

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 381 Session of
2003

INTRODUCED BY YOUNGBLOOD, THOMAS, HORSEY, CAWLEY, BEBKO-JONES,
BELFANTI, BISHOP, BROWNE, CRUZ, CURRY, DeWEESE, GEORGE,
HARHAI, JAMES, KELLER, KIRKLAND, LEDERER, PALLONE AND TIGUE,
FEBRUARY 24, 2003

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 24, 2003

AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the
2 Pennsylvania Consolidated Statutes, providing for educational
3 guardianship.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 20 of the Pennsylvania Consolidated
7 Statutes is amended by adding a section to read:

8 § 5148. Educational guardianship.

9 (a) Appointment of guardian.--A parent, legal guardian or
10 legal custodian may authorize an adult person in whose care a
11 minor has been entrusted to exercise all rights and
12 responsibilities regarding the enrollment in school and
13 education of the minor, including the rights provided under the
14 special education laws, provided that there is no prior order of
15 any court in any jurisdiction which would prohibit the parent,
16 legal guardian or legal custodian from exercising any of the
17 powers that may be conveyed to another person.

1 (b) Form.--Any written form that is signed by the parent,
2 legal guardian or legal custodian may be used to convey the
3 authority described in subsection (a). The following form may be
4 used and its inclusion in this section shall not be construed to
5 preclude the use of alternative language.

6 SAMPLE EDUCATIONAL GUARDIANSHIP FORM

7 (PUT A LINE THROUGH ALL PROVISIONS THAT ARE NOT APPLICABLE)

8 () I am the parent of the child(ren) named below and there
9 are no court orders now in effect which would
10 prevent me from giving the powers listed in this
11 document;

12 () I am the legal guardian or legal custodian of the
13 child(ren) listed below, pursuant to a court order (a
14 copy of which is attached if available), and there
15 are no other court orders now in effect which would
16 prohibit me from exercising the power I seek to
17 convey in this document.

18 I am temporarily giving to (Name), an adult
19 who resides at (Address), the right
20 to exercise all my rights in the education of the child(ren)
21 listed below, including, but not limited to, the right to sign
22 all documents necessary to enroll or maintain the child(ren) in
23 school, all rights necessary to secure and approve or disapprove
24 special education services for the child(ren) and the right to
25 review, copy and correct records for the child(ren). The
26 children these rights apply to are:

27 (Name and Date of Birth) (Name and Date of Birth)

28 (Name and Date of Birth) (Name and Date of Birth)

29 I am giving this authorization freely and knowingly in order
30 to provide for the child(ren) while they are in the care of the

1 adult named above and not due to pressure, threats or offers of
2 payment by any person or agency.

3 Notification of intent to end or change this authorization
4 must be in writing.

5 (If you wish to make an agreement about how to end or change
6 these rights, you may fill in or change this paragraph. If you
7 do not wish to make that kind of agreement, cross out this
8 paragraph).

9 Upon notification of my intention to revoke this
10 authorization, there shall be a period of 30 days before that
11 revocation takes effect.

12 I hereby swear or affirm that the above statements are true.

13 I understand that false statements are made subject to the
14 penalties of 18 Pa.C.S. § 4904 (relating to unsworn
15 falsification to authorities).

16 (Name _____) (Date _____)

17 (c) Use by educational entity.--

18 (1) A conveyance of authority described in subsection
19 (a) which is consistent with the requirements of subsection
20 (b) shall be honored by any school district, intermediate
21 unit or other public education entity.

22 (2) Notwithstanding subsection (e), the existence of a
23 written document conveying any authority described in
24 subsection (a) which is consistent with the requirements of
25 subsection (b) creates a presumption that the authority has
26 been lawfully conveyed.

27 (d) Revocation of guardianship.--

28 (1) A conveyance of authority as described in this
29 section is revocable at will unless other terms are agreed
30 upon by the parent, legal guardian or legal custodian and the

1 adult to whom authority is being conveyed.

2 (2) The parties may provide for terms in writing which
3 may require the revocation of authority to be in writing,
4 make revocation effective only when a specified time period
5 has elapsed after notification of intent to revoke or any
6 other terms that the parties deem appropriate.

7 (e) Dependency proceedings.--

8 (1) This section shall not be construed as a substitute
9 for dependency proceedings conducted under 42 Pa.C.S. Ch. 63
10 (relating to juvenile matters).

11 (2) The execution of a document conveying any authority
12 described in subsection (a) shall not be binding in a custody
13 or dependency proceeding.

14 (3) Regardless of the execution of a document in
15 accordance with this section, a custody or dependency
16 determination shall be based upon the best interests of the
17 child or other applicable standard in accordance with law.

18 Section 2. This act shall take effect in 60 days.