

HOUSE BILL NO. 201

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES KELLER, Millett

Introduced: 4/16/15

Referred: Health and Social Services, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the temporary delegation by a parent or guardian of powers related
2 to a child; relating to adoption; and relating to the distribution to a parent or guardian
3 in a child protection situation of information on family support services."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 13.26.020 is amended to read:

6 **Sec. 13.26.020. Delegation of powers over incapacitated person by parent**
7 **or guardian.** A parent or a guardian of **an adult** [A MINOR OR] incapacitated
8 person, by a properly executed power of attorney, may delegate to another person, for
9 a period not exceeding one year, any powers regarding care, custody, or property of
10 the **adult incapacitated person** [MINOR CHILD OR WARD, EXCEPT THE
11 POWER TO CONSENT TO MARRIAGE OR ADOPTION OF A MINOR WARD].

12 * **Sec. 2.** AS 13.26 is amended by adding a new section to read:

13 **Sec. 13.26.023. Delegation of powers over minor child.** (a) A parent or a
14 guardian of a minor child, by a properly executed power of attorney that is

1 substantially in the form provided in (f) of this section, may delegate to another person
2 one or more powers regarding the care, custody, or property of the minor child, except
3 the power to consent to

4 (1) the marriage or adoption of the minor child;

5 (2) the performance or inducement of an abortion on or for the minor
6 child; or

7 (3) the termination of parental rights to the minor child.

8 (b) A parent or guardian who delegates a power under (a) of this section may
9 revoke the power of attorney at any time. If a parent or guardian revokes a power of
10 attorney, the attorney-in-fact shall return the minor child to the custody of the parent
11 or the guardian as soon as reasonably possible after the revocation.

12 (c) Except as provided in (d) of this section, a power of attorney under this
13 section is not effective for a period that exceeds one year. However, after a power of
14 attorney expires under this subsection, a parent or guardian may enter into a new
15 power of attorney.

16 (d) A power of attorney made by a military parent may be effective for a
17 period that exceeds one year if the military parent is on active duty, but the power of
18 attorney is not effective for a period that exceeds the length of the active duty plus 30
19 days.

20 (e) Unless a parent or guardian revokes a power of attorney, the attorney-in-
21 fact shall exercise the power in the power of attorney without compensation for the
22 duration of the power of attorney.

23 (f) To designate an attorney-in-fact, a parent or guardian shall execute a power
24 of attorney that is in substantially the following form:

25 **STATUTORY FORM FOR POWER OF ATTORNEY**

26 **TO DELEGATE THE POWERS OF A PARENT OR GUARDIAN**

27 Section 1. I certify that I am the parent or guardian of:

28 _____

29 (Full name of minor child)

_____ (Date of birth)

30 _____

31 (Full name of minor child)

_____ (Date of birth)

1 _____

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

3 who is/are minor children.

4 Section 2. I designate _____ (Full name of attorney-
5 in-fact), _____

6 (Street address, city, state and zip code of attorney-in-fact)

7 _____

8 (Home telephone of attorney-in-fact) (Work telephone of attorney-in-
9 fact)

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

11 Section 3. I delegate to the attorney-in-fact all of my power and authority
12 regarding the care, custody, and property of each minor child named above,
13 including the right to enroll the child in school, the right to inspect and obtain
14 copies of education records and other records concerning the child, the right to
15 attend school activities and other functions concerning the child, and the right
16 to give or withhold any consent or waiver with respect to school activities,
17 medical treatment, dental treatment, and other activity, function, or treatment
18 that may concern the minor child. This delegation does not include the power
19 or authority to consent to the marriage or adoption of the minor child, the
20 performance or inducement of an abortion on or for the minor child, or the
21 termination of parental rights to the minor child.

22 OR

23 Section 4. I delegate to my attorney-in-fact the following specific powers and
24 responsibilities (write in):

25 _____
26 _____

27 Delegation under this section does not include the power or authority to
28 consent to the marriage or adoption of the minor child, the performance or
29 inducement of an abortion on or for the minor child, or the termination of
30 parental rights to the minor child.

31 (If you complete Section 4, Section 3 does not apply).

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

4 OR

5 Section 6. I am a military parent under AS 13.26.023(d). My active duty is
6 scheduled to begin on _____, 20 _____, and is estimated to end on
7 _____, 20 _____. I acknowledge that this power of attorney will not
8 last more than one year, or the term of my active duty service plus 30 days,
9 whichever period is longer.

10 By: _____

11 (Parent/guardian signature)

12 Section 7. I hereby accept my designation as attorney-in-fact for the minor
13 child/children identified in this power of attorney.

14 _____

15 (Attorney-in-fact signature)

16 State of _____

17 _____ Judicial District

18 ACKNOWLEDGMENT

19 Before me, the undersigned, a Notary Public, in and for the Judicial District
20 and State identified above, on this ____ day of _____, 20 _____,
21 personally appeared _____ (name of parent/guardian)
22 and _____ (name of attorney-in-fact), to me known to
23 be the persons who executed this power of attorney and each acknowledged to
24 me that each executed the same as the person's free and voluntary act and deed
25 for the uses and purposes set out in this power of attorney.

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

27 _____

28 (Signature of notary public)

29 (Seal, if any)

30 _____

31 (Title and rank)

1 My commission expires: _____

2 (g) A power of attorney does not change parental rights, legal rights,
3 obligations, or other authority established by an existing court order, and does not
4 deprive the parent or guardian of rights, obligations, or other authority relating to the
5 custody, visitation, or support of the minor child.

6 (h) Except as otherwise determined under another statute, the execution of a
7 power of attorney by a parent or guardian does not constitute abandonment, neglect, or
8 abuse of the minor child or ward under AS 47.10.013 - 47.10.015, unless the parent or
9 guardian fails, after the power of attorney terminates, to retake custody of the child
10 and does not execute a new power of attorney.

11 (i) Under a power of attorney, a minor child is not considered to be in foster
12 care, and the attorney-in-fact is not considered to be providing foster care for which a
13 license is required under AS 47.32.

14 (j) Notwithstanding another law to the contrary, the appointment of an
15 attorney-in-fact does not subject the attorney-in-fact to the licensing requirements
16 under AS 47.32 or to other requirements that apply to a child care facility or foster
17 care. The power of attorney does not constitute an out-of-home placement of a child
18 under AS 47.10.

19 (k) In this section,

20 (1) "active duty" means military duties that are performed full-time;

21 (2) "attorney-in-fact" means the individual to whom a parent or
22 guardian gives a power under a power of attorney;

23 (3) "child care facility" means a child care facility required to be
24 licensed under AS 47.32;

25 (4) "foster care" means care provided by a person for which a foster
26 home license is required by AS 47.32;

27 (5) "guardian" means a natural person who is legally appointed the
28 guardian of a minor child by the court under this chapter;

29 (6) "military parent" means a parent who is a member of

30 (A) the armed forces of the United States;

31 (B) a reserve component of the armed forces of the United

1 States;

2 (C) the National Oceanic and Atmospheric Administration
3 Commissioned Officer Corps or the United States Public Health Service
4 Commissioned Corps, if the member is

5 (i) assigned by proper authority to duty with the armed
6 forces of the United States; or

7 (ii) required to serve on active duty with the armed
8 forces of the United States under a call or order of the President of the
9 United States, or to serve on active duty with the military forces of the
10 state;

11 (7) "minor child" means a natural person who is under 18 years of age,
12 including a stepchild or a grandchild, but not including a foster child;

13 (8) "parent" includes a stepparent or a grandparent, but not a foster
14 parent;

15 (9) "power of attorney" means a power of attorney entered into under
16 this section.

17 * **Sec. 3.** AS 25.23.060(c) is amended to read:

18 (c) A consent executed under this section is effective as a power of attorney
19 under **AS 13.26.023** [AS 13.26.020]. Unless the consent form provides otherwise, and
20 regardless of whether the form names or identifies the adoptive parent, the consent
21 delegates to the adoptive parent all powers that may be delegated under **AS 13.26.023**
22 [AS 13.26.020]. The power of attorney takes effect when the child is delivered to the
23 adoptive parent, and remains in effect as long as the consent is in effect; but the power
24 of attorney is not effective beyond one year, unless the court extends it for good cause.
25 The power of attorney does not terminate on the death or disability of the person
26 executing the consent, unless the consent form so states. This subsection may not be
27 construed to alter the requirements of AS 47.70 (the Interstate Compact on the
28 Placement of Children).

29 * **Sec. 4.** AS 47.10.086(a) is amended to read:

30 (a) Except as provided in (b), (c), and (g) of this section, the department shall
31 make timely, reasonable efforts to provide family support services to the child and to

1 the parents or guardian of the child that are designed to prevent out-of-home
2 placement of the child or to enable the safe return of the child to the family home,
3 when appropriate, if the child is in an out-of-home placement. The department's duty
4 to make reasonable efforts under this subsection includes the duty to

5 (1) identify family support services that will assist the parent or
6 guardian in remedying the conduct or conditions in the home that made the child a
7 child in need of aid;

8 (2) actively offer the parent or guardian, and refer the parent or
9 guardian to, the services identified under (1) of this subsection; the department shall
10 refer the parent or guardian to, **and distribute to the parent or guardian**
11 **information on,** community-based family support services whenever community-
12 based services are available and desired by the parent or guardian; **the information**
13 **may include the use of a power of attorney under AS 13.26.023 to select an**
14 **individual to care for the child temporarily;** and

15 (3) document the department's actions that are taken under (1) and (2)
16 of this subsection.