

House Bill 2687

Sponsored by COMMITTEE ON JUDICIARY (at the request of Oregon Trial Lawyers Association)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Specifies how moneys payable under settlement agreement entered into on behalf of minor or judgment in favor of minor shall be paid.

A BILL FOR AN ACT

1
2 Relating to receipt of moneys on behalf of a minor; creating new provisions; and amending ORS
3 126.725.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 126.725 is amended to read:

6 126.725. (1) A person having legal custody of a minor may enter into a settlement agreement
7 with a person against whom the minor has a claim if:

8 (a) A conservator has not been appointed for a minor;

9 (b) The total amount of the claim, **not including reimbursement of medical expenses, liens,**
10 **reasonable attorney fees and costs of suit,** is \$25,000 or less **if paid in cash or if paid by the**
11 **purchase of a premium for an annuity;**

12 (c) The moneys paid under the settlement agreement will be [*deposited directly into a federally*
13 *insured savings account in the sole name of the minor with notice of the deposit to the minor*] **paid**
14 **as set forth in subsection (3) of this section;** and

15 (d) The person entering into the settlement agreement on behalf of the minor completes an af-
16 fidavit or verified statement that attests that the person has made a reasonable inquiry and that:

17 (A) To the best of the person's knowledge, the minor will be fully compensated by the settle-
18 ment; or

19 (B) There is no practical way to obtain additional amounts from the party entering into the
20 settlement agreement with the minor.

21 **(2) The attorney representing the person entering into the settlement agreement on be-**
22 **half of the minor, if any, shall maintain the affidavit or verified statement completed under**
23 **subsection (1)(d) of this section in the attorney's file for two years after the minor attains**
24 **the age of 21 years.**

25 **(3) The moneys payable under the settlement agreement must be paid as follows:**

26 **(a) If the minor or person entering into the settlement agreement on behalf of the minor**
27 **is represented by an attorney and the settlement is paid in cash, by direct deposit into the**
28 **attorney's trust account maintained pursuant to rules of professional conduct adopted under**
29 **ORS 9.490 to be held for the benefit of the minor. The attorney shall deposit the moneys re-**
30 **ceived on behalf of the minor directly into a federally insured savings account that earns**
31 **interest in the sole name of the minor, and provide notice of the deposit to the minor and**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 the person entering into the settlement agreement on behalf of the minor. Notice shall be
 2 delivered by personal service or first class mail.

3 (b) If the minor or person entering into the settlement agreement on behalf of the minor
 4 is not represented by an attorney and the settlement is paid in cash, directly into a federally
 5 insured savings account that earns interest in the sole name of the minor. Notice of the
 6 deposit to the minor shall be delivered by personal service or first class mail.

7 (c) If paid by purchase of an annuity, by direct payment to the provider of the annuity
 8 with the minor designated as the sole beneficiary of the annuity.

9 [(2)] (4) If a settlement agreement is entered into in compliance with subsection (1) of this sec-
 10 tion, the signature of the person entering into the settlement agreement on behalf of the minor is
 11 binding on the minor without the need for further court approval or review and has the same force
 12 and effect as if the minor were a competent adult entering into the settlement agreement.

13 [(3)] (5) A person acting in good faith on behalf of a minor under this section is not liable to the
 14 minor for the moneys paid in settlement or for any other claim arising out of the settlement.

15 **SECTION 2.** (1) Except as provided in subsection (3) of this section, a person under a duty
 16 to pay moneys to a minor pursuant to a judgment of the court in an amount not exceeding
 17 \$25,000 may pay the moneys to a person having legal custody of the minor with whom the
 18 minor resides or to a guardian of the minor.

19 (2) The moneys paid under subsection (1) of this section must be paid as follows:

20 (a) If the minor or person to whom payment is made is represented by an attorney and
 21 the judgment is paid in cash, by direct deposit into the attorney's trust account maintained
 22 pursuant to rules of professional conduct adopted under ORS 9.490 to be held for the benefit
 23 of the minor. The attorney shall deposit the moneys received on behalf of the minor directly
 24 into a federally insured savings account that earns interest in the sole name of the minor,
 25 and provide notice of the deposit to the minor and the person to whom payment is made.
 26 Notice shall be delivered by personal service or first class mail.

27 (b) If the minor or person to whom payment is made is not represented by an attorney
 28 and the judgment is paid in cash, directly into a federally insured savings account that earns
 29 interest in the sole name of the minor, and provide notice of the deposit to the minor by
 30 personal service or first class mail.

31 (c) If the judgment is paid by purchase of an annuity, by direct payment to the provider
 32 of the annuity with the minor designated as the sole beneficiary of the annuity.

33 (3) This section does not apply if the person making payment has actual knowledge that
 34 a conservator has been appointed or proceedings for appointment of a conservator of the
 35 estate of the minor are pending.

36 **SECTION 3.** Section 2 of this 2009 Act and the amendments to ORS 126.725 by section 1
 37 of this 2009 Act apply to settlements made and judgments entered on or after the effective
 38 date of this 2009 Act.