

House Bill 963

By: Representatives Abrams of the 89th, Benton of the 31st, Efstration of the 104th, Hugley of the 136th, Willard of the 51st, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 9 of Title 19 of the Official Code of Georgia Annotated, relating to child
2 custody proceedings, so as to repeal the "Power of Attorney for the Care of a Minor Child
3 Act"; to provide a short title; to provide for a nonlegal custodian to give legal consent for a
4 child in his or her custody to receive medical or educational services for which parental
5 consent is usually required; to provide an affidavit form; to provide for related matters; to
6 repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 9 of Title 19 of the Official Code of Georgia Annotated, relating to child custody
10 proceedings, is amended by repealing Article 4, relating to the "Power of Attorney for the
11 Care of a Minor Child Act," and enacting a new Article 4 to read as follows:

12 "ARTICLE 4

13 19-9-120.

14 This article shall be known and may be cited as "The Kinship Educational Consent and
15 Transparency Act.'

16 19-9-121.

17 (a) A nonlegal custodian, who is not a foster parent caring for a child in the custody of the
18 Division of Family and Children Services of the Department of Human Services, shall be
19 authorized to give legal consent for a child in his or her custody to receive any medical or
20 educational services for which parental consent is usually required by executing the
21 affidavit described in Code Section 19-9-123. The affidavit shall not be valid for more than
22 one year after the date on which it is executed.

23 (b) The decision of a nonlegal custodian to consent to or to refuse medical or educational
24 services for a child in his or her custody shall be superseded by any contravening decision

25 of a parent or a person having legal custody of the child, provided the decision of the legal
 26 custodian does not jeopardize the life, health, safety, or welfare of the child.

27 (c) Nothing in this Code section shall apply to, or give authority for, an abortion as
 28 provided in Code Section 15-11-682 or any other provision of law.

29 19-9-122.

30 (a) No person who acts in good faith reliance on a properly executed nonlegal custodian's
 31 affidavit, having no actual knowledge of any facts contrary to those stated in the affidavit,
 32 shall be subject to civil liability or criminal prosecution, or to professional disciplinary
 33 procedure, for any action which would have been proper if the facts had been as he or she
 34 believed them to be. This subsection shall apply even if medical or educational services
 35 are rendered to a child in contravention of the wishes of the parent or legal custodian of
 36 such child; provided, however, that the person rendering the medical or educational
 37 services shall not have actual knowledge of the wishes of the parent or legal custodian.

38 (b) A person who relies on a properly executed nonlegal custodian's affidavit has no
 39 obligation to make further inquiry or investigation. Nothing herein shall relieve any person
 40 of responsibility for violations of other provisions of law, rules, or regulations.

41 (c) If a child ceases to live with a nonlegal custodian, such nonlegal custodian shall notify
 42 all parties to whom he or she has transmitted the affidavit or to whom he or she has caused
 43 the affidavit to be transmitted.

44 19-9-123.

45 (a) A nonlegal custodian's affidavit shall be invalid unless it substantially contains, in not
 46 less than ten-point boldface type or a reasonable equivalent thereof, the form set forth in
 47 subsection (b) of this Code section. The warning statement shall be enclosed in a box with
 48 three-point rule lines.

49 (b) The nonlegal custodian's affidavit shall be in substantially the following form:

50 'NONLEGAL CUSTODIAN'S AFFIDAVIT

51 Use of this affidavit is authorized by O.C.G.A. Section 19-9-121.

52 INSTRUCTIONS: Completion of items 1 through 4 and the signing of the affidavit are
 53 sufficient to authorize educational services and school-related medical services for the
 54 named child. Completion of items 5 through 8 is additionally required to authorize any
 55 other medical services. Please print clearly.

56 The child named below lives in my home and I am 18 years of age or older.

57 1. Name of child: _____

58 2. Child's date of birth: _____

59 3. My name (nonlegal custodian giving authorization): _____

60 4. My home address: _____

61 5. I am a nonlegal custodian.

62 6. Check one or both (for example, if one parent was advised and the other cannot be
63 located):

64 I have advised the parent(s) or legal custodian(s) of the child of my intent to
65 authorize the rendering of educational or medical services and have received no
66 objection.

67 I am unable to contact the parent(s) or legal custodian(s) of the child at this time
68 to notify them of my intended authorization.

69 7. Nonlegal custodian's date of birth: _____

70 8. Nonlegal custodian's State of Georgia driver's license number or identification card
71 number: _____

72 WARNING: DO NOT SIGN THIS FORM IF ANY OF THE STATEMENTS ABOVE
73 ARE INCORRECT OR YOU WILL BE COMMITTING A CRIME PUNISHABLE
74 BY A FINE, IMPRISONMENT, OR BOTH.

75 I declare under penalty of perjury under the laws of the State of Georgia that the
76 foregoing is true and correct.

77 Date: _____

78 Nonlegal custodian signature: _____

79 Printed name: _____

80 Signed and sealed in the presence of: _____

81 Notary public: _____

82 My commission expires: _____

83 NOTICES:

84 1. This declaration does not affect the rights of the named child's parent or legal
85 guardian regarding the care, custody, and control of the child and does not mean that
86 the nonlegal custodian has legal custody of the child.

- 87 2. A person who relies on this affidavit has no obligation to make any further inquiry
88 or investigation.
- 89 3. This affidavit is not valid for more than one year after the date on which it is
90 executed.

91 ADDITIONAL INFORMATION:

92 TO NONLEGAL CUSTODIANS:

- 93 1. If the child stops living with you, you are required to notify anyone to whom you
94 have given this affidavit as well as anyone of whom you have actual knowledge who
95 received the affidavit from a third party.
- 96 2. If you do not have the information in item 8 above (State of Georgia driver's license
97 or identification card), you must provide another form of identification such as your
98 social security number.

99 TO SCHOOL OFFICIALS:

100 The school system may require additional reasonable evidence that the nonlegal
101 custodian resides at the address provided in item 4.

102 TO HEALTH CARE PROVIDERS AND HEALTH CARE SERVICE PLANS:

- 103 1. No person who acts in good faith reliance upon a nonlegal custodian's affidavit to
104 render educational or medical services, without actual knowledge of facts contrary to
105 those stated in the affidavit, is subject to criminal prosecution or civil liability to any
106 person, or subject to any professional disciplinary action, for such reliance if the
107 applicable portions of the form are completed.
- 108 2. This affidavit does not confer dependency for health care coverage purposes."

109 **SECTION 2.**

110 All laws and parts of laws in conflict with this Act are repealed.