

HOUSE No. 654

By Mr. Brassard of Worcester, petition of Rene A. Brassard for legislation relative to gifts of securities to minors. Legal Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Seven.

AN ACT RELATIVE TO GIFTS OF SECURITIES TO MINORS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 The General Laws are hereby amended by inserting after
2 chapter 110A the following chapter:—

3 CHAPTER 110B.

4 GIFTS OF SECURITIES TO MINORS.

5 *Section 1.* The following words as used in this chapter,
6 unless the context otherwise requires, shall have the following
7 meanings:—

8 “Security” means any note, stock, bond, debenture, evi-
9 dence of indebtedness, collateral trust certificate, trans-
10 ferable share, voting trust certificate, certificate of deposit
11 for a security, or, in general, any interest or instrument com-
12 monly known as a security, or any certificate of interest or
13 participation in, temporary or interim certificate for, or
14 warrant or right to subscribe to or purchase, any of the fore-
15 going.

16 A security is in “registered form” when its terms specify a
17 person entitled to the security or to the rights it evidences
18 and specify that its transfer may be registered upon books
19 maintained for that purpose by or on behalf of an issuer.

20 A security is in "bearer form" when it runs to bearer ac-
21 cording to its terms and not by reason of any indorsement.

22 The term "member of the minor's family" as used in this
23 section means the minor's parents, grandparents, brothers,
24 sisters, uncles and aunts, whether of the whole blood or the
25 half blood, or by or through legal adoption.

26 "Legal representative" means, as may be appropriate in
27 the circumstances, the executor, administrator, general
28 guardian or committee (conservator) of the property of the
29 person to whose legal representative reference is made.

30 "Custodian" means custodian as used in section two.

31 "Minor" means any person who has not attained the age
32 of twenty-one years.

33 *Section 2.* Any adult person may make a gift of securities
34 to a minor in the following manner: —

35 (a) Securities, if in registered form, shall be registered by
36 the donor in his own name or in the name of any adult mem-
37 ber of the minor's family or in the name of any guardian of
38 the minor, followed by the words "as custodian, for
39, a minor, pursuant to chapter one hun-
40 dred and ten B of the General Laws," and the securities shall

41 be delivered to the person in whose name they are thus regis-
42 tered as custodian. If the securities are thus registered in
43 the name of the donor as custodian, such registration shall
44 of itself constitute the delivery required by this section.

45 (b) Securities, if in bearer form, shall be delivered by the
46 donor to any adult member of the minor's family, other than
47 the donor, or to any guardian of the minor, accompanied by
48 a deed of gift duly acknowledged in substantially the follow-
49 ing form, signed by the donor and the person designated
50 therein as custodian:

DEED OF GIFT PURSUANT TO CHAPTER ONE HUNDRED AND TEN B OF
THE GENERAL LAWS.

I, do hereby
(Name of donor)
deliver to
(Name of custodian)
as custodian for
(Name of minor)
a minor, pursuant to chapter one hundred and ten B of the General Laws

the following security(ies): Principal amount \$.....
 of the....., Serial number of security.....
 (Description of security)

or

Certificate No....., representing..... shares of
 the..... stock of.....
 (Class or type of stock) (Name of company)

 (Signature of donor)

I,..... do hereby acknowledge
 (Name of custodian)
 receipt of the above described security(ies).

.....
 (Signature of custodian)

Dated.....

51 (c) A gift made in the manner prescribed in this section
 52 shall be irrevocable and shall convey to the minor inde-
 53 feasibly vested legal title to the securities thus delivered, but
 54 no guardian of the person or property of the minor shall have
 55 any rights, duties or authority with respect to any property
 56 held at any time by the custodian under the authority of this
 57 section unless said guardian shall himself be or become cus-
 58 todian in accordance herewith.

59 *Section 3. (a)* The custodian shall hold, manage, invest
 60 and reinvest the property held by him as custodian, includ-
 61 ing any unexpended income therefrom, as hereinafter pro-
 62 vided. He shall collect the income therefrom, as hereinafter
 63 provided, and apply so much or the whole thereof, and so
 64 much or the whole of the other property held by him as cus-
 65 todian, as he may deem advisable for the support, main-
 66 tenance, education and general use and benefit of the minor,
 67 in such manner, at such time or times, and to such extent as
 68 the custodian in his absolute discretion may deem suitable
 69 and proper, without court order, without regard to the duty
 70 of any person to support the minor, and without regard to
 71 any other funds which may be applicable or available for the
 72 purpose. To the extent that property held by the custodian
 73 and the income thereof is not so expended, it shall be de-
 74 livered or paid over to the minor upon the minor's attaining
 75 the age of twenty-one years, and in the event that the minor
 76 dies before attaining the age of twenty-one years it shall be
 77 delivered or paid over to the estate of the minor.

78 (b) (1) The custodian may sell, exchange, convert or other-
79 wise dispose of any and all of the securities or other property
80 held by him in such manner and at such time or times, for
81 such prices and upon such terms as he may deem advisable.

82 (2) He shall have the power in his sole and absolute dis-
83 cretion to retain any and all securities delivered to him within
84 the meaning and under the authority of section one to eight,
85 inclusive, without reference to any other statutes relating to
86 permissible investments by fiduciaries.

87 (3) He shall invest the minor's property in such securities
88 as would be acquired by prudent men of discretion and in-
89 telligence who are seeking a reasonable income and the
90 preservation of their capital without reference to any other
91 statutes relating to permissible investments by fiduciaries
92 or hold part or all of the same in one or more bank accounts
93 in his name as such custodian.

94 (4) He may vote in person or by general or limited proxy
95 with respect to any securities held by him.

96 (5) He may consent directly or through a committee or
97 other agent to the reorganization, consolidation, dissolution
98 or liquidation of any corporations, the securities of which
99 may be held by him, or to the sale, lease, pledge or mortgage
100 of any property by or to any such corporation.

101 (c) In addition to the rights, powers and duties set out
102 in subparagraphs (a) and (b) with respect to any securities
103 or other property held by the custodian, the custodian, in
104 his name as such custodian, shall have all the powers of
105 management which a guardian of the estate of the minor
106 would have under chapter two hundred and one.

107 (d) (1) The custodian may execute and deliver any and
108 all instruments in writing which he may deem advisable to
109 carry out his rights, powers and duties as custodian. No
110 issuer of securities, transfer agent, registrar or bank or other
111 person acting on the instructions of any person purporting
112 to be a custodian or donor shall be responsible for deter-
113 mining whether any person has been duly designated as a
114 custodian under this section, or whether any purchase, sale
115 or transfer to or by any person as custodian is in accordance
116 with or authorized by this section, or shall be obligated to

117 inquire into the validity under this section of any instrument
118 or instructions executed or given by a person purporting to
119 act as custodian or donor, or be bound to see to the applica-
120 tion by any person purporting to act as custodian of any
121 money or other property paid or delivered to him.

122 (2) All registered securities held by the custodian from
123 time to time shall be registered in his name followed by the
124 words "as custodian for, a minor, pur-

(Name of minor)

125 suant to sections one to eight, inclusive." All other property
126 held by the custodian for the minor pursuant to the author-
127 ity of said sections one to eight, inclusive, shall be kept
128 separate and distinct from the custodian's own personal
129 funds and property, and shall be maintained at all times in
130 such a manner as to identify it clearly as the minor's property
131 held by the custodian pursuant to such authority.

132 *Section 4.* A person acting as custodian, other than a
133 guardian of the property of the minor, shall receive no com-
134 pensation for his services, but shall be entitled to reimburse-
135 ment from the property held by him as custodian for the
136 reasonable expenses incurred in the performance of his
137 duties as custodian. A guardian of the property of the
138 minor, when acting as custodian under the authority of this
139 section, may receive such additional compensation for his
140 services as guardian as he would be entitled to receive if the
141 property held by him as custodian hereunder were held by
142 him in his capacity as guardian, in addition to the other
143 property of the minor held by him in that capacity.

144 A custodian who is not compensated for acting as such
145 shall be under no obligation to give bond for the faithful
146 performance of his duties and shall not be liable for any
147 losses to the property held by him except as are the result
148 of his bad faith or intentional wrongdoing or result from his
149 investing the minor's property in a manner other than as
150 prescribed in section three.

151 *Section 5.* A custodian may resign by executing and duly
152 acknowledging an instrument of resignation designating a
153 successor custodian who is an adult member of the minor's
154 family or a guardian of the minor, delivering such instru-
155 ment to the successor custodian, causing securities, if in

156 registered form, to be registered in the name of the successor
157 custodian as such, and delivering to the successor custodian
158 such securities so registered together with all other property
159 held by him as custodian. In the alternative, the custodian
160 may petition the probate court for permission to resign and
161 for the appointment of a successor custodian.

162 *Section 6.* In the event of the death or incapacity of the
163 custodian before the minor attains the age of twenty-one
164 years —

165 (a) If there is a duly appointed and acting general guard-
166 ian of the property of the minor, he shall become the successor
167 custodian.

168 (b) If there is no duly appointed and acting general guard-
169 ian of the property of the minor.

170 (1) If the minor has attained the age of fourteen years, he
171 may designate in writing an adult member of the minor's
172 family or a guardian of the minor as successor custodian.

173 (2) If the minor has not attained the age of fourteen years,
174 the successor custodian shall be the adult member of the
175 minor's family or a guardian of the minor, designated by will
176 or duly acknowledged instrument of appointment executed
177 by the last acting custodian. If no such designation is made
178 by the last acting custodian, his legal representative may
179 designate in writing an adult member of the minor's family
180 or a guardian of the minor a successor custodian.

181 *Section 7.* At any time or times when there is no duly act-
182 ing custodian the legal representative of the last acting cus-
183 todian, any adult member of the minor's family or a guard-
184 ian of the minor may petition the probate court for the ap-
185 pointment of a successor custodian.

186 A successor custodian shall have all the rights, powers and
187 duties of a custodian as provided by sections one to eight,
188 inclusive.

189 *Section 8.* The custodian shall not be required to account
190 to the minor or to any other person for his acts and proceed-
191 ings unless the minor, a parent of the minor, the legal repre-
192 sentative of the minor, or a successor custodian shall peti-
193 tion the probate court for such an accounting no later than

194 one year after the minor attains the age of twenty-one years
195 or dies before attaining the age of twenty-one years.

196 *Section 9.* A gift made pursuant to the authority of sec-
197 tions one to eight, inclusive, to a guardian of the minor as
198 custodian is deemed to have satisfied the requirements of
199 delivery if the person to whom delivery is made is either
200 guardian of the person or guardian of the property of the
201 minor, duly appointed pursuant to chapter two hundred
202 and one, or pursuant to the laws of the state, territory or
203 country where the minor was domiciled at the time of the
204 delivery of the gift.

205 *Section 10.* This chapter shall not be construed as provid-
206 ing an exclusive method for making gifts of securities to
207 minors.

194 one year after the minor attains the age of twenty-one years.
 195 or dies before attaining the age of twenty-one years.
 196 Section 8. A bill made pursuant to the authority of section
 197 from one to eight, in order to a marriage of the minor as
 198 mentioned is deemed to have satisfied the requirements of
 199 delivery if the person to whom delivery is made is either
 200 guardian of the person or guardian of the property of the
 201 minor, and appointed pursuant to chapter two hundred
 202 and one of the laws of the state, or any other person
 203 named where the minor was domiciled at the time of the
 204 delivery of the bill.
 205 Section 9. This act shall not be construed as provid-
 206 ing an exclusive method for making gifts of securities to
 207 minors.