

SS SCS SB 70 -- MISSOURI FAMILY TRUST

SPONSOR: Schaefer (Franz)

COMMITTEE ACTION: Voted "do pass" by the Committee on Judiciary by a vote of 10 to 0.

This substitute changes the laws regarding the Missouri Family Trust. In its main provision, the substitute:

- (1) Revises the provisions regarding the purpose and function of the trust;
- (2) Separates the various types of accounts under the trust into trust accounts, restricted trust accounts, and the charitable trust to be maintained in trust as separate accounts. The accounts can be pooled for investment and management purposes;
- (3) Requires the board of trustees of the Missouri Family Trust to act as the trustee of the trust;
- (4) Allows a beneficiary with disabilities; his or her parent, grandparent, or legal guardian; or a court as settlor to contribute assets of the beneficiary in trust to the board as trustee for the benefit of the beneficiary as part of a pooled trust. The account must be referred to as a "first-party trust account" and held and administered in trust for the benefit of the beneficiary. Upon the death of the beneficiary, the board must notify the state and any other state of which the board has knowledge that has provided federal Medicaid services to the individual that the trust has terminated. The substitute specifies the procedure for the distribution of the assets, including to any state with a claim;
- (5) Allows any person as settlor, except a beneficiary or a beneficiary's spouse, to contribute assets, not including assets of the beneficiary or the beneficiary's spouse, in trust to the board as trustee for the benefit of the beneficiary. A trust account to which assets are contributed that does not include assets of a beneficiary or the beneficiary's spouse must be referred to as a "third-party trust account" and held and administered in trust for the benefit of the beneficiary. Upon the death of the beneficiary, the board must determine the principal balance of the account after paying any expenses of the beneficiary and the authorized fees and expenses of the board and distribute it to the persons, entities, or organizations designated by the settlor as remainder beneficiaries;
- (6) Allows the settlor or co-trustee of a revocable third-party trust account, if authorized by the settlor in the trust

documents and upon written notice to the board and with the board's consent, to withdraw part of the trust account if the amount when aggregated with all withdrawals within the preceding 12 months does not reduce the remaining principal below certain established levels;

(7) Allows the settlor or co-trustee of a revocable third-party trust account, if authorized by the settlor in the trust documents and upon written notice to the board and with the board's consent, to revoke and terminate the trust account;

(8) Specifies certain guidelines by which a first-party trust account and third-party trust account must be held and administered;

(9) Requires the board of trustees to establish a charitable trust for the benefit of individuals with disabilities;

(10) Allows the board of trustees to establish and collect fees for administering trust accounts;

(11) Requires the board of trustees to establish policies and procedures for providing periodic reports to the co-trustees of each trust account; and

(12) Allows a distribution to be made to the trustees of a trust account if a court finds that the distributee qualifies as a life beneficiary and it would be in the best interest of the distributee.

FISCAL NOTE: No impact on state funds in FY 2012, FY 2013, and FY 2014.

PROPOSERS: Supporters say that the bill will help clarify ambiguities in the current Missouri Family Trust provisions and will help update current law to address concerns that have arisen since the establishment of the trust.

Testifying for the bill were Senator Schaefer; Midwest Special Needs Trust; and The Missouri Bar.

OPPOSERS: There was no opposition voiced to the committee.