



Montana Immigrant Safety Plan for Youth and Children

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Table Of Contents

Custodial Options for Family Planning in Montana

Option 1: Delegation of Parental Powers

Option 2: Caretaker Relative – Authorization for Medical Care

Option 3: Court-Appointed Guardianship

Sample Forms and Petitions

Obtaining Birth Certificates

Immunizations

Consulates in Montana

To see the most current version of Appleseed's deportation preparation resources, as well as translations, visit deportationpreparation.org.

Custodial Options for Family Planning in Montana

If you live in Montana and need someone else to have the authority to care for your child when you cannot be there, you have three main choices. Each choice gives the person caring for your child different rights and responsibilities. Here's a guide to help you understand your options:

Option 1: Delegation of Parental Powers

When should this option be considered?

Use it when you are unavailable for an emergency or a short period of time and need another adult to handle health, education, and welfare decisions for your child.

What is it and what powers will it give the caregiver?

A parent (or legal guardian) can delegate any powers regarding care, custody, or property of a minor child to another adult, meaning full authority to make health, education, and welfare decisions. The delegation is done by a written power of attorney (POA).

How does this option affect my parental rights and authority?

The POA does not terminate parental rights. It merely delegates parental authority to another adult temporarily.

Can this option be canceled or changed by the parent?

Yes. The granting parent or guardian can revoke the POA at any time, as long as they notify all relevant parties in writing.

For how long does the delegation of parental powers last?

No more than six months.

Who needs to sign the POA? Does it need to be notarized?

The POA must be signed by the parent or guardian in the presence of a notary public.

How can parents and caregivers use the form?

Give a copy to the child's school, doctor, or clinic. Keep a copy with you and give one to anyone else who needs to trust the caregiver's decisions.

Are there any costs associated with this option?

There may be notary fees.

Link to form: [Montana Code Annotated § 72-5-103](https://courts.mt.gov/Forms/guardianship), available at [Montana Code § 72-5-103 \(2024\) - Delegation of powers by parent or guardian :: 2024 Montana Code Annotated :: U.S. Codes and Statutes :: U.S. Law :: Justia](https://courts.mt.gov/Forms/guardianship); <https://courts.mt.gov/Forms/guardianship> (“Power of Attorney for Care, Custody or Property of a Minor Child”)

Option 2: Caretaker Relative – Authorization for Medical Care

When should this option be considered?

Use it when a caretaker relative is given the responsibility of caring for a child with little or no warning and without any other provision having been made for the child’s care, such as the appointment of a guardian or the provision of a power of attorney. For this option, the child must be living with the caretaker relative – defined as individuals related by blood, marriage, or adoption to a child, but not a parent, foster parent, stepparent, or legal guardian of the child.

What is it and what powers will it give the caretaker relative?

It grants limited authority to caretaker relatives to consent to medical care for the child.

How does this option affect my parental rights and authority?

Your rights stay the same. It does not affect parental rights or grant legal custody.

Is there a form the caretaker relative must complete?

Yes. The caretaker relative must complete and sign a caretaker relative medical authorization affidavit before a notary, meeting certain conditions such as the parent’s absence and lack of other provisions for the child’s medical care.

Who needs to sign the medical authorization affidavit? Does it need to be notarized?

The medical authorization affidavit must be signed by the caretaker relative in the presence of a notary public.

For how long does the medical authorization affidavit last?

Until the affidavit has been revoked by the caretaker relative but no more than six months.



Can this option be canceled or changed by the parent?

Yes. Because you never gave up legal custody, you can end it at any time.

Are there any costs associated with this option?

There may be notary fees.

Link to form: [Montana Code Annotated §§ 40-6-501 and 40-6-502, available at Montana Code § 40-6-501 \(2024\) - Purpose -- legislative intent -- parental rights -- definitions :: 2024 Montana Code Annotated :: U.S. Codes and Statutes :: U.S. Law :: Justia; Montana Code § 40-6-502 \(2021\) - Caretaker relative medical authorization affidavit -- use -- immunity -- format :: 2021 Montana Code Annotated :: U.S. Codes and Statutes :: U.S. Law :: Justia](#)

Option 3: Court-Appointed Guardianship

When should this option be considered?

This option is best if you expect to be gone or cannot care for your child for a long period of time.

What is it and what powers will it give the caregiver?

It is a court order that gives the caregiver full legal custody, just as if they were the parent. They can make all major and minor decisions for the child.

How does this option affect my parental rights?

A guardianship does not terminate parental rights. Parental rights are only suspended while the guardianship is in place.

What forms must be completed?

A written petition must be filed in court. At least one legal parent signs. The caregiver also signs an acceptance form. There will be a court hearing where the judge will review the petition and make a decision as to whether the transfer of custody will be granted.

How can parents and caregivers use the form?

After the judge signs the order, give certified copies to the school, doctors, insurance company, and anyone else who needs proof. Keep the original court papers in a safe place.



For how long is the form valid?

Until the date set by the judge—or, if no date is set, until the child turns 18.

Can this option be revoked or changed by the parent?

A guardian's authority and responsibility terminates upon the death, resignation, or removal of the guardian or until the child turns 18. Resignation of a guardian does not terminate the guardianship until it has been approved by the court. This is not an instantaneous process.

Are there any costs associated with this option?

Court filing fees, possible attorney fees, and costs for certified copies may apply to this option.

Any other considerations?

Because it is a court order, schools and agencies must accept it.

Link to form: [Montana Code Annotated §§ 72-5-201 through 72-5-234, available at Montana Code § 72-5-201 \(2021\) - Status of guardian of minor -- how acquired generally -- letters to indicate means of appointment :: 2021 Montana Code Annotated :: U.S. Codes and Statutes :: U.S. Law :: Justia; Montana Code § 72-5-231 \(2024\) - Powers and duties of guardian of minor :: 2024 Montana Code Annotated :: U.S. Codes and Statutes :: U.S. Law :: Justia; <https://courts.mt.gov/Forms/guardianship/> \(“Guardianship of a Minor Packet”\)](#)



Sample Forms and Petitions

Samples of the form or petition for each of these custodial arrangements appear on the following pages.



Montana Safety Plan

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Power of Attorney

(see form on next page)



POWER OF ATTORNEY FOR CARE, CUSTODY OR PROPERTY OF MINOR CHILD

Montana Code Annotated § 72-5-103 provides as follows:

Delegation of powers by parent or guardian.

- (1) A parent or a guardian of a minor or incapacitated person, by a properly executed power of attorney, may delegate to another person, for a period not exceeding 6 months, any powers regarding care, custody, or property of the minor child or ward, except the power to consent to marriage or adoption of a minor ward.
- (2) The 6-month limitation provided in subsection (1) does not apply to:
 - (a) a member of the Montana national guard who serves for more than 180 continuous days on duty pursuant to Title 10 or 32 of the United States Code or on state active duty pursuant to Article VI, section 13, of the Montana constitution;
 - (b) a member of the active duty military forces of the United States; or
 - (c) a member of the federal reserves who serves for more than 180 continuous days on duty pursuant to Title 10 of the United States Code.
- (3) As used in this section, "federal reserves" means the United States air force reserve, army reserve, navy reserve, marine corps reserve, or coast guard reserve.

Pursuant to the above statute, I, _____, (your name)

of _____, (your complete address)

appoint, _____, who (the name of the person whom you want to care for your child)

resides at _____, (complete address of the person whom you want to care for your child)

and whose phone number is _____ as my

agent (attorney-in-fact) to act in any lawful way for me regarding the care,

custody or property of my minor child, _____,

age _____, with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

INITIAL:

- _____ (A) real property and housing transactions;
- _____ (B) tangible personal property transactions;
- _____ (C) stock and bond transactions;
- _____ (D) commodity and option transactions;
- _____ (E) banking and other financial institution transactions;
- _____ (F) health care consent for the child and other health care transactions;
- _____ (G) insurance and annuity transactions;
- _____ (H) estate, trust and other beneficiary transactions;
- _____ (I) claims and litigation;
- _____ (J) personal and family maintenance, including decisions of where the child may reside;
- _____ (K) benefits from social security, medicare, medicaid, or other governmental programs or from military service;
- _____ (L) all transactions concerning the child=s school or education;
- _____ (M) tax matters;
- _____ (N) ALL OF THE POWERS LISTED ABOVE. YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

My agent does not have the power to consent to the marriage or adoption of my child.

SPECIAL INSTRUCTIONS:

ON THE FOLLOWING LINES, YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED **OR** IT WILL EXPIRE AUTOMATICALLY AFTER SIX MONTHS IN MOST CASES. SEE THE FIRST PARAGRAPH ABOVE FOR MORE INFORMATION.

This power of attorney revokes all previous powers of attorney signed by me.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO REVOKE ALL PREVIOUS POWERS OF ATTORNEY SIGNED BY YOU. IF YOU DO WANT THIS POWER OF ATTORNEY TO REVOKE ALL PREVIOUS POWERS OF ATTORNEY SIGNED BY YOU, YOU SHOULD READ THOSE POWERS OF ATTORNEY AND SATISFY THEIR PROVISIONS CONCERNING REVOCATION. THIRD PARTIES WHO RECEIVED COPIES OF THOSE POWERS OF ATTORNEY SHOULD BE NOTIFIED.

I agree that any third party who receives a copy of this document may act under it. I may revoke this power of attorney by a written document that expressly indicates my intent to revoke. Revocation of the power of attorney is not effective as to a third party until the third party learns of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this _____ day of _____, 200__.

Your Signature
Printed name: _____

Caretaker Relative – Authorization for Medical Care

(see form on next page)

CARETAKER RELATIVE'S MEDICAL AUTHORIZATION AFFIDAVIT

Use of this affidavit is authorized by [40-6-502](#), MCA.

1. **INSTRUCTIONS:** The completion and signing of the affidavit before a notary public are sufficient to authorize 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 an 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.
- I am unable to locate or contact the parent of the child at this time to notify that parent of my intended authorization, or the parent refuses to regain custody of the child even though I have asked in writing that the parent do so.
- No adequate provision, such as appointment of a guardian ad litem or execution of a power of attorney, has been made for medical care for the child.

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.

(Signature of caretaker relative) Signed this _____ day of _____ 20____

personally appeared before me and whose identity I proved on the basis of satisfactory evidence to be
Print Name from Identification
the signer of the above instrument.

Subscribed and sworn to before me this _____ day of _____ 20____

SEAL

Notary's Signature
Printed Name: _____
Notary Public in and for the State of _____
Residing at _____
My commission expires _____

7. **NOTICES:**

- a. Completion of this affidavit does not affect the rights of the child's parent 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 health care provider who relies on this affidavit has no obligation to make any further inquiry or investigation.
- c. **This affidavit is not valid for more than 6 months after the date on which it is signed by the caretaker relative.**

8. **ADDITIONAL INFORMATION:**

- a. **TO CARETAKER RELATIVES:** If the child stops living with you, you shall notify anyone to whom you have given this affidavit, as well as anyone who has received the affidavit from someone else.
- b. **TO PUBLIC AND PRIVATE HEALTH CARE PROVIDERS AND PUBLIC AND PRIVATE SCHOOL OFFICIALS:** A public or private health care provider or a public or private school official who acts in good faith reliance upon a caretaker relative medical authorization affidavit to provide medical care, without actual knowledge of facts contrary to those indicated in the affidavit, is not subject to criminal prosecution or civil liability to any person, or subject to any professional disciplinary action, for reliance on the affidavit if the form is completed in compliance with [40-6-502](#), MCA.



Petition for Guardianship Forms

There are many lengthy forms involved in seeking to appoint a guardianship for a child. They can be accessed here:

- Guardianship Application Packet: <https://courts.mt.gov/external/library/forms/guardian/guardianship-packet.pdf>
- Additional Guardianship Forms: <https://courts.mt.gov/Forms/guardianship>

Obtaining Birth Certificates

To order a certified copy of a child's birth certificate, follow the guidelines below.

Who can order a birth certificate?

Only those authorized by 50-15-121 MCA and 37.8.126 ARM, which includes the registrant, the registrant's spouse, children, parents, grandparents, a caretaker relative, guardian, an authorized representative, or those who provide documentation showing it is needed for determination or protection of the individual's personal or property rights. Proof of relationship, guardianship, caretaker relative, or authorization is required to obtain a certified copy of a birth record. Step-relatives, in-laws, aunts, uncles, cousins, ex-spouses, and a natural parent of an adoptive child are not eligible to receive a certified copy of a birth certificate.

Where can you obtain a birth certificate?

- In Person
 - Office of Vital Records
111 N Sanders Rm 6
Helena, MT 59604
- Mail
 - To place an order by mail, fill out and mail the Birth Certificate mail in application (linked below) and your check or money order
 - Montana Vital Records
111 N Sanders Rm 6 / PO BOX 4210
Helena, MT 59604-4210
- Internet, Fax, Telephone
 - <http://www.vitalchek.com/montana-express-vital-records.aspx>
 - 1-888-877-1946

Link: Birth Certificate Application, available at

<https://dphhs.mt.gov/assets/Statistics/VitalStats/BirthCertificateApplication.pdf>

Immunizations

- Montana has an “opt-in” immunization information system called imMTrax, which is administered by the Department of Public Health and Human Services.
 - To request a copy of an immunization record from imMTrax, you must contact your vaccine provider or local health department or submit a request form directly to the Montana Immunization Program.
 - Individuals cannot access the information in imMTrax directly. You must make the request through your doctor, local health department, or vaccine provider.
 - For more information:
<https://dphhs.mt.gov/publichealth/immunization/copyofimmunizationrecord>



Consulates in Montana

There are no embassies or full-service consulates in Montana. You can contact the country's Embassy in Washington, DC, or its regional consulate in Seattle, Denver, or San Francisco, which are the cities that most frequently have a consulate with responsibility for Montana.