

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 801

98TH GENERAL ASSEMBLY

Reported from the Committee on Seniors, Families and Children, February 25, 2016, with recommendation that the Senate Committee Substitute do pass.

5327S.03C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal section 475.024, RSMo, and to enact in lieu thereof four new sections relating to guardianships.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 475.024, RSMo, is repealed and four new sections enacted in lieu thereof, to be known as sections 210.1109, 475.600, 475.602, and 475.604, to read as follows:

210.1109. During any child protective investigation or assessment that does not result in an out-of-home placement, if the children's division determines that a child is at risk for possible removal and placement in out-of-home care, the division shall provide information to the parent or guardian about community service programs that provide respite care, voluntary guardianship, or other support services for families in crisis in cases where such services may address the needs of the family. The children's division is authorized to exercise its discretion in recommending community service programs provided to a parent or guardian under this section.

475.600. Sections 210.1109, 475.600, 475.602, and 475.604 shall be known and may be cited as the "Supporting and Strengthening Families Act".

475.602. 1. A parent or legal custodian of a child may, by a properly executed power of attorney as provided under section 475.604, delegate to an attorney-in-fact for a period not to exceed one year, except as provided under subsection 7 of this section, any of the powers

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

5 regarding the care and custody of the child, except the power to
6 consent to marriage or adoption of the child, the performance or
7 inducement of an abortion on or for the child, or the termination of
8 parental rights to the child. A delegation of powers under this section
9 shall not be construed to change or modify any parental or legal rights,
10 obligations, or authority established by an existing court order or
11 deprive the parent or legal custodian of any parental or legal rights,
12 obligations, or authority regarding the custody, visitation, or support
13 of the child.

14 2. The parent or legal custodian of the child shall have the
15 authority to revoke or withdraw the power of attorney authorized in
16 subsection 1 of this section at any time. Except as provided in
17 subsection 6 of this section, if the delegation of authority lasts longer
18 than one year, the parent or legal custodian of the child shall execute
19 a new power of attorney for each additional year that the delegation
20 exists. If a parent withdraws or revokes the power of attorney, the
21 child shall be returned to the custody of the parents as soon as
22 reasonably possible.

23 3. Unless the authority is revoked or withdrawn by the parent,
24 the attorney-in-fact shall exercise parental or legal authority on a
25 continuous basis without compensation for the duration of the power
26 of attorney authorized by subsection 1 of this section and shall not be
27 subject to any statutes dealing with the licensing or regulation of foster
28 care homes.

29 4. Except as otherwise provided by law, the execution of a power
30 of attorney by a parent or legal custodian as authorized in subsection
31 1 of this section shall not constitute abandonment, abuse, or neglect as
32 defined in law unless the parent or legal guardian fails to take custody
33 of the child or execute a new power of attorney after the one-year time
34 limit has elapsed. However, it shall be a violation of section 453.110 for
35 a parent or legal custodian to execute a power of attorney with the
36 intention of permanently avoiding or divesting himself or herself of
37 parental and/or legal responsibility for the care of the child.

38 5. Under a delegation of powers as authorized by subsection 1 of
39 this section, the child or children subject to the power of attorney shall
40 not be considered placed in foster care as otherwise defined in law and
41 the parties shall not be subject to any of the requirements or licensing

42 regulations for foster care or other regulations relating to community
43 care for children.

44 **6. A community service program that offers support services for**
45 **families in crisis under this section shall ensure that a background**
46 **check is completed for the attorney-in-fact and any adult members of**
47 **his or her household prior to the placement of the child. A background**
48 **check performed under this section shall include:**

49 **(1) A fingerprint-based criminal history check;**

50 **(2) A sex offender registry check; and**

51 **(3) A child abuse and neglect registry, as established pursuant**
52 **to section 210.109, check.**

53 **7. A parent or legal custodian who is a member of the Armed**
54 **Forces of the United States including any reserve component thereof,**
55 **the commissioned corps of the National Oceanic and Atmospheric**
56 **Administration, the Public Health Service of the United States**
57 **Department of Health and Human Services detailed by proper authority**
58 **for duty with the Armed Forces of the United States, or who is required**
59 **to enter or serve in the active military service of the United States**
60 **under a call or order of the President of the United States or to serve**
61 **on state active duty may delegate the powers designated in subsection**
62 **1 of this section for a period longer than one year if on active duty**
63 **service. The term of delegation shall not exceed the term of active duty**
64 **service plus thirty days.**

65 **8. Nothing in this section shall conflict or set aside the**
66 **preexisting residency requirements under section 167.020. An attorney-**
67 **in-fact to whom powers are delegated under a power of attorney**
68 **authorized by this section shall make arrangements to ensure that the**
69 **child attends classes at an appropriate school based upon residency or**
70 **waiver of such residency requirements by the school. Except as may be**
71 **permitted by state or federal law, no parent executing a power of**
72 **attorney for the temporary care of a minor child under this section**
73 **shall take such action for the primary purpose of enrolling a child in**
74 **a school for the sole purpose of participating in the academic or**
75 **interscholastic athletic programs provided by the school. Any person**
76 **in violation of this subsection may be required by a court of competent**
77 **jurisdiction, in addition to other remedies, to repay any and all costs**
78 **incurred by the school as a result of the violation.**

79 **9. As soon as reasonably possible upon execution of a power of**
80 **attorney for the temporary care of a child as authorized under this**
81 **section, the child's school shall be notified of the existence of the power**
82 **of attorney and be provided a copy of the power of attorney as well as**
83 **the contact information for the attorney-in-fact. While the power of**
84 **attorney is in force, the school shall communicate with both the**
85 **attorney-in-fact and any parent or legal custodian with parental or**
86 **legal rights, obligations, or authority regarding the custody, visitation,**
87 **or support of the child. The school shall also be notified of the**
88 **expiration, termination, or revocation of the power of attorney as soon**
89 **as reasonably possible following such expiration, termination, or**
90 **revocation and shall no longer communicate with the attorney-in-fact**
91 **regarding the child upon the receipt of such notice.**

92 **10. No delegation of powers under this section shall operate to**
93 **modify a child's eligibility for benefits the child is receiving at the time**
94 **of the execution of the power of attorney including, but not limited to,**
95 **eligibility for free or reduced lunch, health care costs, or other social**
96 **services.**

475.604. Any form for the delegation of powers authorized under
2 **section 475.602 shall be witnessed by a notary public and contain the**
3 **following information:**

4 **(1) The full name of any child for whom parental and legal**
5 **authority is being delegated;**

6 **(2) The date of birth of any child for whom parental and legal**
7 **authority is being delegated;**

8 **(3) The full name and signature of the attorney-in-fact;**

9 **(4) The address and telephone number of the attorney-in-fact;**

10 **(5) The full name and signature of the parent or legal guardian;**

11 **(6) One of the following statements:**

12 **(a) "I delegate to the attorney-in-fact all of my power and**
13 **authority regarding the care, custody, and property of each minor child**
14 **named above including, but not limited to, the right to enroll the child**
15 **in school, inspect and obtain copies of education and other records**
16 **concerning the child, the right to give or withhold any consent or**
17 **waiver with respect to school activities, medical and dental treatment,**
18 **and any other activity, function, or treatment that may concern the**
19 **child. This delegation shall not include the power or authority to**

20 consent to marriage or adoption of the child, the performance or
21 inducement of an abortion on or for the child, or the termination of
22 parental rights to the child."; or

23 (b) "I delegate to the attorney-in-fact the following specific
24 powers and responsibilities (insert list). This delegation shall not
25 include the power or authority to consent to marriage or adoption of
26 the child, the performance or inducement of an abortion on or for the
27 child, or the termination of parental rights to the child."; and

28 (7) A description of the time for which the delegation is being
29 made and an acknowledgment that the delegation may be revoked at
30 any time.

[475.024. A parent of a minor, by a properly executed power of
2 attorney, may delegate to another individual, for a period not exceeding
3 one year, any of his or her powers regarding care or custody of the minor
4 child, except his or her power to consent to marriage or adoption of the
5 minor child.]

Bill ✓

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