

The Senate Committee on Health and Human Services offered the following substitute to SB 3:

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 provide for the creation, authorization, procedure, revocation,
3 and termination of a power of attorney from a parent to another person for the temporary
4 delegation of certain power and authority for the care of a minor child; to provide a short
5 title; to provide for definitions; to provide for legislative findings; to provide for related
6 matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

8 The General Assembly finds that:

- 9 (1) From time to time, parents experience short-term difficulties that impair their ability
10 to perform the regular and expected functions to provide care and support to their minor
11 children;
- 12 (2) Parents need a means to confer to another person the temporary authority to act on
13 behalf of children without the time and expense of a court proceeding or the involvement
14 of the Division of Family and Children Services of the Department of Human Services; and
- 15 (3) Providing a statutory mechanism for granting such authority enhances family
16 preservation and stability.
17

SECTION 2.

18 Chapter 9 of Title 19 of the Official Code of Georgia Annotated, relating to child custody
19 proceedings, is amended by adding a new article to read as follows:
20

21

"ARTICLE 522 19-9-140.23 This article shall be known and may be cited as the 'Supporting and Strengthening Families
24 Act.'25 19-9-141.26 As used in this article, the term:27 (1) 'Child' means the minor child of a parent.28 (2) 'Legal custodian' shall have the same meaning as provided in paragraph (2) of Code
29 Section 19-9-22.30 (3) 'Parent' shall have the same meaning as provided in paragraph (2) of subsection (a)
31 of Code Section 19-3-37. Such term used in the singular shall mean both parents if both
32 parents share joint legal custody of the child, unless otherwise clearly indicated.33 (4) 'School' means:34 (A) Any county or independent school system as defined in Code Section 20-1-9;35 (B) Any private school as such term is defined in subsection (b) of Code Section
36 20-2-690;37 (C) A home study program meeting the requirements set forth in subsection (c) of
38 Code Section 20-2-690;39 (D) Pre-kindergarten programs; or40 (E) Early care and education programs as such term is defined in paragraph (5) of Code
41 Section 20-1A-2.42 19-9-142.43 (a) A parent or legal custodian of a child, by a properly executed power of attorney
44 provided in Code Section 19-9-149, may delegate to any adult residing in this state
45 caregiving authority regarding the child for a period not to exceed one year, except as
46 provided in Code Section 19-9-148. The parent or legal custodian may delegate to the
47 attorney-in-fact any power and authority regarding the care and custody of the child, except
48 the power to consent to the marriage or adoption of the child, the performance or
49 inducement of an abortion on or for the child, or the termination of parental rights to the
50 child. Such power and authority may be delegated without the approval of a court by
51 executing in writing a power of attorney for the care of a child in a form substantially
52 complying with the provisions of this article. A delegation of power and authority under
53 this Code section shall not operate to change or modify any parental or legal rights,
54 obligations, or authority established by an existing court order or deprive the parent or legal

55 custodian of any parental or legal rights, obligations, or authority regarding the custody,
 56 visitation, or support of the child.

57 (b) Except where limited by federal law, this Code section, or the wishes of the parent as
 58 expressed in the power of attorney, the attorney-in-fact shall have the same rights, duties,
 59 and responsibilities that would otherwise be exercised by the parent pursuant to the laws
 60 of this state.

61 (c) The attorney-in-fact under a power of attorney for the care of a child shall act in the
 62 best interest of the child. Such attorney-in-fact shall not be liable for consenting or
 63 refusing to consent to medical, dental, or mental health care for a child when such decision
 64 is made in good faith and is exercised in the best interest of the child.

65 (d)(1) The attorney-in-fact shall have the right to enroll the child in a public school
 66 serving the area where the attorney-in-fact resides and may enroll the child in a private
 67 school, pre-kindergarten program, or home study program.

68 (2) The public school shall allow such attorney-in-fact with a properly executed power
 69 of attorney for the care of a child to enroll the child.

70 (3) At the time of enrollment, the attorney-in-fact shall provide to the school such
 71 residency documentation as is customary in that school district.

72 (4) A public school shall not unreasonably deny enrollment of a child. If a public school
 73 denies enrollment of a child under this Code section, such denial may be appealed and
 74 shall be treated as any other denial of enrollment of a child in that school district,
 75 including all of the remedies otherwise available when enrollment is denied to a child.

76 19-9-142.1.

77 In the event a child under this article has previously been in the care of the Division of
 78 Family and Children Services of the Department of Human Services, the division shall be
 79 notified of the power of attorney to delegate parental or legal custodian power and
 80 authority entered into under this article concerning such child.

81 19-9-142.2.

82 (a) In the event a child under this article has a parent who is not a legal custodian of such
 83 child, such parent shall be placed on written notice by the legal custodian 30 days prior to
 84 the execution of a power of attorney under this article and such notice shall be sent by
 85 certified mail.

86 (b) In addition to the notice provided in subsection (a) of this Code section, a legal
 87 custodian executing a power of attorney under this article shall comply with any applicable
 88 relocation notice requirements under subsection (f) of Code Section 19-9-3.

89 (c) In the event of an emergency, the written requirement provisions of this Code section
90 may be waived, but in no event shall this provision be interpreted as a means to violate a
91 court order pursuant to subsection (f) of Code Section 19-9-3.

92 19-9-143.

93 Nothing in this article shall preclude a parent or attorney-in-fact from granting temporary
94 written permission to seek emergency medical treatment or other services for a child while
95 in the custody of an adult who is not the parent or attorney-in-fact and who is temporarily
96 supervising the child at the request of the parent or attorney-in-fact.

97 19-9-144.

98 (a) Except as may be permitted by the federal No Child Left Behind Act, 20 U.S.C.A.
99 Section 6301, et seq., and Section 7801, et seq., a parent executing the power of attorney
100 for the care of a child shall certify that such action is not for the primary purpose of
101 enrolling the child in a school for the sole purpose of participating in the academic or
102 interscholastic athletic programs provided by that school or for any other unlawful purpose.
103 Violation of this subsection shall be punishable in accordance with Georgia law and may
104 require, in addition to any other remedies, repayment by such parent of all costs incurred
105 by the school as a result of the violation.

106 (b) The power of attorney for the care of a child shall be signed and acknowledged before
107 a notary public by the parent executing the power of attorney.

108 19-9-145.

109 (a) The parent or legal custodian of the child shall have the authority to revoke or
110 withdraw the power of attorney authorized by Code Section 19-9-142 at any time. Except
111 as provided in Code Section 19-9-148, if the delegation of power and authority lasts longer
112 than one year, the parent or legal custodian of the child shall execute a new power of
113 attorney for each additional year that the delegation exists. If a parent withdraws or
114 revokes the power of attorney, the child shall be returned to the custody of the parent as
115 soon as reasonably possible.

116 (b) Unless the authority is revoked or withdrawn by the parent, the attorney-in-fact shall
117 exercise parental or legal authority on a continuous basis without compensation for the
118 duration of the power of attorney authorized by Code Section 19-9-142 and shall not be
119 subject to any provision concerning the licensing or regulation of foster care homes.

120 19-9-146.

121 The execution of a power of attorney by a parent or legal custodian, as authorized in Code
122 Section 19-9-142, shall not constitute abandonment under Code Section 19-10-1 nor
123 constitute abuse or neglect under Code Section 19-7-5 unless the parent or legal custodian
124 fails to take custody of the child or execute a new power of attorney after the one-year time
125 limit under Code Section 19-9-142 has elapsed.

126 19-9-147.

127 (a) Under a delegation of power and authority as authorized by Code Section 19-9-142,
128 the child subject to the power of attorney shall not be considered placed in foster care as
129 defined in any other provision, and the parties to the power of attorney shall not be subject
130 to any of the requirements or licensing regulations for foster care or other regulations
131 relating to community care for children.

132 (b) Any attorney-in-fact who has been delegated power and authority under Code Section
133 19-9-142 by a parent or legal custodian shall not be subject to the requirements of any other
134 child care facility or foster care licensing provisions, and such delegation shall not
135 constitute an out-of-home child placement under this title.

136 19-9-148.

137 A parent who is a member of the armed forces of the United States, including any reserve
138 component thereof, or the commissioned corps of the National Oceanic and Atmospheric
139 Administration or the Public Health Service of the United States Department of Health and
140 Human Services detailed by proper authority for duty with the armed forces of the United
141 States, or who is required to enter or serve in the active military service of the United States
142 under a call or order of the President of the United States or to serve on state active duty,
143 may delegate the power and authority authorized by Code Section 19-9-142 for a period
144 longer than one year if such parent is on active duty service. The term of delegation,
145 however, may not exceed the term of active duty service plus 30 days.

146 19-9-149.

147 (a) The statutory power of attorney contained in this Code section may be used for the
148 temporary delegation of parental power and authority to an attorney-in-fact. This power
149 of attorney is not intended to be exclusive. No provision of this article shall be construed
150 to bar use by the parent of any other or different form of power of attorney for the care of
151 a child that substantially complies with this article.

152 (b) A power of attorney shall be legally sufficient under this Code section if the wording
 153 of the form complies substantially with the provisions of this Code section, the form is
 154 properly completed, and the signatures of the parties are acknowledged.

155 (c) The power of attorney for the care of a child shall be in substantially the following
 156 form:

157 'Statutory Form for Power of Attorney to Delegate Parental or Legal Custodian Power and
 158 Authority

159 1. I certify that I am the parent or legal custodian of:

160 _____

161 (Full name of minor child) (Date of birth)

162

163 2. I designate _____ (full name of attorney-in-fact),

164 _____
 165 (street address, city, state, and ZIP Code of attorney-in-fact)

166

167 (home and work phone numbers of attorney-in-fact)

168 as the attorney-in-fact of the minor child named above.

169 3. I delegate to the attorney-in-fact all my power and authority regarding the care, custody,
 170 and property of the minor child named above, including but not limited to the right to enroll
 171 the child in school, inspect and obtain copies of education records and other records
 172 concerning the child, attend school activities and other functions concerning the child, and
 173 give or withhold any consent or waiver with respect to school activities, medical and dental
 174 treatment, and any other activity, function, or treatment that may concern the child. This
 175 delegation shall not include the power or authority to consent to the marriage or adoption
 176 of the child, the performance or inducement of an abortion on or for the child, or the
 177 termination of parental rights to the child.

178 OR

179 4. I delegate to the attorney-in-fact the following specific powers and responsibilities
 180 (write in):

181 _____
 182 *In the event section 4 is completed, section 3 does not apply.*

183 This delegation shall not include the power or authority to consent to the marriage or
184 adoption of the child, the performance or inducement of an abortion on or for the child, or
185 the termination of parental rights to the child.

186 5. This power of attorney is effective for a period not to exceed one year, beginning
187 _____ , 20__ , and ending _____ , 20__ . I reserve the right to revoke
188 this power and authority at any time.

189 OR

190 6. I am a serving parent as defined by Code Section 19-9-148 of the Official Code of
191 Georgia Annotated. My active duty service is scheduled to begin on _____ ,
192 20__ , and is estimated to end on _____ , 20__ . I acknowledge that in no event
193 shall this delegation of power and authority last more than one year or the term of my
194 active duty plus 30 days, whichever is longer.

195 7. Except as may be permitted by the federal No Child Left Behind Act, 20 U.S.C.A.
196 Section 6301, et seq., and Section 7801, et seq., I hereby certify that this power of attorney
197 is not executed for the primary purpose of unlawfully enrolling the child in a school so that
198 the child may participate in the academic or interscholastic athletic programs provided by
199 that school.

200 By: _____

201 (Parent or legal custodian signature)

202 8. I hereby accept my designation as attorney-in-fact for the minor child specified in this
203 power of attorney.

204 _____

205 (Attorney-in-fact signature)

206 State of Georgia

207 County of _____

208 ACKNOWLEDGMENT

209 Before me, the undersigned, a Notary Public, in and for said County and State on this
210 _____ day of _____, 20____, personally appeared _____ (name
211 of parent or legal custodian) and _____ (name of attorney-in-fact), to
212 me known to be the identical persons who executed this instrument and acknowledged to
213 me that each executed the same as his or her free and voluntary act and deed for the uses
214 and purposes set forth in the instrument.

215 Witness my hand and official seal the day and year above written.

216 _____

217 (Notary public signature)

218 (Seal)

219 My commission expires: _____''

220 **SECTION 3.**

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