

SECOND REGULAR SESSION  
[ P E R F E C T E D ]  
SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 801**  
98TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR SATER.

Offered April 6, 2016.

Senate Substitute adopted, April 18, 2016.

Taken up for Perfection April 18, 2016. Bill declared Perfected and Ordered Printed, as amended.

ADRIANE D. CROUSE, Secretary.

5327S.04P

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**AN ACT**

To repeal section 475.024, RSMo, and to enact in lieu thereof nine new sections relating to guardianships.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 475.024, RSMo, is repealed and nine new sections enacted in lieu thereof, to be known as sections 210.660, 210.665, 210.670, 210.675, 210.680, 210.1109, 475.600, 475.602, and 475.604, to read as follows:

**210.660. As used in sections 210.660 to 210.680, the following terms shall mean:**

(1) "Age- or developmentally-appropriate activities":

(a) Activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally-appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(b) In the case of a specific child, activities, or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child;

(2) "Caregiver", a foster parent, relative, or kinship provider with

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

14 whom a child in foster care has been placed or a designated official for  
15 a child care institution in which a child in foster care has been placed;

16 (3) "Division", the Missouri children's division within the  
17 department of social services;

18 (4) "Reasonable and prudent parent standard", the standard  
19 characterized by careful and sensible parental decisions that maintain  
20 the health, safety, and best interests of a child while at the same time  
21 encouraging the emotional and developmental growth of the child, that  
22 a caregiver shall use when determining whether to allow a child in  
23 foster care under the responsibility of the state to participate in  
24 extracurricular, enrichment, cultural, and social activities.

210.665. 1. Except as otherwise provided in subsection 8 of this  
2 section, the court and all parties to a case under chapter 211 involving  
3 a child in care shall defer to the reasonable decisions of the child's  
4 designated caregiver involving the child's participation in  
5 extracurricular, enrichment, cultural, and social activities.

6 2. A caregiver shall use the reasonable and prudent parent  
7 standard when making decisions relating to the activity of the child.

8 3. The division or a contracted agency thereof shall designate at  
9 least one onsite caregiver who has authority to apply the reasonable  
10 and prudent parent standard for each child placed in its custody.

11 4. The caregiver shall consider:

12 (1) The child's age, maturity, and developmental level;

13 (2) The overall health and safety of the child;

14 (3) Potential risk factors and appropriateness of the activity;

15 (4) The best interests of the child;

16 (5) Promoting, where safe and as appropriate, normal childhood  
17 experiences; and

18 (6) Any other relevant factors based on the caregiver's  
19 knowledge of the child.

20 5. Caregivers shall receive training with regard to the  
21 reasonable and prudent parent standard as required by the  
22 division. The training shall include:

23 (1) Knowledge and skills relating to the developmental stages of  
24 the cognitive, emotional, physical, and behavioral capacities of a child;

25 (2) Knowledge and skills relating to applying the standard to

26 decisions, including but not limited to whether to allow the child to  
27 engage in social, extracurricular, enrichment, cultural, and social  
28 activities, such as sports, field trips, and overnight activities lasting  
29 one or more days; and

30 (3) Knowledge and skills relating to decisions, including but not  
31 limited to the signing of permission slips and arranging of  
32 transportation for the child to and from extracurricular, enrichment,  
33 and social activities.

34 6. A caregiver shall not be liable for harm caused to a child while  
35 participating in an activity chosen by the caregiver, provided the  
36 caregiver acted in accordance with the reasonable and prudent parent  
37 standard.

38 7. No court shall order the division or a contracted agency  
39 thereof to provide funding for activities chosen by the caregiver.

40 8. A caregiver's decisions with regard to the child may be  
41 overturned by the court only if, upon notice and a hearing, the court  
42 finds by clear and convincing evidence the reasonable and prudent  
43 parent standard has been violated. The caregiver shall have the right  
44 to receive notice, to attend the hearing, and to present evidence at the  
45 hearing.

210.670. 1. Children in foster care under the responsibility of the  
2 state who have attained the age of fourteen shall be consulted in the  
3 development of, revision of, or addition to their case plan.

4 2. The children may choose individuals to participate as  
5 members of the family support team. The division may reject members  
6 chosen by the child if the division has good cause to believe the  
7 individual would not act in the best interests of the child. The child  
8 may designate one member to be his or her advisor and, as necessary,  
9 advocate, with respect to the application of the reasonable and prudent  
10 parent standard to the child.

11 3. The child shall receive:

12 (1) A document which describes the rights of the child with  
13 respect to education, health, visitation, court participation, the child's  
14 right to documents pursuant to subsection 4 of this section, and the  
15 child's right to stay safe and avoid exploitation; and

16 (2) A signed acknowledgment by the child indicating he or she

17 has been provided with a copy of the document, and the child's rights  
18 contained in the document have been explained to the child in an age-  
19 and developmentally-appropriate manner.

20 4. If a child is leaving foster care by reason of having attained  
21 eighteen years of age or such greater age as the state has elected, the  
22 division shall provide the child with an official or certified copy of his  
23 or her United States birth certificate, a social security card issued by  
24 the Commissioner of Social Security, health insurance information, a  
25 copy of the child's medical records, and a driver's license or  
26 identification card issued by the state, unless the child has been in  
27 foster care for less than six months and unless the child is ineligible to  
28 receive such documents.

210.675. 1. No child in foster care under the responsibility of the  
2 state under the age of sixteen shall have a permanency plan of another  
3 planned permanent living arrangement.

4 2. For children with a permanency plan of another planned  
5 permanent living arrangement, the court shall make the following  
6 findings of fact and conclusions of law at each permanency hearing:

7 (1) The division's intensive, ongoing, and unsuccessful efforts to  
8 return the child home or to secure a placement for the child with a fit  
9 and willing relative, such as adult siblings, a legal guardian, or an  
10 adoptive parent, including efforts to utilize search technology, like  
11 social media, to find biological family members of the child;

12 (2) The child's desired permanency outcome;

13 (3) A judicial determination explaining why, as of the date of the  
14 hearing, another planned permanent living arrangement is the best  
15 permanency plan for the child, including compelling reasons why it  
16 continues not to be in the best interests of the child to:

17 (a) Return home;

18 (b) Be placed for adoption;

19 (c) Be placed with a legal guardian; or

20 (d) Be placed with a fit and willing relative; and

21 (4) The division's efforts to ensure:

22 (a) The child's foster family home child care institution is  
23 following the reasonable and prudent parent standard; and

24 (b) The child has regular, ongoing opportunities to engage in

25 age- or developmentally-appropriate activities, including consulting  
26 with the child in an age-appropriate manner about the opportunities  
27 of the child to participate in the activities.

210.680. The division shall adopt regulations to implement the  
2 requirements of sections 210.660 to 210.675. Any rule or portion of a  
3 rule, as that term is defined in section 536.010 that is created under the  
4 authority delegated in this section shall become effective only if it  
5 complies with and is subject to all of the provisions of chapter 536, and,  
6 if applicable, section 536.028. This section and chapter 536 are  
7 nonseverable and if any of the powers vested with the general assembly  
8 pursuant to chapter 536, to review, to delay the effective date, or to  
9 disapprove and annul a rule are subsequently held unconstitutional,  
10 then the grant of rulemaking authority and any rule proposed or  
11 adopted after August 28, 2016, shall be invalid and void.

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

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

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

10 obligations, or authority established by an existing court order or  
11 deprive the parent or legal custodian of any parental or legal rights,  
12 obligations, or authority regarding the custody, visitation, or support  
13 of the child.

14       2. The parent or legal custodian of the child shall have the  
15 authority to revoke or withdraw the power of attorney authorized in  
16 subsection 1 of this section at any time. Except as provided in  
17 subsection 7 of this section, if the delegation of authority lasts longer  
18 than one year, the parent or legal custodian of the child shall execute  
19 a new power of attorney for each additional year that the delegation  
20 exists. If a parent withdraws or revokes the power of attorney, the  
21 child shall be returned to the custody of the parents as soon as  
22 reasonably possible.

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

29       4. Except as otherwise provided by law, the execution of a power  
30 of attorney by a parent or legal custodian as authorized in subsection  
31 1 of this section shall not constitute abandonment, abuse, or neglect as  
32 defined in law unless the parent or legal guardian fails to take custody  
33 of the child or execute a new power of attorney after the one-year time  
34 limit has elapsed. However, it shall be a violation of section 453.110 for  
35 a parent or legal custodian to execute a power of attorney with the  
36 intention of permanently avoiding or divesting himself or herself of  
37 parental and/or legal responsibility for the care of the child.

38       5. Under a delegation of powers as authorized by subsection 1 of  
39 this section, the child or children subject to the power of attorney shall  
40 not be considered placed in foster care as otherwise defined in law and  
41 the parties shall not be subject to any of the requirements or licensing  
42 regulations for foster care or other regulations relating to community  
43 care for children.

44       6. A community service program that offers support services for  
45 families in crisis under this section shall ensure that a background

46 check is completed for the attorney-in-fact and any adult members of  
47 his or her household prior to the placement of the child. A background  
48 check performed under this section shall include:

- 49 (1) A national and state fingerprint-based criminal history check;
- 50 (2) A sex offender registry check; and
- 51 (3) A child abuse and neglect registry, as established pursuant  
52 to section 210.109, check.

53 7. A parent or legal custodian who is a member of the Armed  
54 Forces of the United States including any reserve component thereof,  
55 the commissioned corps of the National Oceanic and Atmospheric  
56 Administration, the Public Health Service of the United States  
57 Department of Health and Human Services detailed by proper authority  
58 for duty with the Armed Forces of the United States, or who is required  
59 to enter or serve in the active military service of the United States  
60 under a call or order of the President of the United States or to serve  
61 on state active duty may delegate the powers designated in subsection  
62 1 of this section for a period longer than one year if on active duty  
63 service. The term of delegation shall not exceed the term of active duty  
64 service plus thirty days.

65 8. Nothing in this section shall conflict or set aside the  
66 preexisting residency requirements under section 167.020. An attorney-  
67 in-fact to whom powers are delegated under a power of attorney  
68 authorized by this section shall make arrangements to ensure that the  
69 child attends classes at an appropriate school based upon residency or  
70 waiver of such residency requirements by the school.

71 9. As soon as reasonably possible upon execution of a power of  
72 attorney for the temporary care of a child as authorized under this  
73 section, the child's school shall be notified of the existence of the power  
74 of attorney and be provided a copy of the power of attorney as well as  
75 the contact information for the attorney-in-fact. While the power of  
76 attorney is in force, the school shall communicate with both the  
77 attorney-in-fact and any parent or legal custodian with parental or  
78 legal rights, obligations, or authority regarding the custody, visitation,  
79 or support of the child. The school shall also be notified of the  
80 expiration, termination, or revocation of the power of attorney as soon  
81 as reasonably possible following such expiration, termination, or

82 revocation and shall no longer communicate with the attorney-in-fact  
83 regarding the child upon the receipt of such notice.

84       **10. No delegation of powers under this section shall operate to**  
85 **modify a child's eligibility for benefits the child is receiving at the time**  
86 **of the execution of the power of attorney including, but not limited to,**  
87 **eligibility for free or reduced lunch, health care costs, or other social**  
88 **services, except as may be inconsistent with federal or state law**  
89 **governing the relevant program or benefit.**

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

4       **(1) The full name of any child for whom parental and legal**  
5 **authority is being delegated;**

6       **(2) The date of birth of any child for whom parental and legal**  
7 **authority is being delegated;**

8       **(3) The full name and signature of the attorney-in-fact;**

9       **(4) The address and telephone number of the attorney-in-fact;**

10       **(5) The full name and signature of the parent or legal guardian;**

11       **(6) One of the following statements:**

12       **(a) "I delegate to the attorney-in-fact all of my power and**  
13 **authority regarding the care, custody, and property of each minor child**  
14 **named above including, but not limited to, the right to enroll the child**  
15 **in school, inspect and obtain copies of education and other records**  
16 **concerning the child, the right to give or withhold any consent or**  
17 **waiver with respect to school activities, medical and dental treatment,**  
18 **and any other activity, function, or treatment that may concern the**  
19 **child. This delegation shall not include the power or authority to**  
20 **consent to marriage or adoption of the child, the performance or**  
21 **inducement of an abortion on or for the child, or the termination of**  
22 **parental rights to the child."; or**

23       **(b) "I delegate to the attorney-in-fact the following specific**  
24 **powers and responsibilities (insert list). This delegation shall not**  
25 **include the power or authority to consent to marriage or adoption of**  
26 **the child, the performance or inducement of an abortion on or for the**  
27 **child, or the termination of parental rights to the child."; and**

28       **(7) A description of the time for which the delegation is being**



29 **made and an acknowledgment that the delegation may be revoked at**  
30 **any time.**

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

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