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MEMORANDUM

To: Senate Committee on Judiciary
From: Office of Revisor of Statutes
Date: February 21, 2023
Subject: Bill Brief for SB 243

Senate Bill 243 provides requirements and procedures for settlement agreements involving a minor.

The bill adds a new section of law to provide that a person with legal custody of a minor may settle or compromise and enter into a settlement agreement with a person against whom the minor has a claim or from whom the minor is to receive proceeds from the sale of real estate, for the settlement of any estate or from any other source under certain circumstances. First, the minor cannot have an appointed guardian or conservator. Second, the total amount of the settlement proceeds due to the minor, after reduction from the total settlement amount of all medical expenses, medical liens, all other liens and reasonable attorney fees and costs, must be \$25,000 or less. Third, the moneys payable under the settlement agreement must be paid as provided in subsections (c) and (d). Finally, the person entering into the settlement agreement on behalf of the minor must complete an affidavit or verified statement that attests that the person: (1) Has made a reasonable inquiry and that to the best of the person's knowledge, the minor will be fully compensated by the settlement or there is no practical way to obtain additional amounts from the party or parties entering into the settlement agreement with the minor; and (2) understands and acknowledges that such person is obligated by law to deposit the settlement directly into a restricted savings or other restricted investment account or purchase an annuity as provided in subsection (c).

Subsection (c) provides that moneys paid under the settlement agreement shall be deposited into a restricted savings or other restricted investment account that only allows withdrawals from the account under the circumstances specified in subsection (d) or used to purchase an annuity by direct payment to the issuer of the annuity with the minor designated as the sole beneficiary of the annuity. If the minor is under the care, custody and control of the state, the secretary for children

and families shall establish a restricted trust account or subaccount of a trust account that earns interest for the benefit of the minor for the purpose of receiving moneys payable to the minor under the settlement agreement. Subsection (d) provides that the moneys in the minor's restricted savings or other restricted account may not be withdrawn, removed, paid out or transferred to any person, including the minor, except pursuant to court order, upon the minor attaining the age of majority or being otherwise emancipated, or upon the minor's death.

Subsection (e) provides that a signed settlement agreement entered into on behalf of the minor in compliance with subsection (a) is binding on the minor without the need for court approval or review, has the same force and effect as if the minor were a competent adult entering into the settlement agreement, shall serve to fully release all claims of the minor encompassed by the settlement agreement and may be relied on by a financial institution or other entity when opening a restricted savings or other restricted investment account or purchasing an annuity on behalf of a minor. Subsection (f) provides that any person or entity against whom a minor has a claim that settles the claim with the minor in good faith under this section shall not be liable to the minor for any claims arising from the settlement of the claim. Further, an insurer who in good faith transfers funds into a restricted savings or other restricted investment account or to purchase an annuity at the direction of the minor or the minor's representatives who entered into a settlement agreement shall not be liable to the minor or the minor's representatives for any claims arising from the use of such funds after the transfer is completed.

Subsection (g) provides that nothing in this section shall prevent any person acting on behalf of the minor from filing for guardianship, limited guardianship or conservatorship in an appropriate district court and requesting the district court to approve the settlement on behalf of the minor and oversee the settlement proceeds.