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CONFEREE TRANSMITTAL FORM

Please provide 15 hard copies of testimony along with a PDF to Barbara Moore in room 419-E
Please submit all testimony no later than 10:00 AM the day before the scheduled meeting

Bill # SB 243
Please note nomenclature (HB, SB, SCR, etc.)

Date of Testimony 02/21/23
(MM/DD/YY)

Category:

Please select one

- Proponent
 Opponent
 Neutral

Conferee

KELLY VANZWOLL
First name Last Name
ASSISTANT VICE PRESIDENT
KANSAS BANKERS ASSOCIATION
Organization represented and title, if any

Delivery:

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- In-person
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Contact (If different than above)

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Phone number

Email address



Date: February 21, 2023

To: Senate Committee on Judiciary
Senator Kellie Warren, Chair

From: Kelly VanZwoll, Assistant Vice President – Government Relations & Staff Attorney
Kansas Bankers Association

Re: Verbal Neutral Testimony for SB 243

Dear Chairwoman Warren and Members of the Committee:

I am Kelly VanZwoll appearing on behalf of the Kansas Bankers Association (KBA), organized in 1887 and whose membership includes 98% of the 208 banks and savings & loans headquartered in Kansas. Our membership also includes more than 20 out-of-state commercial banks operating in Kansas. The Kansas banking industry employs more than 22,000 Kansans that provide financial services in every county across the state. Our organizational mission statement is:

"Together, we support our member banks and bankers with leadership, advocacy, and education to benefit the communities and customers they serve."

Thank you for the opportunity to present neutral testimony on SB 243. Currently, when there are settlement agreements for minors, those payouts are often put into an account at a financial institution either through a court ordered account, or under the Kansas Uniform Transfers to Minor Act. SB 243 would create another option for these payouts to be deposited without requiring the minor to get a court order or have a custodian appointed. We appreciate the proponent's and other stakeholders' efforts to work with us on this bill. Although we are neutral today, we would move to a proponent of this legislation by including a few amendments that we consider friendly and would make this proposed bill and current statutory language even better.

When an individual opens most accounts at a financial institution, they have the option to add a payable on death (POD) beneficiary to the account. By adding a POD beneficiary, when the account owner dies, any money in the account automatically goes to the POD beneficiary, and they do not have to go through the probate/estate process. A POD beneficiary is recognized under Kansas law, KSA 9-1215, for estate planning purposes. Our first proposed amendment would add clarifying language to SB 243 on page 3 after (d)(3) stating that any account opened with a settlement agreement per this act would be able to add a POD beneficiary. This amendment would give the financial institution opening the account comfort to know that should something happen to the owner, they have clear knowledge to whom they pay out the account.

Our second amendment would add language on page 3 after (f)(2) to clarify that the financial institution that opens the account is not responsible for tracking the use of the funds. This language would offer financial institutions the same protection afforded insurers in section (f)(2) of this act.

Finally, we respectfully request that the Committee consider increasing the thresholds in KSA 59-3053(a), 59-3055(b-c), and 38-1707 from \$10,000 to \$25,000. These are the existing ways settlement money is currently being deposited into accounts for minors. Both the minor court order accounts and the Uniform Transfer to Minor accounts are capped at \$10,000. We believe that it would not only be fair to match these accounts to the settlement agreement accounts capped amount, but it would create less confusion on the options for those attempting to create the account for the minor and the financial institutions that would open them.

Thank you for your time and attention. When the Committee takes action on SB 243, we respectfully request that it consider these friendly amendments we worked on with the proponents and other stakeholders on pages 3 and 4 of my testimony.

Once again, thank you for the opportunity to present neutral testimony on SB 243, and I would be happy to stand for questions. If, at a later time, you have questions or require additional information, please get in touch with me at kvanzwoll@ksbankers.com or (785) 232-3444

KBA suggested language for amendments to SB 243:

1. (d)(4) In the event of the death of an account holder, the balance of such account shall be paid to the payable on death beneficiary in accordance with KSA 9-1215, and amendments thereto, or, in the absence of a named payable on death beneficiary, in accordance with the provisions of the Kansas probate code.

2. (f)(3) Any financial institution who in good faith opens a restricted savings or other restricted investment account at the direction of the minor or the minor's representative who entered into a settlement agreement shall not be liable to the minor or the minor's representative for any claims arising from the use of such funds.

3. Threshold increases:

38-1707. Other transfer by fiduciary. (a) Subject to subsection (c), a personal representative or trustee may make an irrevocable transfer to another adult or trust company as custodian for the benefit of a minor pursuant to KSA 38-1710, in the absence of a will or under a will or trust that does not contain an authorization to do so.

(b) Subject to subsection (c), a conservator may make an irrevocable transfer to another adult or trust company as custodian for the benefit of the minor pursuant to KSA 38-1710.

(c) A transfer under subsection (a) or (b) may be made only if (i) the personal representative, trustee, or conservator considers the transfer to be in the best interest of the minor, (ii) the transfer is not prohibited by or inconsistent with provisions of the applicable will, trust agreement, or other governing instrument, and (iii) the transfer is authorized by the court if it exceeds ~~\$10,000~~ **\$25,000** in value.

59-3053. Natural guardian; powers and responsibilities. (a) A natural guardian shall have the right to the custody of the natural guardian's minor child and the right to exercise control over the person of the natural guardian's minor child as provided by law, unless a guardian has been appointed for the minor. The natural guardian of such minor has the right and responsibility to hold in trust and manage such person's estate for such person's benefit all of the personal and real property vested in such minor when the total of such property does not exceed ~~\$10,000~~ **\$25,000** in value, unless a guardian or conservator has been appointed for the minor.

(b) Nothing in this act shall be construed to relieve a natural guardian of any obligation imposed by law for the support, maintenance, care, treatment, habilitation or education of that natural guardian's minor child.

59-3055. Small estate; investment; disposition. (a) Any court having either control over or possession of any amount of money not exceeding \$100,000, the right to which is vested in a minor, shall have the discretion to authorize, without the appointment of a conservator or the giving of bond, and notwithstanding the authority of a natural guardian as provided for in KSA 59-3053, and amendments thereto, the deposit of the money in a savings account of a bank, credit union, savings and loan association or any other investment account that the court may authorize, payable either to a conservator, if one shall be appointed for the minor, or to the minor upon attaining the age of 18 years.

(b) Any court having either control over or possession of any amount of money not exceeding ~~\$10,000~~ **\$25,000**, the right to which is vested in a minor, shall have the discretion to order the payment

of the money to any person, including the natural guardian of the minor, or the minor. If the person is the conservator for the minor, the court may waive or recommend the waiver of the requirement of a bond. If the person is anyone other than the minor, the court shall order that person to hold in trust and manage such person's estate for such person's benefit.

(c) Any court having either control over or possession of any amount of money not exceeding ~~\$10,000~~ **\$25,000**, the right to which is vested in a person for whom a guardian has been appointed, shall have the discretion to authorize, without the appointment of a conservator or the giving of bond, the deposit of the money in a savings account of a bank, credit union or savings and loan association, payable to the guardian for the benefit of the ward if authorized pursuant to subsection (e)(8) of KSA 59-3075, and amendments thereto, payable to a conservator, if one shall be appointed for the person, or payable to the ward on restoration to capacity.