



1999

Recent Developments: House Bill 758: Estates & Trusts - Guardianship of Property of Minor or Disabled Person - Power of Circuit Court

Adam Cizek

Follow this and additional works at: <http://scholarworks.law.ubalt.edu/lf>



Part of the [Law Commons](#)

Recommended Citation

Cizek, Adam (1999) "Recent Developments: House Bill 758: Estates & Trusts - Guardianship of Property of Minor or Disabled Person - Power of Circuit Court," *University of Baltimore Law Forum*: Vol. 29 : No. 2 , Article 25.
Available at: <http://scholarworks.law.ubalt.edu/lf/vol29/iss2/25>

This Article is brought to you for free and open access by ScholarWorks@University of Baltimore School of Law. It has been accepted for inclusion in University of Baltimore Law Forum by an authorized editor of ScholarWorks@University of Baltimore School of Law. For more information, please contact snolan@ubalt.edu.

**HOUSE BILL 758: ESTATES & TRUSTS - GUARDIANSHIP OF PROPERTY
OF MINOR OR DISABLED PERSON - POWER OF CIRCUIT COURT**

By Adam Cizek

Section 13-214 of the Estates and Trusts Article enumerates the powers granted to the guardian of a minor or disabled person. House Bill 758 authorizes two additional powers. Under the Bill, a guardian may seek circuit court approval to make gifts from the principal and income of the estate and disclaim any property or interest in property on behalf of the minor or disabled person. The Bill further establishes that these powers are in addition to and in no way are intended to limit the powers enumerated under Section 13-214 of the Estates and Trusts Article.

House Bill 758 was proposed in response to the Internal Revenue Service's (IRS) determination that gifts made by Maryland guardians are not excluded from the decedent's estate for federal gift and estate tax purposes. The IRS concluded that because Maryland's "Substituted Judgment" statute does not expressly authorize guardians to make gifts from the estate, such gifts are included in the decedent's estate regardless of circuit court approval.

House Bill 758 will permit more effective estate planning for the estate of minor and disabled persons. By specifically authorizing circuit courts to approve guardian gifting and disclaiming, the estate of minor and disabled persons will be able to utilize the annual federal gifting tax exemptions and preserve the estates federal unified tax credit.

This Bill took effect on October 1, 1999.