

1 A bill to be entitled
2 An act relating to powers of attorney; amending s.
3 409.175, F.S.; revising the definition of the term
4 "family foster home" to exclude certain agents;
5 exempting certain agents from licensure; creating s.
6 709.2209, F.S.; providing legislative findings and
7 definitions; authorizing a parent or legal guardian of
8 a child to provide for temporary care of his or her
9 child by delegating care to an agent by a properly
10 executed power of attorney; providing limitations;
11 providing for revocation or withdrawal of a power of
12 attorney; requiring a new power of attorney to be
13 executed each year of delegation of care; providing
14 construction; providing requirements for a qualified
15 nonprofit organization that assists a parent or legal
16 guardian in delegating parental or legal authority;
17 requiring a criminal history background check for
18 certain employees or volunteers; requiring such
19 organization to notify the Department of Children and
20 Families under certain circumstances; providing for
21 extension of delegation of care under certain
22 circumstances; providing requirements for a power of
23 attorney to be legally sufficient; requiring the
24 department to provide information to a parent or legal
25 guardian in certain investigations; providing an
26 effective date.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (e) of subsection (2) and paragraph (d) of subsection (4) of section 409.175, Florida Statutes, are amended to read:

409.175 Licensure of family foster homes, residential child-caring agencies, and child-placing agencies; public records exemption.—

(2) As used in this section, the term:

(e) "Family foster home" means a private residence in which children who are unattended by a parent or legal guardian are provided 24-hour care. Such homes include emergency shelter family homes and specialized foster homes for children with special needs. A person who cares for a child of a friend for a period not to exceed 90 days, a relative who cares for a child and does not receive reimbursement for such care from the state or federal government, ~~or~~ an adoptive home which has been approved by the department or by a licensed child-placing agency for children placed for adoption, or an agent who cares for a child pursuant to s. 709.2209 is not considered a family foster home.

(4)

(d) This license requirement does not apply to boarding schools, recreation and summer camps, nursing homes, hospitals, ~~or to~~ persons who care for children of friends or neighbors in

53 their homes for periods not to exceed 90 days, ~~or to~~ persons who
54 have received a child for adoption from a licensed child-placing
55 agency, or agents who care for children pursuant to s. 709.2209.

56 Section 2. Section 709.2209, Florida Statutes, is created
57 to read:

58 709.2209 Power of attorney for temporary care of minor
59 child.-

60 (1) The Legislature finds that in circumstances in which a
61 parent or legal guardian of a child is temporarily unable to
62 provide care for the child, but does not need the full support
63 of the child welfare system, a less intrusive alternative to
64 supervision by the Department of Children and Families and the
65 dependency court under chapter 39 should be available. In such
66 circumstances, the parent or legal guardian may delegate
67 temporary care of the child to another natural person through a
68 properly executed power of attorney.

69 (2) As used in this section, the term:

70 (a) "Agent" means any natural person granted authority to
71 act for a principal under a power of attorney, whether
72 denominated an agent, attorney in fact, or otherwise. The term
73 includes an original agent and co-agent. Successor agents are
74 not permitted under this section. Agents acting pursuant to this
75 section shall serve without payment.

76 (b) "Department" means the Department of Children and
77 Families.

78 (c) "Qualified nonprofit organization" means a charity or

79 religious institution organized under s. 501(c)(3) of the United
80 States Internal Revenue Code that assists parents and legal
81 guardians with the provision of volunteer temporary care of
82 children, without payment, pursuant to a power of attorney
83 executed under this section. Duties of the qualified nonprofit
84 organization include training all agent families and volunteers,
85 identifying appropriate and safe placements for children based
86 on background screenings and home visits, and providing services
87 and resources to support the child, parents, and agents
88 authorized to provide temporary care for the child.

89 (d) "Serving parent" means a parent or legal guardian who
90 is a member of the United States Armed Forces, the Florida
91 National Guard, the United States Reserve Forces, the
92 commissioned corps of the National Oceanic and Atmospheric
93 Administration, or the public health service of the United
94 States Department of Health and Human Services detailed by
95 proper authority for duty with the United States Armed Forces.

96 (3) (a) A parent or legal guardian of a child, by a
97 properly executed power of attorney authorized under this
98 section, may provide for temporary care of his or her child by
99 delegating to an agent, for a period not to exceed 1 year, any
100 of the powers regarding the care and custody of the child.

101 (b) The parent or legal guardian shall execute a new power
102 of attorney for each year beyond the first year that the
103 delegation exists, unless the parent or legal guardian is a
104 serving parent.

105 (c) A serving parent may delegate temporary care of his or
106 her child by a power of attorney authorized under this section
107 for a period longer than 1 year if the serving parent is on
108 active duty service. The term of delegation may not exceed 30
109 days beyond the term of active duty service.

110 (4) A power of attorney executed under this section that
111 substantially complies with the following required information
112 and is acknowledged before a notary public is deemed to be
113 legally sufficient to delegate temporary parental or legal
114 authority:

115 (a) Identification of the child.

116 (b) Identification of the parent or legal guardian
117 delegating authority.

118 (c) Identification of the attorney in fact to whom powers
119 are delegated.

120 (d) A statement of the powers delegated to the attorney in
121 fact for the care and custody of the child.

122 (e) A statement that the delegation does not include
123 authority to consent to marriage or adoption of the child, the
124 performance or inducement of an abortion on or for the child, or
125 the termination of parental rights to the child.

126 (f) The effective date for the power of attorney.

127 (g) The expiration date for the power of attorney.

128 (h) A statement that the power of attorney shall only be
129 effective for 1 year and shall automatically expire 1 year after
130 the effective date.

131 (i) The signature of the parent or legal guardian
132 delegating powers.

133 (j) The signature of the attorney in fact accepting
134 delegation.

135 (k) Space for authorization by a notary public.

136 (5) (a) The power of attorney may not delegate the power to
137 consent to marriage or adoption of the child, the performance or
138 inducement of an abortion on or for the child, or the
139 termination of parental rights to the child.

140 (b) This subsection does not limit the ability of a parent
141 or guardian to appoint a guardian for a child pursuant to
142 chapter 744. This section does not change or modify parental or
143 legal rights, obligations, or authority established by an
144 existing court order, and does not deprive the parent or legal
145 guardian of parental or legal rights, obligations, or authority
146 regarding the custody, visitation, or support of the child.

147 (6) (a) The parent or legal guardian of the child may
148 revoke or withdraw the power of attorney authorized under this
149 section at any time. Upon such revocation or withdrawal, the
150 child shall be returned to the custody of the parent or legal
151 guardian as soon as practicable.

152 (b) Unless the authority is revoked or withdrawn by the
153 parent or legal guardian or otherwise terminated, an agent shall
154 exercise parental or legal authority for the duration of the
155 power of attorney.

156 (7) (a) A qualified nonprofit organization shall complete a

157 state and national criminal history record check, pursuant to s.
158 943.0542, on all employees or volunteers who may have
159 unsupervised contact with a child placed with an agent pursuant
160 to this section, including the agent and all members of the
161 agent's household who are 12 years of age or older.

162 (b) At the execution of the power of attorney, the parties
163 to the power of attorney shall present the notary public with
164 evidence that the background checks required under paragraph (a)
165 have been completed. Such evidence shall be a notarized letter
166 signed by a representative of the qualified nonprofit
167 organization attesting to the existence of a favorable
168 background screening of the agent and all other appropriate
169 members of the agent's household.

170 (8) A qualified nonprofit organization shall require a
171 parent or legal guardian seeking its services to disclose if the
172 department is conducting an ongoing investigation of abuse or
173 neglect involving the child or the child's parent or legal
174 guardian, or if the department is otherwise providing services
175 to the child or the child's parent or legal guardian.

176 (a) The qualified nonprofit organization shall notify the
177 parent or legal guardian that providing false information
178 regarding the status of an investigation or services by the
179 department may be grounds for termination of the qualified
180 nonprofit organization's services or reporting to the
181 department.

182 (b) If the qualified nonprofit organization learns that

183 the department has an open investigation of abuse or neglect
184 involving the child or the child's parent or legal guardian and
185 the parent or legal guardian failed to disclose this
186 information, the qualified nonprofit organization shall
187 immediately notify the department.

188 (9) (a) A qualified nonprofit organization is not a child-
189 placing agency as defined in s. 409.175(2) (d) and is not
190 required to be licensed as such unless the qualified nonprofit
191 organization attempts to place or arrange for the placement of a
192 child as provided in s. 409.175(2) (d).

193 (b) A power of attorney executed under this section may
194 not be construed as placing the child in foster care, an agent
195 is not required to meet foster care licensing requirements under
196 chapter 409, and an agent's home does not constitute a family
197 foster home as defined in s. 409.175(2) (e) for purposes of
198 caring for a child placed pursuant to this section.

199 (10) Except as otherwise provided by law, the execution of
200 a power of attorney by a parent or legal guardian may not,
201 without other evidence, be construed as abandonment, abuse, or
202 neglect as defined in s. 39.01. This subsection does not prevent
203 the department or law enforcement from investigating allegations
204 of abandonment, abuse, neglect, or unlawful desertion of a
205 child.

206 (11) During a child protective investigation that does not
207 result in an out-of-home placement, if the child protective
208 investigator feels it is appropriate, the department shall

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209 provide information to the parent or legal guardian about
210 available community service programs that provide respite care,
211 voluntary temporary placement pursuant to this section, or other
212 support services for families in crisis.

213 Section 3. This act shall take effect July 1, 2016.