

House Bill 1427

By: Representatives May of the 111th, Manning of the 32nd, Burmeister of the 119th, Walker of the 107th, Fleming of the 117th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 9 of Title 19 of the Official Code of Georgia Annotated, relating to child
2 custody proceedings, so as to provide for the creation, authorization, procedure, revocation,
3 and termination of a power of attorney from a parent to a grandparent for the care of a
4 grandchild; to provide for short titles; to provide for other related matters; to provide an
5 effective date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 This Act shall be known and may be cited as the "Care of a Grandchild Act."

9 **SECTION 2.**

10 The General Assembly finds that:

- 11 (1) An increasing number of relatives in Georgia, including grandparents and
12 great-grandparents, are providing care to children who cannot reside with their parents
13 due to the parents' incapacity or inability to perform the regular and expected functions
14 in the care and support of the children;
- 15 (2) Parents need a means to allow grandparents and great-grandparents to have authority
16 to act on behalf of grandchildren and great-grandchildren without legal intervention;
- 17 (3) Grandparents and great-grandparents caring for their grandchildren and
18 great-grandchildren under these circumstances often do not have sufficient financial
19 resources to provide for such children; and
- 20 (4) Providing both a statutory mechanism for granting authority and limited financial
21 support under certain circumstances for these grandparents and great-grandparents caring
22 for their grandchildren and great-grandchildren enhances family preservation and
23 stability.

1 (e) The power of attorney for the care of a minor child shall be signed and acknowledged
2 before a notary public by the parent or parents, as the case may be, executing the power of
3 attorney.

4 (f) Through the power of attorney for the care of a minor child, the parent may authorize
5 the agent grandparent or great-grandparent to perform the following functions without
6 limitation:

7 (1) Enroll the child in school and extracurricular activities;

8 (2) Obtain medical, dental, and mental health treatment for the child; and

9 (3) Provide for the child's food, lodging, housing, recreation, and travel.

10 Nothing contained in this Code section shall be construed to limit the power of the parent
11 to grant additional powers to the agent grandparent or great-grandparent.

12 (g) The agent grandparent or great-grandparent shall have the right to enroll the minor
13 child in a local school system serving the area where the agent grandparent or
14 great-grandparent resides. The local school system shall allow such agent grandparent or
15 great-grandparent with a properly executed power of attorney for care of a minor child to
16 enroll the minor child. Prior to enrollment, the local school system may require
17 documentation of the minor child's residence with such agent grandparent or
18 great-grandparent and verification of the validity of the stated hardship. Except where
19 limited by federal law, the agent grandparent or great-grandparent shall have the same
20 rights, duties, and responsibilities that would otherwise be exercised by the parent or
21 parents pursuant to the laws of this state. As used in this Code section, the term 'local
22 school system' means any county or independent school system as defined in Code Section
23 20-1-9.

24 (h) If the minor child ceases to reside with the agent grandparent or great-grandparent, the
25 agent grandparent or great-grandparent shall notify any person, local school system, or
26 health care provider that has been provided the power of attorney for care of a minor child
27 that the child no longer resides with the agent grandparent or great-grandparent.

28 (i) The agent grandparent or great-grandparent shall have the authority to act on behalf of
29 the minor child until the parent or parents, as the case may be, who executed the power of
30 attorney for care of a minor child revoke the power of attorney in writing.

31 (j) The power of attorney for care of a minor child may also be terminated by any order
32 of a court of competent jurisdiction that appoints a legal guardian or legal custodian.

33 (k) An agent grandparent or great-grandparent under a power of attorney for care of a
34 minor child shall act in the best interests of the minor child. Such agent grandparent or
35 great-grandparent shall not be liable for consenting or refusing to consent to medical,
36 dental, or mental health care for a minor child when such decision is made in good faith
37 and is exercised in the best interests of the minor child.

1 (l) No person, school official, or health care provider who acts in good faith reliance on
 2 a power of attorney for care of a minor child shall be subject to criminal or civil liability
 3 or professional disciplinary action for such reliance.

4 (m) A person who relies on the written power of attorney for care of a minor child has no
 5 obligation to make any further inquiry or investigation. Nothing in this article shall relieve
 6 any individual from liability for violations of other provisions of law.

7 (n) Each parent who executes the power of attorney for care of a minor child shall certify
 8 that such action is not for the purpose of enrolling the child in a school or school district
 9 so that the child may participate in the academic or interscholastic athletic programs
 10 provided by that school or district or for any other unlawful purpose. Violation of this
 11 Code section shall be punishable in accordance with Georgia law and shall require, in
 12 addition to any other remedies, repayment by such parent of all costs incurred by the school
 13 system or district as a result of the violation.

14 19-9-122.

15 (a) The statutory power of attorney for care of a minor child form contained in this Code
 16 section may be used to grant an agent grandparent or great-grandparent powers with respect
 17 to the minor child's registration for school and medical, dental, and mental health care and
 18 is not intended to be exclusive. No provision of this article shall be construed to bar use
 19 by the parent of any other or different form of power of attorney for care of a minor child
 20 that complies with this article. If a different power of attorney for care of a minor child is
 21 used, it may contain any or all of the provisions set forth or referred to in this Code section.
 22 When a power of attorney for care of a minor child in substantially the form set forth in this
 23 Code section is used, it shall have the same meaning and effect as prescribed in this article.
 24 Substantially similar forms may include forms from other states.

25 (b) The power of attorney for care of a minor child shall be in substantially the following
 26 form:

27 **'GEORGIA POWER OF ATTORNEY FOR CARE OF A MINOR CHILD**

28 **NOTICE: THE PURPOSE OF THIS POWER OF ATTORNEY IS TO GIVE THE**
 29 **GRANDPARENT OR GREAT-GRANDPARENT THAT YOU DESIGNATE (THE**
 30 **AGENT) BROAD POWERS TO CARE FOR YOUR MINOR CHILD INCLUDING**
 31 **REGISTERING THE CHILD FOR SCHOOL; MAKING MEDICAL, DENTAL, AND**
 32 **MENTAL HEALTH CARE DECISIONS FOR THE CHILD, INCLUDING THE**
 33 **POWER TO REQUIRE, CONSENT TO, REFUSE, OR WITHDRAW ANY TYPE OF**
 34 **PERSONAL CARE OR MEDICAL TREATMENT FOR ANY PHYSICAL OR**
 35 **MENTAL CONDITION AND TO ADMIT THE CHILD TO OR DISCHARGE THE**
 36 **CHILD FROM ANY HOSPITAL, HOME, OR OTHER INSTITUTION; AND**

1 PROVIDING FOR THE CHILD’S FOOD, LODGING, HOUSING, RECREATION,
 2 AND TRAVEL. THE AGENT IS REQUIRED TO EXERCISE DUE CARE TO ACT
 3 FOR THE CHILD’S BENEFIT AND IN ACCORDANCE WITH THIS FORM. A
 4 COURT CAN TAKE AWAY THE POWERS OF THE AGENT IF IT FINDS THAT
 5 THE AGENT IS NOT ACTING PROPERLY. UNTIL YOU REVOKE THIS POWER
 6 OR A COURT TERMINATES THE POWER, THE AGENT MAY EXERCISE THE
 7 POWERS GIVEN IN THIS POWER OF ATTORNEY FOR CARE OF A MINOR
 8 CHILD THROUGHOUT THE CHILD’S MINORITY. IF THERE IS ANYTHING
 9 ABOUT THIS FORM THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK
 10 A LAWYER TO EXPLAIN IT TO YOU.

11 POWER OF ATTORNEY FOR CARE OF A MINOR CHILD

12 made this ____ day of _____, _____.

13 1. I, _____ (insert name and address of parent or
 14 parents), hereby appoint _____ (insert name and
 15 address of grandparent or great-grandparent to be named as agent) as attorney in fact
 16 (the agent) for my child _____ (insert name of child) to act
 17 for me and in my name in any way that I could act in person to register my child for
 18 school; seek medical, dental, and mental health treatment; provide for the child’s food,
 19 lodging, housing, recreation, and travel; and otherwise make any and all decisions for
 20 my child’s well-being. The agent shall have the same access to school, medical, dental,
 21 and mental health records or any other records relating to my minor child that I have
 22 including the right to disclose the contents thereof to others.

23 THE ABOVE GRANT OF POWER IS INTENDED TO BE AS BROAD AS
 24 POSSIBLE SO THAT THE AGENT WILL HAVE THE AUTHORITY TO MAKE
 25 ANY DECISION THAT I COULD MAKE ON BEHALF OF MY MINOR CHILD
 26 SUBJECT TO THE LIMITATIONS, IF ANY, CONTAINED IN PARAGRAPH 2
 27 BELOW.

28 2. The powers granted above shall not include the following powers or shall be subject to
 29 the following rules or limitations (here you may include any specific limitations that
 30 you deem appropriate):

31 _____
 32 _____
 33 _____

34 THIS POWER OF ATTORNEY MAY BE AMENDED OR REVOKED IN WRITING
 35 BY THE PARENT OR PARENTS AT ANY TIME. IN THE ABSENCE OF AN

1 AMENDMENT OR REVOCATION, THE AUTHORITY GRANTED IN THIS
 2 POWER OF ATTORNEY FOR CARE OF A MINOR CHILD SHALL BECOME
 3 EFFECTIVE AT THE TIME THIS POWER OF ATTORNEY IS SIGNED AND
 4 WILL CONTINUE UNTIL REVOKED IN WRITING OR THE MINOR CHILD
 5 REACHES THE AGE OF MAJORITY UNLESS A LIMITATION ON THE
 6 BEGINNING DATE OR DURATION IS MADE BY INITIALING AND
 7 COMPLETING EITHER OR BOTH OF PARAGRAPHS (3) AND (4) BELOW:

8 3. () This power of attorney for care of a minor child shall become effective on
 9 _____ (insert a future date on which you desire this power of
 10 attorney for care of a minor child to take effect).

11 4. () This power of attorney for care of a minor child shall terminate on
 12 _____ (insert a future date or event on which you want this power
 13 of attorney for care of a minor child to terminate prior to the minor child reaching the
 14 age of majority).

15 5. This power of attorney for care of a minor child is being executed because of the
 16 following hardship:

17 _____ (A) The serious illness or incarceration of a parent;

18 _____ (B) The physical or mental condition of the parent or the child such that care
 19 and supervision of the child cannot be provided by the parent;

20 _____ (C) The loss or uninhabitability of the child's home as the result of a natural
 21 disaster; or

22 _____ (D) Active military duty of one or more parents.

23 IF YOU WISH TO NAME A GUARDIAN FOR YOUR MINOR CHILD IN THE
 24 EVENT THAT A COURT DECIDES THAT A GUARDIAN SHOULD BE
 25 APPOINTED, YOU MAY, BUT ARE NOT REQUIRED TO, DO SO BY
 26 INSERTING THE NAME AND ADDRESS OF SUCH PERSON IN THE
 27 FOLLOWING PARAGRAPH. YOU MAY, BUT ARE NOT REQUIRED TO,
 28 NOMINATE AS GUARDIAN THE SAME PERSON THAT YOU HAVE NAMED
 29 IN THIS FORM AS AGENT.

30 6. If a guardian of my minor child is to be appointed, I nominate the following person to
 31 serve as such guardian: _____ (insert name
 32 and address of person nominated to be guardian of the minor child).

33 7. I/We have been fully informed as to all of the contents of this form and I/we understand
 34 the full import of this grant of powers to my agent.

35 8. I/We declare under penalty of perjury under the laws of the State of Georgia that the
 36 foregoing is true and correct.

1 9. I/We hereby certify that this power of attorney is not executed for the purpose of
2 enrolling the child in a school or school district so that the child may participate in the
3 academic or interscholastic athletic programs provided by the school or district.

4 Parent Signature: _____ (Seal)

5 Parent Signature: _____ (Seal)

6 Signed and sealed in the presence of _____,
7 Notary Public.

8 My Commission expires: _____."

9 **SECTION 4.**

10 All laws and parts of laws in conflict with this Act are repealed.