



FindLaw®

Legal Forms & Services

FirstName LastName

SOUTH DAKOTA
POWER OF ATTORNEY

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The answers you provide in the questionnaire are incorporated in this document at your direction. The form was developed by attorneys based on the laws of your state. You are responsible for finalizing the document and having it reviewed by an attorney.

Finalizing a Power of Attorney in South Dakota

After printing your document, you will need to finalize it. Below are the steps:

1. Print out your document
2. Review, initial, sign, and date in front of a notary
3. Have notary sign and date
4. Keep document in a safe place

Notice: Some state laws require the principal to initial or sign next to the powers they have granted in order for that power to be effective. To make sure you have initialed and/or signed in the correct places, you should review your form and your state's laws on powers of attorney requirements.

In addition, your agent may be required to verify their authority with a certification or affidavit, or provide specimen signatures before a party will honor your power of attorney.

**SOUTH DAKOTA POWER OF ATTORNEY
OF FirstName LastName**

IMPORTANT INFORMATION

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in SDCL chapter 59-12.

This power of attorney does not authorize the agent to make health-care decisions for you.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

Your agent is entitled to reasonable compensation unless you state otherwise in the Special Instructions.

This form provides for designation of one agent.

If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately unless you state otherwise.

If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

DESIGNATION OF AGENT

I, FirstName LastName, name the following person as my agent:

Name: FirstName LastName
Address: 222 Street Address, City, South Dakota 11111
Phone: 1111111111

DESIGNATION OF SUCCESSOR AGENT(S)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name: FirstName LastName
Address: 333 Street Address,City, South Dakota 11111
Phone: 1111111111

I do not wish to nominate a second successor agent at this time

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects I have INITIALED as defined in the SDCL chapter 59-12:

- _____ Real Property (§59-12-26)
- _____ Tangible Personal Property (§ 9-12-27)
- _____ Stocks and Bonds (§59-12-28)
- _____ Commodities and Options (§59-12-29)
- _____ Banks and Other Financial Institutions (§59-12-30)
- _____ Operation of Entity or Business (§59-12-31)
- _____ Insurance and Annuities (§59-12-32)
- _____ Estates, Trusts, and Other Beneficial Interests (§59-12-33)
- _____ Claims and Litigation (§59-12-34)
- _____ Personal and Family Maintenance (§59-12-35)
- _____ Benefits from Governmental Programs or Civil or Military Service (§59-12-36)
- _____ Retirement Plans (§59-12-37)
- _____ Taxes (§59-12-38)

GRANT OF SPECIFIC AUTHORITY

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. INITIAL ONLY the specific authority you WANT to give your agent.)

- _____ Create an inter vivos trust or amend, revoke, or terminate a trust

- Make a gift, subject to the limitations of §59-12-39 and any special instructions in this power of attorney
- Create or change rights of survivorship
- Create or change a beneficiary designation
- Authorize another person to exercise the authority granted under this power of attorney
- Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan
- ____ Exercise fiduciary powers that the principal has authority to delegate
- ____ Access the content of electronic communications
- Disclaim or refuse an interest in property, including a power of appointment

LIMITATION ON AGENT'S AUTHORITY

An agent that is not my ancestor, spouse, or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support.

SPECIAL INSTRUCTIONS

Revocation. All my previously executed powers of attorney are hereby revoked.

Compensation. My agent is entitled to reasonable compensation for actions taken pursuant to this power of attorney.

Special Instructions. I have no other instructions at this time.

EFFECTIVE DATE

This power of attorney is effective immediately and shall not be affected by disability of the principal.

NOMINATION OF CONSERVATOR AND/OR GUARDIAN

If it becomes necessary for a court to appoint a conservator of my estate, I nominate the following person for appointment:

Name: FirstName LastName

Address: 222 Street Address, City, South Dakota 11111

Phone: 1111111111

If it becomes necessary for a court to appoint a guardian of my person, I nominate the following person for appointment:

Name: FirstName LastName

Address: 333 Street Address City South Dakota 11111

Phone: 1111111111

RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid.

SIGNATURE AND ACKNOWLEDGMENT

FirstName LastName

Date

111 Street Address, City, South Dakota 11111

1111111111

State of _____

County of _____

This Power of Attorney document was acknowledged before me on this _____ of _____, 20____, by FirstName LastName.

_____ (Seal)

Signature of notary

My commission expires: _____

IMPORTANT INFORMATION FOR AGENT

Agent's Duties

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or the power of attorney is terminated or revoked. You must:

- (1) Do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest;
- (2) Act in good faith;
- (3) Do nothing beyond the authority granted in this power of attorney; and
- (4) Disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner:

FirstName LastName by (Your Signature) as Agent under POA dated (Date)

Unless the Special Instructions in this power of attorney state otherwise, you must also:

- (1) Act loyally for the principal's benefit;
- (2) Avoid conflicts that would impair your ability to act in the principal's best interest;
- (3) Act with care, competence, and diligence;
- (4) Keep a record of all receipts, disbursements, and transactions made on behalf of the principal;
- (5) Cooperate with any person that has authority to make health-care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interest; and
- (6) Attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interest.

Termination of Agent's Authority

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

- (1) Death of the principal;
- (2) The principal's revocation of the power of attorney or your authority;
- (3) The occurrence of a termination event stated in the power of attorney;
- (4) The purpose of the power of attorney is fully accomplished; or
- (5) If you are married to the principal, a legal action is filed with a court to end your marriage, or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

Liability of Agent

The meaning of the authority granted to you is defined in SDCL chapter 59-12. If you violate SDCL chapter 59-12 or act outside the authority granted, you may be liable for any damages caused by your violation.

In addition to civil liability, failure to comply with your duties and authority granted under this document could subject you to criminal prosecution for grand theft, embezzlement of property received in trust, among other criminal charges.

If the principal is 65 years of age or older, or an adult with a disability, you could also be prosecuted for elder abuse and financial exploitation.

If there is anything about this document or your duties that you do not understand, you should seek legal advice.

STATUTORY FORM--AGENT'S CERTIFICATION

The following optional form may be used by an agent to certify facts concerning a power of attorney. The provisions of §§ 43-28-23 and 7-9-1 apply to any power of attorney that is to be recorded with the register of deeds.

AGENT'S CERTIFICATION AS TO THE VALIDITY OF POWER OF ATTORNEY AND AGENT'S AUTHORITY

State of _____)
)SS. AFFIDAVIT
County of _____)

I, _____ (Name of Agent), certify under penalty of perjury that
FirstName LastName granted me authority as an agent or successor agent in a power of attorney
dated, _____, 20__.

I further certify that to my knowledge:

- (1) The Principal is alive and has not revoked the Power of Attorney or my authority to act under the Power of Attorney and the Power of Attorney and my authority to act under the Power of Attorney have not terminated;
- (2) If the Power of Attorney was drafted to become effective upon the happening of an event or contingency, the event or contingency has occurred;
- (3) If I was named as a successor agent, the prior agent is no longer able or willing to serve; and
- (4) _____

(Insert other relevant statements)

SIGNATURE AND ACKNOWLEDGMENT

_____, 20__
Agent's Signature Date

Agent's Name Printed

Agent's Address

Agent's Telephone Number

State of _____)
)SS.
County of _____)

This Agent's Certification as to the Validity of Power of Attorney and Agent's Authority document was acknowledged before me on _____, 20__ by _____ (Name of Agent)

_____(Seal)
Signature of Notary Public
My commission expires: _____