

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 341

Introduced by Hallstrom, 1.

Read first time January 16, 2025

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to settlements; to adopt the Nebraska
- 2 Statutory Thresholds for Settlements Involving Minors Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Sections 1 to 3 of this act shall be known and cited as
2 the Nebraska Statutory Thresholds for Settlements Involving Minors Act.

3 **Sec. 2.** The purpose of the Nebraska Statutory Thresholds for
4 Settlements Involving Minors Act is to set forth standards and procedures
5 for settling claims involving minors.

6 **Sec. 3.** (1) A person having legal custody of a minor may enter into
7 a settlement agreement with a person against whom the minor has a claim
8 if:

9 (a) A conservator or guardian ad litem has not been appointed for
10 the minor;

11 (b) The total amount of the claim, not including reimbursement of
12 medical expenses, liens, reasonable attorney's fees and costs of suit, is
13 thirty-five thousand dollars or less if paid in cash, by check, by draft,
14 by direct deposit, or by the purchase of a premium for an annuity;

15 (c) The money paid under the settlement agreement will be paid as
16 set forth in subsections (3) and (4) of this section; and

17 (d) The person entering into the settlement agreement on behalf of
18 the minor completes an affidavit or verified statement that attests that
19 the person has made a reasonable inquiry and that:

20 (i) To the best of the person's knowledge, the minor will be fully
21 compensated by the settlement; or

22 (ii) There is no practical way to obtain additional amounts from the
23 party entering into the settlement agreement with the minor.

24 (2) The attorney representing the person entering into the
25 settlement agreement on behalf of the minor, if any, shall maintain the
26 affidavit or verified statement completed under subdivision (1)(d) of
27 this section in the attorney's file for four years after the minor
28 attains the age of twenty-one years.

29 (3) The money payable under the settlement agreement shall be paid
30 as follows:

31 (a) If the minor or person entering into the settlement agreement on

1 behalf of the minor is represented by an attorney and the settlement is
2 paid in cash, by check, by draft, or by direct deposit, then payment
3 shall be made into the attorney's trust account maintained pursuant to
4 the rules of the Supreme Court to be held for the benefit of the minor.
5 The attorney shall timely deposit the money received on behalf of the
6 minor directly into an account established pursuant to the Nebraska
7 Uniform Transfers to Minors Act for the sole benefit of the minor that
8 only allows withdrawals pursuant to subsection (4) of this section and
9 provide notice of the deposit to the minor and the person entering into
10 the settlement agreement on behalf of the minor. Notice shall be
11 delivered by personal service or first-class mail;

12 (b) If the minor or person entering into the settlement agreement on
13 behalf of the minor is not represented by an attorney and the settlement
14 is paid in cash, by check, by draft, or by direct deposit, then payment
15 shall be made into an account established pursuant to the Nebraska
16 Uniform Transfers to Minors Act for the sole benefit of the minor that
17 only allows withdrawals pursuant to subsection (4) of this section and
18 provide notice of the deposit to the minor by personal service or first-
19 class mail;

20 (c) If paid by the purchase of a premium for an annuity, then
21 payment shall be by direct payment to the provider of the annuity with
22 the minor designated as the sole beneficiary of the annuity; and

23 (d) If the minor is a ward of the state and the settlement is paid
24 in cash, by check, by draft, or by direct deposit, then payment shall be
25 made into a trust account, or subaccount of a trust account, established
26 by the Department of Health and Human Services for the purpose of
27 receiving money payable to the ward under the settlement agreement and
28 that earns interest for the benefit of the ward and the department shall
29 provide notice of the deposit to the ward by personal service or first-
30 class mail.

31 (4) The money in the minor's savings account, trust account, or

1 trust subaccount described in subsection (3) of this section shall not be
2 withdrawn, removed, or paid out or transferred to any person, including
3 the minor, except as follows:

4 (a) Pursuant to court order;

5 (b) At the direction of the custodian for the account established
6 pursuant to the Nebraska Uniform Transfers to Minors Act for the sole
7 benefit of the minor;

8 (c) Upon the minor's attainment of nineteen years of age; or

9 (d) Upon the minor's death.

10 (5) If a settlement agreement is entered into in compliance with
11 subsection (1) of this section, the signature of the person entering into
12 the settlement agreement on behalf of the minor is binding on the minor
13 without the need for further court approval or review and has the same
14 force and effect as if the minor were a competent adult entering into the
15 settlement agreement.

16 (6)(a) A person acting in good faith on behalf of a minor under this
17 section is not liable to the minor for the money paid in settlement or
18 for any other claim arising out of the settlement.

19 (b) An insurer who in good faith transfers funds at the direction of
20 the settling minor or the minor's representatives into a restrictive
21 savings or other restrictive investment account or to purchase an
22 annuity, shall not be liable to the minor or the minor's representatives
23 for any claims arising from the use of those funds after the transfer is
24 completed.

25 (c) A financial institution who in good faith opens a restricted
26 savings or other restricted investment account at the direction of the
27 minor or the minor's representatives shall not be liable to the minor or
28 the minor's representatives for any claims arising from the use of such
29 funds.

30 (7) Any person against whom a minor has a claim that settles the
31 claim with a minor in good faith under this section shall not be liable

1 to the minor for any claims arising from the settlement of the claim.

2 (8) For the purposes of this section, minor means a person who has
3 not attained the age of majority as established by section 43-2101.

4 (9) Nothing in this section shall prevent anyone acting on behalf of
5 the minor from filing for guardianship, limited guardianship, or
6 conservatorship in the appropriate county court and requesting the county
7 court to approve the settlement on behalf of the minor and oversee the
8 settlement proceeds.

9 (10) Nothing in this section shall prevent the minor or any person
10 acting on behalf of the minor from filing in an appropriate district
11 court and requesting the district court to approve the settlement
12 agreement, the affidavit or verified statement of the person entering
13 into the settlement agreement, the terms and disposition of the
14 settlement proceeds, or any other matter or agreement relating to or
15 arising from the claims encompassed by the settlement agreement. The
16 district court shall award any docket fees required to file the action to
17 the minor or person acting on behalf of the minor.