

CCS SS SCS SB 70 -- MISSOURI FAMILY TRUST

This bill changes the laws regarding the Missouri Family Trust. In its main provisions, the bill:

(1) Revises the provisions regarding the purpose and function of the trust which administers special needs trusts for individuals with disabilities without affecting an individual's eligibility for various public assistance programs;

(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 each state of which the board has knowledge that has provided federal Medicaid services to the individual that the trust has terminated. The bill 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 promptly determine the principal balance of the account and, after paying any expenses of the beneficiary and the authorized fees and expenses of the board, 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 from time to time part of the trust account if the amount when aggregated with all withdrawals within

the preceding 12 months does not reduce the remaining balance of the account below certain specified 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 a third-party trust account must be held and administered;

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

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

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

(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; and

(13) Repeals the provisions establishing the Missouri Family Trust Board of Trustees and re-enacts revised provisions specifying that it is to be incorporated as a Missouri general not-for-profit corporation, authorizes the board to apply and qualify for a federal 501(c)(3) exemption organization, and changes the membership of the board.