

**§ 35A-1336. Prerequisites to approval by judge of gifts for governmental or charitable purposes.**

The judge shall not approve gifts from income for governmental or charitable purposes unless it appears to the judge's satisfaction that all of the following apply:

- (1) After making the gifts and the payment of federal and State income taxes, the remaining income of the incompetent will be reasonable and adequate to provide for the support, maintenance, comfort and welfare of the incompetent and those legally entitled to support from the incompetent in order to maintain the incompetent and those dependents in the manner to which the incompetent and those dependents are accustomed and in keeping with their station in life.
- (2) Each donee is a donee to which a competent donor could make a gift, without limit as to amount, without incurring federal or State gift tax liability.
- (3) Each donee is a donee qualified to receive tax deductible gifts under federal and State income tax laws.
- (4) The aggregate of the gifts does not exceed the percentage of income fixed by federal law as the maximum deduction allowable for the gifts in computing federal income tax liability. (1963, c. 111, s. 2; 1987, c. 550, s. 4; 1999-270, s. 2.)