

ADOPTED

Senator Unterman of the 45th offers the following amendment:

1 *Amend the House Rules Committee Substitute to SB 64 (LC 29 6670S) by deleting lines 9
2 through 12 and inserting in lieu thereof the following:*

3 to provide for the creation, authorization, procedure, revocation, and termination of a power
4 of attorney from a parent, guardian, or legal custodian of a child to another person for the
5 temporary delegation of certain power and authority for the care and custody of a child; to
6 provide a short title; to provide for definitions; to provide for procedure; to provide for
7 legislative findings; to provide for related;

8 *By deleting lines 365 through 385 and inserting in lieu thereof the following:*

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

12 "ARTICLE 5

13 19-9-140.

14 This article shall be known and may be cited as the 'Supporting and Strengthening Families
15 Act.'

16 19-9-141.

17 As used in this article, the term:

- 18 (1) 'Child' means an individual who is under the age of 18 years.
- 19 (2) 'Guardian' means an individual appointed pursuant to Title 29 or by a court of law.
- 20 (3) 'Legal custodian' shall have the same meaning as provided in Code Section 15-11-2.
- 21 (4) 'Parent' shall have the same meaning as provided in Code Section 15-11-2.

22 19-9-142.

23 (a) A parent, guardian, or legal custodian of a child, by a properly executed power of
24 attorney provided in Code Section 19-9-150, may delegate to any adult residing in this state
25 caregiving authority regarding his or her child for a period not to exceed one year, except
26 as provided in Code Section 19-9-149. A parent, guardian, or legal custodian of a child
27 may delegate to an attorney-in-fact any power and authority regarding the care and custody
28 of such child, except the power to consent to the marriage or adoption of such child, the

29 performance or inducement of an abortion on or for such child, or the termination of
30 parental rights to such child. Such power and authority may be delegated without the
31 approval of a court by executing in writing a power of attorney for the care and custody of
32 the child in a form substantially complying with the provisions of this article. A delegation
33 of power and authority under this Code section shall not operate to change or modify any
34 parental or legal rights, obligations, or authority established by an existing court order or
35 deprive a parent, guardian, or legal custodian of a child of any parental or legal rights,
36 obligations, or authority regarding the custody, visitation, or support of such child.

37 (b) Except as limited by federal law, this Code section, or the wishes of the parent,
38 guardian, or legal custodian of a child as expressed in the power of attorney, the
39 attorney-in-fact shall have the same rights, duties, and responsibilities that would otherwise
40 be exercised by such parent, guardian, or legal custodian of a child pursuant to the laws of
41 this state.

42 (c) An attorney-in-fact shall acknowledge in writing his or her acceptance of the
43 responsibility for caring for a child for the duration of the power of attorney. An
44 attorney-in-fact shall swear or affirm under penalty of law that he or she is not currently
45 on the state sexual offender registry of this state or the sexual offender registration for any
46 other state, a United States territory, the District of Columbia, or any Indian Tribe nor has
47 he or she ever been required to register for any such registry.

48 (d) The attorney-in-fact under a power of attorney for the care and custody of a child shall
49 act in the best interest of the child. Such attorney-in-fact shall not be liable for consenting
50 or refusing to consent to medical, dental, or mental health care for a child when such
51 decision is made in good faith and is exercised in the best interest of the child.

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

55 (2) A public school shall allow such attorney-in-fact with a properly executed power of
56 attorney for the care and custody of a child to enroll such child.

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

59 (4) A public school shall not unreasonably deny enrollment of a child. If a public school
60 denies enrollment of a child by an attorney-in-fact, such denial may be appealed and shall
61 be treated as any other denial of enrollment of a child in that school district, including all
62 of the remedies otherwise available when enrollment is denied to a child.

19-9-143.

(a) When only one parent has legal custody of a child, he or she shall provide to the other parent a copy of the proposed power of attorney and the text of this Code section, by certified mail or statutory overnight delivery, 30 days prior to executing a power of attorney under this article.

(b) The parent receiving the notice set forth in subsection (a) of this Code section may object to the execution of a power of attorney within 21 days of the transmittal of such notice. Such objection shall be filed in the superior court of the county where the child resides and shall be served by certified mail or statutory overnight delivery. Within 30 days of the objection being filed, the court shall hold an expedited hearing and determine whether the power of attorney is in the best interest of the child. The power of attorney shall not become effective until the court finds it to be in the best interest of the child.

(c) In addition to the notice provided in subsection (a) of this Code section, a parent executing a power of attorney under this article shall comply with any applicable relocation notice requirements under subsection (f) of Code Section 19-9-3.

(d) In the event of an emergency, the written requirement provisions of this Code section may be waived, but in no event shall this provision be interpreted as a means to violate a court order entered pursuant to subsection (f) of Code Section 19-9-3.

19-9-144.

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

19-9-145.

(a) Except as may be permitted by the federal No Child Left Behind Act (P.L. 107-110), a parent, guardian, or legal custodian executing the power of attorney for the care and custody of a child shall swear or affirm under penalty of law that such action is not being taken for the purpose of enrolling the child in a school to participate in the academic or interscholastic athletic programs provided by that school or for any other unlawful purpose. Violation of this subsection shall be punishable in accordance with state law and may require, in addition to any other remedies, repayment by such parent, guardian, or legal custodian of all costs incurred by the school as a result of the violation.

(b) A parent, guardian, or legal custodian shall not execute a power of attorney for the care and custody of a child for the purpose of subverting an investigation of the child's welfare

98 initiated by the Division of Family and Children Services of the Department of Human
99 Services and shall not execute such power of attorney so long as the Division of Family
100 and Children Services has an open child welfare and youth services case with regard to the
101 parent, guardian, or legal custodian, the child, or another child of the parent.

102 (c) The power of attorney for the care and custody of a child shall be signed and
103 acknowledged before a notary public by the parent, guardian, or legal custodian executing
104 the power of attorney.

105 19-9-146.

106 (a) The parent, guardian, or legal custodian of a child shall have the authority to revoke
107 or withdraw the power of attorney by providing written notice to the attorney-in-fact at any
108 time. If a parent, guardian, or legal custodian withdraws or revokes the power of attorney,
109 the child shall be returned to the custody of the parent, guardian, or legal custodian as soon
110 as reasonably possible.

111 (b) Unless the authority is revoked or withdrawn by the parent, guardian, or legal
112 custodian, the attorney-in-fact shall exercise parental or legal authority on a continuous
113 basis without compensation for the duration of the power of attorney authorized in such
114 power of attorney so long as it does not exceed the length of time authorized in Code
115 Sections 19-9-142 and 19-9-149 and shall not be subject to any provision concerning the
116 licensing or regulation of foster care homes.

117 19-9-147.

118 The execution of a power of attorney by a parent, guardian, or legal custodian, as
119 authorized by this article, shall not constitute abandonment under Code Section 19-10-1
120 nor be reportable as child abuse or neglect under Code Section 19-7-5 unless the parent,
121 guardian, or legal custodian fails to take custody of the child or execute a new power of
122 attorney after the expiration of the power of attorney.

123 19-9-148.

124 (a) A child subject to the power of attorney authorized by this article shall not be
125 considered placed in foster care as defined in any other provision of law, and the parties
126 to the power of attorney shall not be subject to any of the requirements or licensing
127 regulations for foster care or other regulations relating to community care for children.

128 (b) An attorney-in-fact who has been delegated caregiving authority under this article shall
129 not be subject to the requirements of any other child care facility or foster care licensing
130 provisions, and such delegation shall not constitute an out-of-home child placement.

131 19-9-149.

132 A parent who is a member of the armed forces of the United States, including any reserve
133 component thereof, or the commissioned corps of the National Oceanic and Atmospheric
134 Administration or the Public Health Service of the United States Department of Health and
135 Human Services detailed by proper authority for duty with the armed forces of the United
136 States, or who is required to enter or serve in the active military service of the United States
137 under a call or order of the President of the United States or to serve on state active duty,
138 may delegate caregiving authority for a period longer than one year if such parent is on
139 active duty service. Such term of delegation, however, shall not exceed the term of active
140 duty service plus 30 days.

141 19-9-150.

142 (a) The statutory power of attorney contained in this Code section may be used for the
143 temporary delegation of parental caregiving authority to an attorney-in-fact. This power
144 of attorney is not intended to be exclusive. No provision of this article shall be construed
145 to bar use by a parent, guardian, or legal custodian of any other or different form of power
146 of attorney for the care and custody of a child that substantially complies with this article.

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

150 (c) The power of attorney for the care and custody of a child shall be in substantially the
151 following form:

152 'Statutory Form for Power of Attorney to Delegate Parental, Guardian, or Legal
153 Custodian Power and Authority

154 1. I swear or affirm under penalty of law that I am the parent, guardian, or legal
155 custodian of:

156 _____
157 (Full name of child) (Date of birth)

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

159 _____
160 (street address, city, state, and ZIP Code of attorney-in-fact)

161 _____
162 (home and work phone numbers of attorney-in-fact)

163 as the attorney-in-fact of the child named above.

164 3. I delegate to the attorney-in-fact all my power and authority regarding the care and
165 custody the child named above, including but not limited to the right to enroll the child
166 in school, inspect and obtain copies of education records and other records concerning
167 the child, attend school activities and other functions concerning the child, and give or
168 withhold any consent or waiver with respect to school activities, medical and dental
169 treatment, and any other activity, function, or treatment that may concern the child. This
170 delegation shall not include the power or authority to consent to the marriage or adoption
171 of the child, the performance or inducement of an abortion on or for the child, or the
172 termination of parental rights to the child.

173 OR

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

176

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

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

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

184 OR

185 6. I am a serving parent as defined by Code Section 19-9-149 of the Official Code of
186 Georgia Annotated. My active duty service is scheduled to begin on _____,
187 20_____, and is estimated to end on _____ , 20_____. I acknowledge that in no
188 event shall this delegation of power and authority last more than one year or the term of
189 my active duty plus 30 days, whichever is longer. I reserve the right to revoke this power
190 and authority at any time.

191 7. Except as may be permitted by the federal No Child Left Behind Act (P.L. 107-110),
192 I hereby swear or affirm under penalty of law that this power of attorney is not being
193 executed for the purpose of enrolling a child in a school so that the child may participate

194 in the academic or interscholastic athletic programs provided by that school or for any
195 other unlawful purpose.

196 By: _____
197 (Parent, guardian, or legal custodian signature)

198 8. I hereby accept my designation as attorney-in-fact for the child specified in this power
199 of attorney and by doing so acknowledge my acceptance of the responsibility for caring
200 for such child for the duration of this power of attorney. Furthermore, I hereby swear or
201 affirm under penalty of law that I am not currently on the state sexual offender registry
202 of this state or the sexual offender registration for any other state, a United States
203 territory, the District of Columbia, or any Indian Tribe nor have I ever been required to
204 register for any such registry.

205 _____
206 (Attorney-in-fact signature)

207 State of Georgia

208 County of _____

209 ACKNOWLEDGMENT

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

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

217 _____
218 (Notary public signature)

219 (Seal)

220 My commission expires: _____ "