



**KANSAS
TRIAL LAWYERS
ASSOCIATION**

To: Kellie Warren, Chair
Members of the Senate Judiciary Committee

From: Callie Jill Denton, Executive Director
Kansas Trial Lawyers Association

Date: February 21, 2023

Re: SB 243 (minor settlements) WITH AMENDMENTS, NEUTRAL

The Kansas Trial Lawyers Association is an organization of Kansas personal injury and workers compensation litigators. KTLA supports the right to trial by jury and access to courts.

KTLA appreciates the opportunity to provide the committee with testimony on SB 243. We met with the proponents and other stakeholders to discuss the bill prior to today's hearing and have provided our amendment to them.

SB 243 would address a variety of situations in which a person would act on behalf of a minor to negotiate, settle, and manage the financial proceeds of the settlement until the minor reaches the age of 18.

KTLA's primary focus is on insurance claims settled by a parent on behalf of a minor. Currently, attorneys representing a minor or parent may seek to obtain the court's approval of the settlement agreement, including a plan for holding and investing or otherwise using the settlement proceeds for the benefit of the minor. A "friendly" settlement hearing protects the child's interests, the parent's interests, and it officially releases the insurance company and the insured from all claims related to the agreement.

KTLA's amendment preserves the status quo for "friendly" settlement hearings so that they do not become more difficult for parties that choose or require a court's review of a settlement.

SB 243 will expedite many settlements, especially for non-insurance transactions or for those in which the minor or person having custody of the minor is dealing directly with the insurance company and is comfortable with the obligations of managing the settlement funds on behalf of the minor. KTLA's amendment does not affect these situations.

KTLA's amendment also does not affect situations in which a guardianship or conservatorship is necessary.

KTLA's amendment simply preserves the status quo for "friendly" settlement hearings so that such hearings do not become more difficult for those that choose or require a court's review.

KTLA respectfully requests that if the committee chooses to act, that it adopts KTLA's amendment before passing SB 243.



Amendment to SB 243

On page 3, line 34, before Sec. 2.

New (h) Nothing in this section shall prevent the minor or any party acting on behalf of the minor from filing in the appropriate district court and requesting the court's approval of the settlement agreement, the affidavit or verified statement of the person entering into the settlement agreement, terms and disposition of the settlement proceeds, or any other matter or agreement relating to or arising from the claims encompassed by the settlement agreement. The court shall award any docket fees required to file the action to the minor or party acting on behalf of the minor.

Purpose of the amendment:

1. Clarifies that the district court may still approve settlements of \$25,000 and less without establishing a guardianship, limited guardianship, or conservatorship ("friendly" settlement hearing).
 - a. Court approval of a settlement may be needed on the advice of minor's counsel to protect the minor's interests.
 - b. Court approval may be needed by the person acting on behalf of a minor to set up a restricted account. (A financial institution may require approval of the court prior to establishing the account, based on its own policies.)
2. Clarifies that the cost of filing the "friendly" settlement hearing is allowed to the party in whose favor judgment is rendered, consistent with current practice in "friendly" settlement hearings and law, KSA 60-2002.