SENATE DOCKET, NO. 1099 FILED ON: 1/15/2025

SENATE . . . . . No. 1133

The Commonwealth of Massachusetts

PRESENTED BY:

Patricia D. Jehlen

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to caregiver authorization affidavits.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Patricia D. Jehlen	*Second Middlesex*	
James B. Eldridge	*Middlesex and Worcester*	*3/10/2025*

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SENATE . . . . . No. 1133

By Ms. Jehlen, a petition (accompanied by bill, Senate, No. 1133) of Patricia D. Jehlen for legislation relative to caregiver authorization affidavits. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *1010* OF 2023-2024.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court
(2025-2026)

An Act relative to caregiver authorization affidavits.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 1 of Chapter 201F, as appearing in the 2022 Official Edition, is hereby amended by striking out, in line 7, the words “with whom a minor resides.” and inserting in place thereof:-

who has been so designated by an authorizing party in an affidavit pursuant to this chapter.

SECTION 2. Section 2 of Chapter 201F, as appearing in the 2022 Official Edition, is hereby amended by striking out the first paragraph and inserting in the place thereof the following paragraph:-

A parent, legal guardian or legal custodian of one of more minor children, by a caregiver authorization affidavit, may authorize a designated caregiver to exercise certain concurrent

parental rights and responsibilities relative to any designated minor child's education, health care, recreational and enrichment activities as described in section 3(b). If a conflicting decision is made under these concurrent rights and responsibilities, the decision of the authorizing party shall supersede the decision of the caregiver.

SECTION 3. Said chapter 201F is hereby further amended by striking out section 3, as appearing in the 2022 Official Edition, and inserting in the place thereof the following section:-

Section 3.

(a) A caregiver shall reside with the minor child or children during the time the caregiver is authorized to act relative to said child or children.

(b) Under a caregiver authorization affidavit, a caregiver may:

(1) give consent to medical, surgical, dental, developmental, mental health or other treatment for the minor under the supervision of or upon the advice of a health care professional licensed to practice in the commonwealth;

(2) exercise parental rights to obtain records and other information with regard to health care services and insurance provided to the minor;

(3) make educational decisions (including daycare) on behalf of the minor and in all other ways stand in for the authorizing party with respect to federal, state and district educational policy, including, but not limited to, accessing the minor's educational records, representing the minor in enrollment, disciplinary, curricular, special education or other educational matters, signing permission slips for school activities and any other decision that facilitates the minor's educational experience;

(4) make decisions on behalf of the minor regarding recreational and enrichment activities including, but not limited to, enrollment, signing permission slips for sports, clubs, lessons, camps, and activities and any other recreational and enrichment activities.

(5) apply for health insurance and dental insurance coverage for the minor; services and support for disabilities; and any other public or private services to address the education or health needs of the minor.

SECTION 4. Section 4 of Chapter 201F, as appearing in the 2022 Official Edition, is hereby amended by inserting, in line 1, after the words “relies on a caregiver” the following words:- or alternate caregiver

SECTION 5. Said chapter 201F is hereby further amended by striking out section 5, as appearing in the 2022 Official Edition, and inserting in the place thereof the following section:-

Section 5. The caregiver (and alternate caregiver, if any) authorization affidavit shall include the following information:—

(1) the name, address and telephone number of the parent, legal guardian or legal custodian;

(2) the name, address and telephone number of the caregiver;

(3) the name, address and telephone number of the alternate caregiver, if any;

(4) the name and date of birth of the minor;

(5) the relationship of the caregiver(s) to the minor;

(6) a statement by the authorizing party that there are no court orders in effect which would prohibit the authorizing party from exercising or conferring the rights and responsibilities sought to be conferred upon the caregiver or alternate;

(7) a statement of the authority being conferred and of any prohibitions;

(8) a statement that the affidavit is not for the purposes of circumventing any state or federal law, for the purposes of attendance at a particular school, or to re-confer rights to a caregiver from whom those rights have been removed by a court of law; and

(9) a statement by the authorizing party of when the authority of the appointed caregiver commences and when it ends (if specified).

The affidavit shall be signed under the pains and penalties of perjury by the authorizing party in the presence of 2 adult witnesses, neither of whom may be the caregiver nor alternate caregiver, and the affidavit shall be notarized. The affidavit also shall be signed by the caregiver, and by the alternate caregiver, if any, who shall attest to being an adult with whom the minor resides or will reside.

The caregiver authorization affidavit shall be valid for up to 2 years from the date that it comes into effect unless a shorter time is specified, and may be reauthorized. The authorizing party may reauthorize, amend or revoke the caregiver authorization affidavit by notifying the caregiver in writing. The authorizing party shall provide the amended affidavit or revocation to all parties to whom he has provided the original affidavit. The caregiver shall provide the amended affidavit or revocation to all parties to whom he has provided the original affidavit prior to further exercising any rights or responsibilities under the affidavit.

SECTION 6: Said chapter 201F is hereby further amended by striking out section 6, as appearing in the 2022 Official Edition, and inserting in the place thereof the following section:-

Section 6. The caregiver authorization affidavit shall be substantially in the following form, except that the use of alternative language consistent with the statute shall not be precluded:

Caregiver Authorization Affidavit

I. What this form enables: A parent, legal guardian or legal custodian of a minor, by this affidavit, may authorize a designated caregiver, who is an adult with whom the minor child resides or will reside, to exercise certain concurrent parental rights and responsibilities relative to a designated minor's education, health care, and recreational and enrichment activities. If a conflicting decision is made under these concurrent rights and responsibilities, the decision of the authorizing party or a legal guardian or legal custodian appointed subsequent to the execution of the affidavit shall supersede the decision of the caregiver.

The caregiver authorization affidavit shall only authorize those rights and responsibilities that the authorizing party possesses and shall not divest the authorizing party of his rights or responsibilities.

Under a caregiver authorization affidavit, a caregiver may:

(1) consent to medical, surgical, dental, developmental, mental health or other treatment for the minor under the supervision or upon the advice of a health care professional licensed to practice in the commonwealth;

(2) exercise parental rights to obtain records and other information with regard to health care services and insurance provided to the minor; and

(3) make educational decisions (including daycare) on behalf of the minor and in all other ways stand in for the authorizing party with respect to federal, state and district educational policy, including, but not limited to, accessing the minor's educational records, representing the minor in enrollment, disciplinary, curricular, special education or other educational matters, signing permission slips for school activities and any other decision that facilitates the minor's educational experience; and

(4) make decisions on behalf of the minor regarding recreational and enrichment activities including, but not limited to, enrollment, signing permission slips for sports, clubs, lessons, camps and activities, and any other recreational and enrichment activities; and

(5) apply for health insurance and dental insurance coverage for the minor; for services and support for disabilities; and for any other public or private services to address the education or health needs of the minor.

II. Steps to authorize caregiver rights and responsibilities:

1. AUTHORIZING PARTY

I, [name of authorizing party], residing at [address of authorizing party] am the parent/legal guardian/legal custodian of the minor child(ren) listed below.

I, [name of parent or legal guardian or legal custodian], do hereby authorize [name of caregiver], residing at [address of caregiver], to exercise concurrently the rights and

responsibilities, except those prohibited below, that I possess relative to the education, health care, recreational and enrichment activities of the minor child(ren) listed:

Minor Child's/Children Name(s) Date(s) of Birth

___ ___

___ ___

___ ___

The caregiver may NOT:

(Please list specifically any education, health care, recreational, or enrichment rights and responsibilities that you do NOT wish to confer upon the caregiver.)

In the event the above-named caregiver is unavailable or unwilling to serve as caregiver, I do hereby authorize [name of alternate caregiver] residing at [address of alternate caregiver], to exercise the rights referenced above. (This section is optional)

There are no court orders in effect that would prohibit me from exercising or conferring the rights and responsibilities that I wish to confer upon the caregiver. (If you are the legal guardian or custodian, attach the court order.)

I am not using this affidavit to circumvent any state or federal law, for the purposes of attendance at a particular school, or to re-confer rights to a caregiver from whom those rights have been removed by a court of law.

I confer these rights and responsibilities freely and knowingly in order to provide for the child(ren) named herein, and not as a result of pressure, threats or payments by any person or agency.

I understand that, if the affidavit is amended or revoked, I must provide the amended affidavit or revocation to all parties to whom I have provided this affidavit.

The authority of the caregiver shall commence upon (choose one):

a date certain _____; or

the date of the incapacity of the authorizing party to make or carry out day-to-day decisions concerning the minor, as established by written certification of a licensed physician, or the date of the unavailability of the authorizing party to make or carry out day-to-day decisions concerning the minor due to circumstances such as, but not limited to, incarceration, voluntary or involuntary commitment to a treatment program, detention, deportation, or active military duty, as established by attestation of the named caregiver.

This document shall remain in effect until (choose one):

a date certain (up to two years hence) _____; or

two years from the date of the incapacity of the authorizing party to make or carry out day-to-day decisions concerning the minor, as established by written certification of a licensed physician, or the date of the unavailability of the authorizing party to make or carry out day-to-day decisions concerning the minor due to circumstances such as, but not limited to, incarceration, voluntary or involuntary commitment to a treatment program, detention, deportation, or active military duty, as established by attestation of the named caregiver.

unless or until I, as authorizing party, notify the caregiver (and alternate caregiver, if any), in writing that I have amended or revoked it, or until such time as the minor child(ren) reach the age of majority.

I hereby affirm that the above statements are true, under pains and penalties of perjury.

Signature:

Printed name:

Telephone number:

2. WITNESSES TO AUTHORIZING PARTY SIGNATURE

(To be signed by persons over the age of 18 who are not the designated caregiver or alternate caregiver.)

Witness No. 1 signature:

Witness No. 1 printed name and address:

Witness No. 2 signature:

Witness No. 2 printed name and address:

3. NOTARIZATION OF AUTHORIZING PARTY SIGNATURE

On this [date] before me, the undersigned notary public, personally appeared [name of authorizing party, and alternate caregiver, if any], proved to me through satisfactory evidence of identification, which was [driver's license, etc.], to be the person(s) signing the preceding

document, and swore under the pains and penalties of perjury that the foregoing statements are true.

Signature and seal of notary:

Printed name of notary:

My commission expires:

4. CAREGIVER ACKNOWLEDGEMENT

I, [name of caregiver], am at least 18 years of age and the named minor child(ren) currently reside or will reside with me at [address of caregiver]. I am [relationship to the minors].

I understand that I may, without obtaining further consent from a parent, legal custodian or legal guardian of the minor child(ren), exercise concurrent rights and responsibilities relative to the education and health care of the minor child(ren), except those rights and responsibilities prohibited above.

I understand that I may not knowingly make a decision which conflicts with the decision of the child(ren)'s parent, legal guardian or legal custodian.

I understand that, if the affidavit is amended or revoked, I must provide the amended affidavit or revocation to all parties to whom I have provided this affidavit prior to further exercising any rights or responsibilities under the affidavit.

I understand that, if I become unable to carry out the responsibilities conferred by this affidavit, I will do so by immediately notifying the authorizing party and the alternate caregiver in writing.

I hereby affirm that the above statements are true, under pains and penalties of perjury.

Signature of caregiver:

Printed name:

Telephone Number:

5. ALTERNATE CAREGIVER ACKNOWLEDGEMENT (This section is optional)

I, [name of alternate caregiver], am at least 18 years of age and the child(ren) currently reside or will reside with me at [address of caregiver]. I am [relationship to the minor].

I understand that I may, in the case of inability or incapacity of the first designated caregiver to carry out the responsibilities conferred herein, and without obtaining further consent from a parent, legal custodian or legal guardian of the child(ren), exercise concurrent rights and responsibilities relative to the education and health care of the child(ren), except those rights and responsibilities prohibited above.

I understand that I may not knowingly make a decision that conflicts with the decision of the child(ren)'s parent, legal guardian or legal custodian.

I understand that, if the affidavit is amended or revoked, I must provide the amended affidavit or revocation to all parties to whom I have provided this affidavit prior to further exercising any rights or responsibilities under the affidavit.

I hereby affirm that the above statements are true, under pains and penalties of perjury.

Signature of caregiver:

Printed name:

Telephone Number:

6. ATTESTATION OF CAREGIVER AS TO AUTHORIZING PARTY'S UNAVAILABILITY<\/ul> (This section is optional)

I, [name of caregiver], attest that the authorizing party is unavailable due to _____.

I hereby affirm that the above statements are true, under pains and penalties of perjury.

Signature of caregiver:

Printed name:

Telephone Number:

7. ATTESTATION OF ALTERNATE CAREGIVER AS TO DESIGNATED CAREGIVER'S UNAVAILABILITY (This section is optional)

I, [name of alternate caregiver], attest that the designated caregiver is unavailable due to _____.

I hereby affirm that the above statements are true, under pains and penalties of perjury.

Signature of alternate caregiver:

Printed name:

Telephone Number:

III. Explanations: This caregiver authorization affidavit is pursuant to chapter 201F of the General Laws. A dispute arising hereunder shall be the exclusive jurisdiction of the probate courts pursuant to section 3 of chapter 215 of the General Laws.

A person who relies on a caregiver authorization affidavit that is consistent with the requirements of said chapter 201F has no obligation to make any further inquiry or investigation and shall not incur any criminal or civil liability or be subject to professional discipline for doing so, unless he knows facts contrary to the affidavit or knows that an authorizing party has made a decision to supersede the caregiver's decision. The reliance on the affidavit shall not relieve a person from liability arising from other provisions of the law.