Summary of States that Adopted the Uniform Trust Code and those States' Treatment of Exception Creditors* (Sections 503-504)

By Barry A. Nelson

(Sections 503 and 504 of the Uniform Trust Code ("UTC") deal with spendthrift provisions and discretionary trusts. Of the states that adopted the UTC, some states have adopted provisions of UTC Sections 503 and 504 in their entirety, other states have modified 503 and 504 in part by limiting or expanding the scope of exception creditors and other states have reserved or omitted adoption of either 503 or 503, relying instead on either common law or other reasoning)

	Adopted UTC			
State	with Minor Changes	W/O Exception Creditors	with Modified Exception Creditors	Notes
Alabama Uniform Trust Code, Ala. Code 19-3B-101	19-3B-503 19-3B-504			
Arizona Trust Code, A.R.S. Tit. 14 Ch. 1			503 – excepts child only 504 – excepts child only	Exceptions do not apply to Special Needs Trusts
Arkansas Trust Code, Ark. Code 28-73-101		503 reserved UTC 504(c) left out		Judicial exception for child support and alimony recognized for a spendthrift trust in *Council v. Owens*, 770 S.W.2d 193 (Ark. Ct. App. 1989)
District of Columbia Uniform Trust Code, D.C. Code § 19-1301.01		19-1305.04 reserved	19-1305.03 – excepts child only	

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State	with Minor Changes	W/O Exception Creditors	with Modified Exception Creditors	Notes
Florida Trust Code, Fla. Stat. Ch. 736.0101	736.0503		.0503 provides spouse, former spouse and children as exception creditors but only as a last resort upon an initial showing that traditional methods of enforcing a claim are insufficient .0504 creditors, including those under 0503(2) (child, spouse, former spouse) may not compel a distribution or attach or otherwise reach the interest a beneficiary might have as a result of the trustee's discretion to make distributions to or for the benefit of the beneficiary	See *Bacardi v. White*, 463 So.2d 218 (Fla. 1985), which may or may not have been overridden by 736.0504, and Barry A. Nelson, *Bacardi on the Rocks*, 86 FLA. BAR J. 21 (Mar. 2012)
Kansas Uniform Trust Code, Kans. Stat. 58a-101		503 & 504 omitted	502(c) creditor may not reach before receipt by beneficiary 502(d) creditor may not compel discretionary distribution	See Calvin J. Karlin & Anna Smith, *Spendthrift Trust Clauses and Kansas Divorces: Does a Settlor's Intent Still Matter?*, J. KAN. B. ASS'N (May 2012)
Maine Uniform Trust Code, ME Rev. Stat. 18-B-§101		503 no exceptions UTC 504(c) left out		
Mass. Session Laws 140, creating MUTC Ch. 203E		503 reserved 504 reserved		

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Michigan Trust Code, Mich. Comp. Laws 700.7101			.7504(1)(A) excepts child and former spouse from enforcement of spendthrift clause .7505 no exceptions to discretionary trust provision, Trust property not subject to the enforcement of a judgment until Income or Principal or both is distributed directly to the Trust Beneficiary	
Missouri Trust Code, MO Rev. Stat. 456.1-101	456.5-503		-504 Creditor may not attach, force judicial sale or compel distributions or reach by any other means present or future discretionary distributions	
Nebraska Uniform Trust Code, Neb. Rev. Stat. 30-3801	30-3848 30-3849			Adopted UTC 503 and 504 verbatim

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State	with Minor Changes	W/O Exception Creditors	with Modified Exception Creditors	Notes
New Hampshire Uniform Trust Code, NH Stat. 564-B:1-101			564-B:5-503 Spendthrift unenforceable against spouse or former spouse who has a judgment or court order against the beneficiary for alimony but only for and to the extent that such judgment or court order expressly specifies the alimony amount attributable to the most basic food, shelter and medical needs of the spouse or former spouse -504 court may compel discretionary distribution as to child, spouse, or former 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 and with respect to alimony, only for and to the extent that the judgment or court order expressly specifies the alimony amount attributable to the most basic food, shelter, and medical needs of the spouse or former spouse	
New Mexico Uniform Trust Code, NM Stat. 46A-1-101	46A-5-503 46A-5-504			Adopted 504 verbatim

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North Carolina Uniform Trust Code, NC Gen. Stat. 36C-1-101			503 - excepts child only 504(b) – a creditor may not reach a discretionary trust interest or distribution by the trustee before its receipt by the beneficiary (d) If failure to comply with distribution standard or abused discretion, a distribution may be compelled for child support only	
North Dakota Uniform Trust Code, ND Cent. Code 59-09-01	59-13-03 59-13-04			59-13-03 states the exceptions do not apply to a self-settled special needs trust or a third-party special needs trust Adopted 504 verbatim

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State	with Minor Changes	W/O Exception Creditors	with Modified Exception Creditors	Notes
Ohio Trust Code, Ohio Code Ch 5801			5805.02(C) Spendthrift provision *is enforceable* against former spouse but not enforceable against beneficiary's child or current spouse if trustee can distribute for beneficiary's support 5805.03 No creditor, including a child or spouse, may reach discretionary distributions before its receipt by the beneficiary of a wholly discretionary trust whether by attachment, judicial sale, order compelling the Trustee to make distributions or any other means, regardless of whether the trust includes a spendthrift provision 5805.04(D) unless the settlor has explicitly provided in the trust that the beneficiary's child or spouse or both are excluded from benefiting from the trust, if failure to apply standard or abuse of discretion, then (1) the court may order a distribution only if available for the beneficiary's support but not for satisfaction of judgment for support of former spouse	Ohio's wholly discretionary trust is defined in 5801(Y)(1)

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Oregon Uniform Trust Code, OR Code 130.001			130.310 (UTC 503) 2) Excepts Child, spouse or former spouse, but the court may issue an order authorizing execution against such amount as the court determines to be 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. Distributions subject to execution under this subsection include distributions required by the express terms of the trust, such as mandatory payments of income, and distributions the trustee has otherwise decided to make, such as through the exercise of discretion	No adoption of UTC 504
Pennsylvania Uniform Trust Act, Tit. 20 Pa.C.S.A. Ch. 77 §7701			7743(b) (UTC 503) Spendthrift provisions may be attached 1) for a child as to Income and principal, 2) for other support judgments, only as to Income 7744 (UTC 504) Discretionary provision applies standards in same way as spendthrift provision, above	

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South Carolina Trust Code, S.C. Code of Laws 62-7-101			62-7-503 excepts child only -504 excepts child only	62-7-503 is unenforceable against a special needs trust, supplemental needs trust, or similar trust established for a disabled person if the applicability of such a provision could invalidate such a trust's exemption from consideration as a countable resource for Medicaid or Supplemental Security Income
Tennessee Uniform Trust Code, Tenn. Code 35-15-101		35-15-503 The state of TN is the only exception creditor -504 no exception creditors		
Utah Uniform Trust Code, Utah Code 75-7-101	75-7-504		75-7-503 Excepts child only	
Vermont Trust Code, VT Stat. Tit. 14A	504		503 Excepts child only	Adopted 504 verbatim
Virginia Trust Code, Va. Code Sec. 64.2-700, eff. 10/1/2012			64.2-744 (UTC 503) excepts child only -746 (UTC 504) excepts child only	
West Virginia Uniform Trust Code, W.V. Code Ch. 44D			44D-5-503 excepts child only -504(b)(1) excepts child only	

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Wyoming Uniform Trust Code, Wyo. Stat. 4-10-101			4-10-503 excepts child only -504 no exception creditors. May not compel distribution or reach or attach the interest of a beneficiary unless and until a trust distribution is received by the beneficiary *even if the trustee makes distributions directly to third parties for the benefit of the beneficiary*	

**Prepared based upon information available as of January 31, 2013. For updated information, see the Enactment Status Map that can be found through the Uniform Law Commission's website at http://uniformlaws.org/Act.aspx?title=Trust Code. These materials are intended to assist readers as a learning aid but do not constitute legal advice and, given their purpose, may omit discussion of exceptions, qualifications, or other relevant information that may affect their utility in any planning situation. Diligent effort was made to insure the accuracy of these materials, but Nelson & Nelson, P.A. assumes no responsibility for any reader's reliance on them and encourages all readers to verify all items by reviewing all original sources before applying them. Anyone reviewing these materials must independently confirm the accuracy of these materials and whether any statutes have been superseded. An attorney in the state of domicile of any potential debtor should be engaged for any individual planning.*

For additional references, see Kevin D. Millard, *Rights of a Trust Beneficiary's Creditors Under the Uniform Trust Code*, 34 ACTEC J. 58 (2008-2009); and Timothy J. Vitollo, *Uniform Trust Code Section 503: Applying Hamilton Orders to Spendthrift Interests*, 43 REAL. PROP. TR. & EST. L.J. 169 (2008-2009).

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