

STATEMENT OF PURPOSE

RS26000

In 1991, the Idaho Legislature enacted the first Delegation of Powers by Parent or Guardian bill, primarily to aid deploying families in Desert Storm. Over the years, the use of Delegation has dramatically expanded. This delegation is easy and quick and avoids having an expensive and protracted Guardianship proceeding in court. However, the existing statute allows only an immediate delegation. There have been numerous requests to allow a parent or parents to state that delegation to the person(s) they have chosen, but to happen only if certain events come to pass. This bill allows that by creating a springing delegation, much as financial powers of attorney already have. The events are listed as either incapacity of the parent, incarceration of the parent, or certification by the parent that the delegation should become effective. There is clear detail on the procedure to be followed, and the time periods for which the delegation is effective. In both springing and immediate delegation, the bill makes a clear statement that any interested person can bring a formal guardianship proceeding, which gives protection if the delegation is not to an appropriate person. This allows an inexpensive and flexible alternative to more expensive court proceedings, but does not preclude such proceedings when appropriate. Finally, the bill clarifies that the delegation, whether springing or immediate, can name two co-guardians and can specify whether the co-guardians can act independently, must act jointly, or must act jointly only on specific matters. This bill also makes technical wording changes.

FISCAL NOTE

This bill will have no fiscal impact. It should lower court costs and time involvement of courts.

Contact:

Robert Aldridge
Trust & Estate Professionals of Idaho, Inc.
(208) 336-9800

DISCLAIMER: This statement of purpose and fiscal note are a mere attachment to this bill and prepared by a proponent of the bill. It is neither intended as an expression of legislative intent nor intended for any use outside of the legislative process, including judicial review (Joint Rule 18).