

By: Representative Cockerham

To: Judiciary A

HOUSE BILL NO. 864

1 AN ACT TO CREATE THE MISSISSIPPI STATUTORY THRESHOLDS FOR
2 SETTLEMENTS INVOLVING MINORS ACT; TO SET FORTH THE PURPOSE OF THE
3 ACT; TO PROVIDE WHEN A PERSON HAVING LEGAL CUSTODY OF A MINOR MAY
4 ENTER INTO A SETTLEMENT AGREEMENT WITH A PERSON AGAINST WHOM THE
5 MINOR HAS A CLAIM; TO PROVIDE HOW MONIES SHALL BE PAID; TO PROVIDE
6 LIABILITY PROTECTION FOR CERTAIN PERSONS ACTING IN GOOD FAITH; AND
7 FOR RELATED PURPOSES.

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

9 **SECTION 1.** This act shall be known and may be cited as the
10 "Mississippi Statutory Thresholds for Settlements Involving Minors
11 Act."

12 **SECTION 2.** The purpose of this act is to set forth standards
13 and procedures for settling claims involving minors.

14 **SECTION 3.** (1) Any person having legal custody of a minor,
15 or if no custody has been determined, any parent or natural
16 guardian, may enter into a settlement agreement with a person or
17 entity against whom the minor has a claim if:

18 (a) A conservator or guardian has not been
19 appointed for the minor;



20 (b) The total amount of the settlement, not including
21 reimbursement of medical expenses, liens, reasonable attorney fees
22 and costs of suit, is Twenty-five Thousand Dollars (\$25,000.00) or
23 less if paid in cash, by check, draft, or if paid by the purchase
24 of a premium for an annuity;

25 (c) The monies payable under the settlement agreement
26 will be paid as set forth in subsections (3) and (4) of this
27 section; and

28 (d) The person entering into the settlement agreement
29 on behalf of the minor completes an affidavit or verified
30 statement that attests the person understands they have the right
31 to choose to settle the minor's claim by presenting it to the
32 chancery court for its review and approval, but has chosen to
33 settle the minor's claim under this section, and that:

34 (i) To the best of the person's knowledge, the
35 minor will be fully compensated by the settlement; or

36 (ii) The person has made a reasonable inquiry that
37 there is no practical way to obtain additional amounts from the
38 party or parties entering into the settlement agreement with the
39 minor.

40 (2) The attorney representing the person entering into the
41 settlement agreement on behalf of the minor, if any, shall
42 maintain the affidavit or verified statement completed under
43 subsection (1) (d) of this section in the attorney's file for two
44 (2) years after the minor attains the age of majority.



45 (3) The monies payable under the settlement agreement shall
46 be paid as follows:

47 (a) If the minor or person entering into the settlement
48 agreement on behalf of the minor is represented by an attorney and
49 the settlement is paid in cash, by check, draft, or by direct
50 deposit, into the attorney's trust account maintained pursuant to
51 rules of professional conduct adopted under the Mississippi Rules
52 of Professional Conduct to be held for the benefit of the minor,
53 the attorney shall timely deposit the monies received on behalf of
54 the minor directly into a federally insured restricted savings
55 account that earns interest, in the sole name of the minor, and
56 provide notice of the deposit to the minor and the person entering
57 into the settlement agreement on behalf of the minor. Notice
58 shall be delivered by personal service or first class mail.

59 (b) If the minor or person entering into the settlement
60 agreement on behalf of the minor is not represented by an attorney
61 and the settlement is paid:

62 (i) In cash, by check, or by draft, the monies
63 shall be deposited by the person entering into the settlement
64 agreement on behalf of the minor directly into a federally insured
65 restricted savings account that earns interest, in the sole name
66 of the minor;

67 (ii) By direct deposit, the minor or person
68 entering into the settlement agreement on behalf of the minor



69 shall provide the person or entity with whom the minor has settled
70 the claim with the information sufficient to complete an
71 electronic transfer of settlement funds within ten (10) business
72 days of the settlement into a federally insured restricted savings
73 account that earns interest, in the sole name of the minor. The
74 notice to the minor of the electronic transfer of funds shall be
75 delivered by personal service or first class mail to the minor and
76 person entering into the settlement agreement on behalf of the
77 minor, by the person or entity against whom a minor has a claim
78 that settles the claim with a minor, and provide notice of the
79 deposit to the minor and the person entering into the settlement
80 agreement on behalf of the minor. Notice shall be delivered by
81 personal service or first class mail; or

82 (iii) If paid by purchase of an annuity, then by
83 direct payment to the provider of the annuity with the minor
84 designated as the sole beneficiary of the annuity.

85 (c) If the minor is a ward of the state, then the
86 settlement shall be paid in cash, by check, draft, or by
87 depositing the funds directly into a trust account, or subaccount
88 of a trust account, established in accordance with the court order
89 for the purpose of receiving monies payable to the ward under the
90 settlement agreement and that earns interest for the benefit of
91 the ward.

92 (4) The monies in the minor's federally insured restricted
93 savings account that earns interest, trust account or trust



94 subaccount established under subsection (3) of this section may
95 not be withdrawn, removed, paid out or transferred to any person,
96 including the minor, except as follows:

97 (a) Pursuant to court order,

98 (b) Upon the minor's attainment of majority, or
99 otherwise emancipated, or

100 (c) Upon the minor's death.

101 (5) A signed settlement agreement entered on behalf of the
102 minor in compliance with subsection (1) of this section is binding
103 on the minor without the need for court approval or review, and
104 has the same force and effect as if the minor were a competent
105 adult entering into the settlement agreement, and will serve to
106 fully release all claims of the minor encompassed by the
107 settlement agreement.

108 (6) A person acting in good faith on behalf of a minor under
109 this section is not liable to the minor for the monies paid in
110 settlement or for any other claim arising out of the settlement.

111 (7) Any person or entity against whom a minor has a claim
112 that settles the claim with a minor in good faith under this
113 section shall not be liable to the minor for any claims arising
114 from the settlement of the claim.

115 (8) Any person that transfers funds or other property under
116 this section shall not be responsible for its proper application.

117 **SECTION 4.** This act shall take effect and be in force from
118 and after its passage.

