

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1433

98TH GENERAL ASSEMBLY

Reported from the Committee on Seniors, Families and Children, April 27, 2016, with recommendation that the Senate Committee Substitute do pass.

4450S.04C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 475.024 and 475.125, RSMo, and to enact in lieu thereof five new sections relating to guardianships.

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

Section A. Sections 475.024 and 475.125, RSMo, are repealed and five new
2 sections enacted in lieu thereof, to be known as sections 210.1109, 475.125,
3 475.600, 475.602, and 475.604, to read as follows:

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

475.125. 1. The court may make orders for the management of the estate
2 of the protectee for the care, education, treatment, habilitation, **respite**, support
3 and maintenance of the protectee and for the maintenance of his **or her** family
4 and education of his **or her** children, according to his **or her** means and
5 obligation, if any, out of the proceeds of his **or her** estate, and may direct that
6 payments for such purposes shall be made weekly, monthly, quarterly,

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

7 semiannually or annually. The payments ordered under this section may be
8 decreased or increased from time to time as ordered by the court.

9 2. Appropriations for any such purposes, expenses of administration and
10 allowed claims shall be paid from the property or income of the estate. The court
11 may authorize the conservator to borrow money and obligate the estate for the
12 payment thereof if the court finds that funds of the estate for the payment of such
13 obligation will be available within a reasonable time and that the loan is
14 necessary. If payments are made to another under the order of the court, the
15 conservator of the estate is not bound to see to the application thereof.

16 3. In acting under this section the court shall take into account any duty
17 imposed by law or contract upon a parent or spouse of the protectee, a
18 government agency, a trustee, or other person or corporation, to make payments
19 for the benefit of or provide support, education, care, treatment, habilitation,
20 **respite**, maintenance or safekeeping of the protectee and his **or her**
21 dependents. The guardian of the person and the conservator of the estate shall
22 endeavor to enforce any such duty.

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

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

**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 7 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 national and state 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.

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

84 10. No delegation of powers under this section shall operate to
85 modify a child's eligibility for benefits the child is receiving at the time
86 of the execution of the power of attorney including, but not limited to,
87 eligibility for free or reduced lunch, health care costs, or other social
88 services, except as may be inconsistent with federal or state law
89 governing the relevant program or benefit.

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.

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

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