

Grandparent Power of Attorney / Caretaker Authorization Affidavit

Description: House Bill 130 creates two ways for grandparents to obtain “care, physical custody, and control” over grandchildren *without changing legal custody*: 1) Power of Attorney (POA) completed by parent(s), a custodian, or a guardian of a child; and 2) Child Caretaker Authorization Affidavit (CAA), created by the grandparent when the child’s parent(s), guardian, or custodian cannot be located. The documents must be properly signed and notarized. They are valid for one year, unless terminated earlier as specified in the bill. They may be renewed after one year, subject to court review.

1. The POA or CAA must be filed with the juvenile court of the county where the grandparent resides or any other court that has jurisdiction over the child.
2. The POA or CAA must be signed by the grandparent. Also, by both parents must sign: (3109.54 & 3109.56)
 - a. If married and living together.
 - b. Shared Parenting.
 - c. Custody order – unless a. through c. listed below apply.
3. Notice to non-custodial parent who does not sign the POA must be made by certified mail within 5 days unless: (The notice must contain the name and address of the grandparent) (3109.55)
 - a. Parent is prohibited from receiving relocation notice pursuant to 3109.051.
 - b. Parent’s rights were terminated by Juvenile Court.
 - c. Parent can’t be located with reasonable effort.
 - d. Both parents signed POA.
4. The POA or CAA may not be executed if: (3109.58)
 - a. Guardianship or adoption is pending.
 - b. Juvenile proceedings are pending where a custody order is granted or pending.
 - c. Divorce/dissolution or legal separation, custody proceeding is pending.
5. The POA or CAA terminates: (3109.59)
 - a. Revoked in writing.
 - b. The child ceases to reside with the grandparent.
 - c. By Court order.
 - d. Death of child.
 - e. Death of grandparent.
 - f. **Five days after terminated (under A2 revoked), notice must be filed with the court.**
6. The grandparent shall notify, in writing, the Court, school, health care provider, and

non-residential parent of termination, under A1-5, within 1 week. (3109.60)

7. **Child Caretaker Authorization Affidavit:** need not locate parent where paternity is not established or parent prohibited from receiving notice of relocation or parents rights were terminated. (3109.65)
8. POA or CAA must be filed not later than: (3109.74)
 - a. Five days after being executed.
 - b. Must be accompanied by a certified mail receipt to the non-residential parent.
 - c. Must contain information required in 3109.27 child custody affidavit.
9. On request of a person in charge of school admission or any mandated reporter, the Court shall verify filing of the POA or CAA. (3109.75)
10. **Second or subsequent filings:** After the second or subsequent filing the Court shall hold a hearing within ten days. (3109.76, .77)
 - a. Notice must be given to the parents and grandparents.
 - b. If the parent cannot be located, the Court shall treat as a dependent complaint.
11. Only one POA or CAA may be in effect at one time. (3109.80)