

BILL ANALYSIS

S.B. 482
By: Harris
Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law a parent may sign an authorization agreement granting a non-parent relative of a child authority to make certain decisions, including emergency medical decisions, on behalf of the child. The agreements need to be signed by only one parent with notice sent to a non-signing parent by first class mail. Also, there is no limit to the number of authorization agreements that may be in effect for a child.

S.B. 482 allows only one authorization agreement to be in effect for a child at any one time. This will alleviate any confusion and problems that arise when multiple adults have authorization to make decisions on behalf of a child. The bill also requires a copy of the authorization agreement to be mailed to a non-signing parent by certified mail, return receipt requested. This requirement will help ensure that the non-signing parent is made aware of the existence of an authorization agreement.

S.B. 482 amends current law relating to authorization agreements between parents and nonparent relatives of a child.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Chapter 34, Family Code, by adding Section 34.0015, as follows:

Sec. 34.0015. DEFINITION. Defines "parent" in this chapter.

SECTION 2. Amends Section 34.002, Family Code, by adding Subsection (d), as follows:

(d) Authorizes only one authorization agreement to be in effect for a child at any time. Provides that an authorization agreement is void if it is executed while a prior authorization agreement remains in effect.

SECTION 3. Amends Section 34.003, Family Code, as follows:

Sec. 34.003. CONTENTS OF AUTHORIZATION AGREEMENT. (a) Requires that the authorization agreement contain certain information, including a statement that to the best of the parent's and relative's knowledge there is no current, valid authorization agreement regarding the child.

(b) Requires that the authorization agreement contain the following warnings and disclosures:

(1)-(10) Makes no changes to these subdivisions.

(11) that the authorization agreement does not supersede, invalidate, or terminate any prior authorization agreement regarding the child;

(12) that the authorization agreement is void if a prior authorization agreement regarding the child is in effect and has not expired or been terminated;

(13) that, except as provided by Section 34.005(a-1), the authorization agreement is void unless:

(A) the parties mail a copy of the authorization agreement by certified mail, return receipt requested, or international registered mail, return receipt requested, as applicable, to a parent who was not a party to the authorization agreement, if the parent is living and the parent's parental rights have not been terminated, not later than the 10th day after the date the authorization agreement is signed; and

(B) if the parties do not receive a response from the parent who is not a party to the authorization agreement before the 20th day after the date the copy of the authorization agreement is mailed under Paragraph (A), the parties mail a second copy of the authorization agreement by first class mail or international first class mail, as applicable, to the parent not later than the 45th day after the date the authorization agreement is signed; and

(14) Makes a nonsubstantive change.

SECTION 4. Amends Section 34.005, Family Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires the parties, if both parents did not sign the authorization agreement, to mail a copy of the executed authorization agreement by certified mail, return receipt requested, or international registered mail, return receipt requested, as applicable, to the parent who was not a party to the authorization agreement at the parent's last known address not later than the 10th day after the date the authorization agreement is executed if that parent is living and that parent's parental rights have not been terminated. Requires the parties, if the parties do not receive a response from the parent who is not a party to the authorization agreement before the 20th day after the date the copy of the authorization agreement is mailed, to mail a second copy of the executed authorization agreement by first class mail or international first class mail, as applicable, to the parent at the same address not later than the 45th day after the date the authorization agreement is executed. Provides that an authorization agreement is void if the parties fail to comply with this subsection.

(a-1) Provides that Subsection (a) does not apply to an authorization agreement if the parent who was not a party to the authorization agreement:

(1) does not have court-ordered possession of or access to the child who is the subject of the authorization agreement; and

(2) has previously committed an act of family violence, as defined by Section 71.004 (Family Violence), or assault against the parent who is a party to the authorization agreement, the child who is the subject of the authorization agreement, or another child of the parent who is a party to the authorization agreement, as documented by one or more of the following:

(A) the issuance of a protective order against the parent who was not a party to the authorization agreement as provided under Chapter 85 (Issuance of Protective Order) or under a similar law of another state; or

(B) the conviction of the parent who was not a party to the authorization agreement of an offense under Title 5 (Offenses Against the Person), Penal Code, or of another criminal offense in this state or in another state an element of which involves a violent act or prohibited sexual conduct.

SECTION 5. Amends Section 34.008, Family Code, by adding Subsection (f), to provide that execution of a subsequent authorization agreement does not by itself supersede, invalidate, or terminate a prior authorization agreement.

SECTION 6. (a) Makes application of this Act prospective, except as provided by Subsections (b) and (c) of this section.

(b) Provides that Section 34.002(d), Family Code, as added by this Act, applies to an authorization agreement under Chapter 34, Family Code, regardless of whether the agreement was executed before, on, or after the effective date of this Act.

(c) Provides that, notwithstanding Subsection (b) of this section, if, on the effective date of this Act, more than one valid authorization agreement is in effect for a child, each authorization agreement remains in effect, under the law as it existed immediately before the effective date of this Act, until August 31, 2012, or until the date the authorization agreement is terminated, whichever date is earlier. Provides that if, on September 1, 2012, more than one valid authorization agreement remains in effect for a child, the most recently executed authorization agreement controls, and all authorization agreements executed before that agreement are considered terminated.

EFFECTIVE DATE

September 1, 2011.