

SECOND REGULAR SESSION

SENATE BILL NO. 672

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOENIG.

Pre-filed December 1, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4224S.02I

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Section A. Section 475.024, RSMo, is repealed and four new sections
2 enacted in lieu thereof, to be known as sections 210.1109, 475.600, 475.602, and
3 475.604, 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**
9 **its discretion in recommending community service programs provided**
10 **to a parent or guardian under this section.**

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**

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

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 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 or
24 legal custodian, the attorney-in-fact shall exercise parental or legal
25 authority on a continuous basis without compensation for the duration
26 of the power of attorney authorized by subsection 1 of this section and
27 shall not be subject to any statutes dealing with the licensing or
28 regulation of foster 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 as provided in
32 sections 568.030 and 568.032, or abuse or neglect as provided in sections
33 210.110 and 568.060 unless the parent or legal guardian fails to take
34 custody of the child or execute a new power of attorney after the one-
35 year time limit has elapsed. However, it shall be a violation of section
36 453.110 for a parent or legal custodian to execute a power of attorney
37 with the intention of permanently avoiding or divesting himself or
38 herself of parental or legal responsibility for the care of the child.

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

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

45 6. If a parent or legal custodian uses a community service
46 program that offers support services for families in crisis to assist in
47 the delegation of any powers regarding the care and custody of a child
48 by a properly executed power of attorney, then the community service
49 program shall ensure that a background check is completed for the
50 attorney-in-fact and any adult members of his or her household prior
51 to the placement of the child. A community service program shall not
52 place a child or children with an attorney-in-fact when he or she or any
53 adult member of his or her household is found to be on the sex offender
54 registry as established pursuant to sections 589.400 to 589.425, or the
55 child abuse and neglect registry, as established pursuant to section
56 210.109, or has pled guilty or nolo contendere to or is found guilty of a
57 felony offense under federal or state law. If a community service
58 program has reasonable cause to suspect that a parent or legal
59 custodian is executing a power of attorney under this section with the
60 intention of permanently avoiding or divesting himself or herself of
61 parental or legal responsibility for the care of the child, the community
62 service program shall notify the Missouri children's division within the
63 department of social services, and the division shall conduct an
64 investigation of the parent or legal guardian to determine if there is a
65 violation of section 453.110. A background check performed under this
66 section shall include:

- 67 (1) A national and state fingerprint-based criminal history check;
68 (2) A sex offender registry, as established pursuant to sections
69 589.400 to 589.425, check; and
70 (3) A child abuse and neglect registry, as established pursuant
71 to section 210.109, check.

72 7. A parent or legal custodian who is a member of the Armed
73 Forces of the United States including any reserve component thereof,
74 the commissioned corps of the National Oceanic and Atmospheric
75 Administration, the Public Health Service of the United States
76 Department of Health and Human Services detailed by proper authority
77 for duty with the Armed Forces of the United States, or who is required
78 to enter or serve in the active military service of the United States
79 under a call or order of the President of the United States or to serve

80 on state active duty may delegate the powers designated in subsection
81 1 of this section for a period longer than one year if on active duty
82 service. The term of delegation shall not exceed the term of active duty
83 service plus thirty days.

84 8. Nothing in this section shall conflict or set aside the
85 preexisting residency requirements under section 167.020. An attorney-
86 in-fact to whom powers are delegated under a power of attorney
87 authorized by this section shall make arrangements to ensure that the
88 child attends classes at an appropriate school based upon residency or
89 waiver of such residency requirements by the school.

90 9. As soon as reasonably possible upon execution of a power of
91 attorney for the temporary care of a child as authorized under this
92 section, the child's school shall be notified of the existence of the power
93 of attorney and be provided a copy of the power of attorney as well as
94 the contact information for the attorney-in-fact. While the power of
95 attorney is in force, the school shall communicate with both the
96 attorney-in-fact and any parent or legal custodian with parental or
97 legal rights, obligations, or authority regarding the custody, visitation,
98 or support of the child. The school shall also be notified of the
99 expiration, termination, or revocation of the power of attorney as soon
100 as reasonably possible following such expiration, termination, or
101 revocation and shall no longer communicate with the attorney-in-fact
102 regarding the child upon the receipt of such notice.

103 10. No delegation of powers under this section shall operate to
104 modify a child's eligibility for benefits the child is receiving at the time
105 of the execution of the power of attorney including, but not limited to,
106 eligibility for free or reduced lunch, health care costs, or other social
107 services, except as may be inconsistent with federal or state law
108 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.

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

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