



## 2011 SENATE BILL 82

April 28, 2011 - Introduced by Senators MOULTON, GROTHMAN and GALLOWAY, cosponsored by Representatives KOOYENGA, PRIDEMORE, BERNIER, FARROW, FIELDS, JORGENSEN, KAPENGA, KLEEFISCH, KNODL, KUGLITSCH, LEMAHIEU, MURSAU, A. OTT, PETROWSKI, RIPP, RIVARD, SPANBAUER, STASKUNAS, TURNER, WYNN and ZIEGELBAUER. Referred to Committee on Public Health, Human Services, and Revenue.

1     **AN ACT to amend** 48.60 (2) (a), 48.62 (2), 48.625 (3) and 48.63 (2); and **to create**  
2             48.979 of the statutes; **relating to:** delegation by a parent, guardian, or legal  
3             custodian of a child of powers regarding the care and custody of the child by a  
4             power of attorney.

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### *Analysis by the Legislative Reference Bureau*

Under current law, the court assigned to exercise jurisdiction under the Children's Code (juvenile court) may, under certain circumstances appoint a legal custodian for a child, which confers on the legal custodian the right and duty to protect, train, and discipline the child and to provide food, shelter, legal services, education, and ordinary medical and dental care for the child. The juvenile court may also, under certain circumstances, appoint a guardian for a child, which confers on the guardian the rights and duties of a legal custodian, plus the duty and authority to make important decisions in matters having a permanent effect on the life and development of the child, including the authority to consent to marriage, enlistment in the U.S. armed forces, major medical, psychiatric, and surgical treatment, and obtaining a motor vehicle operator's license.

This bill permits a parent, guardian, or legal custodian of a child, by a properly executed power of attorney, to delegate to another person, for a period not to exceed one year, any of his or her powers regarding the care and custody of the child, except the power to consent to the marriage or adoption of the child, the performance or inducement of an abortion on or for the child, or the termination of parental rights to the child. The bill provides that such a delegation of powers does not deprive the

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parent, guardian, or legal custodian of any of his or her powers regarding the care and custody of the child.

Under current law, a person who provides care and maintenance for four or fewer children must obtain a license to operate a foster home. Current law, however, permits a relative or guardian of a child to provide care and maintenance for a child without obtaining a license to operate a foster home. This bill exempts a person who is delegated care and custody of a child as provided in the bill from the requirement that the person obtain a license to operate a foster home in order to provide care and maintenance for the child.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 48.60 (2) (a) of the statutes is amended to read:

2           48.60 (2) (a) A relative or, guardian, or person delegated care and custody of  
3 a child under s. 48.979 who provides care and maintenance for such children.

4           **SECTION 2.** 48.62 (2) of the statutes is amended to read:

5           48.62 (2) A relative or, a guardian of a child, or a person delegated care and  
6 custody of a child under s. 48.979 who provides care and maintenance for the child  
7 is not required to obtain the license specified in this section. The department, county  
8 department, or licensed child welfare agency as provided in s. 48.75 may issue a  
9 license to operate a foster home to a relative who has no duty of support under s. 49.90  
10 (1) (a) and who requests a license to operate a foster home for a specific child who is  
11 either placed by court order or who is the subject of a voluntary placement agreement  
12 under s. 48.63. The department, a county department, or a licensed child welfare  
13 agency may, at the request of a guardian appointed under s. 48.977 or 48.978, ch. 54,  
14 or ch. 880, 2003 stats., license the guardian's home as a foster home for the guardian's  
15 minor ward who is living in the home and who is placed in the home by court order.  
16 Relatives with no duty of support and guardians appointed under s. 48.977 or 48.978,

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1 ch. 54, or ch. 880, 2003 stats., who are licensed to operate foster homes are subject  
2 to the department's licensing rules.

3 **SECTION 3.** 48.625 (3) of the statutes is amended to read:

4 48.625 (3) This section does not apply to a foster home licensed under s. 48.62  
5 (1) or to a relative or guardian of a child or a person delegated care and custody of  
6 a child under s. 48.979 who provides care and maintenance for the child.

7 **SECTION 4.** 48.63 (2) of the statutes is amended to read:

8 48.63 (2) No person may place a child or offer or hold himself or herself out as  
9 able to place a child, except as provided in this section. Enrollment of a child by a  
10 parent or guardian in an educational institution ~~shall~~ and delegation of care and  
11 custody of a child to an agent under s. 48.979 do not constitute a placement for the  
12 purposes of this section.

13 **SECTION 5.** 48.979 of the statutes is created to read:

14 **48.979 Delegation of power by parent, guardian, or legal custodian.** A  
15 parent, guardian, or legal custodian of a child, by a properly executed power of  
16 attorney, may delegate to another person, for a period not to exceed one year, any of  
17 his or her powers regarding the care and custody of the child, except the power to  
18 consent to the marriage or adoption of the child, the performance or inducement of  
19 an abortion on or for the child, or the termination of parental rights to the child. A  
20 delegation of powers under this section does not deprive the parent, guardian, or  
21 legal custodian of any of his or her powers regarding the care and custody of the child.

22 (END)