

1 **PRIVATE KINSHIP CARE**

2 1998 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Patricia B. Larson**

5 AN ACT RELATING TO UNIFORM PROBATE CODE; AUTHORIZING THE USE OF A
6 POWER OF ATTORNEY TO REGISTER A CHILD IN SCHOOL AND OBTAIN
7 INSURANCE; AND PROVIDING LEGAL FORMS.

8 This act affects sections of Utah Code Annotated 1953 as follows:

9 AMENDS:

10 **75-5-103**, as enacted by Chapter 150, Laws of Utah 1975

11 *Be it enacted by the Legislature of the state of Utah:*

12 Section 1. Section **75-5-103** is amended to read:

13 **75-5-103. Delegation of powers by parent or guardian.**

14 (1) As used in this section:

15 (a) "Responsible adult" means a person 21 years of age or older who is a resident of this
16 state and is willing and able to provide adequate food, clothing, shelter, and supervision for a
17 minor child.

18 (b) "State benefits" include cash assistance and food stamps pursuant to Title 35A, Chapter
19 3, Employment Support Act, and Medicaid pursuant to Title 26, Chapter 18, Medical Assistance
20 Act.

21 (2) A parent or a guardian of a minor or incapacitated person, by a properly executed
22 power of attorney, may delegate to another person, for a period not exceeding six months, any of
23 his powers regarding care, custody, or property of the minor child or ward, except his power to
24 consent to marriage or adoption of a minor ward.

25 (3) (a) A power of attorney executed in accordance with Subsection (2) may be used for
26 a specific purpose listed in Subsection (3)(b) if:

27 (i) the parent or guardian of the minor child has delegated all parental powers to a

1 responsible adult, except the power to consent to marriage or adoption;

2 (ii) the minor child resides with the responsible adult; and

3 (iii) the responsible adult agrees, in a sworn notarized statement, to be held legally
4 responsible for the minor child in all respects and to the same extent as a parent or guardian of the
5 minor child while the power of attorney is in effect.

6 (b) In addition to its general uses, a power of attorney executed in accordance with
7 Subsection (3)(a) may be used by the designated responsible adult to:

8 (i) register the minor child for school in the school district in which the responsible adult
9 resides if the requirements of Section 53A-2-201 are otherwise satisfied; and

10 (ii) add the minor child as a dependent on the responsible adult's health, motor vehicle, or
11 other insurance policy governed by Title 31A to the same extent as is permitted for a natural or
12 adopted child of the responsible adult and subject to the same terms that apply to minor
13 dependents, including preexisting conditions and increased premiums, if:

14 (A) the minor child is not covered by an insurance policy of the type being sought; and

15 (B) the parent or guardian of the minor child does not have an insurance policy of the type
16 being sought for which the child would be eligible for coverage.

17 (c) A power of attorney executed in accordance with this section may be renewed in
18 writing in six-month increments for up to 36 months.

19 (d) If a power of attorney is used for a specific purpose described in Subsection (3)(b), the
20 responsible adult shall notify each affected school district and insurance company within 30 days
21 of the renewal of the power of attorney.

22 (e) An affected school district or insurance company may request information regarding
23 the status of a power of attorney from the responsible adult or the parent or guardian.

24 (4) A power of attorney executed in accordance with this section does not affect:

25 (a) the ability of a responsible adult to apply for state benefits as a specified relative on
26 behalf of a minor child;

27 (b) the familial status of the minor child or ward, except that a minor child shall have the
28 status of a dependent of the responsible adult under the terms of an insurance policy to which the
29 minor child has been added in accordance with Subsection (3)(b);

30 (c) the status of a child in the custody of the Division of Child and Family Services or
31 involved in any proceeding under Title 78, Chapter 3a, Juvenile Courts; or

1 (d) the rights and responsibilities of the parent or guardian for the minor child, which
2 continue while the power of attorney is in effect.

3 (5) A power of attorney for a specific purpose described in Subsection (3)(a) shall be in
4 substantially the following form and notarized:

5 POWER OF ATTORNEY--PARENTAL RIGHTS

6 (Pursuant to Utah Code Section 75-5-103)

7 1. I, _____, being of sound mind, willfully and voluntarily delegate to
8 _____, a responsible adult 21 years of age or older, all of the parental powers I have
9 as the parent or legal guardian of _____, a minor child, with the exception of the power
10 to consent to the child's marriage or adoption.

11 2. The minor child shall reside with the responsible adult to whom parental powers have
12 been delegated while this power of attorney is in effect.

13 3. The responsible adult shall agree, in a sworn notarized statement, to be held legally
14 responsible for the minor child in all respects and to the same extent as a parent or guardian of the
15 minor and to provide adequate food, clothing, shelter, and supervision for the minor child while
16 this power of attorney is in effect.

17 4. The responsible adult may use this power of attorney to, in addition to its general
18 purposes, register the minor child for school in the school district in which the responsible adult
19 resides as long as the requirements of state law are otherwise satisfied and add the minor child as
20 a dependent on the responsible adult's health, motor vehicle, or other insurance policy governed
21 by state law.

22 5. This power of attorney automatically terminates six months from the date it is executed
23 or upon the minor child residing with me or upon my oral or written declaration of termination.

24 6. This power of attorney may be renewed in writing in six-month increments for up to
25 36 months.

26 7. The responsible adult shall give each affected school district and insurance company
27 notice within 30 days of the renewal of this power of attorney and information regarding its status
28 upon request.

29 8. My rights and responsibilities for the minor child continue while this power of attorney
30 is in effect.

31 _____

1 Signature
2 EXECUTED before me this _____ day of _____
3 _____

4 NOTARY PUBLIC

5 My Commission Expires: _____

6 (6) The sworn statement required by Subsection (3)(a) shall be in substantially the
7 following form and notarized:

8 DELEGATED PARENTAL POWERS

9 (Pursuant to Utah Code Section 75-5-103)

10 1. I do swear or affirm that I am 21 years of age or older, I am a resident of this state, and
11 I am willing to provide adequate food, clothing, shelter, and supervision for _____, a
12 minor child over whom I have been delegated parental powers by _____, the minor
13 child's parent or legal guardian.

14 2. I also swear or affirm that the child will reside with me and that I agree to be held
15 legally responsible for the minor child in all respects and to the same extent as a parent or guardian
16 of the minor child while the power of attorney is in effect.

17 3. I also swear or affirm that I understand that this power of attorney terminates six months
18 from the date it is executed or upon the minor child residing with his parent or legal guardian or
19 upon the child's parent or legal guardian's oral or written declaration of termination.

20 4. I also swear or affirm that I will notify each affected school district and insurance
21 company within 30 days of the renewal of this power of attorney and provide information
22 regarding its status upon request.

23 _____
24 Signature

25 SUBSCRIBED AND SWORN to before me this _____ day of _____
26 _____

27 NOTARY PUBLIC

28 My Commission Expires: _____

Legislative Review Note
as of 1-13-98 4:05 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel