

38-621. Same; establishment of trust fund or savings plan; requirements; withdrawals by beneficiary; trustee powers and duties.

(a) A parent or legal guardian entitled to the physical custody, care and control of the minor child shall establish a trust fund or other savings plan pursuant to this section at a bank, savings and loan institution, credit union or brokerage firm or company registered under the investment company act of 1940 within seven business days after the minor child's contract is signed by the minor child and the employer, unless a similar trust fund or other savings plan has been previously established for the purpose of preserving for the benefit of the minor child the portion of the minor child's gross earnings pursuant to paragraph (1) of subsection (b) of K.S.A. 38-620, and amendments thereto, or the contract described by paragraph (1) of subsection (c) of K.S.A. 38-620, and amendments thereto. At least one parent or guardian shall be the trustee of the trust fund or other savings plan for the benefit of the minor child.

(b) Except as otherwise provided in this section, prior to the date on which the beneficiary of the trust funds or other savings plan attains 18 years of age or the issuance of a declaration of right of majority of the minor child under K.S.A. 38-109, and amendments thereto, no withdrawal by the beneficiary may be made of funds on deposit in the trust fund or other savings plan without written order of the district court pursuant to paragraph (7) of subsection (b) or paragraph (5) of subsection (c) of K.S.A. 38-620, and amendments thereto. Upon reaching 18 years of age, or obtaining the issuance of a declaration of right of majority under K.S.A. 38-109, and amendments thereto, the beneficiary may withdraw the funds on deposit in the trust fund or other savings plan only after providing a certified copy of the beneficiary's birth certificate to the financial institution where the trust fund or other savings plan is located.

(c) The trustee or trustees shall prepare a written statement within 10 business days after the minor's contract is signed by the minor and the employer, under penalty of perjury, that shall include the name, address and telephone number of the financial institution, the name of the account, the number of the account, the name of the minor child beneficiary, the name of the trustee or trustees of the account and any additional information needed by the minor child's employer to deposit into the account the portion of the minor child's gross earnings prescribed by paragraph (1) of subsection (b) or paragraph (1) of subsection (c) of K.S.A. 38-620, and amendments thereto. The trustee or trustees shall attach to the written statement a true and accurate photocopy of any information received from the financial institution confirming the creation of the account, such as an account agreement, account terms, passbook or other similar writings.

(d) If the trust fund or other savings plan is established in the United States, it shall be established either with a financial institution that is and remains insured at all times by the federal deposit insurance corporation, the securities investor protection corporation, or the national credit union share insurance fund or their respective successors or with a company that is and remains registered under the investment company act of 1940. If the trust fund or other savings plan is established outside the United States, the financial institution shall be a first-class international bank. The trustee or trustees of the trust fund or other savings plan shall be the only individual, individuals, entity or entities with the obligation or duty to ensure that the funds remain in a financial institution insured in accordance with this section.

(e) Upon application by the trustee or trustees to the financial institution or company where the trust fund or other savings plan is held, the trust funds may be handled by the trustee or trustees in any of the following methods:

(1) The trustee or trustees may transfer funds to another account at the same financial institution or company, provided that the funds transferred shall continue to be subject to this act.

(2) The trustee or trustees may transfer funds to another financial institution or company, provided that the funds transferred shall continue to be subject to this act and that the trustee or trustees have provided written notification to the financial institution or company to which the funds will be transferred that the funds are subject to this section and written notice of the requirements of this act.

(3) The trustee or trustees may use all or a part of the funds to purchase, in the name of and for the benefit of the minor child: (A) Mutual funds offered by a company registered under the investment company act of 1940, so long as those mutual funds are broad-based index funds or invest broadly across the domestic or a foreign regional economy and are not sector funds or with a company that is and remains registered under the investment company act of 1940 as authorized by this section; or (B) government securities and bonds, certificates of deposit, money market instruments, money market accounts or mutual funds investing solely in those government securities and bonds, certificates, instruments and accounts that are available at the financial institution where the trust fund or other savings plan is held, so long as that the funds remain in trust at a financial institution insured by the federal deposit insurance corporation, the securities investor protection corporation, or the national credit union share insurance fund if within the United States, or maintained in a first-class international bank if not within the United States, if those purchases have a maturity date on or before the date upon which the minor child will attain 18 years of age, and any proceeds accruing from those purchases will be redeposited into that account or accounts or used to further purchase any of those or similar securities, bonds, certificates, instruments, funds or accounts.

History: L. 2000, ch. 174, § 7; July 1.