

# **INFORMATION FOR GRANDPARENTS SEEKING TO GAIN CARE, PHYSICAL CUSTODY AND CONTROL OVER THEIR GRANDCHILDREN WITHOUT CHANGING LEGAL CUSTODY**

Ohio law changed on July 20, 2004, to provide grandparents two processes to gain “care, physical custody, and control” over their grandchildren without obtaining legal custody of the children. If you desire full legal custody over your grandchildren, you should instead file a complaint for custody as Ohio law currently provides. It is important and advisable that you first consult with an attorney to insure that you choose the procedure that best meets your needs and the needs of your grandchildren.

To obtain care, physical custody and control, the new law allows you to execute a (1) power of attorney with the consent of the parents, or (2) a caretaker authorization affidavit if parents cannot be located or are unable to care for the children. Please note that the new law and existing law require this Court to report child abuse, neglect and dependency to Holmes County Children Services. Your filing may prompt such a report.

NOTE THAT THE NEW LAW SPECIFICALLY STATES THAT IT MAY NOT BE USED FOR THE SOLE PURPOSE OF ENROLLING THE CHILD IN A SCHOOL OR A SCHOOL DISTRICT TO ALLOW THE CHILD TO PARTICIPATE IN THE ACADEMIC OR INTERSCHOLASTIC ATHLETIC PROGRAMS PROVIDED BY THAT SCHOOL OR DISTRICT. VIOLATION OF THIS PROVISION SUBJECTS YOU TO PROSECUTION FOR FALSIFICATION, A FIRST DEGREE MISDEMEANOR. FURTHERMORE, DOCUMENTS SO PREPARED ARE VOID FROM THE DATE OF THEIR CREATION UNDER THE NEW LAW.

**CLERKS OF THIS COURT ARE PROHIBITED FROM PROVIDING YOU WITH LEGAL ADVICE OR ASSISTING YOU IN THE PREPARATION OF LEGAL DOCUMENTS.**

At the time you file your power of attorney or caretaker authorization affidavit, you will need to provide to the Court your full name, address and telephone number, and the school district where the child will attend school. You also need to provide to the Court a certified mail receipt to prove that you mailed a copy of the executed document to any parent *who did not sign the document* or a written statement demonstrating why such notice is not required.

# Caretaker Authorization Affidavit (CAA) Checklist

Check all statements which are true. If any statement is not true, do not check the statement. The CAA cannot be filed unless **ALL** statements are checked as being true.

- The CAA form is identical in content to the form prescribed by the Revised Code of Ohio.
- The form is legible (all information is readable).
- The CAA contains the address, driver's license number, or identification card number, and date of birth of the signing grandparent.
- The grandparent's residence is in the state of Ohio.
- The CAA contains the name of the child and the child's date of birth.
- The child is under the age of 18.
- The CAA is accompanied by an "Affidavit in Compliance with §3109.27 of the Ohio Revised Code."
- There are no pending proceedings regarding the child for: the appointment of a guardian or for an adoption; temporary, permanent or legal custody, or for placement in a planned permanent living arrangement; an ex parte emergency order; divorce, dissolution, legal separation, annulment, or allocation of parental rights and responsibilities.
- The CAA is correctly notarized (signed and dated by an Ohio notary public, sealed and stamped).
- The CAA was signed and notarized within the past five days.
- There is no other non-expired CAA or Power of Attorney (POA) existing with this Court or any other Court regarding the child.

State specifically what efforts you have made to locate and contact the child's parents, guardian or custodian:

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DATE: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_

**HOLMES COUNTY JUVENILE COURT  
PARTY INFORMATION FORM REQUIRED FOR FILING POWER OF  
ATTORNEY/CARETAKER AUTHORIZATION AFFIDAVIT**

Name of Child: \_\_\_\_\_

Case No. \_\_\_\_\_

1. Child

Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Sex: \_\_\_\_\_ Male or Female

Social Security #: \_\_\_\_\_

2. Biological Father

Name: \_\_\_\_\_

Alias Name: \_\_\_\_\_

DOB: \_\_\_\_\_

Social Security #: \_\_\_\_\_

Complete Address: \_\_\_\_\_

Phone No. \_\_\_\_\_

3. Biological Mother

Name: \_\_\_\_\_

Alias/Maiden Name: \_\_\_\_\_

DOB: \_\_\_\_\_

Social Security #: \_\_\_\_\_

Complete Address: \_\_\_\_\_

Phone No. \_\_\_\_\_

4. Grandparent(s)

Name(s): \_\_\_\_\_

DOB (each): \_\_\_\_\_

Social Security #(s): \_\_\_\_\_

Complete Address: \_\_\_\_\_

Phone No.(s): \_\_\_\_\_

5. Current Address of Child: \_\_\_\_\_

\_\_\_\_\_

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6. School District: \_\_\_\_\_

7. Name of person(s) currently providing care and supervision: \_\_\_\_\_  
\_\_\_\_\_

8. Was a Child Custody Affidavit filed? (see following document) \_\_\_Yes \_\_\_No

9. Has either parent of the child been ordered to pay child support? \_\_\_Yes \_\_\_No

10. Does any other person(s), excluding the biological parents, have any Court-Ordered custody or visitation rights concerning this child? \_\_\_\_\_Yes \_\_\_\_\_No

If so, please list:

Name: \_\_\_\_\_

Complete Address: \_\_\_\_\_

Social Security No. \_\_\_\_\_ Phone No. \_\_\_\_\_

Relationship to the Child: \_\_\_\_\_

11. Are any Social Service Agencies currently involved with this child or these children?  
\_\_\_\_\_Yes \_\_\_\_\_No

If so, list Agency:

Name \_\_\_\_\_ Caseworker \_\_\_\_\_

I CERTIFY THAT I HAVE COMPLIED WITH OHIO LAW IN EXECUTING AND FILING THESE DOCUMENTS. I UNDERSTAND THAT FILING FALSE INFORMATION SUBJECTS ME TO CRIMINAL PROSECUTION FOR FALSIFICATION.

DATE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

**HOLMES COUNTY JUVENILE COURT  
AFFIDAVIT IN COMPLIANCE WITH  
OHIO REVISED CODE SECTION 3109.27**

Name of Child: \_\_\_\_\_

Case No. \_\_\_\_\_

Upon being duly sworn, the undersigned states the following:

1. The child(ren) currently reside with \_\_\_\_\_, at the address of \_\_\_\_\_, Phone: ( \_\_\_\_ ) \_\_\_\_\_.

2. The child(ren) have lived with the following person(s) at the respective addresses during the past five (5) years:

<u>Name of Person(s) Lived With</u>	<u>Complete Address &amp; Zip Code</u>	<u>Dates(from-to)</u>
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3. List the current address of each person listed above in item (2) if they no longer live at the address provided above.


4. The undersigned  has  has not  have  have not participated as a party, witness or in any other capacity in any other litigation concerning custody of this child or children either in this state or any other state. If you have participated, please explain:


5. The undersigned  has  has no  have  have no information or knowledge of custody proceedings concerning this child or these children, either in this or any other state. If the undersigned has information or knowledge, please explain:

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6. The undersigned  knows  know  does not know  do not know of any other person or persons having physical custody or claims to have custody or visitation rights of this child or these children, who is not included as a party in this proceeding. If so, please list the name, complete address and relationship to the child or children:

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7. The child or children  was  was not  were  were not the subject of any divorce proceedings involving the biological parents in this or any other state. If affirmative, describe (1) where; (2) when; (3) the ruling concerning custody and visitation.

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8. The biological parents are:  Currently Married  Divorced  Separated but Legally Married  Never Married

9. A social service agency such as Children Services or the Department of Jobs & Family Services  is  is not currently involved with the welfare of this child or these children. If an agency is involved, explain the involvement:

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## CARETAKER AUTHORIZATION AFFIDAVIT

Use of this affidavit is authorized by sections 3109.65 to 3109.73 of the Ohio Revised Code.

Completion of items 1-7 and the signing and notarization of this affidavit is sufficient to authorize the grandparent signing to exercise care, physical custody, and control of the child who is its subject, including authority to enroll the child in school, to discuss with the school district the child's educational progress, to consent to all school-related matters regarding the child, and to consent to medical, psychological, or dental treatment for the child.

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

1. Name of Child: \_\_\_\_\_
2. Child's date and year of birth: \_\_\_\_\_
3. Child's social security number (optional): \_\_\_\_\_
4. My name: \_\_\_\_\_
5. My home address: \_\_\_\_\_
6. My date and year of birth: \_\_\_\_\_
7. My Ohio driver's license number or identification card number: \_\_\_\_\_
8. Despite having made reasonable attempts, I am either:
  - a. Unable to locate or contact the child's parents, or the child's guardian or custodian; or
  - b. I am unable to locate or contact one of the child's parents and I am not required to contact the other parent because paternity has not been established; or
  - c. I am unable to locate or contact one of the child's parents and I am not required to contact the other parent because there is a custody order regarding the child and one of the following is the case:
    - i. The parent has been prohibited from receiving notice of a relocation; or
    - ii. The parental rights of the parent have been terminated.

9. I hereby certify that this affidavit is not being executed for the purpose of enrolling the child in a school district so that the child may participate in the academic or interscholastic athletic programs provided by that school or district.

I understand that this document does not authorize a child support enforcement agency to redirect child support payments. I further understand that to have an existing child support order modified or a new child support order issued administrative or judicial proceedings must be initiated.

**WARNING: DO NOT SIGN THIS FORM IF ANY OF THE ABOVE STATEMENTS ARE INCORRECT. FALSIFICATION IS A CRIME UNDER SECTION 2921.13 OF THE REVISED CODE, PUNISHABLE BY THE SANCTIONS UNDER CHAPTER 2929. OF THE REVISED CODE, INCLUDING A TERM OF IMPRISONMENT OF UP TO 6 MONTHS, A FINE OF UP TO \$1,000, OR BOTH.**

I declare that the foregoing is true and correct:

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_  
Grandparent

**State of Ohio**

**ss:**

**County of Holmes**

Subscribed, sworn to, and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
**Notary Public**

**NOTICES**

1. The grandparent's signature must be notarized by an Ohio notary public.
2. The grandparent who executed this affidavit must file it with the juvenile court of the county in which the grandparent resides or any other court that has jurisdiction over the child under a previously filed motion or proceeding not later than 5 days after the date it is executed.
3. This affidavit does not affect the rights of the child's parents, guardian, or custodian regarding the care, physical custody, and control of the child, and does not give the grandparent legal custody of the child.
4. A person or entity that relies on this affidavit, in good faith, has no obligation to make any further inquiry or investigation.
5. This affidavit terminates on the occurrence of whichever of the following occurs first:
  - a) The child ceases to live with the grandparent who signs this form;
  - b) The parent, guardian, or custodian of the child acts to negate, reverse, or otherwise disapprove an action or decision of the grandparent who signed this affidavit, and the grandparent either voluntarily returns the child to the physical custody of the parent, guardian, or custodian or fails to file a complaint to seek custody within fourteen days;
  - c) The affidavit is terminated by court order;
  - d) The death of the child who is the subject of the affidavit; or
  - e) The death of the grandparent who executed the affidavit.

A parent, guardian, or custodian may negate, reverse, or disapprove a grandparent's action or decision only by delivering written notice of negation, reversal, or disapproval to the grandparent and the person acting on the grandparent's action or decision in reliance on this affidavit.

If this affidavit terminates other than by the death of the grandparent, the grandparent who signed this affidavit shall notify, in writing, all of the following:

- i. Any schools, health care providers, or health insurance coverage provider with which the child has been involved through the grandparent;
  - ii. Any other person or entity that has an ongoing relationship with the child or grandparent such that the person or entity would reasonably rely on the affidavit unless notified of the termination;
  - iii. The court in which the affidavit was filed after its creation. The grandparent shall make the notifications not later than one week after the date the affidavit terminates.
  
6. The decision of a grandparent to consent to or refuse medical treatment or school enrollment for a child is superseded by a contrary decision of a parent, custodian, or guardian of the child, unless the decision of the parent, guardian, or custodian would jeopardize the life, health, or safety of the child.

### **Additional Information**

**To caretakers:**

1. If the child stops living with you, you are required to notify, in writing, any school, health care provider, or health care insurance provider to which you have given this affidavit. You are also required to notify, in writing, any other person or entity that has an ongoing relationship with you or the child such that the person or entity would reasonably rely on the affidavit unless notified. The notifications must be made not later than one week after the child stops living with you.
  
2. If you do not have the information requested in item 7 (Ohio driver's license or identification card), provide another form of identification such as your social security number or medicaid number.

3. You must include with the caretaker authorization affidavit the following information:
  - a. The child’s present address, the addresses of the places where the child has lived within the last 5 years, and the name and present address of each person with whom the child has lived during that period;
  - b. Whether you have participated as a party, a witness, or in any other capacity in any other litigation, in this state or any other state, that concerned the allocation, between the parents of the same child, or parental rights and responsibilities for the care of the child and the designation of the residential parent and legal custodian of the child or that otherwise concerned the custody of the same child;
  - c. Whether you have information of any parenting proceeding concerning the child pending in a court of this or any other state;
  - d. Whether you know of any person who has physical custody of the child or claims to be a parent of the child who is designated the residential parent and legal custodian of the child or to have parenting time rights with respect to the child or to be a person other than a parent of the child who has custody or visitation rights with respect to the child;
  - e. Whether you previously have been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child being an abused child or a neglected child or previously have been determined, in a case in which a child has been adjudicated an abused child or a neglected child, to be the perpetrator of the abusive or neglectful act that was the basis of the adjudication.

4. If the child's parent, guardian, or custodian acts to terminate the caretaker authorization affidavit by delivering a written notice of negation, reversal, or disapproval of an action or decision of yours or removes the child from your home and if you believe that the termination or removal is not in the best interest of the child, you may, within fourteen days, file a complaint in the juvenile court to seek custody. You may retain physical custody of the child until the fourteen-day period elapses or, if you file a complaint, until the court orders otherwise.

**To School officials:**

1. This affidavit, properly completed and notarized, authorizes the child in question to attend school in the district in which the grandparent who signed this affidavit resides and the grandparent is authorized to provide consent in all school-related matters and to discuss with the school district the child's educational progress. This affidavit does not preclude the parent, guardian, or custodian of the child from having access to all school records pertinent to the child.
2. The school district may require additional reasonable evidence that the grandparent lives at the address provided in item 5 of the affidavit.
3. A school district or school official that reasonably and in good faith relies on this affidavit has no obligation to make any further inquiry or investigation.
4. The act of a parent, guardian, or custodian of the child to negate, reverse, or otherwise disapprove an action or decision of the grandparent who signed this affidavit constitutes termination of this affidavit. A parent, guardian, or custodian may negate, reverse, or disapprove a grandparent's action or decision only by

delivering written notice of negation, reversal, or disapproval to the grandparent and the person acting on the grandparent's action or decision in reliance on this affidavit.

**To health care providers:**

1. A person or entity that acts in good faith reliance on a CARETAKER AUTHORIZATION AFFIDAVIT to provide medical, psychological, or dental treatment, without actual knowledge of facts contrary to those stated in the affidavit, is not subject to criminal liability or to civil liability to any person or entity, and is not subject to professional disciplinary action, solely for such reliance if the applicable portions of the form are completed and the grandparent's signature is notarized.
2. The decision of a grandparent, based on a CARETAKER AUTHORIZATION AFFIDAVIT, shall be honored by a health care facility or practitioner, school district, or school official unless the health care facility or practitioner or educational facility or official has actual knowledge that a parent, guardian, or custodian of a child has made a contravening decision to consent or to refuse medical treatment for the child.
3. The act of a parent, guardian, or custodian of the child to negate, reverse, or otherwise disapprove an action or decision of the grandparent who signed this affidavit constitutes termination of this affidavit. A parent, guardian, or custodian may negate, reverse, or disapprove a grandparent's action or decision only by delivering written notice of negation, reversal, or disapproval to the grandparent and the person acting on the grandparent's action or decision in reliance on this affidavit.