

STATE OF ALABAMA

COUNTY OF SHELBY

DELEGATION OF POWERS BY A PARENT OR GUARDIAN

I, Dolly Pimentel, the mother  
(custodial parent) (relationship)  
of Gina Del Rosario minor, [ ] incapacitated person, pursuant to Code of Alabama, 1975,  
Section 26-2A-7, do hereby delegate to Jose Pimentel  
(person being given authority)  
of 112 Palm DR Alabaster AL authority to make decisions relating to the  
(address)  
the physical custody, health, education, or maintenance of Gina Del Rosario  
(child)  
or the property of Gina Del Rosario including power to consent to medical treatment.  
(child)

This authority expires:

[ 4 ] one year from the date of execution below

[ ] \_\_\_\_\_, 19\_\_\_\_

unless revoked sooner.

I recognize that this delegation of authority does not relieve me of any primary responsibility that I  
may have for Gina Del Rosario  
(child)

Dated: 8/12/, 1996 : Dolly Pimentel  
(Signed - Custodial Parent/Legal Guardian)

Address: 112 Palm DR  
Alabaster AL  
35007

Sworn to and subscribed before me on this the 12<sup>th</sup> day of August,  
19 96.

Jana C. Brant  
Notary Public

My Commission Expires:

MY COMMISSION EXPIRES JULY 17 1999

08/12/1996-26110  
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SHELBY COUNTY JUDGE OF PROBATE  
002 MCD 11.00

Inst # 1996-26110

§ 26-2A-7. Delegation of powers by parent or guardian; parental authority.

(a) A parent who has custody, or a guardian, of a minor or incapacitated person, by a properly executed power of attorney, may delegate to another person, for a period not exceeding one year, any power regarding health, support, education or maintenance of the person or property of the minor child or ward, except the power to consent to marriage or adoption of a minor ward. Temporary "delegation" of parental powers does not relieve the parent or guardian of the primary responsibility for the minor or incapacitated person.

(b) The provisions of subsection (a) of this section shall not be used or construed to allow a parent or guardian to thwart or circumvent provisions of Chapter 15 of Title 12 and Article 2 of Chapter 2 of Title 44. (Acts 1987, No. 87-590, p. 975, § 1-107; Acts 1988, 1st Ex. Sess., No. 88-898, p. 455, § 1.)

Comment

This section permits a temporary delegation of parental powers. For example, parents who have custody (or a guardian) of a minor may plan to be where they are not accessible immediately for some extended period of time, such as an extended business trip, hunting trip, or vacation. They may wish to empower a close relative (e.g., brother or uncle) to take any necessary action regarding the child while they are away. Using this section, they could execute an appropriate power of attorney giving the attorney-in-fact (e.g., brother or uncle) custody and power to consent. Then, if an emergency operation were required, the attorney-in-fact could consent on behalf of the child; as a practical matter he or she of course would attempt to communicate with the parents before acting. The section is designed to reduce problems relating to consents for emergency treatment.

A "parent" has the power to delegate his or her authority as described in this section without the benefit of this section. The effect of this section is therefore to extend similar powers of delegation to a "guardian," who by virtue of being a fiduciary cannot delegate his or her duties absent a granting of such authority in a creating instrument or statute. If a "parent" anticipates that she or he will be inaccessible for emergency contact for some period of time, she or he can (and probably should) execute a power of attorney giving powers of care, custody and control over property of the child to a trusted person who will be accessible during the period of time. This section adopts the position that a "guardian" acting in the role of a substitute parent should be extended the same power to delegate.

The delegation of powers under this section can be for a "period not exceeding one year ...." (the Uniform Act is for six months). The section does not preclude immediate renewals of the delegation for another temporary period, but the section contemplates "temporary" delegations of powers and is not intended to permit an abrogation of the primary responsibilities of the parent or guardian.

A guardian's authority over a ward, described in section 26-2A-78 (guardians of minors) and section 26-2A-108 (guardians of incapacitated persons), includes authority regarding the health, support, education, or maintenance of the person or property of the ward that goes well beyond consenting to health care.

In contrast to section 26-2A-75, which relates only to certain business affairs of minors, this section is pertinent to the affairs of minors and incapacitated persons for whom guardians have been appointed.

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