

Senate Bill 3

By: Senators Unterman of the 45th, Shafer of the 48th, Cowsert of the 46th, Ligon, Jr. of the 3rd, Gooch of the 51st 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 another person for the temporary
4 delegation of certain power and authority for the care of a minor child; to provide a short
5 title; to provide for definitions; to provide for legislative findings; to provide for related
6 matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 The General Assembly finds that:

- 10 (1) From time to time, parents experience short-term difficulties that impair their ability
11 to perform the regular and expected functions to provide care and support to their minor
12 children;
- 13 (2) Parents need a means to confer to another person the temporary authority to act on
14 behalf of children without the time and expense of a court proceeding or the involvement
15 of the Division of Family and Children Services of the Department of Human Services; and
- 16 (3) Providing a statutory mechanism for granting such authority enhances family
17 preservation and stability.

18 **SECTION 2.**

19 Chapter 9 of Title 19 of the Official Code of Georgia Annotated, relating to child custody
20 proceedings, is amended by adding a new article to read as follows:

21 "ARTICLE 522 19-9-140.23 This article shall be known and may be cited as the 'Supporting and Strengthening Families
24 Act.'25 19-9-141.26 As used in this article, the term:27 (1) 'Child' means the minor child of a parent.28 (2) 'Legal custodian' shall have the same meaning as provided in paragraph (2) of Code
29 Section 19-9-22.30 (3) 'Parent' shall have the same meaning as provided in paragraph (2) of subsection (a)
31 of Code Section 19-3-37. Such term used in the singular shall mean both parents if both
32 parents share joint legal custody of the child, unless otherwise clearly indicated.33 (4) 'School' means:34 (A) Any county or independent school system as defined in Code Section 20-1-9;35 (B) Any private school as such term is defined in subsection (b) of Code Section
36 20-2-690;37 (C) A home study program meeting the requirements set forth in subsection (c) of
38 Code Section 20-2-690;39 (D) Pre-kindergarten programs; or40 (E) Early care and education programs as such term is defined in paragraph (5) of Code
41 Section 20-1A-2.42 19-9-142.43 (a) A parent or legal custodian of a child, by a properly executed power of attorney
44 provided in Code Section 19-9-149, may delegate to any adult residing in this state
45 caregiving authority regarding the child for a period not to exceed one year, except as
46 provided in Code Section 19-9-148. The parent or legal custodian may delegate to the
47 attorney-in-fact any power and authority regarding the care and custody of the child, except
48 the power to consent to the marriage or adoption of the child, the performance or
49 inducement of an abortion on or for the child, or the termination of parental rights to the
50 child. Such power and authority may be delegated without the approval of a court by
51 executing in writing a power of attorney for the care of a child in a form substantially
52 complying with the provisions of this article. A delegation of power and authority under
53 this Code section shall not operate to change or modify any parental or legal rights,
54 obligations, or authority established by an existing court order or deprive the parent or legal

55 custodian of any parental or legal rights, obligations, or authority regarding the custody,
56 visitation, or support of the child.

57 (b) Except where limited by federal law, this Code section, or the wishes of the parent as
58 expressed in the power of attorney, the attorney-in-fact shall have the same rights, duties,
59 and responsibilities that would otherwise be exercised by the parent pursuant to the laws
60 of this state.

61 (c) The attorney-in-fact under a power of attorney for the care of a child shall act in the
62 best interest of the child. Such attorney-in-fact shall not be liable for consenting or
63 refusing to consent to medical, dental, or mental health care for a child when such decision
64 is made in good faith and is exercised in the best interest of the child.

65 (d)(1) The attorney-in-fact shall have the right to enroll the child in a public school
66 serving the area where the attorney-in-fact resides and may enroll the child in a private
67 school, pre-kindergarten program, or home study program.

68 (2) The public school shall allow such attorney-in-fact with a properly executed power
69 of attorney for the care of a child to enroll the child.

70 (3) At the time of enrollment, the attorney-in-fact shall provide to the school such
71 residency documentation as is customary in that school district.

72 (4) A public school shall not unreasonably deny enrollment of a child. If a public school
73 denies enrollment of a child under this Code section, such denial may be appealed and
74 shall be treated as any other denial of enrollment of a child in that school district,
75 including all of the remedies otherwise available when enrollment is denied to a child.

76 19-9-143.

77 Nothing in this article shall preclude a parent or attorney-in-fact from granting temporary
78 written permission to seek emergency medical treatment or other services for a child while
79 in the custody of an adult who is not the parent or attorney-in-fact and who is temporarily
80 supervising the child at the request of the parent or attorney-in-fact.

81 19-9-144.

82 (a) Except as may be permitted by the federal No Child Left Behind Act, 20 U.S.C.A.
83 Section 6301, et seq., and Section 7801, et seq., a parent executing the power of attorney
84 for the care of a child shall certify that such action is not for the primary purpose of
85 enrolling the child in a school for the sole purpose of participating in the academic or
86 interscholastic athletic programs provided by that school or for any other unlawful purpose.
87 Violation of this subsection shall be punishable in accordance with Georgia law and may
88 require, in addition to any other remedies, repayment by such parent of all costs incurred
89 by the school as a result of the violation.

90 (b) The power of attorney for the care of a child shall be signed and acknowledged before
91 a notary public by the parent executing the power of attorney.

92 19-9-145.

93 (a) The parent or legal custodian of the child shall have the authority to revoke or
94 withdraw the power of attorney authorized by Code Section 19-9-142 at any time. Except
95 as provided in Code Section 19-9-148, if the delegation of power and authority lasts longer
96 than one year, the parent or legal custodian of the child shall execute a new power of
97 attorney for each additional year that the delegation exists. If a parent withdraws or
98 revokes the power of attorney, the child shall be returned to the custody of the parent as
99 soon as reasonably possible.

100 (b) Unless the authority is revoked or withdrawn by the parent, the attorney-in-fact shall
101 exercise parental or legal authority on a continuous basis without compensation for the
102 duration of the power of attorney authorized by Code Section 19-9-142 and shall not be
103 subject to any provision concerning the licensing or regulation of foster care homes.

104 19-9-146.

105 The execution of a power of attorney by a parent or legal custodian, as authorized in Code
106 Section 19-9-142, shall not constitute abandonment under Code Section 19-10-1 nor
107 constitute abuse or neglect under Code Section 19-7-5 unless the parent or legal custodian
108 fails to take custody of the child or execute a new power of attorney after the one-year time
109 limit under Code Section 19-9-142 has elapsed.

110 19-9-147.

111 (a) Under a delegation of power and authority as authorized by Code Section 19-9-142,
112 the child subject to the power of attorney shall not be considered placed in foster care as
113 defined in any other provision, and the parties to the power of attorney shall not be subject
114 to any of the requirements or licensing regulations for foster care or other regulations
115 relating to community care for children.

116 (b) Any attorney-in-fact who has been delegated power and authority under Code Section
117 19-9-142 by a parent or legal custodian shall not be subject to the requirements of any other
118 child care facility or foster care licensing provisions, and such delegation shall not
119 constitute an out-of-home child placement under this title.

120 19-9-148.

121 A parent who is a member of the armed forces of the United States, including any reserve
122 component thereof, or the commissioned corps of the National Oceanic and Atmospheric

123 Administration or the Public Health Service of the United States Department of Health and
 124 Human Services detailed by proper authority for duty with the armed forces of the United
 125 States, or who is required to enter or serve in the active military service of the United States
 126 under a call or order of the President of the United States or to serve on state active duty,
 127 may delegate the power and authority authorized by Code Section 19-9-142 for a period
 128 longer than one year if such parent is on active duty service. The term of delegation,
 129 however, may not exceed the term of active duty service plus 30 days.

130 19-9-149.

131 (a) The statutory power of attorney contained in this Code section may be used for the
 132 temporary delegation of parental power and authority to an attorney-in-fact. This power
 133 of attorney is not intended to be exclusive. No provision of this article shall be construed
 134 to bar use by the parent of any other or different form of power of attorney for the care of
 135 a child that substantially complies with this article.

136 (b) A power of attorney shall be legally sufficient under this Code section if the wording
 137 of the form complies substantially with the provisions of this Code section, the form is
 138 properly completed, and the signatures of the parties are acknowledged.

139 (c) The power of attorney for the care of a child shall be in substantially the following
 140 form:

141 'Statutory Form for Power of Attorney to Delegate Parental or Legal Custodian Power and
 142 Authority

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

144 _____

145 (Full name of minor child) (Date of birth)

146

147 2. I designate _____ (full name of attorney-in-fact),

148 _____

149 (street address, city, state, and ZIP Code of attorney-in-fact)

150 _____,

151 (home and work phone numbers of attorney-in-fact)

152 as the attorney-in-fact of the minor child named above.

153 3. I delegate to the attorney-in-fact all my power and authority regarding the care, custody,
 154 and property of the minor child named above, including but not limited to the right to enroll
 155 the child in school, inspect and obtain copies of education records and other records
 156 concerning the child, attend school activities and other functions concerning the child, and

157 give or withhold any consent or waiver with respect to school activities, medical and dental
 158 treatment, and any other activity, function, or treatment that may concern the child. This
 159 delegation shall not include the power or authority to consent to the marriage or adoption
 160 of the child, the performance or inducement of an abortion on or for the child, or the
 161 termination of parental rights to the child.

162 OR

163 4. I delegate to the attorney-in-fact the following specific powers and responsibilities
 164 (write in):

165 _____

166 *In the event section 4 is completed, section 3 does not apply.*

167 This delegation shall not include the power or authority to consent to the marriage or
 168 adoption of the child, the performance or inducement of an abortion on or for the child, or
 169 the termination of parental rights to the child.

170 5. This power of attorney is effective for a period not to exceed one year, beginning
 171 _____, 20____, and ending _____, 20____. I reserve the right to revoke
 172 this power and authority at any time.

173 OR

174 6. I am a serving parent as defined by Code Section 19-9-148 of the Official Code of
 175 Georgia Annotated. My active duty service is scheduled to begin on _____,
 176 20____, and is estimated to end on _____, 20____. I acknowledge that in no event
 177 shall this delegation of power and authority last more than one year or the term of my
 178 active duty plus 30 days, whichever is longer.

179 7. Except as may be permitted by the federal No Child Left Behind Act, 20 U.S.C.A.
 180 Section 6301, et seq., and Section 7801, et seq., I hereby certify that this power of attorney
 181 is not executed for the primary purpose of unlawfully enrolling the child in a school so that
 182 the child may participate in the academic or interscholastic athletic programs provided by
 183 that school.

184 By: _____

185 (Parent or legal custodian signature)

186 8. I hereby accept my designation as attorney-in-fact for the minor child specified in this
187 power of attorney.

188 _____
189 (Attorney-in-fact signature)

190 State of Georgia
191 County of _____

192 ACKNOWLEDGMENT

193 Before me, the undersigned, a Notary Public, in and for said County and State on this
194 _____ day of _____, 20____, personally appeared _____ (name
195 of parent or legal custodian) and _____ (name of attorney-in-fact), to
196 me known to be the identical persons who executed this instrument and acknowledged to
197 me that each executed the same as his or her free and voluntary act and deed for the uses
198 and purposes set forth in the instrument.

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

200 _____
201 (Notary public signature)

202 (Seal)

203 My commission expires: _____"

204 **SECTION 3.**

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