

STATEMENT OF PURPOSE

RS24545

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 the Delegation has dramatically expanded, especially in situations where a parent hands over their child to another family member, often a grandparent, for a temporary time period. Sometimes this is because of things like deployment, temporary absence, change in school districts, and so forth. But sometimes it is because of substance abuse or other problems of the parent. This delegation is easy and quick and avoids have an expensive and protracted Guardianship proceeding in court. It does not preclude an interested person from bringing a formal proceeding, which can happen if the person receiving the delegation is not appropriate to care for the minor. 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. This bill also clarifies the immediate delegation on the time periods for which the delegation is effective. In the springing delegation, there is clear detail on the procedure to be followed, and the times periods for which the delegation is effective. In both springing and immediate delegation, the bill makes a clear statement that any interest 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.

FISCAL NOTE

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

Contact:

Robert L. Aldridge
Trust & Estate Professionals of Idaho, Inc.
(208) 336-9880