

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 672

99TH GENERAL ASSEMBLY

Reported from the Committee on Seniors, Families and Children, February 22, 2018, with recommendation that the Senate Committee Substitute do pass.

4224S.07C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 210.115 and 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Section A. Sections 210.115 and 475.024, RSMo, are repealed and four
2 new sections enacted in lieu thereof, to be known as sections 210.115, 475.600,
3 475.602, and 475.604, to read as follows:

210.115. 1. When any physician, medical examiner, coroner, dentist,
2 chiropractor, optometrist, podiatrist, resident, intern, nurse, hospital or clinic
3 personnel that are engaged in the examination, care, treatment or research of
4 persons, and any other health practitioner, psychologist, mental health
5 professional, social worker, day care center worker or other child-care worker,
6 juvenile officer, probation or parole officer, jail or detention center personnel,
7 teacher, principal or other school official, minister as provided by section 352.400,
8 peace officer or law enforcement official, **volunteer or personnel of a**
9 **community service program that offers support services for families in**
10 **crisis to assist in the delegation of any powers regarding the care and**
11 **custody of a child by a properly executed power of attorney pursuant**
12 **to sections 475.600 to 475.604**, or other person with responsibility for the care
13 of children has reasonable cause to suspect that a child has been or may be
14 subjected to abuse or neglect or observes a child being subjected to conditions or
15 circumstances which would reasonably result in abuse or neglect, that person
16 shall immediately report to the division in accordance with the provisions of
17 sections 210.109 to 210.183. No internal investigation shall be initiated until

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

18 such a report has been made. As used in this section, the term "abuse" is not
19 limited to abuse inflicted by a person responsible for the child's care, custody and
20 control as specified in section 210.110, but shall also include abuse inflicted by
21 any other person.

22 2. If two or more members of a medical institution who are required to
23 report jointly have knowledge of a known or suspected instance of child abuse or
24 neglect, a single report may be made by a designated member of that medical
25 team. Any member who has knowledge that the member designated to report has
26 failed to do so shall thereafter immediately make the report. Nothing in this
27 section, however, is meant to preclude any person from reporting abuse or
28 neglect.

29 3. The reporting requirements under this section are individual, and no
30 supervisor or administrator may impede or inhibit any reporting under this
31 section. No person making a report under this section shall be subject to any
32 sanction, including any adverse employment action, for making such
33 report. Every employer shall ensure that any employee required to report
34 pursuant to subsection 1 of this section has immediate and unrestricted access
35 to communications technology necessary to make an immediate report and is
36 temporarily relieved of other work duties for such time as is required to make any
37 report required under subsection 1 of this section.

38 4. Notwithstanding any other provision of sections 210.109 to 210.183, any
39 child who does not receive specified medical treatment by reason of the legitimate
40 practice of the religious belief of the child's parents, guardian, or others legally
41 responsible for the child, for that reason alone, shall not be found to be an abused
42 or neglected child, and such parents, guardian or other persons legally
43 responsible for the child shall not be entered into the central registry. However,
44 the division may accept reports concerning such a child and may subsequently
45 investigate or conduct a family assessment as a result of that report. Such an
46 exception shall not limit the administrative or judicial authority of the state to
47 ensure that medical services are provided to the child when the child's health
48 requires it.

49 5. In addition to those persons and officials required to report actual or
50 suspected abuse or neglect, any other person may report in accordance with
51 sections 210.109 to 210.183 if such person has reasonable cause to suspect that
52 a child has been or may be subjected to abuse or neglect or observes a child being
53 subjected to conditions or circumstances which would reasonably result in abuse

54 or neglect.

55 6. Any person or official required to report pursuant to this section,
56 including employees of the division, who has probable cause to suspect that a
57 child who is or may be under the age of eighteen, who is eligible to receive a
58 certificate of live birth, has died shall report that fact to the appropriate medical
59 examiner or coroner. If, upon review of the circumstances and medical
60 information, the medical examiner or coroner determines that the child died of
61 natural causes while under medical care for an established natural disease, the
62 coroner, medical examiner or physician shall notify the division of the child's
63 death and that the child's attending physician shall be signing the death
64 certificate. In all other cases, the medical examiner or coroner shall accept the
65 report for investigation, shall immediately notify the division of the child's death
66 as required in section 58.452 and shall report the findings to the child fatality
67 review panel established pursuant to section 210.192.

68 7. Any person or individual required to report may also report the
69 suspicion of abuse or neglect to any law enforcement agency or juvenile
70 office. Such report shall not, however, take the place of reporting to the division.

71 8. If an individual required to report suspected instances of abuse or
72 neglect pursuant to this section has reason to believe that the victim of such
73 abuse or neglect is a resident of another state or was injured as a result of an act
74 which occurred in another state, the person required to report such abuse or
75 neglect may, in lieu of reporting to the Missouri children's division, make such
76 a report to the child protection agency of the other state with the authority to
77 receive such reports pursuant to the laws of such other state. If such agency
78 accepts the report, no report is required to be made, but may be made, to the
79 children's division.

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

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, if a parent or legal
30 custodian uses a community service program that offers support
31 services for families in crisis to assist in the delegation of any powers
32 regarding the care and custody of a child by a properly executed power
33 of attorney, then the execution of a power of attorney by such parent
34 or legal custodian as authorized in subsection 1 of this section shall not
35 constitute abandonment as provided in sections 568.030 and 568.032, or
36 abuse or neglect as provided in sections 210.110 and 568.060, unless the
37 parent or legal guardian fails to take custody of the child or execute a
38 new power of attorney after the one-year time limit has elapsed. It
39 shall be a violation of section 453.110 for any parent or legal custodian
40 to execute a power of attorney with the intention of permanently
41 avoiding or divesting himself or herself of parental or legal
42 responsibility for the care of the child.

43 5. Under a delegation of powers as authorized by subsection 1 of
44 this section, the child or children subject to the power of attorney shall
45 not be considered placed in foster care as otherwise defined in law and

46 the parties shall not be subject to any of the requirements or licensing
47 regulations for foster care or other regulations relating to community
48 care for children.

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

- 71 (1) A national and state fingerprint-based criminal history check;
- 72 (2) A sex offender registry, as established pursuant to sections
73 589.400 to 589.425, check; and
- 74 (3) A child abuse and neglect registry, as established pursuant
75 to section 210.109, check.

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

83 under a call or order of the President of the United States or to serve
84 on state active duty may delegate the powers designated in subsection
85 1 of this section for a period longer than one year if on active duty
86 service. The term of delegation shall not exceed the term of active duty
87 service plus thirty days.

88 8. Nothing in this section shall conflict or set aside the
89 preexisting residency requirements under section 167.020. An attorney-
90 in-fact to whom powers are delegated under a power of attorney
91 authorized by this section shall make arrangements to ensure that the
92 child attends classes at an appropriate school. If enrollment is at a
93 public school, attendance shall be based upon residency or waiver of
94 such residency requirements by the school.

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

109 10. No delegation of powers under this section shall operate to
110 modify a child's eligibility for benefits the child is receiving at the time
111 of the execution of the power of attorney including, but not limited to,
112 eligibility for free or reduced lunch, health care costs, or other social
113 services, except as may be inconsistent with federal or state law
114 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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