

A BILL TO BE ENTITLED

AN ACT

relating to authorization agreements between parents and nonparent relatives of a child.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 34, Family Code, is amended by adding Section 34.0015 to read as follows:

Sec. 34.0015. DEFINITION. In this chapter, "parent" has the meaning assigned by Section 101.024.

SECTION 2. Section 34.002, Family Code, is amended by adding Subsection (d) to read as follows:

(d) Only one authorization agreement may be in effect for a child at any time. An authorization agreement is void if it is executed while a prior authorization agreement remains in effect.

SECTION 3. Section 34.003, Family Code, is amended to read as follows:

Sec. 34.003. CONTENTS OF AUTHORIZATION AGREEMENT. (a) The authorization agreement must contain:

(1) the following information from the relative of the child to whom the parent is giving authorization:

- (A) the name and signature of the relative;
- (B) the relative's relationship to the child; and
- (C) the relative's current physical address and telephone number or the best way to contact the relative;

(2) the following information from the parent:

1 (A) the name and signature of the parent; and

2 (B) the parent's current address and telephone
3 number or the best way to contact the parent;

4 (3) the information in Subdivision (2) with respect to
5 the other parent, if applicable;

6 (4) a statement that the relative has been given
7 authorization to perform the functions listed in Section 34.002(a)
8 as a result of a voluntary action of the parent and that the
9 relative has voluntarily assumed the responsibility of performing
10 those functions;

11 (5) statements that neither the parent nor the
12 relative has knowledge that a parent, guardian, custodian, licensed
13 child-placing agency, or other authorized agency asserts any claim
14 or authority inconsistent with the authorization agreement under
15 this chapter with regard to actual physical possession or care,
16 custody, or control of the child;

17 (6) statements that:

18 (A) to the best of the parent's and relative's
19 knowledge:

20 (i) there is no court order or pending suit
21 affecting the parent-child relationship concerning the child;

22 (ii) there is no pending litigation in any
23 court concerning:

24 (a) custody, possession, or placement
25 of the child; or

26 (b) access to or visitation with the
27 child; and

1 (iii) the court does not have continuing
2 jurisdiction concerning the child; or

3 (B) the court with continuing jurisdiction
4 concerning the child has given written approval for the execution
5 of the authorization agreement accompanied by the following
6 information:

7 (i) the county in which the court is
8 located;

9 (ii) the number of the court; and

10 (iii) the cause number in which the order
11 was issued or the litigation is pending;

12 (7) a statement that to the best of the parent's and
13 relative's knowledge there is no current, valid authorization
14 agreement regarding the child;

15 (8) a statement that the authorization is made in
16 conformance with this chapter;

17 (9) [~~8~~] a statement that the parent and the relative
18 understand that each party to the authorization agreement is
19 required by law to immediately provide to each other party
20 information regarding any change in the party's address or contact
21 information;

22 (10) [~~9~~] a statement by the parent that establishes
23 the circumstances under which the authorization agreement expires,
24 including that the authorization agreement:

25 (A) is valid until revoked;

26 (B) continues in effect after the death or during
27 any incapacity of the parent; or

1 (C) expires on a date stated in the authorization
2 agreement; and

3 (11) [~~(10)~~] space for the signature and seal of a
4 notary public.

5 (b) The authorization agreement must contain the following
6 warnings and disclosures:

7 (1) that the authorization agreement is an important
8 legal document;

9 (2) that the parent and the relative must read all of
10 the warnings and disclosures before signing the authorization
11 agreement;

12 (3) that the persons signing the authorization
13 agreement are not required to consult an attorney but are advised to
14 do so;

15 (4) that the parent's rights as a parent may be
16 adversely affected by placing or leaving the parent's child with
17 another person;

18 (5) that the authorization agreement does not confer
19 on the relative the rights of a managing or possessory conservator
20 or legal guardian;

21 (6) that a parent who is a party to the authorization
22 agreement may terminate the authorization agreement and resume
23 custody, possession, care, and control of the child on demand and
24 that at any time the parent may request the return of the child;

25 (7) that failure by the relative to return the child to
26 the parent immediately on request may have criminal and civil
27 consequences;

1 (8) that, under other applicable law, the relative may
2 be liable for certain expenses relating to the child in the
3 relative's care but that the parent still retains the parental
4 obligation to support the child;

5 (9) that, in certain circumstances, the authorization
6 agreement may not be entered into without written permission of the
7 court;

8 (10) that the authorization agreement may be
9 terminated by certain court orders affecting the child;

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

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

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

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

25 (B) if the parties do not receive a response from
26 the parent who is not a party to the authorization agreement before
27 the 20th day after the date the copy of the authorization agreement

1 is mailed under Paragraph (A), the parties mail a second copy of the
2 authorization agreement by first class mail or international first
3 class mail, as applicable, to the parent not later than the 45th day
4 after the date the authorization agreement is signed; and

5 (14) [~~(12)~~] that the authorization agreement does not
6 confer on a relative of the child the right to authorize the
7 performance of an abortion on the child or the administration of
8 emergency contraception to the child.

9 SECTION 4. Section 34.005, Family Code, is amended by
10 amending Subsection (a) and adding Subsection (a-1) to read as
11 follows:

12 (a) If both parents did not sign the authorization
13 agreement, the parties shall mail a copy of the executed
14 authorization agreement by certified mail, return receipt
15 requested, or international registered mail, return receipt
16 requested, as applicable, to the parent who was not a party to the
17 authorization agreement at the parent's last known address not
18 later than the 10th day after the date the authorization agreement
19 is executed if that parent is living and that parent's parental
20 rights have not been terminated. If the parties do not receive a
21 response from the parent who is not a party to the authorization
22 agreement before the 20th day after the date the copy of the
23 authorization agreement is mailed, the parties shall mail a second
24 copy of the executed authorization agreement by first class mail or
25 international first class mail, as applicable, to the parent at the
26 same address not later than the 45th day after the date the
27 authorization agreement is executed. An authorization agreement is

1 void if the parties fail to comply with this subsection.

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

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

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

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

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

23 SECTION 5. Section 34.008, Family Code, is amended by
24 adding Subsection (f) to read as follows:

25 (f) Execution of a subsequent authorization agreement does
26 not by itself supersede, invalidate, or terminate a prior
27 authorization agreement.

1 SECTION 6. (a) Except as provided by Subsections (b) and
2 (c) of this section, the changes in law made by this Act apply only
3 to an authorization agreement executed on or after the effective
4 date of this Act. An authorization agreement executed before that
5 date is governed by the law in effect on the date the authorization
6 agreement was executed, and the former law is continued in effect
7 for that purpose.

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

12 (c) Notwithstanding Subsection (b) of this section, if, on
13 the effective date of this Act, more than one valid authorization
14 agreement is in effect for a child, each authorization agreement
15 remains in effect, under the law as it existed immediately before
16 the effective date of this Act, until August 31, 2012, or until the
17 date the authorization agreement is terminated, whichever date is
18 earlier. If, on September 1, 2012, more than one valid
19 authorization agreement remains in effect for a child, the most
20 recently executed authorization agreement controls, and all
21 authorization agreements executed before that agreement are
22 considered terminated.

23 SECTION 7. This Act takes effect September 1, 2011.