

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1433

98TH GENERAL ASSEMBLY

4450H.03P

D. ADAM CRUMBLISS, Chief Clerk

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Section A. Sections 475.024 and 475.125, RSMo, are repealed and five new sections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

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

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

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

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

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

11 **2. The parent or legal custodian of the child shall have the authority to revoke or
12 withdraw the power of attorney authorized in subsection 1 of this section at any time.
13 Except as provided in subsection 6 of this section, if the delegation of authority lasts longer
14 than one year, the parent or legal custodian of the child shall execute a new power of
15 attorney for each additional year that the delegation exists. If a parent withdraws or
16 revokes the power of attorney, the child shall be returned to the custody of the parents as
17 soon as reasonably possible.**

18 **3. Unless the authority is revoked or withdrawn by the parent, the attorney-in-fact
19 shall exercise parental or legal authority on a continuous basis without compensation for
20 the duration of the power of attorney authorized by subsection 1 of this section and shall
21 not be subject to any statutes dealing with the licensing or regulation of foster care homes.**

22 **4. Except as otherwise provided by law, the execution of a power of attorney by a**
23 **parent or legal custodian as authorized in subsection 1 of this section shall not constitute**
24 **abandonment, abuse, or neglect as defined in law unless the parent or legal guardian fails**
25 **to take custody of the child or execute a new power of attorney after the one-year time limit**
26 **has elapsed. However, it shall be a violation of section 453.110 for a parent or legal**
27 **custodian to execute a power of attorney with the intention of permanently avoiding or**
28 **divesting himself or herself of parental and/or legal responsibility for the care of the child.**

29 **5. Under a delegation of powers as authorized by subsection 1 of this section, the**
30 **child or children subject to the power of attorney shall not be considered placed in foster**
31 **care as otherwise defined in law and the parties shall not be subject to any of the**
32 **requirements or licensing regulations for foster care or other regulations relating to**
33 **community care for children.**

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

38 **(1) A fingerprint-based criminal history check;**

39 **(2) A sex offender registry check; and**

40 **(3) A child abuse and neglect registry, as established pursuant to section 210.109,**
41 **check.**

42 **7. A parent or legal custodian who is a member of the Armed Forces of the United**
43 **States including any reserve component thereof, the commissioned corps of the National**
44 **Oceanic and Atmospheric Administration, the Public Health Service of the United States**
45 **Department of Health and Human Services detailed by proper authority for duty with the**
46 **Armed Forces of the United States, or who is required to enter or serve in the active**
47 **military service of the United States under a call or order of the President of the United**
48 **States or to serve on state active duty may delegate the powers designated in subsection 1**
49 **of this section for a period longer than one year if on active duty service. The term of**
50 **delegation shall not exceed the term of active duty service plus thirty days.**

51 **8. Nothing in this section shall conflict or set aside the preexisting residency**
52 **requirements under section 167.020. An attorney-in-fact to whom powers are delegated**
53 **under a power of attorney authorized by this section shall make arrangements to ensure**
54 **that the child attends classes at an appropriate school based upon residency or waiver of**
55 **such residency requirements by the school. Except as may be permitted by state or federal**
56 **law, no parent executing a power of attorney for the temporary care of a minor child under**
57 **this section shall take such action for the primary purpose of enrolling a child in a school**

58 for the sole purpose of participating in the academic or interscholastic athletic programs
59 provided by the school. Any person in violation of this subsection may be required by a
60 court of competent jurisdiction, in addition to other remedies, to repay any and all costs
61 incurred by the school as a result of the violation.

62 9. As soon as reasonably possible upon execution of a power of attorney for the
63 temporary care of a child as authorized under this section, the child's school shall be
64 notified of the existence of the power of attorney and be provided a copy of the power of
65 attorney as well as the contact information for the attorney-in-fact. While the power of
66 attorney is in force, the school shall communicate with both the attorney-in-fact and any
67 parent or legal custodian with parental or legal rights, obligations, or authority regarding
68 the custody, visitation, or support of the child. The school shall also be notified of the
69 expiration, termination, or revocation of the power of attorney as soon as reasonably
70 possible following such expiration, termination, or revocation and shall no longer
71 communicate with the attorney-in-fact regarding the child upon the receipt of such notice.

72 10. No delegation of powers under this section shall operate to modify a child's
73 eligibility for benefits the child is receiving at the time of the execution of the power of
74 attorney including, but not limited to, eligibility for free or reduced lunch, health care
75 costs, or other social services.

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

- 3 (1) The full name of any child for whom parental and legal authority is being
4 delegated;
- 5 (2) The date of birth of any child for whom parental and legal authority is being
6 delegated;
- 7 (3) The full name and signature of the attorney-in-fact;
- 8 (4) The address and telephone number of the attorney-in-fact;
- 9 (5) The full name and signature of the parent or legal guardian;
- 10 (6) One of the following statements:
 - 11 (a) "I delegate to the attorney-in-fact all of my power and authority regarding the
12 care, custody, and property of each minor child named above including, but not limited to,
13 the right to enroll the child in school, inspect and obtain copies of education and other
14 records concerning the child, the right to give or withhold any consent or waiver with
15 respect to school activities, medical and dental treatment, and any other activity, function,
16 or treatment that may concern the child. This delegation shall not include the power or
17 authority to consent to marriage or adoption of the child, the performance or inducement
18 of an abortion on or for the child, or the termination of parental rights to the child."; or

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

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

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

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