

Enrolled
Senate Bill 601

Sponsored by Senator MONNES ANDERSON, Representative TOMEI

CHAPTER

AN ACT

Relating to relative caregiver authority; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. The Legislative Assembly finds that:

(1) Current economic and cultural circumstances are such that relatives of minor children are playing an increasing role in ensuring the health, safety and education of minor children who, for many reasons, cannot live with and are not being cared for by their parents or guardians, and for whom legal proceedings have not been initiated or undertaken to establish legal guardianships or placements under the laws of this state.

(2) Relatives of minor children are frequently asked, with minimal notice, to provide housing and health care, and to make educational decisions, for minor children who are left in their care.

(3) Relative caregivers frequently face barriers to obtaining necessary and appropriate medical treatment and educational services for minor children left in their care.

(4) These barriers pose a significant challenge to relative caregivers in dealing with health care providers and schools, and pose a substantial threat to the health, safety and welfare of minor children in this state.

(5) It is necessary to provide legal authority for relative caregivers to access necessary and appropriate medical treatment and educational services for minor children who are left in the relative caregivers' care and who are without legal parents or guardians who can otherwise provide for them.

SECTION 2. As used in sections 1 to 4 of this 2013 Act:

(1) "Educational services" means enrollment of a minor child in a school to which the minor child has been or will be accepted for attendance and participation in any school activities, including extracurricular activities.

(2) "Health care facility" means any facility that provides medical treatment.

(3) "Health care provider" means a person who is licensed, certified, registered or otherwise authorized by law in this state to administer medical treatment in the practice of a health care profession or at a health care facility, and includes a health care facility.

(4) "Medical treatment" means developmental screening, mental health screening and treatment, ordinary and necessary medical, dental and optical examination and treatment and preventive care including ordinary immunizations, tuberculin testing and well-child care, and includes the examination for and treatment of any injury, symptom, disease or pathology that is, in the judgment of the treating health care provider, reasonably necessary.

(5) "Legal parent or guardian" means the parent or guardian of a minor child, a person with rights established under ORS 109.119 or a person to whom powers have been delegated under ORS 109.056.

(6) "Relative caregiver" means a competent adult who is 18 years of age or older, who is related to a minor child by blood, marriage or adoption, who is not the legal parent or guardian and who represents in the affidavit described in section 4 of this 2013 Act that the minor child lives with the adult and that the adult is responsible for the care of the minor child.

SECTION 3. (1) A relative caregiver acting pursuant to an affidavit under section 4 of this 2013 Act may consent to medical treatment and educational services for a minor child that a minor child cannot otherwise legally consent to if, after reasonable efforts have been made to obtain the consent of the legal parent or guardian to the treatment or services, the consent of the legal parent or guardian cannot be obtained.

(2) A relative caregiver providing consent under this section is liable to the health care provider or school for payment for any medical treatment or educational services provided to a minor child pursuant to the consent.

(3) The consent of a relative caregiver under this section shall be superseded by any contravening decision of the legal parent or guardian, provided the decision does not threaten the life, health or safety of the minor child.

(4) If the minor child stops living with the relative caregiver, the relative caregiver shall immediately notify any health care provider or school that has been given an affidavit under section 4 of this 2013 Act. The affidavit is invalid immediately upon receipt by the health care provider or school of the notice under this subsection.

(5) An affidavit under section 4 of this 2013 Act expires one year after the date it is given to a health care provider or school by a relative caregiver. If the date the affidavit is given to a health care provider or school is unknown or uncertain, it shall expire one year after the date the relative caregiver signs the affidavit.

(6)(a) A health care provider or school may, but is not required to, rely on the representations or affidavit of a person claiming to be a relative caregiver if the health care provider or school does not have actual notice of the falsity of any of the statements or documentation made or provided by the person claiming to be a relative caregiver.

(b) Upon receipt of a valid affidavit as described in section 4 of this 2013 Act, a health care provider or school may, but is not required to, request documentation of a person's claimed status as a relative caregiver and of attempts made to obtain the consent of the legal parent or guardian.

(7) A relative caregiver acting in good faith with reasonable grounds to provide consent for medical treatment or educational services pursuant to an affidavit under section 4 of this 2013 Act is not subject to criminal or civil liability that might otherwise be incurred or imposed for giving consent to the medical treatment or educational services.

(8) Nothing in this section relieves a legal parent or guardian of liability for payment for medical treatment or educational services provided to a minor child pursuant to the valid consent of a relative caregiver under this section.

SECTION 4. A relative caregiver affidavit given to a health care provider or school is invalid unless it is signed and contains, at a minimum, the following information:

- (1) The name of the minor child;
- (2) The minor child's date of birth;
- (3) The relative caregiver's name and date of birth and the address at which the relative caregiver lives with the minor child;
- (4) The relationship of the relative caregiver to the minor child;
- (5) The Oregon driver license or identification card number of the relative caregiver;
- (6) The contact information of the legal parent or guardian;

(7) A description of any attempts that the relative caregiver has made to advise the legal parent or guardian of the relative caregiver's intent to consent to medical treatment or educational services for the minor child, and of any response to the relative caregiver provided by the legal parent or guardian;

(8) If applicable, the reason why the relative caregiver is unable to contact the legal parent or guardian to advise the legal parent or guardian of the relative caregiver's intent to consent to medical treatment or educational services for the minor child;

(9) The date the relative caregiver signed the affidavit; and

(10) A declaration under penalty of perjury that the named minor child lives with the relative caregiver, that the relative caregiver is a competent adult and 18 years of age or older and that the information provided in the affidavit is true and correct.

SECTION 5. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

Passed by Senate April 1, 2013

Received by Governor:

Repassed by Senate May 16, 2013

.....M.,....., 2013

Approved:

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Robert Taylor, Secretary of Senate

.....M.,....., 2013

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Peter Courtney, President of Senate

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John Kitzhaber, Governor

Passed by House May 14, 2013

Filed in Office of Secretary of State:

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Tina Kotek, Speaker of House

.....M.,....., 2013

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Kate Brown, Secretary of State