CHAPTER 21

Natural and Parentally Appointed Guardians

**SECTION 21‑21‑25.** Disposition of custody of minors.

The father of any child under the age of twenty‑one years and not married, if the mother is dead, or the mother of any such child, the father being dead, whether the father or mother is under the age of twenty‑one years, or of full age, may by deed executed and recorded according to law or by last will and testament, made and probated according to law, dispose of the custody and tuition of the child while he remains under the age of twenty‑one years to any other person, in possession or remainder. No deed is valid unless signed by both father and mother, if both are living and no such deed, except a deed to an agency or department of this State authorized by law to receive or place the custody of children, is effective unless approved upon petition by a family court or family court judge of this State. Nothing in this section may be construed to abrogate, lessen, or interfere with the right and duty of a court of competent jurisdiction at any time to transfer and assign the custody of a child for its best interest.

HISTORY: 1987 Act No. 171, Section 87.

CROSS REFERENCES

Binding nature of the disposition of a child under this section against any person claiming custody, see Section 21‑21‑35.

Library References

Infants 157.

Westlaw Topic No. 211.

C.J.S. Infants Sections 19 to 22, 26 to 28, 40, 42, 44 to 45, 58 to 59.

**SECTION 21‑21‑35.** Persons against whom disposition of custody is valid.

The disposition of the custody of the child as provided in Section 21‑21‑25 is effective against any person claiming the custody of the child as guardian.

HISTORY: 1987 Act No. 171, Section 88.

Library References

Infants 157.

Westlaw Topic No. 211.

C.J.S. Infants Sections 19 to 22, 26 to 28, 40, 42, 44 to 45, 58 to 59.

**SECTION 21‑21‑45.** Action by custodian for recovery of children and damages.

Any person to whom the custody of any child has been so disposed or devised may maintain an action against any person who wrongfully takes away or detains the child for the recovery of the child and may recover damages in the action for benefit of the child.

HISTORY: 1987 Act No. 171, Section 89.

Library References

Parent and Child 7.

Westlaw Topic No. 285.

C.J.S. Parent and Child Sections 327, 329 to 344.

**SECTION 21‑21‑55.** Possession of property conveyed, devised, or bequeathed to child.

Any person to whom the custody of any child has been so disposed or devised may take into his possession to and for the use, support, and education of the child all property, real and personal, which by deed or will has been conveyed, devised, or bequeathed to the child, until he attains the age of twenty‑one years or for a lesser time as may be fixed by the deed or will, and may receive and receipt for the proceeds of any life insurance taken out by the parent for the benefit of the child and do all acts in relation to the child which a guardian appointed according to law might do. The family court may, in its discretion, require a return of the property and an annual accounting for the rents, profits, and income of the property.

HISTORY: 1987 Act No. 171, Section 90.

Library References

Guardian and Ward 28.

Westlaw Topic No. 196.

C.J.S. Guardian and Ward Sections 70 to 76, 100.

RESEARCH REFERENCES

Treatises and Practice Aids

Bogert ‑ the Law of Trusts and Trustees Section 656, South Carolina.