

1 A bill to be entitled

2 An act relating to temporary care of a minor child  
3 pursuant to a power of attorney; amending s. 409.175,  
4 F.S.; revising the definition of the term "family  
5 foster home" to exclude certain agents; exempting  
6 certain agents who provide continuous full-time child  
7 care or custody from licensure; creating s. 709.2209,  
8 F.S.; providing a short title; providing legislative  
9 findings; providing definitions; authorizing a parent  
10 to delegate temporary custody and care of a child to  
11 an agent by a power of attorney; specifying the form  
12 and execution of the power of attorney; providing for  
13 revocation of the power of attorney; providing  
14 requirements for a qualified nonprofit organization;  
15 requiring training and criminal history background  
16 checks for certain persons; requiring such  
17 organization to notify the Department of Children and  
18 Families under certain circumstances; providing  
19 recordkeeping requirements; requiring the department  
20 to provide information to a parent regarding community  
21 service programs under certain circumstances;  
22 providing limitations; providing an exemption for  
23 military powers of attorney; providing an effective  
24 date.

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

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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 their homes for periods not to exceed 90 days, or to persons who have received a child for adoption from a licensed child-placing

53 agency, or agents who care for children pursuant to s. 709.2209.

54 Section 2. Section 709.2209, Florida Statutes, is created  
55 to read:

56 709.2209 Power of attorney for temporary care of minor  
57 child by safe families.—

58 (1) SHORT TITLE.—This section may be cited as the  
59 "Temporary Care of Minor Children by Safe Families Act."

60 (2) FINDINGS.—The Legislature finds that in circumstances  
61 in which the parent of a minor 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, a parent may delegate temporary care of the child  
67 through a properly executed power of attorney to a safe family  
68 identified by a qualified nonprofit organization.

69 (3) DEFINITIONS.—As used in this section, the term:

70 (a) "Agent" means a natural person 18 years of age or  
71 older who successfully meets the training and background  
72 screening requirements under subsection (6) and is granted  
73 authority to take custody of and care for a child on behalf of a  
74 parent pursuant to a power of attorney authorized under this  
75 section, whether such person is denominated an agent, attorney  
76 in fact, or otherwise. The term includes an original agent and  
77 co-agent. Successor agents are not permitted under this section.

78 (b) "Department" means the Department of Children and

79 Families.

80 (c) "Qualified nonprofit organization" means a charity or  
81 religious institution organized under s. 501(c)(3) of the United  
82 States Internal Revenue Code that, without compensation, assists  
83 a parent in obtaining temporary care for his or her child  
84 pursuant to a power of attorney executed under this section. A  
85 qualified nonprofit organization is not a child-placing agency  
86 as defined in s. 409.175(2)(d) and is not required to be  
87 licensed as such unless the qualified nonprofit organization  
88 attempts to place or arrange for the placement of a child as  
89 provided in s. 409.175(2)(d).

90 (4) POWER OF ATTORNEY.—A parent of a minor child may, by a  
91 power of attorney, delegate to an agent any of the powers  
92 regarding the care and custody of the child, except the power to  
93 consent to the marriage or adoption of the child, the  
94 performance or inducement of an abortion on or for the child, or  
95 the termination of parental rights to the child, for a period  
96 not to exceed 6 months. The agent must serve without  
97 compensation and the parent may not receive compensation for  
98 delegating the care and custody of the child.

99 (a) The power of attorney must:

100 1. Be signed by both parents if both parents are living  
101 and have shared responsibility and timesharing of the child as a  
102 matter of law or pursuant to a court order. If the parents do  
103 not have shared responsibility and timesharing of the child, the  
104 parent having sole custody of the child may execute the power of

105 attorney, but shall notify the noncustodial parent in writing of  
106 the name and address of the agent. Such notification must be  
107 delivered by certified mail, return receipt requested, to the  
108 noncustodial parent at his or her last known address within 5  
109 days after the execution of the power of attorney. Notification  
110 is not required to a noncustodial parent whose parental rights  
111 have been terminated.

112 2. Be signed by a representative of the qualified  
113 nonprofit organization which assisted with the placement of the  
114 child certifying the statement in subparagraph (b)4.

115 3. Be signed by the agent.

116 4. Be signed by two subscribing witnesses.

117 5. Be acknowledged by the parent or parents, as applicable  
118 under subparagraph 1., and the representative of the qualified  
119 nonprofit organization before a notary public.

120 (b) The following information must be provided in the  
121 power of attorney:

122 1. The name of the child.

123 2. The name of the parent or parents delegating authority  
124 for the care and custody of the child.

125 3. The name of the agent to whom powers are delegated.

126 4. A statement that the agent and all other appropriate  
127 members of the agent's household have successfully completed the  
128 background screening required under subsection (6).

129 5. A statement of the powers delegated to the agent for  
130 the care and custody of the child.

131 6. A statement that the delegation does not include  
132 authority to consent to the marriage or adoption of the child,  
133 the performance or inducement of an abortion on or for the  
134 child, or the termination of parental rights to the child.

135 7. The expiration date of the power of attorney, which may  
136 not be later than 6 months after the date of execution.

137 (c) Except as specifically provided under this section,  
138 such power of attorney is governed by this chapter.

139 (5) REVOCATION OF POWER OF ATTORNEY.—Either parent of the  
140 child may revoke the power of attorney if the parent has  
141 custodial rights to the child. Upon revocation of the power of  
142 attorney, the agent shall return the child to the custody of the  
143 revoking parent.

144 (6) QUALIFIED NONPROFIT ORGANIZATIONS.—

145 (a) A qualified nonprofit organization shall require a  
146 parent seeking its services to disclose whether the department  
147 is conducting an ongoing investigation of abuse or neglect  
148 involving the child or the parent and whether the department is  
149 otherwise providing services to the child or the parent. If the  
150 qualified nonprofit organization learns that the department has  
151 an open investigation of abuse or neglect involving the child or  
152 the parent and that the parent failed to disclose this  
153 information, the qualified nonprofit organization shall  
154 immediately notify the department.

155 (b) A qualified nonprofit organization shall train all  
156 agent families and volunteers, identify appropriate and safe

157 placements for children based on background screenings and home  
158 visits, and provide services and resources to support the child,  
159 parents, and agents authorized to provide temporary care for the  
160 child.

161 (c) All employees or volunteers of the qualified nonprofit  
162 organization who may have unsupervised contact with a child  
163 placed with an agent pursuant to this section, including the  
164 agent and all members of the agent's household who are 12 years  
165 of age or older, must undergo a background screening under s.  
166 39.0138, which shall include a state and national criminal  
167 history records check. The department shall inform the qualified  
168 nonprofit organization if such persons successfully pass the  
169 background screening under s. 39.0138.

170 (d) The qualified nonprofit organization shall maintain a  
171 separate record for each child placement assisted by the  
172 organization, which must include a copy of the department  
173 notification of screening results and the executed power of  
174 attorney, for at least 5 years after the expiration of the power  
175 of attorney.

176 (7) INFORMATION REGARDING SAFE FAMILY PROGRAMS.—During a  
177 child protective investigation that does not result in an out-  
178 of-home placement, if the child protective investigator deems it  
179 is appropriate, the department shall provide information to the  
180 parent about available community service programs that provide  
181 respite care, voluntary temporary placement pursuant to this  
182 section, or other support services for families in crisis.

183       (8) LIMITATIONS.—The execution of a power of attorney  
 184 under this section does not:

185       (a) Constitute placing the child in foster care. An agent  
 186 is not required to meet foster care licensing requirements under  
 187 chapter 409, and an agent's home does not constitute a family  
 188 foster home as defined in s. 409.175(2)(e) for purposes of  
 189 caring for a child pursuant to this section.

190       (b) Limit the ability of a parent to appoint a guardian  
 191 for a child pursuant to chapter 744.

192       (c) Change or modify parental or legal rights,  
 193 obligations, or authority established by an existing court  
 194 order, and does not deprive a parent of parental or legal  
 195 rights, obligations, or authority regarding the custody,  
 196 visitation, or support of the child unless determined by a court  
 197 to be in the best interests of the child.

198       (d) Except as otherwise provided by law, or without other  
 199 evidence, constitute abandonment, abuse, or neglect as defined  
 200 in s. 39.01. This paragraph does not prevent the department or  
 201 law enforcement from investigating allegations of abandonment,  
 202 abuse, neglect, unlawful desertion of a child, or human  
 203 trafficking.

204       (9) APPLICABILITY.—This section does not apply to a  
 205 military power of attorney executed in accordance with 10 U.S.C.  
 206 s. 1044b, as amended.

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