

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 801
98TH GENERAL ASSEMBLY

5327H.05C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 210.565 and 475.024, RSMo, and to enact in lieu thereof ten new sections relating to guardianships.

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

Section A. Sections 210.565 and 475.024, RSMo, are repealed and ten new sections
2 enacted in lieu thereof, to be known as sections 210.565, 210.660, 210.665, 210.670, 210.675,
3 210.680, 210.1109, 475.600, 475.602, and 475.604, to read as follows:

210.565. 1. Whenever a child is placed in a foster home and the court has determined
2 pursuant to subsection 4 of this section that foster home placement with relatives is not contrary
3 to the best interest of the child, the children's division shall give foster home placement to
4 relatives of the child. Notwithstanding any rule of the division to the contrary, the children's
5 division shall make diligent efforts to locate the grandparents of the child and determine whether
6 they wish to be considered for placement of the child. Grandparents who request consideration
7 shall be given preference and first consideration for foster home placement of the child. If more
8 than one grandparent requests consideration, the family support team shall make
9 recommendations to the juvenile or family court about which grandparent should be considered
10 for placement.

11 2. As used in this section, the [term] **following terms shall mean:**

12 **(1) "Kin" or "Kinship", a person who is related to the child by blood or affinity**
13 **beyond the third degree, or a person who is not so related to the child but has a close**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 **relationship with the child or the child's family including, but not limited to, godparents,**
15 **neighbors, teachers, or close family friends; and**

16 (2) "Relative" [means] , a grandparent or any other person related to another by blood
17 or affinity within the third degree. The status of a grandparent shall not be affected by the death
18 or the dissolution of the marriage of a son or daughter.

19 3. The following shall be the order or preference for placement of a child under this
20 section:

21 (1) Grandparents and relatives;

22 (2) [A trusted adult that has a preexisting relationship with the child, such as a godparent,
23 teacher, neighbor, or fellow parishioner] **Kin** who voluntarily [agrees] **agree** to care for the child;
24 and

25 (3) Any foster parent who is currently licensed and capable of accepting placement of
26 the child.

27 4. The preference for placement and first consideration for grandparents or preference
28 for placement with other relatives created by this section shall only apply where the court finds
29 that placement with such grandparents or other relatives is not contrary to the best interest of the
30 child considering all circumstances. If the court finds that it is contrary to the best interest of a
31 child to be placed with grandparents or other relatives, the court shall make specific findings on
32 the record detailing the reasons why the best interests of the child necessitate placement of the
33 child with persons other than grandparents or other relatives.

34 5. Recognizing the critical nature of sibling bonds for children, the children's division
35 shall make reasonable efforts to place siblings in the same foster care, kinship, guardianship, or
36 adoptive placement, unless doing so would be contrary to the safety or well-being of any of the
37 siblings. If siblings are not placed together, the children's division shall make reasonable efforts
38 to provide frequent visitation or other ongoing interaction between the siblings, unless this
39 interaction would be contrary to a sibling's safety or well-being.

40 6. The age of the child's grandparent or other relative shall not be the only factor that the
41 children's division takes into consideration when it makes placement decisions and
42 recommendations to the court about placing the child with such grandparent or other relative.

43 7. For any Native American child placed in protective custody, the children's division
44 shall comply with the placement requirements set forth in 25 U.S.C. Section 1915.

45 8. A grandparent [or] , other relative, **or kin** may, on a case-by-case basis, have standards
46 for licensure not related to safety waived for specific children in care that would otherwise
47 impede licensing of the [grandparent's or relative's] home **of the grandparent, relative, or kin.**
48 In addition, any person receiving a preference may be licensed in an expedited manner if a child
49 is placed under such person's care.

50 9. The guardian ad litem shall ascertain the child's wishes and feelings about his or her
51 placement by conducting an interview or interviews with the child, if appropriate based on the
52 child's age and maturity level, which shall be considered as a factor in placement decisions and
53 recommendations, but shall not supersede the preference for relative placement created by this
54 section or be contrary to the child's best interests.

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

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

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

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

10 **(2) "Caregiver", a foster parent, relative, or kinship provider with whom a child**
11 **in foster care has been placed or a designated official for a child care institution in which**
12 **a child in foster care has been placed;**

13 **(3) "Division", the Missouri children's division within the department of social**
14 **services;**

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

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

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

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

10 **4. The caregiver shall consider:**

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

- 12 **(2) The overall health and safety of the child;**
13 **(3) Potential risk factors and appropriateness of the activity;**
14 **(4) The best interests of the child;**
15 **(5) Promoting, where safe and as appropriate, normal childhood experiences; and**
16 **(6) Any other relevant factors based on the caregiver's knowledge of the child.**
17 **5. Caregivers shall receive training with regard to the reasonable and prudent**
18 **parent standard as required by the division. The training shall include:**
19 **(1) Knowledge and skills relating to the developmental stages of the cognitive,**
20 **emotional, physical, and behavioral capacities of a child;**
21 **(2) Knowledge and skills relating to applying the standard to decisions, including**
22 **but not limited to whether to allow the child to engage in social, extracurricular,**
23 **enrichment, cultural, and social activities, such as sports, field trips, and overnight**
24 **activities lasting one or more days; and**
25 **(3) Knowledge and skills relating to decisions, including but not limited to the**
26 **signing of permission slips and arranging of transportation for the child to and from**
27 **extracurricular, enrichment, and social activities.**
28 **6. A caregiver shall not be liable for harm caused to a child while participating in**
29 **an activity chosen by the caregiver, provided the caregiver acted in accordance with the**
30 **reasonable and prudent parent standard.**
31 **7. No court shall order the division or a contracted agency thereof to provide**
32 **funding for activities chosen by the caregiver.**
33 **8. A caregiver's decisions with regard to the child may be overturned by the court**
34 **only if, upon notice and a hearing, the court finds by clear and convincing evidence the**
35 **reasonable and prudent parent standard has been violated. The caregiver shall have the**
36 **right to receive notice, to attend the hearing, and to present evidence at the hearing.**
- 210.670. 1. Children in foster care under the responsibility of the state who have**
2 **attained the age of fourteen shall be consulted in the development of, revision of, or**
3 **addition to their case plan.**
- 4 **2. The children may choose individuals to participate as members of the family**
5 **support team. The division may reject members chosen by the child if the division has**
6 **good cause to believe the individual would not act in the best interests of the child. The**
7 **child may designate one member to be his or her advisor and, as necessary, advocate, with**
8 **respect to the application of the reasonable and prudent parent standard to the child.**
- 9 **3. The child shall receive:**

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

13 **(2) A signed acknowledgment by the child indicating he or she has been provided**
14 **with a copy of the document, and the child's rights contained in the document have been**
15 **explained to the child in an age- and developmentally-appropriate manner.**

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

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

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

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

11 **(2) The child's desired permanency outcome;**

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

15 **(a) Return home;**

16 **(b) Be placed for adoption;**

17 **(c) Be placed with a legal guardian; or**

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

19 **(4) The division's efforts to ensure:**

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

22 (b) The child has regular, ongoing opportunities to engage in age- or
23 developmentally-appropriate activities, including consulting with the child in an age-
24 appropriate manner about the opportunities of the child to participate in the activities.

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

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

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

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

2. The parent or legal custodian of the child shall have the authority to revoke or
12 withdraw the power of attorney authorized in subsection 1 of this section at any time.
13 Except as provided in subsection 7 of this section, if the delegation of authority lasts longer
14 than one year, the parent or legal custodian of the child shall execute a new power of

15 attorney for each additional year that the delegation exists. If a parent withdraws or
16 revokes the power of attorney, the child shall be returned to the custody of the parents as
17 soon as reasonably possible.

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

22 **4. Except as otherwise provided by law, the execution of a power of attorney by a**
23 **parent or legal custodian as authorized in subsection 1 of this section shall not constitute**
24 **abandonment, abuse, or neglect as defined in law unless the parent or legal guardian fails**
25 **to take custody of the child or execute a new power of attorney after the one-year time limit**
26 **has elapsed. However, it shall be a violation of section 453.110 for a parent or legal**
27 **custodian to execute a power of attorney with the intention of permanently avoiding or**
28 **divesting himself or herself of parental and/or legal responsibility for the care of the child.**

29 **5. Under a delegation of powers as authorized by subsection 1 of this section, the**
30 **child or children subject to the power of attorney shall not be considered placed in foster**
31 **care as otherwise defined in law and the parties shall not be subject to any of the**
32 **requirements or licensing regulations for foster care or other regulations relating to**
33 **community care for children.**

34 **6. A community service program that offers support services for families in crisis**
35 **under this section shall ensure that a background check is completed for the attorney-in-**
36 **fact and any adult members of his or her household prior to the placement of the child.**
37 **A background check performed under this section shall include:**

38 **(1) A national and state fingerprint-based criminal history check;**
39 **(2) A sex offender registry check; and**
40 **(3) A child abuse and neglect registry, as established pursuant to section 210.109,**
41 **check.**

42 **7. A parent or legal custodian who is a member of the Armed Forces of the United**
43 **States including any reserve component thereof, the commissioned corps of the National**
44 **Oceanic and Atmospheric Administration, the Public Health Service of the United States**
45 **Department of Health and Human Services detailed by proper authority for duty with the**
46 **Armed Forces of the United States, or who is required to enter or serve in the active**
47 **military service of the United States under a call or order of the President of the United**
48 **States or to serve on state active duty may delegate the powers designated in subsection 1**
49 **of this section for a period longer than one year if on active duty service. The term of**
50 **delegation shall not exceed the term of active duty service plus thirty days.**

51 **8. Nothing in this section shall conflict or set aside the preexisting residency**
52 **requirements under section 167.020. An attorney-in-fact to whom powers are delegated**
53 **under a power of attorney authorized by this section shall make arrangements to ensure**
54 **that the child attends classes at an appropriate school based upon residency or waiver of**
55 **such residency requirements by the school.**

56 **9. As soon as reasonably possible upon execution of a power of attorney for the**
57 **temporary care of a child as authorized under this section, the child's school shall be**
58 **notified of the existence of the power of attorney and be provided a copy of the power of**
59 **attorney as well as the contact information for the attorney-in-fact. While the power of**
60 **attorney is in force, the school shall communicate with both the attorney-in-fact and any**
61 **parent or legal custodian with parental or legal rights, obligations, or authority regarding**
62 **the custody, visitation, or support of the child. The school shall also be notified of the**
63 **expiration, termination, or revocation of the power of attorney as soon as reasonably**
64 **possible following such expiration, termination, or revocation and shall no longer**
65 **communicate with the attorney-in-fact regarding the child upon the receipt of such notice.**

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

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

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

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

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

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

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

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

11 **(a) "I delegate to the attorney-in-fact all of my power and authority regarding the**
12 **care, custody, and property of each minor child named above including, but not limited to,**
13 **the right to enroll the child in school, inspect and obtain copies of education and other**
14 **records concerning the child, the right to give or withhold any consent or waiver with**
15 **respect to school activities, medical and dental treatment, and any other activity, function,**
16 **or treatment that may concern the child. This delegation shall not include the power or**

17 **authority to consent to marriage or adoption of the child, the performance or inducement**
18 **of an abortion on or for the child, or the termination of parental rights to the child."; or**

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

23 **(7) A description of the time for which the delegation is being made and an**
24 **acknowledgment that the delegation may be revoked at any time.**

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

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