

By: Senator(s) Doty, Fillingane, Hopson

To: Judiciary, Division A

SENATE BILL NO. 2878

1 AN ACT TO REVISE PROVISIONS PERTAINING TO GUARDIANSHIPS AND
2 CONSERVATORSHIPS; TO AMEND SECTION 93-20-125, MISSISSIPPI CODE OF
3 1972, TO REVISE TRANSITION AND CONFLICT OF LAW PROVISIONS; TO
4 AMEND SECTION 93-20-431, MISSISSIPPI CODE OF 1972, RELATING TO
5 PAYMENT OF SETTLEMENT PROCEEDS WITHOUT APPOINTMENT OF A
6 CONSERVATOR; AND FOR RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** Section 93-20-125, Mississippi Code of 1972, is
9 amended as follows:

10 93-20-125. Except as otherwise provided in this chapter:

11 (a) This chapter applies to all guardianship and
12 conservatorship proceedings commenced on or after January 1, 2020;

13 (b) This chapter applies to all guardianship and
14 conservatorship proceedings commenced before January 1, 2020,
15 unless the court * * *, in its discretion, determines that the
16 superseded law * * * should apply. The requirements of this
17 chapter providing for increased court oversight and periodic
18 monitoring do not require that a new proceeding be commenced; and

19 (c) An act done before January 1, 2020, is not affected
20 by this chapter.



21 **SECTION 2.** Section 93-20-431, Mississippi Code of 1972, is
22 amended as follows:

23 93-20-431. (1) Unless a person required to transfer * * *
24 a liquidated sum certain under a banking provision, a contract for
25 payment or under a judgment or decree of a court, or other
26 property to a minor knows that a conservator for the minor has
27 been appointed or a proceeding is pending for
28 conservatorship * * *:

29 (a) The person may transfer a liquidated sum certain or
30 property of certain value not exceeding Twenty-five Thousand
31 Dollars (\$25,000.00) in a twelve-month period to:

32 (i) A person who has care or custody of the minor
33 and with whom the minor resides;

34 (* * *ii) A guardian for the minor;

35 (* * *iii) A custodian under the Uniform
36 Transfers to Minors Act, Section 91-20-1 et seq.; or

37 (* * *iv) A financial institution as a deposit in
38 an account or certificate solely in the name of the minor; notice
39 of the deposit must be given to the minor; or

40 (* * *y) An Achieving a Better Life Experience
41 (ABLE) account.

42 (b) The person must seek chancery court approval if the
43 sum of money or value of property that may be due to the ward is
44 not a liquidated sum certain or property of certain value under a
45 banking provision, a contract for payment, or under a judgment,



46 order or decree of a court, and the chancery court before ordering
47 the money paid or personal property delivered must fully
48 investigate the matter and satisfy itself by evidence or otherwise
49 that the proposed sum of money to be paid or property to be
50 delivered because of any claim of the ward whatsoever, whether
51 arising ex delicto or ex contractu, is a fair settlement of the
52 claim of the ward and that it is in the best interest of the ward
53 that the settlement be made or the personal property be delivered
54 to the ward. Upon making that determination, the chancery court
55 may order that the money or personal property be accepted by the
56 ward and paid or delivered by the party owing the money or in
57 possession of the property as authorized by the decree of the
58 court, and compliance with the order shall acquit and release the
59 person so paying or delivering the same. The person who receives
60 the money or property of a ward under the order thereby becomes
61 amenable to the court for the disposition of it for the use and
62 benefit of the ward, but is not required to furnish security
63 therefor absent order of the chancery court.

64 (2) A person that transfers funds or other property under
65 this section is not responsible for its proper application.

66 (3) A person that receives funds or other property for a
67 minor under subsection (1)(a) or (b) may apply it only to the
68 support, care, education, health, or welfare of the minor, and may
69 not derive a personal financial benefit from it, except for
70 reimbursement for necessary expenses. Funds not applied for these



71 purposes must be preserved for the future support, care,
72 education, health, or welfare of the minor, and the balance, if
73 any, transferred to the minor when the minor becomes an adult or
74 otherwise is emancipated.

75 (4) Contributions to an ABLE account, and the provisions for
76 permissible disbursements from such account, are governed by 26
77 U.S.C. Section 529A and the terms of the applicable ABLE plan.
78 The amount of annual contributions is subject to 26 U.S.C. Section
79 2503(b).

80 **SECTION 3.** This act shall take effect and be in force from
81 and after its passage.

