

By: Harris

S.B. No. 482

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the requirements for an authorization agreement for a
3 nonparent relative of a child.

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

5 SECTION 1. Section 34.002, Family Code, is amended by
6 adding Subsection (d) to read as follows:

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

10 SECTION 2. Section 34.003, Family Code, is amended to read
11 as follows:

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

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

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

20 (2) the following information from the parent:

- 21 (A) the name and signature of the parent; and
22 (B) the parent's current address and telephone
23 number or the best way to contact the parent;

24 (3) the information in Subdivision (2) with respect to

1 the other parent, if applicable;

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

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

13 (6) statements that:

14 (A) to the best of the parent's and relative's
15 knowledge:

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

18 (ii) there is no pending litigation in any
19 court concerning:

20 (a) custody, possession, or placement
21 of the child; or

22 (b) access to or visitation with the
23 child; and

24 (iii) the court does not have continuing
25 jurisdiction concerning the child; or

26 (B) the court with continuing jurisdiction
27 concerning the child has given written approval for the execution

1 of the authorization agreement accompanied by the following
2 information:

3 (i) the county in which the court is
4 located;

5 (ii) the number of the court; and

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

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

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

13 (9) [~~(8)~~] a statement that the parent and the relative
14 understand that each party to the authorization agreement is
15 required by law to immediately provide to each other party
16 information regarding any change in the party's address or contact
17 information;

18 (10) [~~(9)~~] a statement by the parent that establishes
19 the circumstances under which the authorization agreement expires,
20 including that the authorization agreement:

21 (A) is valid until revoked;

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

24 (C) expires on a date stated in the authorization
25 agreement; and

26 (11) [~~(10)~~] space for the signature and seal of a
27 notary public.

1 (b) The authorization agreement must contain the following
2 warnings and disclosures:

3 (1) that the authorization agreement is an important
4 legal document;

5 (2) that the parent and the relative must read all of
6 the warnings and disclosures before signing the authorization
7 agreement;

8 (3) that the persons signing the authorization
9 agreement are not required to consult an attorney but are advised to
10 do so;

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

14 (5) that the authorization agreement does not confer
15 on the relative the rights of a managing or possessory conservator
16 or legal guardian;

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

21 (7) that failure by the relative to return the child to
22 the parent immediately on request may have criminal and civil
23 consequences;

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

1 (9) that, in certain circumstances, the authorization
2 agreement may not be entered into without written permission of the
3 court;

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

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

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

12 (13) that the authorization agreement is void unless:

13 (A) the parties mail a copy of the authorization
14 agreement by certified mail, return receipt requested, to a parent
15 who was not a party to the authorization agreement, if the parent is
16 living and the parent's parental rights have not been terminated,
17 not later than the 10th day after the date the authorization
18 agreement is signed; and

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

26 (14) [~~(12)~~] that the authorization agreement does not
27 confer on a relative of the child the right to authorize the

1 performance of an abortion on the child or the administration of
2 emergency contraception to the child.

3 SECTION 3. Section 34.005(a), Family Code, is amended to
4 read as follows:

5 (a) If both parents did not sign the authorization
6 agreement, the parties shall mail a copy of the executed
7 authorization agreement by certified mail, return receipt
8 requested, to the parent who was not a party to the authorization
9 agreement at the parent's last known address not later than the 10th
10 day after the date the authorization agreement is executed if that
11 parent is living and that parent's parental rights have not been
12 terminated. If the parties do not receive a response from the
13 parent who is not a party to the authorization agreement before the
14 20th day after the date the copy of the authorization agreement is
15 mailed, the parties shall mail a second copy of the executed
16 authorization agreement by first class mail to the parent at the
17 same address not later than the 45th day after the date the
18 authorization agreement is executed. An authorization agreement is
19 void if the parties fail to comply with this subsection.

20 SECTION 4. Section 34.008, Family Code, is amended by
21 adding Subsection (f) to read as follows:

22 (f) Execution of a subsequent authorization agreement does
23 not by itself supersede, invalidate, or terminate a prior
24 authorization agreement.

25 SECTION 5. (a) Section 34.002(d), Family Code, as added by
26 this Act, applies to an authorization agreement under Chapter 34,
27 Family Code, regardless of whether the agreement was executed

1 before, on, or after the effective date of this Act.

2 (b) Notwithstanding Subsection (a) of this section, if, on
3 the effective date of this Act, more than one valid authorization
4 agreement is in effect for a child, each authorization agreement
5 remains in effect, under the law as it existed immediately before
6 the effective date of this Act, until August 31, 2012, or until the
7 date the authorization agreement is terminated, whichever date is
8 earlier. If, on September 1, 2012, more than one valid
9 authorization agreement remains in effect for a child, the most
10 recently executed authorization agreement controls, and all
11 authorization agreements executed before that agreement are
12 considered terminated.

13 SECTION 6. This Act takes effect September 1, 2011.