

## **BILL ANALYSIS**

C.S.H.B. 1359  
By: Veasey  
Judiciary & Civil Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Currently, a child may only be enrolled in school by the child's parent, guardian, or other person with legal control of the child by court order. Many children in Texas are being raised by a grandparent or other relative who is the primary or semi-permanent caregiver for the child but does not have legal custody, making it difficult for that caregiver to enroll the child in school. C.S.H.B. 1359 seeks to address this issue by authorizing such a caregiver who is a relative to enroll a child in school if the relative caregiver executes a certain affidavit.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of education in SECTION 1 of this bill.

### **ANALYSIS**

C.S.H.B. 1359 amends the Family Code to authorize a caregiver of a child who is a relative of the child to execute an affidavit indicating that the child primarily resides with the caregiver and the parent or legal guardian cannot be contacted for authorization and defines "relative." The bill requires the affidavit to be witnessed by two witnesses who are at least 18 years of age or older and at least one of whom is not related by blood or marriage to the child or the caregiver and requires the completed affidavit to be notarized.

C.S.H.B. 1359 authorizes a caregiver to provide the affidavit to a school or school district to enroll the child in school. The bill establishes that if the child no longer resides with the caregiver or if the child's parent or guardian objects to the caregiver's authorization, the affidavit is invalid and the caregiver is required to notify all parties to whom the caregiver provided the affidavit, including the child's school. The bill establishes that a person who relies on an affidavit that complies with the bill's provisions has no obligation to make any further inquiry or investigation. The bill specifies that the caregiver's authorization 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 caregiver has legal custody of the child.

C.S.H.B. 1359 sets out the form of the caregiver's authorization affidavit, including certain specified language to be included in the affidavit, and requires the Texas Education Agency to develop the form and to make it available on the agency's Internet website. The bill defines "qualified relative" for purposes of language required to be included in the form.

C.S.H.B. 1359 requires the commissioner of education to adopt rules to implement the bill's provisions and to ensure that the caregiver's authorization affidavit is accepted by schools and school districts.

C.S.H.B. 1359 amends the Education Code to include the condition that a person lives with a relative who submits to the school district a caregiver's authorization affidavit among the residential conditions for which the board of trustees of a school district is required to admit a

person if the person falls within a certain age bracket.

C.S.H.B. 1359 removes a provision of law requiring a child to be enrolled by the child's parent, or by the child's guardian or other person with legal control of the child under a court order, for the child to be enrolled in a public school. The bill redefines "parent," for purposes of public education provisions relating to parental rights and responsibilities, to include a relative who submits a caregiver's authorization affidavit and makes a technical correction.

C.S.H.B. 1359 specifies that its provisions amending public education provisions apply beginning with the 2011-2012 school year.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 1359 differs from the original by removing a provision of law requiring a child to be enrolled by the child's parent, or by the child's guardian or other person with legal control of the child under a court order, for the child to be enrolled in a public school, whereas the original amends that provision to include a relative under a caregiver's authorization affidavit as a person authorized to enroll the child.