to property not held as custodial property.

82 (j) Life insurance policy or annuity contract.—If the subject of
 83 the gift is a life insurance policy or annuity contract, the custodian:

84 (1) Has, in his capacity as custodian, all the incidents of own-
 85 ership in the policy or contract to the extent as if he were the owner,
 86 except that the designated beneficiary of any policy or contract on
 87 the life of the minor shall be the minor's estate and the designated
 88 beneficiary of any policy or contract on the life of a person other
 89 than the minor shall be the custodian as custodian for the minor for
 90 whom he is acting; and

91 (2) May pay premiums on the policy or contract out of the
 92 custodial property.

1 305. Custodian's expenses, compensation, bond and liabilities.

2 (a) Reimbursement for expenses.—A custodian is entitled to re-
 3 imbursement from the custodial property for his reasonable expenses
 4 incurred in the performance of his duties.

5 (b) May act without compensation.—A custodian may act with-
 6 out compensation for his services.

7 (c) Right to receive compensation.—Unless he is a donor, a cus-
 8 todian may receive from the custodial property as reasonable com-
 9 pensation for his services the fees that are customarily allowed in
 10 this State to trustees, unless the donor directs otherwise when the
 11 gift is made.

12 (d) Bond.—Except as otherwise provided in this subtitle, a cus-
 13 todian shall not be required to give a bond or the performance of
 14 his duties.

15 (e) Liability for losses.—A custodian not compensated for his
 16 services is not liable for losses to the custodial property unless they
 17 result from his bad faith, intentional wrongdoing or gross negligence
 18 or from his failure to maintain the standard of prudence in investing
 19 the custodial property provided in this subtitle.

20 306. Exemption of third persons from liability.

21 No issuer, transfer agent, bank, life insurance company, broker or
 22 other person or financial institution acting on the instructions of or
 23 otherwise dealing with any person purporting to act as a donor or
 24 in the capacity of a custodian is responsible for determining whether
 25 the person designated as custodian by the purported donor or by the
 26 custodian or purporting to act as custodian has been duly desig-
 27 nated or whether any purchase, sale or transfer to or by or any other

act of any person purporting to act in the capacity of custodian is in accordance with or authorized by this subtitle, or is obliged to inquire into the validity or propriety under this subtitle of any instrument or instructions executed or given by a person purporting to act as a donor or in the capacity of a custodian, or is bound to see to the application by any person purporting to act in the capacity of a custodian of any money or other property paid or delivered to him.

307. Resignation, death or incapacity of custodian; successor custodian; bond.

(a) Eligibility to become successor custodian; manner of designating successor custodian; powers, etc., of successor custodian.—Any adult or trust company eligible to become a custodian shall also be eligible to become successor custodian. A custodian may designate his successor by executing and dating an instrument of designation before a subscribing witness other than the successor; the instrument of designation may but need not contain the resignation of the custodian. A successor custodian has all the rights, powers, duties and immunities of a custodian designated in a manner prescribed by this subtitle.

(b) When designation takes effect.—The designation of a successor custodian as provided in subsection (a) takes effect as to each item of the custodial property when the custodian resigns, dies or becomes legally incapacitated and the custodian or his legal representative:

(1) Causes the item, if it is a security in registered form, a life insurance policy or annuity contract, or an interest in real property, to be registered in the name of or conveyed to the successor custodian followed, in substance, by the words: "as custodian for.....
(name of minor)
under the Maryland Uniform Gifts to Minors Act"; and

(2) Delivers or causes to be delivered to the successor custodian any other item of the custodial property, together with the instrument of designation of the successor custodian or a true copy thereof and any additional instruments required for the transfer thereof to the successor custodian.

(c) Putting custodial property in possession of successor custodian; two or more instruments of designation.—A custodian who executes an instrument of designation of his successor containing the custodian's resignation as provided in subsection (a) shall promptly do all things within his power to put each item of the custodial property in the possession and control of the successor custodian named in the instrument. The legal representative of a custodian who dies or becomes legally incapacitated shall promptly do all things within his power to put each item of the custodial property in the possession and control of the successor custodian named in an instrument of designation executed as provided in subsection (a) by the custodian or, if none, in the possession and control of the guardian of the minor if he has a guardian. If the custodian has executed as provided in subsection (a) more than one instrument of designation, his legal representative shall treat the instrument dated on an earlier date as having been revoked by the instrument dated on a later date.

(d) Ineligibility, death or incapacity of custodian or successor custodian.—If a person designated as custodian or as successor custodian or by the custodian as provided in subsection (a) is not eligible, dies or becomes legally incapacitated before the minor attains the age of twenty-one years, and if the minor has a guardian, the guardian of the minor shall be custodian or successor custodian. If the minor has no guardian and if no successor custodian who is eligible and has not died or become legally incapacitated has been

53 designated as provided in subsection (a), a donor, his legal repre-
 54 sentative, the legal representative of the custodian or an adult mem-
 55 ber of the minor's family, or the minor, if he has attained the age
 56 of fourteen years, may petition the court for the designation of a
 57 successor custodian. Nothing in this subsection (d) shall affect the
 58 power of a personal representative or trustee to appoint a custodian
 59 pursuant to paragraphs (7) and (8) of subsection 302 (a) of this
 60 subtitle, or the power of an owner of a life insurance policy or an-
 61 nuity contract to appoint a successor custodian pursuant to sub-
 62 section 302(d).

63 (e) *Petition for removal of custodian or for bond.*—A donor, the
 64 legal representative of a donor, a successor custodian, an adult mem-
 65 ber of the minor's family, a guardian of the minor or the minor, if
 66 he has attained the age of fourteen years, may petition the court
 67 that, for cause shown in the petition, the custodian be removed and
 68 a successor custodian be designated or, in the alternative, that the
 69 custodian be required to give bond for the performance of his duties.

70 (f) *Procedure after petition filed.*—Upon the filing of a petition
 71 as provided in this section, the court shall grant an order, directed
 72 to the persons concerned and returnable on such notice as the court
 73 may require, to show cause why the relief prayed for in the petition
 74 should not be granted, and, in due course, grant such relief as the
 75 court finds to be in the best interests of the minor.

1 308. *Accounting by custodian.*

2 (a) *Who may petition for an accounting.*—The minor, if he has
 3 attained the age of fourteen years, or the legal representative of the
 4 minor, an adult member of the minor's family, or a donor or his legal
 5 representative may petition the court for an accounting by the cus-
 6 todian or his legal representative.

7 (b) *Court may require or permit accounting; accounting and*
 8 *delivery of property upon removal.*—The court, in a proceeding
 9 under this subtitle or otherwise, may require or permit the custodian
 10 or his legal representative to account and, if the custodian is re-
 11 moved, shall so require and order delivery of all custodial property
 12 to the successor custodian and the execution of all instruments re-
 13 quired for the transfer thereof.

14 309. *Construction of subtitle.*

15 (a) *This subtitle shall be so construed as to effectuate its general*
 16 *purpose to make uniform the law of those states which enact it.*

17 (b) *This subtitle shall not be construed as providing an exclu-*
 18 *sive method for making gifts to minors.*

19 310. *Short title.*

20 *This subtitle may be cited as the "Maryland Uniform Gifts to*
 21 *Minors Act."*

22 Subtitle 4

24 Minors' Recoveries in Tort

24 401. *Statement of policy; check to be made to order of trustee; per-*
 25 *son named constituted trustee.*

26 *It is the public policy of the State of Maryland that any substantial*
 27 *sum of money paid to a minor because of a claim, action or judg-*
 28 *ment in tort should be preserved for the benefit of the minor. When*
 29 *a minor, or any person, such as "next friend," by whom or in whose*
 30 *name any claim or action is made or brought or judgment obtained;*

31 for or on behalf of said minor, in tort, is entitled to receive a net
 32 sum of \$1,500.00 or more because of such claim, action, or judgment
 33 in tort, the person responsible for the payment of the money shall
 34 make payment by check made to the order of ".....",
 35 (name of trustee)
 36 trustee under Article 93A, Annotated Code of Maryland, for
 37 "....., minor." No other act shall be necessary to con-
 38 (name of minor)
 39 stitute the person named a trustee.

40 402. Trustee not required to give bond; deposit of check.

41 The trustee, who is not required to give bond, shall forthwith de-
 42 posit the check in a savings account in any banking institution
 43 formed pursuant to Article 11 of the Annotated Code, title "Banks
 44 and Trust Companies," in any national banking association formed
 45 pursuant to the laws of the United States, or in any insured savings
 46 and loan institution.

1 403. Court order required for withdrawal prior to minor's twenty-
 2 first birthday.

3 The banking or savings and loan institution, or national banking
 4 association shall not thereafter allow the withdrawal of any of the
 5 money except upon the order of a circuit court, unless it be to pay
 6 the money to the minor upon the minor's attainment of his twenty-
 7 first birthday or to pay the money to the executor or administrator
 8 of the minor's estate upon the death of the minor prior to attain-
 9 ment of his twenty-first birthday. Payment by any such institution
 10 or association in accordance with the order of the court, or to a
 11 minor on or after his attaining his twenty-first birthday, or to the per-
 12 sonal representative of a minor's estate on or after the death of the
 13 minor prior to his attaining his twenty-first birthday, shall be a
 14 complete discharge of such institution's or association's liability
 15 with respect to the money so paid.

16 404. Petition to court for withdrawal; inquiry, showing required.

17 A trustee shall file a petition for withdrawal of any of the minor's
 18 money in the county where the money is on deposit, and said peti-
 19 tion may be filed in the original court action in which the money
 20 was recovered or in a court of equity. The petition shall be under
 21 oath, and shall state in detail the purposes for which the withdrawal
 22 of the money is desired. Upon receiving a petition, the court shall
 23 make such inquiry as it deems necessary before granting or denying
 24 the petition in whole or in part, except that if the money is desired
 25 for any purpose other than to further the education of the minor,
 26 including reasonable expenditures for room and board, the court
 27 shall require a strong showing of necessity by the trustee in a hear-
 28 ing before the court.

29 405. Filing petition when trustee is deceased or fails or refuses to
 30 do so.

31 If the trustee is deceased, or if it appears to any responsible adult
 32 that the trustee has failed and/or refused to discharge his duty to
 33 file a petition under Section 404, then any responsible adult may file
 34 the petition required under Section 404, and set out, in addition to
 35 the facts required under Section 404, the facts with respect to the
 36 trustee's decease or failure or refusal to discharge his duty. A peti-
 37 tion filed under this section shall include a prayer for the discharge
 38 of the trustee and the appointment of another trustee.

39 406. Contents of court's order; attorney's fee; no fee or commission
40 to trustee.

41 In its order upon a petition, the court may direct the institution
42 where the minor's funds are on deposit to make its check to the or-
43 der of: (1) The trustee for the use of the minor; or (2) the person,
44 firm, or organization which has performed or is to perform a service
45 for or furnish goods to the minor. The court may also direct pay-
46 ment of a reasonable attorney's fee, and the costs of the proceed-
47 ings, but may not in any event direct or provide for the payment of
48 any fees or commissions to the trustees.

1 407. Trustee not required to file accounts.

2 The trustee hereunder is not required to file with any court any
3 accounts of his trusteeship.

4 408. Definitions.

5 (a) "Minor" means any person under legal age who actually re-
6 sided in Maryland at the time of the happening of the occurrence
7 out of which the claim, action, or judgment arises; or any person
8 under legal age who actually resides in Maryland at the time
9 money is paid to him or to any person acting for him because of
10 a claim, action, or judgment in tort.

11 (b) "Net sum" means the net amount due the minor or to any
12 person acting for him after the deduction of the attorney's fee and
13 expenses. If the minor is not represented by an attorney, then it
14 means the amount paid to the minor or to any person acting for him,
15 by any defendant, insurer, or the State of Maryland under the pro-
16 visions of the Unsatisfied Claims and Judgment Fund Law.

17 (c) "The person responsible for the payment of the money"
18 means:

19 (1) If the minor or any person acting for him is represented by
20 an attorney, such attorney.

21 (2) If the minor or any person acting for him is not represented
22 by an attorney, any defendant, insurer, or the State of Maryland
23 under the provisions of the Unsatisfied Claims and Judgment Fund
24 Law.

1 Subtitle 5

2 Miscellaneous Provisions Relating to Minors

3 501. Facility of Payment.

4 (a) Any person under a duty to pay or deliver money or tangible
5 chattels to a minor may perform such duty, in amounts or values not
6 exceeding \$5,000 per annum, by paying or delivering the money or
7 chattels to the minor, if he has attained the age of 18 years or is
8 married, but if he has not attained the age of 18 years or is not mar-
9 ried, to the guardian of the minor if the person making the payment
10 or delivery has actual knowledge that there is a guardian, and if
11 there be no such guardian (or if the payor has no such knowledge),
12 to the parent or grandparent of the minor with whom the minor re-
13 sides, and if there be none, to a financial institution incident to a
14 deposit in a federal or state insured savings account in the sole
15 name of such minor which the minor does not, without a Court or-
16 der, have the power to withdraw, until he attains his majority. A
17 payor shall not be under any duty to inquire whether the minor has
18 a guardian. The persons, other than the minor or any such financial
19 institution receiving money or property for a minor, are obligated to
20 apply the money to the support and education of the minor, may not

21 pay themselves, except by way of reimbursement for out-of-pocket
 22 expenses for goods and services furnished by others which are neces-
 23 sary for the minor's support. Any excess sums shall be preserved
 24 for future support of the minor and any balance not so used and any
 25 tangible chattels received for the minor shall be turned over to the
 26 minor when he attains majority. Persons owing money or property
 27 to minors who pay or deliver it in accordance with this Section 501
 28 shall not be responsible for the proper application thereof. A re-
 29 lease for any distribution under this Section 501 shall be a valid
 30 release.

31 (b) Whenever money is distributable from a trust or estate or
 32 from any other source to a minor, and there is no legally appointed
 33 guardian of the property of such minor, the circuit court of the
 34 county in which the minor resides or the court in which the estate is
 35 being administered may order that such money be deposited in any
 36 banking institution or insured savings and loan association formed
 37 under the laws of this State or in this State under the laws of the
 38 United States to be named in the order, in which it may draw inter-
 39 est, in the name of the minor, subject, however, to the order of such
 40 court where it shall remain, and the trustee or any person having
 41 custody of the minor, shall retain the book of deposit or receipt for
 42 such deposit until the minor reaches the age of twenty-one, or a
 43 guardian is appointed, and such order and the deposit made in pur-
 44 suance thereof shall be a release to the trustee or personal repre-
 45 sentative.

1 502. Powers Exercisable directly by Minors.

2 (a) Conveyances of Certain Property by Married female minors.—
 3 Any married female who has attained the age of sixteen years and
 4 who holds title to property with her husband as tenants by the en-
 5 tireties is hereby authorized to join with her husband in an instru-
 6 ment of conveyancing, either a deed or a mortgage, in the same
 7 manner, to the same extent and with the same effect as a person of
 8 the full age of twenty-one years.

9 (b) Conveyances by minors who are veterans. Any war veteran
 10 or member of the armed services eligible for the benefits of the
 11 Servicemen's Readjustment Act of 1944, and amendments thereto,
 12 who is under twenty-one years of age, may, for the purpose of ob-
 13 taining the benefits of said act, mortgage real estate owned by him,
 14 buy real estate and execute a mortgage to cover the purchase money,
 15 or execute a deed for the sale of real estate so purchased, or execute
 16 notes or make such other agreements and do such other things as
 17 may be necessary to obtain the benefits of the said Servicemen's Re-
 18 adjustment Act, and amendments thereto, and also may execute re-
 19 leases of claims in the same manner and with the same effect as
 20 though twenty-one years of age. The minor husband or wife of any
 21 said war veteran or member of the armed services may join in any
 22 such deed or mortgage for the purpose of releasing rights of dower
 23 and other rights in the same manner and with the same effect as
 24 though twenty-one years of age.

25 (c) Powers of Minors to Purchase and deal with Insurance.

26 (1) Annuities or life or health insurance of minors.—A minor
 27 not less than fifteen (15) years of age at his nearest birthday may,
 28 notwithstanding such minority, contract for annuities and for life
 29 or health insurance on his own life or body, or on the person of an-
 30 other in whom the minor has an insurable interest, and may exercise
 31 all rights and powers with respect to or under the contract for an-
 32 nuity or for insurance upon his own life or body, or any contract
 33 such minor effected on the person of another issued to the minor as
 34 above described as though of full legal age, and may surrender his
 35 interest therein and give a valid discharge for any benefit accruing

36 or money payable thereunder. The minor shall not by reason of his
 37 minority, be entitled to rescind, avoid, or repudiate the contract, or
 38 any exercise of a right or privilege thereunder; except that such mi-
 39 nor, not otherwise emancipated, shall not be bound by any unper-
 40 formed agreement to pay, by promissory note or otherwise, any
 41 premium on any such insurance contract.

42 (2) Consent of guardian.—If any minor mentioned in subsection
 43 (1) above, is possessed of an estate that is being administered by a
 44 guardian, no such contract shall be binding upon the estate as to
 45 payment of premiums, except as and when consented to by the
 46 guardian and approved by the Court in which the administration of
 47 the estate is pending, and such consent and approval shall be re-
 48 quired as to each annual premium payment.

49 (3) Payment of minor's insurance. Any annuity contract or
 50 policy of life or health insurance procured by a minor under subsec-
 51 tion (1) above, shall be made payable either to the minor or to his
 52 estate, or to a person having an insurable interest in the life of the
 53 minor.

54 (4) Property, casualty, and surety insurance of minors.—The
 55 provisions of subsection (1) above shall also be applicable with re-
 56 spect to property, casualty, and surety insurance contracted for by
 57 any such minor upon his own property, liabilities, or other interests.

58 (d) Non-exclusivity. The absence of the specific mention in this
 59 Article of any power or right granted by law to a minor prior to
 60 the enactment of this Article is not intended to affect the existence
 61 of such power or right.

1 503. Shares in Building and Loan Associations held by Minor or 2 by Minor and Adult Jointly.

3 (a) Whenever any shares in a building or homestead association
 4 are held in the name of any minor or minors, which term includes
 5 any male or female under the age of twenty-one years, the same
 6 shall be held for the exclusive right and benefit of such minor or
 7 minors and free from the control or lien of all persons whatsoever,
 8 except creditors, and shall be paid, with any dividends due thereon,
 9 to the person or persons in whose name or names the shares are
 10 held, and the receipt of such minor or minors shall be a sufficient re-
 11 lease or discharge for such shares to the homestead or building
 12 association.

13 (b) Whenever any shares in a building or homestead association
 14 are held in the name of any minor or minors and also in the name
 15 of an adult, the interest of such minor or minors shall be held for
 16 the exclusive right and benefit of such minor or minors and shall be
 17 free from the control or lien of all persons whatsoever, except the
 18 interest of the adult who also has an interest in said shares and ex-
 19 cept creditors, and shall be paid, with any dividends due thereon, to
 20 the persons in whose names the shares are held, and the receipt of
 21 the minor or minors, as the case may be, and the adult shall be suf-
 22 ficient release or discharge for such shares to the homestead or
 23 building association.

1 Subtitle 6

2 Powers of Attorney

3 601. When Power of Attorney Not Affected by Disability.

4 When a principal designates another his attorney in fact or agent
 5 by a power of attorney in writing and the writing contains the
 6 words "This power of attorney shall not be affected by disability of
 7 the principal," or "This power of attorney shall become effective

8 upon the disability of the principal," or similar words showing the
 9 intent of the principal that the authority conferred shall be exer-
 10 cisable notwithstanding his disability, then the authority of the at-
 11 torney in fact or agent shall be exercisable by him as provided in
 12 the power on behalf of the principal notwithstanding the later dis-
 13 ability or incapacity of the principal or later uncertainty as
 14 to whether the principal is dead or alive. All acts done by the at-
 15 torney in fact or agent pursuant to the power during any period of
 16 disability or incompetence or uncertainty as to whether the prin-
 17 cipal is dead or alive shall have the same effect and shall inure to
 18 the benefit of and bind the principal as if the principal were alive,
 19 competent and not disabled. If a guardian shall thereafter be ap-
 20 pointed for the principal, the attorney in fact or agent shall, during
 21 the continuance of the appointment, account to the guardian rather
 22 than the principal. The guardian shall have the same power, which
 23 the principal would have but for his disability or incompetence, to
 24 revoke, suspend, or terminate all or any part of the power of attorney
 25 or agency.

26 602. Powers of Attorney not Revoked Until Notice of Death or
 27 Disability.

28 (a) Powers of Attorney not revoked. The death, disability, or
 29 incompetence of any principal who has executed a power of attorney
 30 in writing shall not revoke or terminate the agency as to the attorney
 31 in fact, agent or other person who, without actual knowledge of
 32 the death, disability, or incompetence of the principal, acts in good
 33 faith under the power of attorney or agency. Any action so taken,
 34 unless otherwise invalid or unenforceable, shall bind the principal
 35 and his heirs, devisees, and personal representatives.

36 (b) Proof of nonrevocation. An affidavit, executed by the at-
 37 torney in fact or agent stating that he did not have, at the time of
 38 doing an act pursuant to the power of attorney, actual knowledge of
 39 the revocation or termination of the power of attorney by death, dis-
 40 ability or incompetence, shall, in the absence of fraud, be conclusive
 41 proof of the nonrevocation or nontermination of the power at such
 42 time. If the exercise of the power requires execution and delivery of
 43 any instrument which is recordable, the affidavit when authenticated
 44 for record shall likewise be recordable.

45 (c) Provisions for revocation unaffected. This section shall not
 46 be construed to alter or affect any provision for revocation or
 47 termination contained in the power of attorney.

48 603. Powers of attorney executed by members of armed services
 49 listed as missing in action—

50 Whenever any member of the Armed Services of the United
 51 States shall have executed a Power of Attorney, the fact that such
 52 person shall have been reported or listed, officially or otherwise, as
 53 "missing in action," as that phrase is used in military parlance, such
 54 status designation as "missing in action" shall not operate to revoke
 55 such power of attorney, unless such revocation be contained within
 56 the instrument creating the power.

1

Subtitle 7

2

Guardian of the Person

3

701. Testamentary Appointment of Guardian of the Person of a
 4 Minor.

5

6 Unless prohibited by agreement or court order, the surviving par-
 7 ent of a minor may, by will, appoint one or more guardians and suc-
 cessor guardians of the person of an unmarried minor. Such a

8 guardian shall not be required to be approved by or qualify in any
9 court.

10 702. *Court appointment of Guardian of the Person of a Minor.*

11 (a) *General.* On petition by any person interested in the wel-
12 fare of the minor, and after notice and hearing, the Court may ap-
13 point a guardian of the person of an unmarried minor where neither
14 parent is serving as said guardian and where no testamentary ap-
15 pointment has been made. If otherwise qualified, the Court shall ap-
16 point a person designated by the minor, if the minor is fourteen (14)
17 years or older, unless such decision is not in the best interests of the
18 minor. This section shall not be construed to require court appoint-
19 ment of a guardian of the person of a minor where there is no good
20 reason, such as a dispute, for a court appointment.

21 (b) *Venue and procedure.* The venue for a proceeding to appoint
22 a guardian of the person of a minor shall be in the county where the
23 minor resides. The contents of the petition and the manner of giv-
24 ing notice of the hearing on the petition shall be prescribed by
25 Maryland Rules.

26 703. *Bond, Accountings, Compensation.*

27 The guardian of the person of a minor shall not be required to
28 post any bond or to file any accounts. Unless otherwise provided by
29 the will appointing a guardian of the person, he shall not be entitled
30 to any compensation for serving as guardian of the person.

31 704. *Guardian of the Person of a Disabled Person.*

32 The Court shall have power to superintend and direct the care of
33 the person of a disabled person, may appoint a guardian of the per-
34 son, and make such orders and decrees respecting their persons as
35 may seem proper, including an order directing the disabled person
36 to be sent to a hospital. Procedures in such cases shall be prescribed
37 by Maryland Rules.

1 SEC. 2. *And be it further enacted,* That the following sections of
2 the Annotated Code of Maryland (1967 Edition, as from time to time
3 replace, amended and supplemented) be and they are hereby re-
4 pealed:

1 Section 42 of Article 10 of the Code (1968 Replacement Volume),
2 title "Attorneys at Law and Attorneys in Fact," subtitle "Attorneys
3 in Fact"; Section 15A of Article 16 of the Code (1966 Replacement
4 Volume), title "Chancery," subtitle "Distribution"; Sections 43 to
5 48 and Section 50 of said Article 16, subtitle "Inebriates"; Sections
6 51 and 53 to 65 of said Article 16, subtitle "Infants"; Sections 110
7 to 113 of said Article 16, subtitle "Jurisdiction"; Sections 132 to 145,
8 and 147 of said Article 16, subtitle "Non Compos Mentis"; Section
9 148 of said Article 16, subtitle "Nonresidents"; Sections 149 to 151
10 of said Article 16, subtitle "Conservators"; Sections 213 to 222 of
11 said Article 16, subtitle "Uniform Gifts to Minors Act"; Sections 223
12 to 230 of said Article 16, subtitle "Minors' Recoveries in Tort"; Sec-
13 tions 3 to 4 of Article 21 of the Code (1966 Replacement Volume),
14 title "Conveyancing," subtitle "Conveyances in General"; Section 148
15 of Article 23 of the Code (1966 Replacement Volume), title "Corpo-
16 ration," subtitle "Building or Homestead Associations"; Section 64
17 of Article 25 of the Code (1966 Replacement Volume), title "County
18 Commissioners," subtitle "Draining Lands"; Sections 370 and 383
19 of Article 48A of the Code (1968 Replacement Volume), title "Insur-
20 ance Code," subtitle "Insurance Contracts Generally"; Section 3 of
21 Article 88 of the Code (1964 Replacement Volume), title "Slander
22 of Females"; Section 12A of Article 88A of the Code (1964 Replace-

23 ment Volume), title "State Department of Public Welfare," subtitle
 24 "In General"; Section 3 of Article 90 of the Code (1964 Replacement
 25 Volume), title "Sureties," subtitle "Countersecurity"; Sections 19
 26 to 41 of Article 96½ of the Code (1964 Replacement Volume), title
 27 "Veterans," subtitle "Veterans' Guardianship."

1 SEC. 3. *And be it further enacted*, That Section 367(d) of Article
 2 48A of the Annotated Code of Maryland (1968 Replacement Volume),
 3 title "Insurance Code," subtitle "Insurance Contracts Generally," be
 4 and it is hereby repealed and reenacted, with amendments, to read
 5 as follows:

6 ARTICLE 48A

7 367.

8 (d) Any guardian may [with the assent of the orphans' court
 9 by which he shall have been appointed,] insure any property which
 10 the ward or wards of such guardian may own, either jointly or in
 11 severalty, and such insurance shall have the same effect in all re-
 12 spects as if the minor whose property is thus insured were of full
 13 age, and had made such insurance himself.

1 SEC. 4. *And be it further enacted*, That Section 294(c) of Article 81
 2 of the Annotated Code of Maryland (1965 Replacement Volume, title
 3 "Revenue and Taxes," subtitle "Income Tax" be and it is hereby re-
 4 pealed and reenacted, with amendments, to read as follows:

5 ARTICLE 81

6 294.

7 (c) Returns by agents; infants and incompetents *or other dis-*
 8 *abled persons.*—If the taxpayer is unable to make his own return,
 9 the return shall be made by a duly authorized agent. The return for
 10 a minor shall be made by his guardian and the return for an incom-
 11 petent *or other disabled person* shall be made by his *guardian*, com-
 12 mittee or trustee.

1 SEC. 5. *And be it further enacted*, That this Act shall take effect
 2 on July 1, 1969, and all guardians, committee, conservators, and cus-
 3 todians theretofore appointed and continuing to serve on or after
 4 such date shall thereafter proceed under and be governed by this
 5 Act.