

Senate File 78 - Introduced

SENATE FILE 78
BY SINCLAIR

A BILL FOR

1 An Act relating to the temporary delegation of parental
2 authority by the parent or legal custodian of a child.
3 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 or legal custodian under a power of attorney created
4 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 or legal custodian
8 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 or legal custodian of a child, by a properly
12 executed power of attorney, may delegate to another person any
13 authority regarding the care or custody of the child except for
14 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. The parent or legal custodian of the child shall have the
22 authority to revoke or terminate a power of attorney created
23 under this chapter at any time.

24 3. Except as provided in subsection 6, a power of attorney
25 created under this chapter shall be for a period of time not to
26 exceed one year. The parent or legal custodian of the child
27 shall execute a new power of attorney for each additional year
28 that the delegation of power exists. If the parent or legal
29 custodian revokes or terminates the power of attorney, the
30 child shall be returned to the care and custody of the parent
31 or legal custodian as soon as reasonably possible.

32 4. An agent shall exercise parental or legal authority on a
33 continuous basis without compensation for the duration of the
34 power of attorney and shall not be considered to be a foster
35 parent subject to licensure by the department of human services

1 pursuant to chapter 237.

2 5. A power of attorney executed under this chapter by a
3 parent or legal custodian shall not constitute abandonment,
4 abuse, or neglect of the child by the parent or legal custodian
5 unless the parent or legal custodian fails to take custody of
6 the child or to execute a subsequent power of attorney upon the
7 expiration of the original power of attorney.

8 6. A parent or legal guardian who is at the time of
9 execution of a power of attorney under this chapter a member of
10 the national guard, reserve, or regular component of the armed
11 forces of the United States who is serving on active duty may
12 execute a power of attorney for a period longer than one year,
13 not to exceed the term of active duty service plus thirty days.

14 7. A power of attorney executed under this chapter must be
15 signed by the parent or legal custodian. The power of attorney
16 must be acknowledged before a notary public or other individual
17 authorized by law to take acknowledgments. An agent named
18 in the power of attorney shall not notarize the principal's
19 signature. An acknowledged signature on a power of attorney is
20 presumed to be genuine.

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

24 EXPLANATION

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

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

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

1 the parental rights of a parent of the child. A parent or legal
2 custodian shall have the authority to revoke or terminate a
3 power of attorney created under the bill at any time.

4 Except for certain military personnel, a power of attorney
5 created under the bill shall be for a period of time not to
6 exceed one year. The parent or legal custodian of the child is
7 required to execute a new power of attorney for each additional
8 year that the delegation of power exists. If the parent or
9 legal custodian revokes or terminates the power of attorney,
10 the child shall be returned to the care and custody of the
11 parent or legal custodian as soon as reasonably possible.

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

25 The bill provides power of attorney execution requirements
26 and requires the department of human services, in consultation
27 with the judicial branch, to develop forms for carrying out the
28 provisions of the bill.