

HOUSE BILL No. 2562

By Representative Barbieri-Lightner

1-22

AN ACT concerning children and minors; creating a caregiver's authorization affidavit.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) A caregiver who is 18 years of age or older who completes numbers 1 through 4 of a caregiver's authorization affidavit as provided in section 2, and amendments thereto, and signs the affidavit is authorized to enroll a minor in school and to consent to school related medical care of the minor. A caregiver who is 18 years of age or older who completes numbers 1 through 8 of a caregiver's authorization affidavit as provided in section 2, and amendments thereto, and who signs the affidavit shall have the same rights to authorize medical and dental care for the minor that are given to guardians pursuant to article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto. The medical care authorized by this caregiver who is a relative may include mental health treatment subject to the limitations of K.S.A. 2003 Supp. 59-3075 and 59-3077, and amendments thereto.

(b) The caregiver's authorization affidavit shall not be valid for more than one year after the date on which it was executed.

(c) The decision of a caregiver to consent to or refuse medical or dental care for a minor shall be superseded by any contravening decision of the parent or other person having legal custody of the minor, provided the decision of the parent or other person having legal custody of the minor does not jeopardize the life, health or safety of the minor.

(d) No person who acts in good faith reliance on a caregiver's authorization affidavit to provide medical or dental care, without actual knowledge of facts contrary to those stated on the caregiver's authorization affidavit, shall be subject to professional disciplinary action for such reliance if the applicable portions are completed. This subsection shall apply even if medical or dental care is provided to a minor contrary to the wishes of the parent or other person having legal custody of the minor so long as the person providing the medical or dental care has no actual knowledge of the wishes of the parent or other person having legal custody of the minor.

(e) A person who relies on the caregiver's authorization affidavit has

1 no obligation to make any further inquiry or investigation.

2 (f) Nothing in this section shall relieve any person from liability for
3 violations of other provisions of law.

4 (g) If the minor stops living with the caregiver, the caregiver shall
5 notify any school, health care provider or health care service plan that
6 has been given the caregiver's authorization affidavit.

7 (h) A caregiver's authorization affidavit shall be invalid unless it sub-
8 stantially contains, in 10-point boldface type or a reasonable equivalent,
9 the warning statement: Warning: Do not sign this form if any of the
10 statements above are incorrect or you will be committing a crime pun-
11 ishable by a fine, imprisonment or both.

12 Such warning shall be underscored and capitalized.

13 (i) For purposes of this section, unless the context clearly shows
14 otherwise:

15 (1) "Caregiver" means a "person acting as parent" as defined in
16 K.S.A. 72-1046, and amendments thereto, and that such person is 18 years
17 of age or older.

18 (2) "Person" means an individual, corporation, partnership, associa-
19 tion, the state or any city, county, city and county or any other public
20 entity or governmental agency or subdivision or any other legal entity.

21 (3) "Qualified Relative" means a spouse, parent, stepparent, brother,
22 sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece,
23 nephew, first cousin, any person denoted by the prefix "grand" or "great"
24 or the spouse of any of the persons specified in this definition, even after
25 the marriage has been terminated by death or divorce.

26 (4) "School related medical care" means medical care required by
27 state or local governmental authority as a condition for school enrollment,
28 including, but not limited to, immunizations, physical examinations and
29 medical examinations conducted in a school for its pupils.

30 (j) A caregiver or pupil providing a caregiver's authorization affidavit
31 to a school shall be deemed to have met that school district's residency
32 requirements upon the schools receipt of such affidavit.

33 Sec. 2. The caregiver's authorization affidavit shall be in substantially
34 the following form:

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36 **Caregiver's Authorization Affidavit**

37 Use of this affidavit is authorized by section 1, and amendments thereto.

38 Instructions: Completion of items 1-4 and the signing of the affidavit is
39 sufficient to authorize enrollment of a minor in school and authorize
40 school-related medical care. Completion of items 5-8 is additionally re-
41 quired to authorize any other medical care. Print clearly.

42 The minor named below lives in my home and I am 18 years of age or
43 older.

- 1 1. Name of minor: _____
- 2 2. Minor's birth date: _____
- 3 3. My name (adult giving authorization): _____
- 4 4. My home address: _____
- 5 _____
- 6 _____
- 7 5. () I am a grandparent, aunt, uncle, or other qualified relative
- 8 of the minor (see back of this form for a definition of "qualified
- 9 relative").
- 10 6. () Check one or both (for example, if one parent was advised
- 11 and the other cannot be located):
- 12 () I have advised the parent(s) or other person(s) having legal
- 13 custody of the minor of my intent to authorize medical care, and
- 14 have received no objection.
- 15 () I am unable to contact the parent(s) or other person(s) hav-
- 16 ing legal custody of the minor at this time, to notify them of my
- 17 intended authorization.
- 18 7. My date of birth: _____
- 19 8. My Kansas driver's license or identification card number:
- 20 _____

WARNING:

DO NOT SIGN THIS FORM IF ANY OF THE STATEMENTS ABOVE ARE INCORRECT OR YOU WILL BE COMMITTING A CRIME PUNISHABLE BY A FINE, IMPRISONMENT OR BOTH.

I declare under penalty of perjury under the laws of the state of Kansas that the foregoing is true and correct.

Dated: _____ Signed: _____

NOTICES:

- 31 1. This declaration does not affect the rights of the minor's parents or
- 32 legal guardian regarding the care, custody and control of the minor, and
- 33 does not mean that the caregiver has legal custody of the minor.
- 34 2. A person who relies on this affidavit has no obligation to make any
- 35 further inquiry or investigation.
- 36 3. This affidavit is not valid for more than one year after the date on
- 37 which it is executed.

Additional Information:

TO CAREGIVERS:

- 41 1. "Qualified relative" means a spouse, parent, stepparent, brother, sis-
- 42 ter, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece,
- 43 nephew, first cousin, or any person denoted by the prefix "grand" or

1 “great” or the spouse of any of the persons specified in this definition,
2 even after the marriage has been terminated by death or dissolution.

3 2. The law may require you, if you are not a relative or a currently
4 licensed foster parent, to obtain a foster home license in order to care for
5 a minor. If you have any questions, please contact your local department
6 of social and rehabilitation services.

7 3. If the minor stops living with you, you are required to notify any
8 school, health care provider or health care service plan to which you have
9 given this affidavit.

10 4. If you do not have the information requested in item 8 (Kansas
11 driver’s license or I.D.), provide another form of identification such as
12 your social security number or medicaid number.

13
14 **TO SCHOOL OFFICIALS:**

15 1. This affidavit constitutes a sufficient basis for a determination of res-
16 idency of the minor, without the requirement of a guardianship or other
17 custody order, unless the school district determines from actual facts that
18 the minor is not living with the caregiver.

19 2. The school district may require additional reasonable evidence that
20 the caregiver lives at the address provided in item 4.

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22 **TO HEALTH CARE PROVIDERS AND HEALTH CARE SER-**
23 **VICE PLANS:**

24 1. No person who acts in good faith reliance upon a caregiver’s author-
25 ization affidavit to provide medical or dental care, without actual knowl-
26 edge of facts contrary to those stated on the affidavit, is subject to criminal
27 liability or to civil liability to any person, or is subject to professional
28 disciplinary action, for such reliance if the applicable portions of the form
29 are completed.

30 2. This affidavit does not confer dependency for health care coverage
31 purposes.

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33 Sec. 3. This act shall take effect and be in force from and after its
34 publication in the statute book.

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