

Planning Ahead



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Estate Planning – Gifts Under the Uniform Transfers to Minors Act?

A gift to a minor child can be made using a custodial account under the California Uniform Transfers to Minors Act (“CUTMA”). For smaller gifts, this is a practical alternative to a trust. The gift is made to a person you name as “Custodian” for the benefit of (f/b/o) the minor child. The money in the account belongs to the minor, but until the minor reaches the designated age, the Custodian has the legal responsibility to manage the money for the minor’s benefit.

Here are some rules to keep in mind. There can only be one minor per CUTMA account. You can designate any age between 18 and 25 when the child can access the account. But once the child reaches the designated age, not even the person who created the CUTMA account can hold the money back. I’ve had more than one parent call me upset their 18 year-old child was about to receive money when child was not financially responsible.

If the child dies before reaching the designated age, if the child is 18 or older and has a Will, the money will be distributed per the child’s Will. If the child is under age 18 or has no Will, the money will be distributed to the child’s intestate heirs. In case of divorced parents, a share of the child’s account may pass to an ex-spouse, much to the other parent’s dismay.

A successor Custodian can be named to act if for any reason the first named Custodian is no longer able. If there is no successor named, a minor who is age 14 or older can name his or her own successor, including someone you wouldn’t trust if it was your choice. If the minor is under 14, it will take a Court order to appoint a successor Custodian, which will incur expense and cause delay when immediate action on the account may be required.

Even with all the rules and restrictions, for smaller gifts CUTMA makes practical sense, but may not work as intended in every situation.

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