

386B.5-030 Discretionary trusts -- Effect of standard.

- (1) As used in this section, "child" includes any person for whom an order or judgment for child support has been entered in this Commonwealth or another state.
- (2) Except as otherwise provided in subsection (3) of this subsection, whether or not a trust contains a spendthrift provision, a creditor of a beneficiary may not compel a distribution that is subject to the trustee's discretion, even if:
 - (a) The discretion is expressed in the form of a standard of distribution; or
 - (b) The trustee has abused the discretion.
- (3) To the extent a trustee has not complied with a standard of distribution or has abused a discretion:
 - (a) A distribution may be ordered by the court to satisfy a judgment or court order against the beneficiary for support or maintenance of the beneficiary's child or spouse; and
 - (b) The court shall direct the trustee to pay to the child or spouse such amount as is equitable under the circumstances, but not more than the amount the trustee would have been required to distribute to or for the benefit of the beneficiary had the trustee complied with the standard or not abused the discretion.
- (4) This section shall not limit the right of a beneficiary to maintain a judicial proceeding against a trustee for an abuse of discretion or failure to comply with a standard for distribution.
- (5) If the trustee's or cotrustee's discretion to make distributions for the trustee's or cotrustee's own benefit is limited by an ascertainable standard, a creditor may not reach or compel distribution of the beneficial interest, except to the extent the interest would be subject to the creditor's claim were the beneficiary not acting as trustee or cotrustee.

Effective: July 15, 2014

History: Created 2014 Ky. Acts ch. 25, sec. 42, effective July 15, 2014.