

Chapter 86

2020 Regular Session

Subject Civil Law; Guardianships; CICs; Minor Trusts; Garnishment

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Overview

This act makes changes to guardianship and conservatorship laws.

Article 1: Guardianship

The changes to the guardianship and conservatorship statutes include changes to terminology, notably changing the term “ward” to “protected person” throughout the chapter, and adding definitions for the terms “ABLE account,” “professional guardian or professional conservator,” and “supported decision making.” The act makes other changes to the chapter, including:

- Updates the Bill of Rights for Protected Persons and includes the right to communicate and see friend and family when it does not pose a threat to the protected person, and requires notice to the court if communication and visitation is restricted.
- Creates a new form, “a bill of particulars,” that will contain confidential filings related to a protected persons financial and medical documents in a case.
- Allows a professional guardian to delegate authority to another person for a short period of time when the professional guardian notifies the court.
- Requires the court to consider what less restrictive means of assisting a protected person have been attempted before a guardianship or conservatorship is put in place.
- Requires notice to family when a person subject to a guardianship experiences a significant medical change, is moved, or dies.
- Allows a conservator to establish and administer an ABLE account.
- Allows banks and trust companies to serve as conservators without bond.
- Allows a conservator to institute cases for civil court actions.
- Allows a person subject to a conservatorship to control their own wages, unless otherwise ordered by the court.
- Allows a guardian or conservator to seek a restraining order on behalf of a protected person.
- Requires that guardianships ordered for a person under the age of 30 cannot last longer than six years.
- Limits emergency guardianships to 120 days.
- Allows the court to order mediation in guardianship and conservatorship cases.

Allows a guardian or conservator to petition for a harassment restraining order for a protected person.

Article 2: Minor Trusts

Updates and modifies provisions of the Uniform Transfers to Minors Act.

Section	Description – Article 2: Minor Trusts
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| 1 | <p>Care of custodial property.</p> <p>This section changes the standard of care from the “prudent person” standard to a prudent investor standard consistent with how trusts are managed. This applies to custodians who are managing assets under the Minnesota Uniform Transfers to Minors Act (MUTMA).</p> |
| 2 | <p>Powers of custodians.</p> <p>Allows a custodian under the MUTMA to transfer the property to a trust.</p> |
| 3 | <p>Transfers upon termination of custodianship.</p> <p>Provides that all other custodial property transfers occur when the minor is 21 years of age, consistent with property transfers by gift, will, or trust. This section also provides that if the transfer does not occur with 90 days of the terminating event the minor can petition for the transfer.</p> |
| 4 | <p>Effect on existing custodianship.</p> <p>Removes obsolete sections and provides that transfers before the effective date of the act occur under the existing law. This section is effective the day following final enactment.</p> |

Article 3: Common Interest Ownership

Provides new procedures and requirements for amendments to governing documents for common interest communities.

Section	Description – Article 3: Common Interest Ownership
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| 1 | <p>Applicability.</p> <p>Makes technical and conforming changes.</p> |
| 2 | <p>Amendment of declaration.</p> <p>Provides that unit owners are deemed to have voted in the affirmative for approval of amendments to declarations, bylaws, and articles of incorporation if the association sends a notice to the unit owner and they do not object to the amendment. This section also provides for a court process to allow the association to</p> |

Section Description – Article 3: Common Interest Ownership

reduce the percentage needed for approval (67%) and have an amendment approved by the court.

Article 4: Garnishment

This act changes the exemption for wages during garnishment and allows creditors to garnish earnings for 20 days longer than currently allowed under the law. Wage garnishment occurs after a creditor has obtained a judgment against the debtor.

The current law allows the debtor to exempt income under one of the following formulas, whichever one is higher:

- 40 times the federal minimum wage, or
- 25 percent of the debtor’s net income

This act adds an additional category, allowing a debtor to maintain up to 40 times the state minimum wage, as it was set from 2016 to 2018 at \$9.50 an hour.

Under current law, the debtor’s wages were garnished for 70 days after the debtor was served with the garnishment papers. This act would allow the creditor to continue garnishing wages for an additional 90 days, which is 20 days longer than current law.

This act would be effective on August 1, 2020, and apply to wages being garnished on or after that date.



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