SENATE FILE 540
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SF 360)

(As Amended and Passed by the Senate April 2, 2019)
ALL New Language by the Senate

A BILL FOR

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

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

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

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

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

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

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

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

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

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

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

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

e. The power to transfer the power of attorney to another person unless the other person is designated as a successor agent in the power of attorney.

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

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

4. A power of attorney created under this chapter shall be

for a period of time not to exceed three months. A parent, guardian, or legal custodian of the child may execute a new power of attorney for an additional period of three months, but in no case shall a power of attorney created under this chapter be valid for more than six months. If a parent, guardian, or legal custodian revokes or terminates the power of attorney, the child shall be returned to the care and custody of the parent, guardian, or legal custodian within twenty-four hours of the date of the revocation or termination.

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

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

7. A power of attorney executed under this chapter by a parent, guardian, or legal custodian shall not be valid if the purpose is to avoid the filing of a child in need of assistance petition.

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

Sec. 3. NEW SECTION. **633F.3 Power of attorney temporary delegation of parental authority — form.**

A document substantially in the following form may be used to create a power of attorney temporary delegation of parental authority that has the meaning and effect prescribed by this chapter:

POWER OF ATTORNEY TEMPORARY DELEGATION OF PARENTAL AUTHORITY FORM

1. POWER OF ATTORNEY

This power of attorney authorizes another person (your agent) to make decisions concerning your child or children for you (the principal). Your agent will be able to make decisions and act with respect to your child or children. The meaning of authority over the child or children listed on this form is explained in Iowa Code chapter 633F. This power of attorney does not grant the agent the power to consent to a child's marriage or adoption, to the performance or inducement of an abortion on or for a child, or to the termination of parental rights of a parent of a child or to the transfer of the power of attorney to a person other than to a person designated as a successor agent in this power of attorney.

You should select someone you trust to serve as your agent.

Your agent is not entitled to compensation unless you state otherwise in the optional Special Instructions.

This form provides for designation of one agent. If you wish to name more than one agent, you may name a coagent in the optional Special Instructions. Coagents must act by majority rule unless you provide otherwise in the optional Special Instructions.

If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately upon signature and acknowledgment unless you state otherwise in the optional Special Instructions.

If you have questions about this power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

DESIGNATION OF AGENT

I _____ (name of principal) name the following person as my agent:

Name of Agent _____

Agent's Address _____

Agent's Telephone Number _____

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent _____

Successor Agent's Address _____

Successor Agent's Telephone Number _____

If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second Successor Agent _____

Second Successor Agent's Address _____

Second Successor Agent's Telephone Number _____

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to my child or my children as defined in Iowa Code chapter 633F.

SPECIAL INSTRUCTIONS

You may give special instructions including the name and date of birth of the child on the following lines:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____.

EFFECTIVE DATE

This power of attorney is effective immediately upon signature and acknowledgment unless I have stated otherwise in the optional Special Instructions.

RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid.

SIGNATURE AND ACKNOWLEDGMENT

_____ _____

Your Signature Date

_____

Your Name Printed

_____

_____

Your Address

_____

Your Telephone Number

State of _____

County of _____

This document was acknowledged before me on _____ (date), by _____ (name of principal)

_____ (Seal, if any)

Signature of Notary

My commission expires _____

This document prepared by

_____

_____

2. IMPORTANT INFORMATION FOR AGENT

AGENT'S DUTIES

When you accept the authority granted under this power of attorney, a special legal relationship is created between the principal and you. This relationship imposes upon you legal duties that continue until you resign or the power of attorney is terminated or revoked. You must do all of the following:

Act in good faith.

Do nothing beyond the authority granted in this power of attorney.

Disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and

signing your own name as agent in the following manner:

_____ (principal's name) by

_____ (your signature) as Agent

Unless the Special Instructions in this power of attorney state otherwise, you must also do all of the following:

Act loyally for the child's or children's and principal's benefit.

Avoid conflicts that would impair your ability to act in the child or children's and principal's best interest.

Act with care, competence, and diligence.

TERMINATION OF AGENT'S AUTHORITY

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include any of the following:

The principal's revocation of the power of attorney or your authority.

The occurrence of a termination event stated in the power of attorney.

The purpose of the power of attorney is fully accomplished.

The time period specified in the power of attorney has expired.

The three-month time period permitted under Iowa Code chapter 633F has expired.

The three-month extension time period permitted under Iowa Code chapter 633F has expired.

LIABILITY OF AGENT

The meaning of the authority granted to you is defined in Iowa Code chapter 633F. If you violate Iowa Code chapter 633F, or act outside the authority granted, you may be liable for any damages caused by your violation.

If there is anything about this document or your duties that you do not understand, you should seek legal advice.

Sec. 4. NEW SECTION. **633F.4 Agent's certification —**

optional form.

The following optional form may be used by an agent to certify facts concerning a power of attorney:

IOWA STATUTORY POWER OF ATTORNEY TEMPORARY DELEGATION OF PARENTAL AUTHORITY AGENT'S CERTIFICATION FORM

AGENT'S CERTIFICATION OF VALIDITY OF POWER OF ATTORNEY AND AGENT'S AUTHORITY

State of _____

County of _____

I, _____ (name of agent), certify under penalty of perjury that _____ (name of principal) granted me authority as an agent or successor agent in a power of attorney dated _____.

I further certify all of the following to my knowledge:

The principal is alive and has not revoked the power of attorney or the Power of Attorney and my authority to act under the Power of Attorney have not terminated.

If the power of attorney was drafted to become effective upon the happening of an event or contingency, the event or contingency has occurred.

If I was named as a successor agent, the prior agent is no longer able or willing to serve.

_____

_____

_____.

(Insert other relevant statements)

SIGNATURE AND ACKNOWLEDGMENT

_____ _____

Agent's Signature Date

_____

Agent's Name Printed

_____

_____

Agent's Address

_____

Agent's Telephone Number

This document was acknowledged before me on _____ (date), by _____ (name of agent)

_____ (Seal, if any)

Signature of Notary

My commission expires _____

This document prepared by

_____

_____