

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1566

By: Brooks

AS INTRODUCED

An Act relating to power of attorney; amending 10 O.S. 2021, Section 700, which relates to delegation of powers regarding child care and custody; updating statutory reference; authorizing a parent or legal custodian to delegate powers regarding care and custody of a child when incapacitated; requiring sufficient documentation of incapacity; providing for certain documentation; amending 10 O.S. 2021, Section 701, which relates to statutory form for power of attorney to delegate parental or legal custodian powers; updating statutory reference; modifying certain form; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 10 O.S. 2021, Section 700, is amended to read as follows:

Section 700. A. A parent or legal custodian of a child, by a properly executed power of attorney provided in Section ~~2~~ 701 of this ~~act~~ title, may delegate to another person, for a period not to exceed one (1) year, any of the powers regarding the care and custody of the child, except the power to consent to marriage or adoption of the child, the performance or inducement of an abortion on or for the child, or the termination of parental rights to the

1 child. A delegation of powers under this section shall not deprive
2 the parent or legal custodian of any parental or legal authority
3 regarding the care and custody of the child.

4 B. The parent or legal custodian of the child shall have the
5 authority to revoke or withdraw the power of attorney authorized by
6 subsection A of this section at any time. If the delegation of
7 authority lasts longer than one (1) year, the parent or legal
8 custodian of the child shall execute a new power of attorney for
9 each additional year that the delegation exists.

10 C. The attorney-in-fact shall exercise parental or legal
11 authority on a continuous basis for not less than twenty-four (24)
12 hours and without compensation for the intended duration of the
13 power of attorney authorized by subsection A of this section and
14 shall not be subject to the requirements of the Oklahoma Child Care
15 Facilities Licensing Act.

16 D. Except as provided by Section 1-4-904 of Title 10A of the
17 Oklahoma Statutes, a parent or legal custodian who executes a power
18 of attorney authorized by subsection A of this section shall not
19 constitute abandonment, abuse or neglect as defined in Section 1-1-
20 105 of Title 10A of the Oklahoma Statutes unless the parent or legal
21 custodian fails to make contact or execute a new power of attorney
22 after the one-year time limit has elapsed.

23 E. Under a delegation of powers as authorized by subsection A
24 of this section, the child or children subject to the power of

1 attorney shall not be considered placed in foster care as defined in
2 Section 1-1-105 of Title 10A of the Oklahoma Statutes and the
3 parties shall not be subject to any of the requirements or licensing
4 regulations for foster care.

5 F. 1. A parent or legal custodian of the child may delegate
6 any of the powers regarding the care and custody of the child,
7 subject to limitations as provided in this section, and elect to
8 have such delegation take effect upon the incapacity of the parent
9 or legal custodian of the child.

10 2. The delegation of powers regarding the care and custody of
11 the child pursuant to this subsection shall take effect when the
12 attorney-in-fact has acquired sufficient documentation showing the
13 incapacity of the parent or legal custodian. Sufficient
14 documentation shall include but not be limited to law enforcement
15 reports, medical records, physician letters, or letters executed by
16 a parent or legal custodian with an accompanying copy of the parent
17 or legal custodian's current driver license or other current
18 government-issued photograph identification.

19 SECTION 2. AMENDATORY 10 O.S. 2021, Section 701, is
20 amended to read as follows:

21 Section 701. A. The following statutory form of power of
22 attorney to delegate parental or legal authority as authorized by
23 Section ~~±~~ 700 of this ~~act~~ title is legally sufficient:
24
25

1 Statutory Form for Power of Attorney to Delegate Parental or Legal
2 Custodian Powers

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

4 _____
5 (Full name of minor child) (Date of birth)

6 _____
7 (Full name of minor child) (Date of birth)

8 _____
9 (Full name of minor child) (Date of birth)

10 (minor child(ren))."

11 2. "I designate

12 _____,
13 (Full name of Attorney-in-fact)

14 _____,
15 (Street address, city, state and zip code of Attorney-in-fact)

16 _____
17 (Home phone of Attorney-in-fact) (Work phone of Attorney-in-fact)

18 as the attorney-in-fact of each minor child named above."

19 3. _____ "I delegate to the attorney-in-fact all of my power
20 and authority regarding the care, custody and property of each minor
21 child named above, including but not limited to the right to enroll
22 the child in school, inspect and obtain copies of education records
23 and other records concerning the child, the right to attend school
24 activities and other functions concerning the child, and the right

1 to give or withhold any consent or waiver with respect to school
2 activities, medical and dental treatment, and any other activity,
3 function or treatment that may concern the child. This delegation
4 shall not include the power or authority to consent to marriage or
5 adoption of the child, the performance or inducement of an abortion
6 on or for the child, or the termination of parental rights to the
7 child." or

8 4. _____ "I delegate to the attorney-in-fact the following
9 specific powers and responsibilities (write in):
10 _____

11 This delegation shall not include the power or authority to consent
12 to marriage or adoption of the child, the performance or inducement
13 of an abortion on or for the child, or the termination of parental
14 rights to the child."

15 5. a. _____ "This power of attorney is effective for a period
16 not to exceed one year, beginning _____,
17 20__, and ending _____, 20__. I reserve the
18 right to revoke this authority at any time."

19 By: _____

20 (Parent/Legal Custodian signature); or

21 b. _____ "This power of attorney is effective for a
22 period not to exceed one year, beginning upon the date
23 that the attorney-in-fact is notified of my incapacity
24 and is able to present sufficient documentation showing

1 my incapacity. Sufficient documents shall include but
2 not be limited to law enforcement reports, medical
3 records, physician letters, or letters executed by a
4 parent or legal custodian with an accompanying copy of
5 a current driver license or other current government-
6 issued photograph identification. I reserve the right
7 to revoke this authority at any time."

8 By: _____

9 (Parent/Legal Custodian signature)

10 6. "I hereby accept my designation as attorney-in-fact for

11 _____
12 (Minor child(ren)) as specified in this power of attorney."
13 _____

14 (Attorney-in-fact signature)

15 State of _____

16 County of _____

17 ACKNOWLEDGEMENT

18 Before me, the undersigned, a Notary Public, in and for said
19 County and State on this _____ day of _____, 20____,
20 personally appeared _____ (Name of
21 Parent/Legal Custodian) and _____ (Name of
22 Attorney-in-fact), to me known to be the identical persons who
23 executed this instrument and acknowledged to me that each executed
24 _____

1 the same as his or her free and voluntary act and deed for the uses
2 and purposes set forth in the instrument.

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

4 _____
5 (Signature of notarial officer)

6 (Seal, if any)
7 _____

8 (Title and Rank)

9 My commission expires: _____

10 B. The power of attorney is legally sufficient under this act,
11 if the wording of the form complies substantially with subsection A
12 of this section, the form is properly completed, and the signatures
13 of the parties are acknowledged.

14 SECTION 3. This act shall become effective November 1, 2022.

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