

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 801

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:

1 Section A. Section 475.024, RSMo, is repealed and four new
2 sections enacted in lieu thereof, to be known as sections
3 210.1109, 475.600, 475.602, and 475.604, to read as follows:

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

15 475.600. Sections 210.1109, 475.600, 475.602, and 475.604
16 shall be known and may be cited as the "Supporting and
17 Strengthening Families Act".

1 475.602. 1. A parent or legal custodian of a child may, by
2 a properly executed power of attorney as provided under section
3 475.604, delegate to an attorney-in-fact for a period not to
4 exceed one year, except as provided under subsection 7 of this
5 section, any of the powers regarding the care and custody of the
6 child, except the power to consent to marriage or adoption of the
7 child, the performance or inducement of an abortion on or for the
8 child, or the termination of parental rights to the child. A
9 delegation of powers under this section shall not be construed to
10 change or modify any parental or legal rights, obligations, or
11 authority established by an existing court order or deprive the
12 parent or legal custodian of any parental or legal rights,
13 obligations, or authority regarding the custody, visitation, or
14 support of the child.

15 2. The parent or legal custodian of the child shall have
16 the authority to revoke or withdraw the power of attorney
17 authorized in subsection 1 of this section at any time. Except
18 as provided in subsection 7 of this section, if the delegation of
19 authority lasts longer than one year, the parent or legal
20 custodian of the child shall execute a new power of attorney for
21 each additional year that the delegation exists. If a parent
22 withdraws or revokes the power of attorney, the child shall be
23 returned to the custody of the parents as soon as reasonably
24 possible.

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

1 with the licensing or regulation of foster care homes.

2 4. Except as otherwise provided by law, the execution of a
3 power of attorney by a parent or legal custodian as authorized in
4 subsection 1 of this section shall not constitute abandonment,
5 abuse, or neglect as defined in law unless the parent or legal
6 guardian fails to take custody of the child or execute a new
7 power of attorney after the one-year time limit has elapsed.
8 However, it shall be a violation of section 453.110 for a parent
9 or legal custodian to execute a power of attorney with the
10 intention of permanently avoiding or divesting himself or herself
11 of parental and/or legal responsibility for the care of the
12 child.

13 5. Under a delegation of powers as authorized by subsection
14 1 of this section, the child or children subject to the power of
15 attorney shall not be considered placed in foster care as
16 otherwise defined in law and the parties shall not be subject to
17 any of the requirements or licensing regulations for foster care
18 or other regulations relating to community care for children.

19 6. A community service program that offers support services
20 for families in crisis under this section shall ensure that a
21 background check is completed for the attorney-in-fact and any
22 adult members of his or her household prior to the placement of
23 the child. A background check performed under this section shall
24 include:

25 (1) A national and state fingerprint-based criminal history
26 check;

27 (2) A sex offender registry check; and

28 (3) A child abuse and neglect registry, as established
29 pursuant to section 210.109, check.

1 7. A parent or legal custodian who is a member of the Armed
2 Forces of the United States including any reserve component
3 thereof, the commissioned corps of the National Oceanic and
4 Atmospheric Administration, the Public Health Service of the
5 United States Department of Health and Human Services detailed by
6 proper authority for duty with the Armed Forces of the United
7 States, or who is required to enter or serve in the active
8 military service of the United States under a call or order of
9 the President of the United States or to serve on state active
10 duty may delegate the powers designated in subsection 1 of this
11 section for a period longer than one year if on active duty
12 service. The term of delegation shall not exceed the term of
13 active duty service plus thirty days.

14 8. Nothing in this section shall conflict or set aside the
15 preexisting residency requirements under section 167.020. An
16 attorney-in-fact to whom powers are delegated under a power of
17 attorney authorized by this section shall make arrangements to
18 ensure that the child attends classes at an appropriate school
19 based upon residency or waiver of such residency requirements by
20 the school. Except as may be permitted by state or federal law,
21 no parent executing a power of attorney for the temporary care of
22 a minor child under this section shall take such action for the
23 primary purpose of enrolling a child in a school for the sole
24 purpose of participating in the academic or interscholastic
25 athletic programs provided by the school. Any person in
26 violation of this subsection may be required by a court of
27 competent jurisdiction, in addition to other remedies, to repay
28 any and all costs incurred by the school as a result of the
29 violation.

1 9. As soon as reasonably possible upon execution of a power
2 of attorney for the temporary care of a child as authorized under
3 this section, the child's school shall be notified of the
4 existence of the power of attorney and be provided a copy of the
5 power of attorney as well as the contact information for the
6 attorney-in-fact. While the power of attorney is in force, the
7 school shall communicate with both the attorney-in-fact and any
8 parent or legal custodian with parental or legal rights,
9 obligations, or authority regarding the custody, visitation, or
10 support of the child. The school shall also be notified of the
11 expiration, termination, or revocation of the power of attorney
12 as soon as reasonably possible following such expiration,
13 termination, or revocation and shall no longer communicate with
14 the attorney-in-fact regarding the child upon the receipt of such
15 notice.

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

23 475.604. Any form for the delegation of powers authorized
24 under section 475.602 shall be witnessed by a notary public and
25 contain the following information:

26 (1) The full name of any child for whom parental and legal
27 authority is being delegated;

28 (2) The date of birth of any child for whom parental and
29 legal authority is being delegated;

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

2 (4) The address and telephone number of the attorney-in-
3 fact;

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

6 (6) One of the following statements:

7 (a) "I delegate to the attorney-in-fact all of my power and
8 authority regarding the care, custody, and property of each minor
9 child named above including, but not limited to, the right to
10 enroll the child in school, inspect and obtain copies of
11 education and other records concerning the child, the right to
12 give or withhold any consent or waiver with respect to school
13 activities, medical and dental treatment, and any other activity,
14 function, or treatment that may concern the child. This
15 delegation shall not include the power or authority to consent to
16 marriage or adoption of the child, the performance or inducement
17 of an abortion on or for the child, or the termination of
18 parental rights to the child."; or

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

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

28 [475.024. A parent of a minor, by a properly executed
29 power of attorney, may delegate to another individual, for a
30 period not exceeding one year, any of his or her powers

1 regarding care or custody of the minor child, except his or
2 her power to consent to marriage or adoption of the minor
3 child.]
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