

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

SENATE BILL 342

By: Senator G. Stubblefield
By: Representative Maddox

For An Act To Be Entitled

AN ACT TO CREATE THE ARKANSAS STATUTORY THRESHOLDS
FOR SETTLEMENT AGREEMENTS INVOLVING MINORS ACT; AND
FOR OTHER PURPOSES.

Subtitle

TO CREATE THE ARKANSAS STATUTORY
THRESHOLDS FOR SETTLEMENT AGREEMENTS
INVOLVING MINORS ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 16, is amended to add an additional chapter to read as follows:

CHAPTER 131

SETTLEMENT AGREEMENTS

Subchapter 1 – General Provisions [Reserved]

Subchapter 2 – Arkansas Statutory Thresholds for Settlement Agreements Involving Minors Act

16-131-201. Title.

This subchapter shall be known and may be cited as the "Arkansas
Statutory Thresholds for Settlement Agreements Involving Minors Act".

16-131-202. Purpose.



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

16-131-203. Definitions.

As used in this subchapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) To the best of the guardian's knowledge:

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

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

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

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

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

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

16-131-205. Disbursements under settlement agreements.

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

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

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

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

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

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

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

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

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

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

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

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

(1) Pursuant to a court order;

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

(3) Upon the death of the minor.

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

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

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

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

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

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