

Regular Session, 2010

SENATE BILL NO. 281

BY SENATOR BROOME

CHILDREN. Extends provisional custody of children by mandate to grandparents.  
(8/15/10)

1 AN ACT

2 To amend and reenact R.S. 9:951(A), 952(B)(1) and (3) and 954, relative to provisional  
3 custody by mandate; to extend to grandparents with custody the right to confer the  
4 power of provisional custody by mandate for the care, custody, and control of a  
5 minor child; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:951(A), 952(B)(1) and (3) and 954 are hereby amended and  
8 reenacted to read as follows:

9 §951. Provisional custody by mandate; conferring

10 A. Parents acting jointly or, in the event of divorce, or separation from bed  
11 and board, or illegitimacy, the natural tutor, tutrix, or cotutors acting jointly, or a  
12 **grandparent awarded custody**, may authorize any person of legal age to provide  
13 for the care, custody, and control of a minor child.

14 \* \* \*

15 §952. Duration of provisional custody; termination

16 \* \* \*

17 B. Regardless of the duration provided above, the mandate of provisional

1 custody shall terminate:

2 (1) When revoked by either parent, by a natural tutor or tutrix, ~~or~~ by either  
3 natural cotutor, **or by a grandparent awarded custody.**

4 \* \* \*

5 (3) Fifteen days after the death of either parent, natural tutor or tutrix, ~~or~~  
6 natural cotutor, **or grandparent awarded custody.**

7 \* \* \*

8 §954. Statutory form

9 The following is a suggested form which may be used by a parent, natural  
10 tutor, tutrix, or cotutors acting jointly, **or a grandparent awarded custody,** to  
11 confer the power of provisional custody for the care, custody, and control of the  
12 named minor child as authorized herein:

13 PROVISIONAL CUSTODY BY MANDATE

14 STATE OF LOUISIANA

15 PARISH OF \_\_\_\_\_

16 BE IT KNOWN THAT on this \_\_\_\_ day of \_\_\_\_\_, ~~1920~~, before me, the  
17 undersigned notary, and in the presence of the competent witnesses hereinafter named and  
18 undersigned:

19 Personally came and appeared:

20  
21 (affiant's name, marital status, and mailing address), who is the (parent(s), or, in the event  
22 of divorce, separation, or illegitimacy, the natural (co)tutor or tutrix), **or grandparent**  
23 **awarded custody** of (minor child(ren)) who, by these presents make, name, constitute, and  
24 appoint (agent's name and mailing address) and grant provisional custody of the above  
25 named child(ren), to provide for the health, education, and welfare of the child as provided  
26 by the law on Provisional Custody by Mandate, specifically including the authority to:  
27

28 INITIAL ALL APPLICABLE PROVISIONS:

- 29 \_\_\_\_\_ (1) Consent to and authorize such medical care, treatment, or surgery as may be
- 30 deemed necessary for the health, safety, and welfare of the child.
- 31 \_\_\_\_\_ (2) Enroll the child in such schools or educational institutions as may be deemed
- 32 necessary for his due and proper education.
- 33 \_\_\_\_\_ (3) Discipline the child in such reasonable manner as may be necessary for his proper
- 34 rearing, supervision, and training.
- 35 \_\_\_\_\_ (4) Do and perform all other such acts as may be necessary for the shelter, support,
- 36 and general welfare of the child.

37 This Provisional Custody by Mandate will continue to be effective until  
38 \_\_\_\_\_, ~~1920~~, or one year from date hereof, whichever period is shorter.

39 I agree that any third party who receives a copy of this document may rely upon the

1 authority granted the agent as indicated herein and may act in reliance on such authority.  
2 Revocation or termination by operation of law is not effective as to a third party until he has  
3 actual knowledge thereof. I agree to indemnify and hold harmless the third party for any  
4 claims that arise against him because of reliance on this Provisional Custody by Mandate.  
5

6 The undersigned agent does hereby accept the provisional custody of the children  
7 named herein.  
8

9 THUS DONE AND PASSED at \_\_\_\_\_, state of \_\_\_\_\_,  
10 in the presence of \_\_\_\_\_ and \_\_\_\_\_, competent witnesses, who sign  
11 these presents with the appearers and me, notary, after due reading of the whole.  
12

13 WITNESSES:

14 \_\_\_\_\_  
15 (Parent, Tutor, ~~or~~ Tutrix, **or Grandparent**  
16 **awarded custody**)  
17

18 \_\_\_\_\_  
19 (Other parent, ~~or~~ Cotutor, **or Grandparent**  
20 **awarded custody**)  
21

22 \_\_\_\_\_  
23 (Agent)  
24

25 \_\_\_\_\_  
26 NOTARY PUBLIC

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Camille Sebastien Perry.

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DIGEST

Present law allows parents acting jointly or, in the event of divorce, or separation from bed and board, or illegitimacy, the natural tutor, tutrix, or cotutors acting jointly, to authorize any person of legal age to provide for the care, custody, and control of a minor child not to exceed one year from the date of execution.

Present law terminates the mandate of provisional custody when revoked by either parent, by a natural tutor or tutrix, or by either natural cotutor when the agent resigns or otherwise renounces the mandate, 15 days after the death of either parent, natural tutor or tutrix, or natural cotutor, and upon the qualification of a court appointed tutor or provisional tutor. Present law provides for a statutory form that may be used by a parent, natural tutor, tutrix, or cotutors acting jointly to confer the power of provisional custody for the care, custody, and control of the named minor child.

Proposed law retains present law provisions but additionally extends to grandparents with custody the right to confer the power of provisional custody by mandate for the care, custody, and control of a minor child.

Effective August 15, 2010.

(Amends R.S. 9:951(A), 952(B)(1) and (3) and 954)