

Senate File 361 - Introduced

SENATE FILE 361
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 78)

A BILL FOR

1 An Act relating to the temporary delegation of parental
2 authority by the parent, guardian, or legal custodian of a
3 child.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 633F.1 Definitions.

2 1. "Agent" means a person granted authority to act for a
3 parent, guardian, or legal custodian under a power of attorney
4 created under this chapter.

5 2. "Child" means a person under eighteen years of age.

6 3. "Power of attorney" means a writing that grants authority
7 to an agent to act in the place of a parent, guardian, or legal
8 custodian regarding the care or custody of a child.

9 Sec. 2. NEW SECTION. 633F.2 Power of attorney — temporary
10 delegation of parental authority.

11 1. A parent, guardian, or legal custodian of a child, by a
12 properly executed power of attorney, may delegate to another
13 person any authority regarding the care or custody of the child
14 except for any of the following powers:

15 a. The power to consent to the child's marriage.

16 b. The power to consent to the child's adoption.

17 c. The power to consent to the performance or inducement of
18 an abortion on or for the child.

19 d. The power to consent to the termination of the parental
20 rights of a parent of the child.

21 2. A power of attorney executed under this chapter must be
22 signed by all parents, guardians, and legal custodians. The
23 power of attorney must be acknowledged before a notary public
24 or other individual authorized by law to take acknowledgments.
25 An agent named in the power of attorney shall not notarize the
26 principal's signature. An acknowledged signature on a power of
27 attorney is presumed to be genuine.

28 3. A parent, guardian, or legal custodian of the child shall
29 have the authority to revoke or terminate a power of attorney
30 created under this chapter at any time by giving notice of the
31 revocation in writing to the agent.

32 4. A power of attorney created under this chapter shall
33 be for a period of time not to exceed ninety days. A parent,
34 guardian, or legal custodian of the child may execute a new
35 power of attorney for an additional period of ninety days, but

1 in no case shall a power of attorney created under this chapter
2 be valid for more than one hundred eighty days. If a parent,
3 guardian, or legal custodian revokes or terminates the power of
4 attorney, the child shall be returned to the care and custody
5 of the parent, guardian, or legal custodian within twenty-four
6 hours of the date of the revocation or termination.

7 5. An agent shall exercise parental or legal authority on a
8 continuous basis without compensation for the duration of the
9 power of attorney and shall not be considered to be a foster
10 parent subject to licensure by the department of human services
11 pursuant to chapter 237.

12 6. A power of attorney executed under this chapter by a
13 parent, guardian, or legal custodian shall not constitute
14 abandonment, abuse, or neglect of the child under chapter 232
15 by the parent, guardian, or legal custodian unless the parent,
16 guardian, or legal custodian fails to take custody of the child
17 upon the expiration of the power of attorney.

18 7. This chapter shall not apply to a power of attorney
19 created pursuant to section 598C.204.

20 8. The department of human services, in consultation with
21 the judicial branch, shall develop forms for carrying out the
22 provisions of this chapter.

23

EXPLANATION

24 The inclusion of this explanation does not constitute agreement with
25 the explanation's substance by the members of the general assembly.

26 This bill relates to the temporary delegation of parental
27 authority by the parent, guardian, or legal custodian of a
28 child.

29 The bill provides that a parent, guardian, or legal
30 custodian of a child, by a properly executed power of attorney,
31 may delegate to another person any powers regarding the care
32 or custody of the child except the power to consent to the
33 child's marriage, the power to consent to the child's adoption,
34 the power to consent to the performance or inducement of an
35 abortion on or for the child, and the power to consent to the

1 termination of the parental rights of a parent of the child. A
2 power of attorney executed under the bill must be signed by all
3 parents, guardians, and legal custodians of a child and must
4 be properly acknowledged by a notary. A parent, guardian, or
5 legal custodian shall have the authority to revoke or terminate
6 a power of attorney created under the bill at any time.

7 A power of attorney created under the bill shall be for a
8 period of time not to exceed 90 days. The parent, guardian, or
9 legal custodian of the child is required to execute a new power
10 of attorney for an additional period of 90 days, and the power
11 of attorney cannot exceed 180 days. If the parent, guardian,
12 or legal custodian revokes or terminates the power of attorney,
13 the child shall be returned to the care and custody of the
14 parent, guardian, or legal custodian within 24 hours of the
15 date of the revocation or termination.

16 An agent (person granted authority to act for a parent,
17 guardian, or legal custodian under a power of attorney
18 created in the bill) is required to exercise parental or legal
19 authority on a continuous basis without compensation for the
20 duration of the power of attorney and shall not be considered
21 to be a foster parent subject to licensure by the department
22 of human services pursuant to Code chapter 237 (child foster
23 care facilities). A power of attorney executed under the bill
24 by a parent, guardian, or legal custodian shall not constitute
25 abandonment, abuse, or neglect of the child under Code chapter
26 232 by the parent, guardian, or legal custodian unless the
27 parent, guardian, or legal custodian fails to take custody of
28 the child or to execute a subsequent power of attorney upon the
29 expiration of the power of attorney.

30 The bill provides power of attorney execution requirements
31 and requires the department of human services, in consultation
32 with the judicial branch, to develop forms for carrying out the
33 provisions of the bill.

34 The bill does not apply to a power of attorney created
35 pursuant to Code section 598C.204 (power of attorney under the

1 uniform deployed parents custody and visitation Act).