

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 399 Session of
2009

INTRODUCED BY YOUNGBLOOD, CRUZ, KORTZ, SIPTROTH AND STERN,
FEBRUARY 13, 2009

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, FEBRUARY 13, 2009

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.

18 (b) Form.--Any written form that is signed by the parent,

1 legal guardian or legal custodian may be used to convey the
2 authority described in subsection (a). The following form may be
3 used and its inclusion in this section shall not be construed to
4 preclude the use of alternative language:

5 EDUCATIONAL GUARDIANSHIP FORM

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

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

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

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

25 (Name and Date of Birth) (Name and Date of Birth)

26 (Name and Date of Birth) (Name and Date of Birth)

27 I am giving this authorization freely and knowingly in order
28 to provide for the child(ren) while they are in the care of the
29 adult named above and not due to pressure, threats or offers of
30 payment by any person or agency.

1 Notification of intent to end or change this authorization
2 must be in writing.

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

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

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

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

14 (Name _____) (Date _____)

15 (c) Use by educational entity.--

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

20 (2) Notwithstanding subsection (e), the existence of a
21 conveyance of authority described in and consistent with the
22 requirements of subsection (b) creates a presumption that the
23 authority has been lawfully conveyed.

24 (d) Revocation of guardianship.--

25 (1) A conveyance of authority as described in subsection
26 (b) is revocable at will unless other terms are agreed upon
27 by the parent, legal guardian or legal custodian and the
28 adult to whom authority is being conveyed.

29 (2) The parties may provide for terms in writing which
30 may require the revocation of authority to be in writing,

1 make revocation effective only when a specified time period
2 has elapsed after notification of intent to revoke or any
3 other terms that the parties deem appropriate.

4 (e) Dependency proceedings.--

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

8 (2) The execution of a conveyance of authority described
9 in subsection (b) shall not be binding in a custody or
10 dependency proceeding.

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

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