

Montana Code Annotated 2014

[Previous Section](#)[MCA Contents](#)[Part Contents](#)[Search](#)[Help](#)[Next Section](#)**20-5-503. Caretaker relative educational authorization affidavit -- use -- immunity -- format. (1)**

A caretaker relative of a child who has voluntarily been given custody of the child by a parent of the child has the same authority as a custodial parent of the child to discuss with an educator the educational progress of the child, consent to an educational service, and consent to medical care related to an educational service for the child for which parental consent is usually required if a caretaker relative educational authorization affidavit is completed in compliance with this section.

(2) An affidavit is effective only if it is signed by the caretaker relative, under oath, before a notary public. A clear photographic copy of an affidavit completed in compliance with this section is sufficient in any instance in which an original is required by a school official or health care provider.

(3) Unless parental rights have been judicially terminated or unless the ability to give legal consent for the child to receive an educational service and any medical care related to the educational service for which parental consent is usually required has been granted to the caretaker relative pursuant to [40-4-211](#) and [40-4-228](#), a decision by a parent of the child communicated to a school official, a health care provider, or both, regarding the child supersedes a conflicting decision by a caretaker relative made pursuant to an affidavit completed in compliance with this section. However, a decision by a parent does not supersede a decision by a caretaker relative pursuant to an affidavit completed in compliance with this section if the decision by the parent endangers the life of the child. A school official or health care provider may require reasonable proof of authenticity of a decision by a parent intended to supersede a decision by a caretaker relative.

(4) (a) A public or private entity or individual who acts in good faith reliance on a caretaker relative educational authorization affidavit completed in compliance with this section and who has no actual knowledge of facts contrary to those indicated in the affidavit is not subject to civil liability or criminal prosecution or to a professional disciplinary procedure for an action that would have been proper if the facts had been as the entity or individual believed them to be.

(b) This subsection (4) applies even if an educational service or educationally related medical care, or both, are provided to a child against the wishes of a parent of that child if the person rendering the service does not have actual knowledge of the parent's wishes.

(5) A person who relies on an affidavit completed in compliance with this section has no obligation to make further inquiry or investigation.

(6) An affidavit completed in compliance with this section is effective for the earlier of:

(a) the end of the first school year after delivery of the affidavit to a school district;

(b) until it has been revoked by the caretaker relative; or

(c) until the child no longer resides with the caretaker relative.

(7) If the child ceases to live with the caretaker relative or the caretaker relative revokes the affidavit, the caretaker relative shall provide written notice of that fact to all persons to whom the caretaker relative has given the affidavit or to whom the caretaker relative has caused the affidavit to be given.

(8) This section does not relieve a person from a violation of other law, and this section does not affect the rights of a child's parent except as provided in this section.

(9) A caretaker relative educational authorization affidavit is invalid unless it is written in substantially the following form and contains the warning provided for in paragraph 5 of the format

below:

CARETAKER RELATIVE'S EDUCATIONAL AUTHORIZATION AFFIDAVIT Use of this affidavit is authorized by 20-5-503, MCA.

1. INSTRUCTIONS: The completion and signing of the affidavit before a notary public are sufficient to authorize educational enrollment and services and school-related medical care for the named child.

Please print clearly.

The child named below lives in my home, and I am 18 years of age or older.

a. Name of child:

b. Child's date of birth:

c. My name (caretaker relative):

d. My home address:

e. My relationship to the child (the caretaker relative must be an individual related by blood, marriage, or adoption by another individual to the child whose care is undertaken by the caretaker relative, but who is not a parent, foster parent, stepparent, or legal guardian of the child):

2. I hereby certify that this affidavit is not being used for the purpose of circumventing school residency laws, to take advantage of a particular academic program or athletic activity, to circumvent a disciplinary action of a previous school, or for an otherwise unlawful purpose.

3. My date and year of birth:

4. Check the following if true (all must be checked for this affidavit to apply):

☐ A parent of the child identified in paragraph 1a of this affidavit has left the child with me and has expressed no definite time period when the parent will return for the child.

☐ The child is now residing with me on a full-time basis.

☐ No adequate provision, such as appointment of a legal custodian or guardian or execution of a notarized power of attorney, has been made for enrollment of the child in school, other educational services, or educationally related medical services.

5. WARNING: DO NOT SIGN THIS FORM IF ANY OF THE STATEMENTS ABOVE ARE INCORRECT OR YOU WILL BE COMMITTING A CRIME PUNISHABLE BY A FINE, IMPRISONMENT, OR BOTH.

6. I declare under penalty of false swearing under the laws of Montana that the foregoing is true and correct. Signed this day of, 20....

.....
(Signature of caretaker relative)

.....
(Signature, county, state, and seal of notary public)

7. NOTICES TO CARETAKER RELATIVE:

a. Completion of this affidavit does not affect the rights of the child's parents or legal guardian regarding the care, custody, and control of the child and does not mean that the caretaker relative has legal custody of the child.

b. A person who relies on this affidavit has no obligation to make any further inquiry or investigation.

c. This affidavit is effective until the earlier of:

i. the end of the first school year after delivery of the affidavit to a school district;

ii. revocation by the caretaker relative; or

iii. the child no longer resides with the caretaker relative.

d. If the child stops living with you, you shall notify anyone to whom you have given this affidavit.

History: En. Sec. 3, Ch. 442, L. 2007; amd. Sec. 1, Ch. 149, L. 2009; amd. Sec. 4, Ch. 211, L. 2011.

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