

Diener #1

95 LSO-0603

# HOUSE BILL

0278

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HB0278

AN ACT to create W.S. 3-5-104 relating to guardian and ward; providing for express recognition of gift authority by agent acting under power of attorney as specified; and providing for an effective date.

HOUSE BILL 0278



Introduced by:

## HOUSE ACTION ON HOUSE BILL

1/23 ☒ Introduced  
Aye \_\_\_ No \_\_\_ Ex \_\_\_ Ab \_\_\_  
☒ Read First Time and Ref. to  
Committee No. 1  
☐ Failed Introduction  
Aye \_\_\_ No \_\_\_ Ex \_\_\_ Ab \_\_\_  
1/27 Returned from Committee No. 1  
with Recommendation:  
☒ Do Pass; ☐ Amend & Do  
Pass; ☐ Do Not Pass;  
☐ W/O Recomm; ☐ Re-Refer to  
Committee No. \_\_\_  
    Re-referred to Committee No. \_\_\_  
    Returned from Committee No. \_\_\_  
with Recommendation:  
☐ Do Pass; ☐ Amend & Do  
Pass; ☐ Do Not Pass;  
☐ W/O Recomm; ☐ Re-Refer to  
Committee No. \_\_\_  
    Considered in Comm. of Whole  
☐ Amended  
☐ Recommended Do Pass  
☐ Failed Comm. of Whole  
☐ Indefinitely Postponed  
☐ Other: \_\_\_  
    Read Second Time  
☐ Amended  
☐ Do Pass  
☐ Do Not Pass  
☐ Accelerated to 3rd Rdg.  
    Read Third Time  
☐ Amended  
☐ Passed ☐ Failed  
Aye \_\_\_ No \_\_\_ Ex \_\_\_ Ab \_\_\_  
☐ Held for Reconsideration  
    Motion to Reconsider  
☐ Passed ☐ Failed  
Aye \_\_\_ No \_\_\_ Ex \_\_\_ Ab \_\_\_  
    Third Reading Vote  
(On Reconsideration)  
☐ Passed ☐ Failed  
Aye \_\_\_ No \_\_\_ Ex \_\_\_ Ab \_\_\_  
    Sent to Senate (No Amendments)  
    Sent to LSO for Engrossing  
    ENGROSSED  
    Sent to Senate

## SENATE ACTION ON HOUSE BILL

    Received. Read First Time.  
    Referred to Committee No. \_\_\_  
    Returned from Committee No. \_\_\_  
with Recommendation:  
☐ Do Pass; ☐ Amend & Do  
Pass; ☐ Do Not Pass;  
☐ W/O Recomm; ☐ Re-Refer to  
Committee No. \_\_\_  
    Re-referred to Committee No. \_\_\_  
    Returned from Committee No. \_\_\_  
with Recommendation:  
☐ Do Pass; ☐ Amend & Do  
Pass; ☐ Do Not Pass;  
☐ W/O Recomm; ☐ Re-Refer to  
Committee No. \_\_\_  
    Considered in Comm. of Whole  
☐ Amended  
☐ Recommended Do Pass  
☐ Failed Comm. of Whole  
☐ Indefinitely Postponed  
☐ Other: \_\_\_  
    Read Second Time  
☐ Amended  
☐ Do Pass  
☐ Do Not Pass  
☐ Accelerated to 3rd Rdg.  
    Read Third Time  
☐ Amended  
☐ Passed ☐ Failed  
Aye \_\_\_ No \_\_\_ Ex \_\_\_ Ab \_\_\_  
☐ Held for Reconsideration  
    Motion to Reconsider  
☐ Passed ☐ Failed  
Aye \_\_\_ No \_\_\_ Ex \_\_\_ Ab \_\_\_  
    Third Reading Vote  
(On Reconsideration)  
☐ Passed ☐ Failed  
Aye \_\_\_ No \_\_\_ Ex \_\_\_ Ab \_\_\_  
    Sent to House  
    Sent for Enrolling  
HEA No. \_\_\_  
    Signed by Speaker  
    Signed by President  
    Approved by Governor  
Chapter No. \_\_\_

INTRODUCED

1995

STATE OF WYOMING

95LSO-0603.01

HOUSE BILL NO. 0278

Power of attorney-gifts.

Sponsored by: Representative(s) DIERCKS and HANES and  
Senator(s) PHILLIPS

A BILL

for

1 AN ACT to create W.S. 3-5-104 relating to guardian and  
2 ward; providing for express recognition of gift authority  
3 by agent acting under power of attorney as specified; and  
4 providing for an effective date.

5 Be It Enacted by the Legislature of the State of Wyoming:

6 Section 1. W.S. 3-5-104 is created to read:

7 3-5-104. GIFTS UNDER POWER OF ATTORNEY.

8 (a) If any power of attorney or other writing autho-  
9 rizes an attorney in fact or agent to do, execute or per-  
10 form any act that the principal might or could do, or evi-  
11 dences the principal's intent to give the attorney in fact

=====  
LEGEND: Underlined = New text added to existing statutes  
Stricken = Text deleted from existing statutes  
=====

- 1 -

**NO SIGNIFICANT FISCAL OR  
PERSONNEL IMPACT AT STATE LEVEL**

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1 or agent full power to handle the principal's affairs or  
2 deal with the principal's property, the attorney in fact  
3 or agent shall have the power and authority to make gifts  
4 in any amount of any of the principal's property to any  
5 individuals or to organizations described in sections  
6 170(c) and 2522(a) of the Internal Revenue Code or corre-  
7 sponding provisions of federal tax law, or both, in accor-  
8 dance with the principal's personal history of making or  
9 joining in the making of lifetime gifts.

10 (b) Subsection (a) of this section shall not in any  
11 way impair the right or power of any principal, by express  
12 words in the power of attorney or other writing, to autho-  
13 rize, or limit the authority of, any attorney in fact or  
14 other agent to make gifts of the principal's property.

15 (c) After reasonable notice to the principal, an  
16 attorney in fact or other agent acting under a durable  
17 general power of attorney or other writing may petition  
18 the district court for authority to make gifts of the  
19 principal's property to the extent not inconsistent with  
20 the express terms of the power of attorney or other writ-  
21 ing. The court shall determine the amounts, recipients  
22 and proportions of any gifts of the principal's property  
23 after considering all relevant factors including, without

1 limitation:

2 (i) The size of the principal's estate;

3 (ii) The principal's foreseeable obligations and  
4 maintenance needs;

5 (iii) The principal's personal history of mak-  
6 ing, or joining in the making of, lifetime gifts;

7 (iv) The principal's estate plan; and

8 (v) The tax effects of the gifts.

9 Section 2. This act is effective July 1, 1995.

10 (END)

## THE LEGISLATURE OF THE STATE OF WYOMING

## House of Representatives

Cheyenne, ..... January 26....., 19....95

Mr. Speaker:

Your Committee No. .... 1..... on..... JUDICIARY.....

to whom was referred House Bill No. .... 0278.....

respectfully reports same back to the House with the recommendation that it

**DO PASS****AYES****NOES****EXCUSED**

Barker  
 Hanes  
 Luthi  
 McConigley  
 Nagel  
 Nelson  
 Rose  
 Wasserburger  
 Tipton

  
 .....  
 Harry B. Tipton,

Chairman