

SENATE BILL NO. 46—COMMITTEE ON JUDICIARY

PREFILED JANUARY 30, 2007

Referred to Committee on Judiciary

SUMMARY—Enacts the Uniform Custodial Trust Act.  
(BDR 13-753)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to trusts; enacting the Uniform Custodial Trust Act; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

This bill enacts the Uniform Custodial Trust Act, which was promulgated by the National Conference of Commissioners on Uniform State Laws in 1987 and intended to make a simplified custodial trust available to persons without extensive financial assets.

**Section 19** of this bill allows any person to create a custodial trust by executing a statement that property is being placed in a custodial trust. The statement may be a separate document or merely a notation on an existing title document. In addition, **section 20** of this bill permits a trust that arises upon the happening of a future event. Any person can create such a trust with respect to specific property by executing a statement which indicates that the trust will be established upon the happening of the event. Under **section 21** of this bill, the trustee's obligations arise upon acceptance of the property.

**Section 22** of this bill allows any person obligated to an incapacitated person who does not have a conservator to establish a custodial trust into which property satisfying the obligation is placed for the incapacitated person as beneficiary. If the value of the property so placed exceeds \$20,000, however, a transfer into such a trust must be approved by a court.

**Sections 24-26** of this bill govern the duties and powers of the trustee of a custodial trust. **Section 24** requires a trustee to follow the directions of the beneficiary if the beneficiary is not incapacitated. Moreover, if the beneficiary is not incapacitated, **section 26** requires a trustee to pay to the beneficiary as much of the trust property as the beneficiary directs.

**Section 27** of this bill allows a custodial trustee or a court to determine that a beneficiary of a custodial trust has become incapacitated. A determination that the beneficiary is incapacitated does not terminate the custodial trust or any of the



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powers of the custodial trustee. If the beneficiary of the custodial trust becomes incapacitated, the custodial trust continues as a discretionary trust, with the trustee as a fiduciary who must act with the care that would be used by a prudent person who was dealing with the property of another.

**Section 19** of this bill allows the beneficiary of a custodial trust who is not incapacitated to terminate the custodial trust at any time. If a custodial trust has not been terminated during the lifetime of the beneficiary, the custodial trust terminates upon the death of the beneficiary. Under **section 34** of this bill, a beneficiary may direct the trustee in a writing to distribute the trust property in any fashion the beneficiary desires at the beneficiary's death.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** Title 13 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 37, inclusive, of this act.

**Sec. 2.** *This chapter may be cited as the Nevada Uniform Custodial Trust Act.*

**Sec. 3.** *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4 to 18, inclusive, of this act have the meanings ascribed to them in those sections.*

**Sec. 4.** *"Adult" means an individual who is at least 18 years of age.*

**Sec. 5.** *"Beneficiary" means an individual for whom property has been transferred to or held under a declaration of trust by a custodial trustee for the individual's use and benefit under this chapter.*

**Sec. 6.** *"Conservator" means a person appointed or qualified by a court to manage the estate of an individual or a person legally authorized to perform substantially the same functions.*

**Sec. 7.** *"Court" means the district court of this State.*

**Sec. 8.** *"Custodial trust property" means an interest in property transferred to or held under a declaration of trust by a custodial trustee under this chapter and the income from and proceeds of that interest.*

**Sec. 9.** *"Custodial trustee" means a person designated as trustee of a custodial trust under this chapter or a substitute or successor to the person designated.*

**Sec. 10.** *"Guardian" means a person appointed or qualified by a court as a guardian of an individual, including, without limitation, a limited guardian, but not a person who is only a guardian ad litem.*

**Sec. 11.** *"Incapacitated" means lacking the ability to manage property and business affairs effectively by reason of mental*



1 *illness, mental deficiency, physical illness or disability, chronic*  
2 *use of drugs, chronic intoxication, confinement, detention by a*  
3 *foreign power, disappearance, minority or other disabling cause.*

4 **Sec. 12.** *“Legal representative” means a personal*  
5 *representative or conservator.*

6 **Sec. 13.** *“Member of the beneficiary’s family” means a*  
7 *beneficiary’s spouse, descendant, stepchild, parent, stepparent,*  
8 *grandparent, brother, sister, uncle or aunt, whether of the whole*  
9 *or half blood or by adoption.*

10 **Sec. 14.** *“Person” means an individual, corporation,*  
11 *business trust, estate, trust, partnership, joint venture, association*  
12 *or any other legal or commercial entity.*

13 **Sec. 15.** *“Personal representative” means an executor,*  
14 *administrator or special administrator of a decedent’s estate, a*  
15 *person legally authorized to perform substantially the same*  
16 *functions or a successor to any of them.*

17 **Sec. 16.** *“State” means a state, territory or possession of the*  
18 *United States, the District of Columbia or the Commonwealth of*  
19 *Puerto Rico.*

20 **Sec. 17.** *“Transferor” means a person who creates a*  
21 *custodial trust by transfer or declaration.*

22 **Sec. 18.** *“Trust company” means a financial institution,*  
23 *corporation or other legal entity, authorized to exercise general*  
24 *trust powers.*

25 **Sec. 19. 1.** *A person may create a custodial trust of*  
26 *property by a written transfer of the property to another person*  
27 *evidenced by registration or by other instrument of transfer,*  
28 *executed in any lawful manner, naming as beneficiary an*  
29 *individual who may be the transferor, in which the transferee is*  
30 *designated, in substance, as custodial trustee under the Nevada*  
31 *Uniform Custodial Trust Act.*

32 **2.** *A person may create a custodial trust of property by a*  
33 *written declaration, evidenced by registration of the property or by*  
34 *other instrument of declaration executed in any lawful manner,*  
35 *describing the property and naming as beneficiary an individual*  
36 *other than the declarant, in which the declarant as titleholder is*  
37 *designated, in substance, as custodial trustee under the Nevada*  
38 *Uniform Custodial Trust Act. A registration or other declaration*  
39 *of trust for the sole benefit of the declarant is not a custodial trust*  
40 *under this chapter.*

41 **3.** *Title to custodial trust property is in the custodial trustee,*  
42 *and the beneficial interest is in the beneficiary.*

43 **4.** *Except as otherwise provided in subsection 5, a transferor*  
44 *may not terminate a custodial trust.*



5. The beneficiary, if not incapacitated, or the conservator of an incapacitated beneficiary, may terminate a custodial trust by delivering to the custodial trustee a writing signed by the beneficiary or conservator declaring the termination. If not previously terminated, the custodial trust terminates on the death of the beneficiary.

6. Any person may augment existing custodial trust property by the addition of other property pursuant to this chapter.

7. The transferor may designate, or authorize the designation of, a successor custodial trustee in the trust instrument.

8. This chapter does not displace or restrict other means of creating trusts. A trust whose terms do not conform to this chapter may be enforceable according to its terms under other law.

**Sec. 20.** 1. A person having the right to designate the recipient of property payable or transferable upon a future event may create a custodial trust upon the occurrence of the future event by designating in writing the recipient, followed in substance by: "as custodial trustee for \_\_\_\_\_ (name of beneficiary) under the Nevada Uniform Custodial Trust Act."

2. Persons may be designated as substitute or successor custodial trustees to whom the property must be paid or transferred in the order named if the first designated custodial trustee is unable or unwilling to serve.

3. A designation under this section may be made in a will, a trust, a deed, a multiple-party account, an insurance policy, an instrument exercising a power of appointment or a writing designating a beneficiary of contractual rights. Otherwise, to be effective, the designation must be registered with or delivered to the fiduciary, payor, issuer or obligor of the future right.

**Sec. 21.** 1. Obligations of a custodial trustee, including, without limitation, the obligation to follow the directions of the beneficiary, arise under this chapter upon the custodial trustee's acceptance, express or implied, of the custodial trust property.

2. The custodial trustee's acceptance may be evidenced by a writing stating in substance:

#### CUSTODIAL TRUSTEE'S RECEIPT AND ACCEPTANCE

I, \_\_\_\_\_ (name of custodial trustee), acknowledge receipt of the custodial trust property described below or in the attached instrument and accept the custodial trust as custodial trustee for \_\_\_\_\_ (name of beneficiary) under the Nevada Uniform Custodial Trust Act. I undertake to administer and distribute the custodial trust property pursuant to the Nevada Uniform Custodial



1 *Trust Act. My obligations as custodial trustee are subject to*  
2 *the directions of the beneficiary unless the beneficiary is*  
3 *designated as, is or becomes incapacitated. The custodial*  
4 *trust property consists of \_\_\_\_\_.*

5  
6 *Dated: \_\_\_\_\_*

7  
8 *(Signature of Custodial Trustee)*  
9

10 3. *Upon accepting custodial trust property, a person*  
11 *designated as custodial trustee under this chapter is subject to*  
12 *personal jurisdiction of the court with respect to any matter*  
13 *relating to the custodial trust.*

14 **Sec. 22.** 1. *Unless otherwise directed by an instrument*  
15 *designating a custodial trustee pursuant to section 20 of this act, a*  
16 *person, including, without limitation, a fiduciary other than a*  
17 *custodial trustee, who holds property of or owes a debt to an*  
18 *incapacitated individual not having a conservator may make a*  
19 *transfer to an adult member of the beneficiary's family or to a*  
20 *trust company as custodial trustee for the use and benefit of the*  
21 *incapacitated individual. If the value of the property or the debt*  
22 *exceeds \$20,000, the transfer is not effective unless authorized by*  
23 *the court.*

24 2. *A written acknowledgment of delivery, signed by a*  
25 *custodial trustee, is a sufficient receipt and discharge for property*  
26 *transferred to the custodial trustee pursuant to this section.*

27 **Sec. 23.** 1. *Beneficial interests in a custodial trust created*  
28 *for multiple beneficiaries are deemed to be separate custodial*  
29 *trusts of equal undivided interests for each beneficiary. Except in*  
30 *a transfer or declaration for use and benefit of husband and wife,*  
31 *for whom survivorship is presumed, a right of survivorship does*  
32 *not exist unless the instrument creating the custodial trust*  
33 *specifically provides for survivorship or survivorship is required as*  
34 *to community or marital property.*

35 2. *Custodial trust property held under this chapter by the*  
36 *same custodial trustee for the use and benefit of the same*  
37 *beneficiary may be administered as a single custodial trust.*

38 3. *A custodial trustee of custodial trust property held for more*  
39 *than one beneficiary shall separately account to each beneficiary*  
40 *pursuant to sections 24 and 32 of this act for the administration of*  
41 *the custodial trust.*

42 **Sec. 24.** 1. *If appropriate, a custodial trustee shall register*  
43 *or record the instrument vesting title to custodial trust property.*

44 2. *If the beneficiary is not incapacitated, a custodial trustee*  
45 *shall follow the directions of the beneficiary in the management,*  
46 *control, investment or retention of the custodial trust property. In*  
47 *the absence of effective contrary direction by the beneficiary while*



1 *not incapacitated, the custodial trustee shall observe the standard*  
2 *of care that would be observed by a prudent person dealing with*  
3 *property of another and is not limited by any other law restricting*  
4 *investments by fiduciaries. However, a custodial trustee, in the*  
5 *custodial trustee's discretion, may retain any custodial trust*  
6 *property received from the transferor. If a custodial trustee has a*  
7 *special skill or expertise or is named custodial trustee on the basis*  
8 *of representation of a special skill or expertise, the custodial*  
9 *trustee shall use that skill or expertise.*

10 3. *Subject to subsection 2, a custodial trustee shall take*  
11 *control of and collect, hold, manage, invest and reinvest custodial*  
12 *trust property.*

13 4. *A custodial trustee at all times shall keep custodial trust*  
14 *property of which the custodial trustee has control separate from*  
15 *all other property in a manner sufficient to identify it clearly as*  
16 *custodial trust property of the beneficiary. Custodial trust*  
17 *property, the title to which is subject to recordation, is so identified*  
18 *if an appropriate instrument so identifying the property is*  
19 *recorded, and custodial trust property subject to registration is so*  
20 *identified if it is registered, or held in an account in the name of*  
21 *the custodial trustee, designated in substance: "as custodial*  
22 *trustee for \_\_\_\_\_ (name of beneficiary) under the*  
23 *Nevada Uniform Custodial Trust Act."*

24 5. *A custodial trustee shall keep records of all transactions*  
25 *with respect to custodial trust property, including, without*  
26 *limitation, information necessary for the preparation of tax*  
27 *returns, and shall make the records and information available at*  
28 *reasonable times to the beneficiary or legal representative of the*  
29 *beneficiary.*

30 6. *The exercise of a durable power of attorney for an*  
31 *incapacitated beneficiary is not effective to terminate or direct the*  
32 *administration or distribution of a custodial trust.*

33 **Sec. 25.** 1. *A custodial trustee, acting in a fiduciary*  
34 *capacity, has all the rights and powers over custodial trust*  
35 *property which an unmarried adult owner has over individually*  
36 *owned property, but a custodial trustee may exercise those rights*  
37 *and powers in a fiduciary capacity only.*

38 2. *This section does not relieve a custodial trustee from*  
39 *liability for a violation of section 24 of this act.*

40 **Sec. 26.** 1. *A custodial trustee shall pay to the beneficiary*  
41 *or expend for the beneficiary's use and benefit so much or all of*  
42 *the custodial trust property as the beneficiary while not*  
43 *incapacitated may direct from time to time.*

44 2. *If the beneficiary is incapacitated, the custodial trustee*  
45 *shall expend so much or all of the custodial trust property as the*  
46 *custodial trustee considers advisable for the use and benefit of the*  
47 *beneficiary and individuals who were supported by the beneficiary*  
48 *when the beneficiary became incapacitated, or who are legally*  
49 *entitled to support by the beneficiary. Expenditures may be made*



1 *in the manner, when and to the extent that the custodial trustee*  
2 *determines suitable and proper, without court order and without*  
3 *regard to other support, income or property of the beneficiary.*

4 3. *A custodial trustee may establish checking, savings or*  
5 *other similar accounts of reasonable amounts under which either*  
6 *the custodial trustee or the beneficiary may withdraw funds from,*  
7 *or draw checks against, the accounts. Funds withdrawn from, or*  
8 *checks written against, the account by the beneficiary are*  
9 *distributions of custodial trust property by the custodial trustee to*  
10 *the beneficiary.*

11 **Sec. 27.** 1. *The custodial trustee shall administer the*  
12 *custodial trust as for an incapacitated beneficiary if:*

13 (a) *The custodial trust was created under section 22 of this act;*

14 (b) *The transferor has so directed in the instrument creating*  
15 *the custodial trust; or*

16 (c) *The custodial trustee has determined that the beneficiary is*  
17 *incapacitated.*

18 2. *A custodial trustee may determine that the beneficiary is*  
19 *incapacitated in reliance upon:*

20 (a) *Previous direction or authority given by the beneficiary*  
21 *while not incapacitated, including, without limitation, direction or*  
22 *authority pursuant to a durable power of attorney;*

23 (b) *The certificate of the beneficiary's physician; or*

24 (c) *Other persuasive evidence.*

25 3. *If a custodial trustee for an incapacitated beneficiary*  
26 *reasonably concludes that the beneficiary's incapacity has ceased,*  
27 *or that circumstances concerning the beneficiary's ability to*  
28 *manage property and business affairs have changed since the*  
29 *creation of a custodial trust directing administration as for an*  
30 *incapacitated beneficiary, the custodial trustee may administer the*  
31 *trust as for a beneficiary who is not incapacitated.*

32 4. *On petition of the beneficiary, the custodial trustee or other*  
33 *person interested in the custodial trust property or the welfare of*  
34 *the beneficiary, the court shall determine whether the beneficiary*  
35 *is incapacitated.*

36 5. *Absent determination of incapacity of the beneficiary*  
37 *under subsection 2 or 4, a custodial trustee who has reason to*  
38 *believe that the beneficiary is incapacitated shall administer the*  
39 *custodial trust in accordance with the provisions of this chapter*  
40 *applicable to an incapacitated beneficiary.*

41 6. *Incapacity of a beneficiary does not terminate:*

42 (a) *The custodial trust;*

43 (b) *Any designation of a successor custodial trustee;*

44 (c) *Rights or powers of the custodial trustee; or*

45 (d) *Any immunities of third persons acting on instructions of*  
46 *the custodial trustee.*

47 **Sec. 28.** *A third person in good faith and without a court*  
48 *order may act on instructions of, or otherwise deal with, a person*





1 *purporting to make a transfer as, or purporting to act in the*  
2 *capacity of, a custodial trustee. In the absence of knowledge to the*  
3 *contrary, the third person is not responsible for determining:*

4 *1. The validity of the purported custodial trustee's*  
5 *designation;*

6 *2. The propriety of, or the authority under this chapter for,*  
7 *any action of the purported custodial trustee;*

8 *3. The validity or propriety of an instrument executed or*  
9 *instruction given pursuant to this chapter either by the person*  
10 *purporting to make a transfer or declaration or by the purported*  
11 *custodial trustee; or*

12 *4. The propriety of the application of property vested in the*  
13 *purported custodial trustee.*

14 **Sec. 29.** *1. A claim based on a contract entered into by a*  
15 *custodial trustee acting in a fiduciary capacity, an obligation*  
16 *arising from the ownership or control of custodial trust property*  
17 *or a tort committed in the course of administering the custodial*  
18 *trust may be asserted by a third person against the custodial trust*  
19 *property by proceeding against the custodial trustee in a fiduciary*  
20 *capacity, whether or not the custodial trustee or the beneficiary is*  
21 *personally liable.*

22 *2. A custodial trustee is not personally liable to a third*  
23 *person:*

24 *(a) On a contract properly entered into in a fiduciary capacity*  
25 *unless the custodial trustee fails to reveal that capacity or to*  
26 *identify the custodial trust in the contract; or*

27 *(b) For an obligation arising from control of custodial trust*  
28 *property or for a tort committed in the course of the*  
29 *administration of the custodial trust unless the custodial trustee is*  
30 *personally at fault.*

31 *3. A beneficiary is not personally liable to a third person for*  
32 *an obligation arising from beneficial ownership of custodial trust*  
33 *property or for a tort committed in the course of administration of*  
34 *the custodial trust unless the beneficiary is personally in*  
35 *possession of the custodial trust property giving rise to the liability*  
36 *or is personally at fault.*

37 *4. Subsections 2 and 3 do not preclude actions or proceedings*  
38 *to establish liability of the custodial trustee or beneficiary to the*  
39 *extent the person sued is protected as the insured by liability*  
40 *insurance.*

41 **Sec. 30.** *1. Before accepting the custodial trust property, a*  
42 *person designated as custodial trustee may decline to serve by*  
43 *notifying the person who made the designation, the transferor or*  
44 *the transferor's legal representative. If an event giving rise to a*  
45 *transfer has not occurred, the substitute custodial trustee*  
46 *designated under section 20 of this act becomes the custodial*  
47 *trustee or, if a substitute custodial trustee has not been designated,*  
48 *the person who made the designation may designate a substitute*





1 *custodial trustee pursuant to section 20 of this act. In other cases,*  
2 *the transferor or the transferor's legal representative may*  
3 *designate a substitute custodial trustee.*

4 *2. A custodial trustee who has accepted the custodial trust*  
5 *property may resign by:*

6 *(a) Delivering written notice to a successor custodial trustee, if*  
7 *any, the beneficiary and, if the beneficiary is incapacitated, to the*  
8 *beneficiary's conservator, if any; and*

9 *(b) Transferring or registering, or recording an appropriate*  
10 *instrument relating to, the custodial trust property, in the name of,*  
11 *and delivering the records to, the successor custodial trustee*  
12 *identified under subsection 3.*

13 *3. If a custodial trustee or successor custodial trustee is*  
14 *ineligible, resigns, dies or becomes incapacitated, the successor*  
15 *designated under subsection 7 of section 19 of this act or section*  
16 *20 of this act becomes custodial trustee. If there is no effective*  
17 *provision for a successor, the beneficiary, if not incapacitated,*  
18 *may designate a successor custodial trustee. If the beneficiary is*  
19 *incapacitated, or fails to act within 90 days after the ineligibility,*  
20 *resignation, death or incapacity of the custodial trustee, the*  
21 *beneficiary's conservator becomes successor custodial trustee. If*  
22 *the beneficiary does not have a conservator or the conservator*  
23 *fails to act, the resigning custodial trustee may designate a*  
24 *successor custodial trustee.*

25 *4. If a successor custodial trustee is not designated pursuant*  
26 *to subsection 3, the transferor, the legal representative of the*  
27 *transferor or of the custodial trustee, an adult member of the*  
28 *beneficiary's family, the guardian of the beneficiary, a person*  
29 *interested in the custodial trust property or a person interested in*  
30 *the welfare of the beneficiary may petition the court to designate a*  
31 *successor custodial trustee.*

32 *5. A custodial trustee who declines to serve or resigns, or the*  
33 *legal representative of a deceased or incapacitated custodial*  
34 *trustee, as soon as practicable, shall put the custodial trust*  
35 *property and records in the possession and control of the*  
36 *successor custodial trustee. The successor custodial trustee may*  
37 *enforce the obligation to deliver custodial trust property and*  
38 *records and becomes responsible for each item as received.*

39 *6. A beneficiary, the beneficiary's conservator, an adult*  
40 *member of the beneficiary's family, a guardian of the person of*  
41 *the beneficiary, a person interested in the custodial trust property*  
42 *or a person interested in the welfare of the beneficiary may*  
43 *petition the court to remove the custodial trustee for cause and*  
44 *designate a successor custodial trustee, to require the custodial*  
45 *trustee to furnish a bond or other security for the faithful*  
46 *performance of fiduciary duties or for other appropriate relief.*

47 **Sec. 31.** *Except as otherwise provided in the instrument*  
48 *creating the custodial trust, in an agreement with the beneficiary*  
49 *or by court order, a custodial trustee:*



1 *1. Is entitled to reimbursement from custodial trust property*  
2 *for reasonable expenses incurred in the performance of fiduciary*  
3 *services;*

4 *2. Has a noncumulative election, to be made no later than*  
5 *6 months after the end of each calendar year, to charge a*  
6 *reasonable compensation for fiduciary services performed during*  
7 *that year; and*

8 *3. Need not furnish a bond or other security for the faithful*  
9 *performance of fiduciary duties.*

10 **Sec. 32.** *1. Upon the acceptance of custodial trust property,*  
11 *the custodial trustee shall provide a written statement describing*  
12 *the custodial trust property and shall thereafter provide a written*  
13 *statement of the administration of the custodial trust property:*

14 *(a) Once each year;*

15 *(b) Upon request at reasonable times by the beneficiary or the*  
16 *beneficiary's legal representative;*

17 *(c) Upon resignation or removal of the custodial trustee; and*

18 *(d) Upon termination of the custodial trust.*

19 *↪ The statements must be provided to the beneficiary or to the*  
20 *beneficiary's legal representative, if any. Upon termination of the*  
21 *beneficiary's interest, the custodial trustee shall furnish a current*  
22 *statement to the person to whom the custodial trust property is to*  
23 *be delivered.*

24 *2. A beneficiary, the beneficiary's legal representative, an*  
25 *adult member of the beneficiary's family, a person interested in*  
26 *the custodial trust property or a person interested in the welfare of*  
27 *the beneficiary may petition the court for an accounting by the*  
28 *custodial trustee or the custodial trustee's legal representative.*

29 *3. A successor custodial trustee may petition the court for an*  
30 *accounting by a predecessor custodial trustee.*

31 *4. In an action or proceeding under this chapter or in any*  
32 *other proceeding, the court may require or permit the custodial*  
33 *trustee or the custodial trustee's legal representative to account.*  
34 *The custodial trustee or the custodial trustee's legal representative*  
35 *may petition the court for approval of final accounts.*

36 *5. If a custodial trustee is removed, the court shall require an*  
37 *accounting and order delivery of the custodial trust property and*  
38 *records to the successor custodial trustee and the execution of all*  
39 *instruments required for transfer of the custodial trust property.*

40 *6. On petition of the custodial trustee or any person who*  
41 *could petition for an accounting, the court, after notice to*  
42 *interested persons, may issue instructions to the custodial trustee*  
43 *or review the propriety of the acts of a custodial trustee or the*  
44 *reasonableness of compensation determined by the custodial*  
45 *trustee for the services of the custodial trustee or others.*

46 **Sec. 33.** *1. Except as otherwise provided in subsection 3,*  
47 *unless previously barred by adjudication, consent or limitation, a*  
48 *claim for relief against a custodial trustee for accounting or*



1 *breach of duty is barred as to a beneficiary, a person to whom*  
2 *custodial trust property is to be paid or delivered or the legal*  
3 *representative of an incapacitated or deceased beneficiary or*  
4 *payee:*

5 (a) *Who has received a final account or statement fully*  
6 *disclosing the matter unless an action or proceeding to assert the*  
7 *claim is commenced within 2 years after receipt of the final*  
8 *account or statement; or*

9 (b) *Who has not received a final account or statement fully*  
10 *disclosing the matter unless an action or proceeding to assert the*  
11 *claim is commenced within 3 years after the termination of the*  
12 *custodial trust.*

13 2. *Except as otherwise provided in subsection 3, a claim for*  
14 *relief to recover from a custodial trustee for fraud,*  
15 *misrepresentation or concealment related to the final settlement of*  
16 *the custodial trust or concealment of the existence of the custodial*  
17 *trust is barred unless an action or proceeding to assert the claim is*  
18 *commenced within 5 years after the termination of the custodial*  
19 *trust.*

20 3. *A claim for relief is not barred by this section if the*  
21 *claimant:*

22 (a) *Is a minor, until the earlier of 2 years after the claimant*  
23 *becomes an adult or dies;*

24 (b) *Is an incapacitated adult, until the earliest of 2 years after:*

25 (1) *The appointment of a conservator;*

26 (2) *The removal of the incapacity; or*

27 (3) *The death of the claimant; or*

28 (c) *Was an adult, now deceased, who was not incapacitated,*  
29 *until 2 years after the claimant's death.*

30 **Sec. 34.** 1. *Upon termination of a custodial trust, the*  
31 *custodial trustee shall transfer the unexpended custodial trust*  
32 *property:*

33 (a) *To the beneficiary, if not incapacitated or deceased;*

34 (b) *To the conservator or other recipient designated by the*  
35 *court for an incapacitated beneficiary; or*

36 (c) *Upon the beneficiary's death, in the following order:*

37 (1) *As last directed in a writing signed by the deceased*  
38 *beneficiary while not incapacitated and received by the custodial*  
39 *trustee during the life of the deceased beneficiary;*

40 (2) *To the survivor of multiple beneficiaries if survivorship*  
41 *is provided for pursuant to section 23 of this act;*

42 (3) *As designated in the instrument creating the custodial*  
43 *trust; or*

44 (4) *To the estate of the deceased beneficiary.*

45 2. *If, when the custodial trust would otherwise terminate,*  
46 *the distributee is incapacitated, the custodial trust continues for*  
47 *the use and benefit of the distributee as beneficiary until the*  
48 *incapacity is removed or the custodial trust is otherwise*  
49 *terminated.*



3. *Death of a beneficiary does not terminate the power of the custodial trustee to discharge obligations of the custodial trustee or beneficiary incurred before the termination of the custodial trust.*

**Sec. 35. 1.** *If a transaction, including, without limitation, a declaration with respect to or a transfer of specific property, otherwise satisfies applicable law, the criteria of section 19 of this act are satisfied by either:*

*(a) The execution and either delivery to the custodial trustee or recording of an instrument in substantially the following form:*

**TRANSFER UNDER THE NEVADA UNIFORM  
CUSTODIAL TRUST ACT**

*I, \_\_\_\_\_ (name of transferor or name and representative capacity if a fiduciary), transfer to \_\_\_\_\_ (name of trustee other than transferor), as custodial trustee for \_\_\_\_\_ (name of beneficiary) as beneficiary and \_\_\_\_\_ as distributee on termination of the trust in absence of direction by the beneficiary under the Nevada Uniform Custodial Trust Act, the following: (insert a description of the custodial trust property legally sufficient to identify and transfer each item of property).*

*Dated: \_\_\_\_\_*

*(Signature)*

*(b) The execution and the recording or giving notice of its execution to the beneficiary of an instrument in substantially the following form:*

**DECLARATION OF TRUST  
UNDER THE NEVADA UNIFORM  
CUSTODIAL TRUST ACT**

*I, \_\_\_\_\_ (name of owner of property), declare that henceforth I hold as custodial trustee for \_\_\_\_\_ (name of beneficiary other than transferor) as beneficiary and \_\_\_\_\_ as distributee on termination of the trust in absence of direction by the beneficiary under the Nevada Uniform Custodial Trust Act, the following: (Insert a description of the custodial trust property legally sufficient to identify and transfer each item of property).*



*Dated:* \_\_\_\_\_

\_\_\_\_\_  
*(Signature)*

2. Customary methods of transferring or evidencing ownership of property may be used to create a custodial trust, including, without limitation, any of the following:

(a) Registration of a security in the name of a trust company, an adult other than the transferor or the transferor if the beneficiary is other than the transferor, designated in substance: “as custodial trustee for \_\_\_\_\_ (name of beneficiary) under the Nevada Uniform Custodial Trust Act”;

(b) Delivery of a certificated security, or a document necessary for the transfer of an uncertificated security, together with any necessary endorsement, to an adult other than the transferor or to a trust company as custodial trustee, accompanied by an instrument in substantially the form prescribed in paragraph (a) of subsection 1;

(c) Payment of money or transfer of a security held in the name of a broker or a financial institution or its nominee to a broker or financial institution for credit to an account in the name of a trust company, an adult other than the transferor or the transferor if the beneficiary is other than the transferor, designated in substance: “as custodial trustee for \_\_\_\_\_ (name of beneficiary) under the Nevada Uniform Custodial Trust Act”;

(d) Registration of ownership of a life or endowment insurance policy or annuity contract with the issuer in the name of a trust company, an adult other than the transferor or the transferor if the beneficiary is other than the transferor, designated in substance: “as custodial trustee for \_\_\_\_\_ (name of beneficiary) under the Nevada Uniform Custodial Trust Act”;

(e) Delivery of a written assignment to an adult other than the transferor or to a trust company whose name in the assignment is designated in substance by the words: “as custodial trustee for \_\_\_\_\_ (name of beneficiary) under the Nevada Uniform Custodial Trust Act”;

(f) Irrevocable exercise of a power of appointment, pursuant to its terms, in favor of a trust company, an adult other than the donee of the power or the donee who holds the power if the beneficiary is other than the donee, whose name in the appointment is designated in substance: “as custodial trustee for \_\_\_\_\_ (name of beneficiary) under the Nevada Uniform Custodial Trust Act”;

(g) Delivery of a written notification or assignment of a right to future payment under a contract to an obligor which transfers the right under the contract to a trust company, an adult other than the transferor or the transferor if the beneficiary is other



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1 *than the transferor, whose name in the notification or assignment*  
2 *is designated in substance: "as custodial trustee for*  
3 *\_\_\_\_\_ (name of beneficiary) under the Nevada*  
4 *Uniform Custodial Trust Act";*

5 *(h) Execution, delivery and recordation of a conveyance of an*  
6 *interest in real property in the name of a trust company, an adult*  
7 *other than the transferor or the transferor if the beneficiary is*  
8 *other than the transferor, designated in substance: "as custodial*  
9 *trustee for \_\_\_\_\_ (name of beneficiary) under the*  
10 *Nevada Uniform Custodial Trust Act";*

11 *(i) Issuance of a certificate of title by an agency of a state or of*  
12 *the United States which evidences title to tangible personal*  
13 *property:*

14 *(1) Issued in the name of a trust company, an adult other*  
15 *than the transferor or the transferor if the beneficiary is other*  
16 *than the transferor, designated in substance: "as custodial trustee*  
17 *for \_\_\_\_\_ (name of beneficiary) under the Nevada*  
18 *Uniform Custodial Trust Act"; or*

19 *(2) Delivered to a trust company or an adult other than the*  
20 *transferor or endorsed by the transferor to that person, designated*  
21 *in substance: "as custodial trustee for \_\_\_\_\_ (name of*  
22 *beneficiary) under the Nevada Uniform Custodial Trust Act"; or*

23 *(j) Execution and delivery of an instrument of gift to a trust*  
24 *company or an adult other than the transferor, designated in*  
25 *substance: "as custodial trustee for \_\_\_\_\_ (name of*  
26 *beneficiary) under the Nevada Uniform Custodial Trust Act."*

27 **Sec. 36. 1.** *This chapter applies to a transfer or declaration*  
28 *creating a custodial trust that refers to this chapter if, at the time*  
29 *of the transfer or declaration, the transferor, beneficiary or*  
30 *custodial trustee is a resident of or has its principal place of*  
31 *business in this State or custodial trust property is located in this*  
32 *State. The custodial trust remains subject to this chapter despite a*  
33 *later change in residence or principal place of business of the*  
34 *transferor, beneficiary or custodial trustee, or removal of the*  
35 *custodial trust property from this State.*

36 **2.** *A transfer made pursuant to an act of another state*  
37 *substantially similar to this chapter is governed by the law of that*  
38 *state and may be enforced in this State.*

39 **Sec. 37.** *In applying and construing this chapter,*  
40 *consideration must be given to the need to promote uniformity of*  
41 *the law with respect to its subject matter among states that enact it.*

