

By: Senator(s) Wiggins

To: Judiciary, Division A

SENATE BILL NO. 2614

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

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

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

11 (2) A person having legal custody of a minor, or if no
12 custody has been determined, any parent or natural guardian may
13 enter into a settlement agreement with a person or entity against
14 whom the minor has a claim if:

15 (a) A conservator or guardian ad litem has not been
16 appointed for a minor;

17 (b) The total amount of the claim, not including
18 reimbursement of medical expenses, liens, reasonable attorney fees
19 and costs of suit, is Twenty Five Thousand Dollars (\$25,000.00) or



20 less if paid in cash or if paid by the purchase of a premium for
21 an annuity;

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

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

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

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

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

42 (4) (a) If the minor is not a ward of the state, the monies
43 payable under the settlement agreement must be paid as follows:



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

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

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

65 2. By direct deposit, the minor or person
66 entering into the settlement agreement on behalf of the minor
67 shall provide the person or entity with whom the minor has settled
68 the claim with the necessary information sufficient to complete an



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

79 3. If paid by purchase of an annuity, by
80 direct payment to the provider of the annuity with the minor
81 designated as the sole beneficiary of the annuity.

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

89 (5) The monies in the minor's federally insured restricted
90 savings account that earns interest, trust account or trust
91 subaccount established under subsection (3) of this section may
92 not be withdrawn, removed, paid out or transferred to any person,
93 including the minor, except as follows:



94 (a) Pursuant to court order;

95 (b) Upon the minor's attainment of majority or
96 emancipation; or

97 (c) Upon the minor's death.

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

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

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

112 (9) Any person or entity that transfers funds or other
113 property pursuant to this section shall not be responsible for its
114 proper application.

115 **SECTION 2.** This act shall take effect and be in force from
116 and after its passage.

