

1-1 By: Harris S.B. No. 482  
1-2 (In the Senate - Filed February 1, 2011; February 14, 2011,  
1-3 read first time and referred to Committee on Jurisprudence;  
1-4 March 23, 2011, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 6, Nays 0; March 23, 2011,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 482 By: Harris

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to authorization agreements between parents and nonparent  
1-11 relatives of a child.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 34, Family Code, is amended by adding  
1-14 Section 34.0015 to read as follows:

1-15 Sec. 34.0015. DEFINITION. In this chapter, "parent" has  
1-16 the meaning assigned by Section 101.024.

1-17 SECTION 2. Section 34.002, Family Code, is amended by  
1-18 adding Subsection (d) to read as follows:

1-19 (d) Only one authorization agreement may be in effect for a  
1-20 child at any time. An authorization agreement is void if it is  
1-21 executed while a prior authorization agreement remains in effect.

1-22 SECTION 3. Section 34.003, Family Code, is amended to read  
1-23 as follows:

1-24 Sec. 34.003. CONTENTS OF AUTHORIZATION AGREEMENT. (a) The  
1-25 authorization agreement must contain:

1-26 (1) the following information from the relative of the  
1-27 child to whom the parent is giving authorization:

1-28 (A) the name and signature of the relative;

1-29 (B) the relative's relationship to the child; and

1-30 (C) the relative's current physical address and  
1-31 telephone number or the best way to contact the relative;

1-32 (2) the following information from the parent:

1-33 (A) the name and signature of the parent; and

1-34 (B) the parent's current address and telephone  
1-35 number or the best way to contact the parent;

1-36 (3) the information in Subdivision (2) with respect to  
1-37 the other parent, if applicable;

1-38 (4) a statement that the relative has been given  
1-39 authorization to perform the functions listed in Section 34.002(a)  
1-40 as a result of a voluntary action of the parent and that the  
1-41 relative has voluntarily assumed the responsibility of performing  
1-42 those functions;

1-43 (5) statements that neither the parent nor the  
1-44 relative has knowledge that a parent, guardian, custodian, licensed  
1-45 child-placing agency, or other authorized agency asserts any claim  
1-46 or authority inconsistent with the authorization agreement under  
1-47 this chapter with regard to actual physical possession or care,  
1-48 custody, or control of the child;

1-49 (6) statements that:

1-50 (A) to the best of the parent's and relative's  
1-51 knowledge:

1-52 (i) there is no court order or pending suit  
1-53 affecting the parent-child relationship concerning the child;

1-54 (ii) there is no pending litigation in any  
1-55 court concerning:

1-56 (a) custody, possession, or placement  
1-57 of the child; or

1-58 (b) access to or visitation with the  
1-59 child; and

1-60 (iii) the court does not have continuing  
1-61 jurisdiction concerning the child; or

1-62 (B) the court with continuing jurisdiction  
1-63 concerning the child has given written approval for the execution

2-1 of the authorization agreement accompanied by the following  
 2-2 information:  
 2-3 (i) the county in which the court is  
 2-4 located;  
 2-5 (ii) the number of the court; and  
 2-6 (iii) the cause number in which the order  
 2-7 was issued or the litigation is pending;  
 2-8 (7) a statement that to the best of the parent's and  
 2-9 relative's knowledge there is no current, valid authorization  
 2-10 agreement regarding the child;  
 2-11 (8) a statement that the authorization is made in  
 2-12 conformance with this chapter;  
 2-13 (9) [~~8~~] a statement that the parent and the relative  
 2-14 understand that each party to the authorization agreement is  
 2-15 required by law to immediately provide to each other party  
 2-16 information regarding any change in the party's address or contact  
 2-17 information;  
 2-18 (10) [~~9~~] a statement by the parent that establishes  
 2-19 the circumstances under which the authorization agreement expires,  
 2-20 including that the authorization agreement:  
 2-21 (A) is valid until revoked;  
 2-22 (B) continues in effect after the death or during  
 2-23 any incapacity of the parent; or  
 2-24 (C) expires on a date stated in the authorization  
 2-25 agreement; and  
 2-26 (11) [~~10~~] space for the signature and seal of a  
 2-27 notary public.  
 2-28 (b) The authorization agreement must contain the following  
 2-29 warnings and disclosures:  
 2-30 (1) that the authorization agreement is an important  
 2-31 legal document;  
 2-32 (2) that the parent and the relative must read all of  
 2-33 the warnings and disclosures before signing the authorization  
 2-34 agreement;  
 2-35 (3) that the persons signing the authorization  
 2-36 agreement are not required to consult an attorney but are advised to  
 2-37 do so;  
 2-38 (4) that the parent's rights as a parent may be  
 2-39 adversely affected by placing or leaving the parent's child with  
 2-40 another person;  
 2-41 (5) that the authorization agreement does not confer  
 2-42 on the relative the rights of a managing or possessory conservator  
 2-43 or legal guardian;  
 2-44 (6) that a parent who is a party to the authorization  
 2-45 agreement may terminate the authorization agreement and resume  
 2-46 custody, possession, care, and control of the child on demand and  
 2-47 that at any time the parent may request the return of the child;  
 2-48 (7) that failure by the relative to return the child to  
 2-49 the parent immediately on request may have criminal and civil  
 2-50 consequences;  
 2-51 (8) that, under other applicable law, the relative may  
 2-52 be liable for certain expenses relating to the child in the  
 2-53 relative's care but that the parent still retains the parental  
 2-54 obligation to support the child;  
 2-55 (9) that, in certain circumstances, the authorization  
 2-56 agreement may not be entered into without written permission of the  
 2-57 court;  
 2-58 (10) that the authorization agreement may be  
 2-59 terminated by certain court orders affecting the child;  
 2-60 (11) that the authorization agreement does not  
 2-61 supersede, invalidate, or terminate any prior authorization  
 2-62 agreement regarding the child;  
 2-63 (12) that the authorization agreement is void if a  
 2-64 prior authorization agreement regarding the child is in effect and  
 2-65 has not expired or been terminated;  
 2-66 (13) that, except as provided by Section 34.005(a-1),  
 2-67 the authorization agreement is void unless:  
 2-68 (A) the parties mail a copy of the authorization  
 2-69 agreement by certified mail, return receipt requested, or

3-1 international registered mail, return receipt requested, as  
 3-2 applicable, to a parent who was not a party to the authorization  
 3-3 agreement, if the parent is living and the parent's parental rights  
 3-4 have not been terminated, not later than the 10th day after the date  
 3-5 the authorization agreement is signed; and

3-6 (B) if the parties do not receive a response from  
 3-7 the parent who is not a party to the authorization agreement before  
 3-8 the 20th day after the date the copy of the authorization agreement  
 3-9 is mailed under Paragraph (A), the parties mail a second copy of the  
 3-10 authorization agreement by first class mail or international first  
 3-11 class mail, as applicable, to the parent not later than the 45th day  
 3-12 after the date the authorization agreement is signed; and

3-13 (14) [~~12~~] that the authorization agreement does not  
 3-14 confer on a relative of the child the right to authorize the  
 3-15 performance of an abortion on the child or the administration of  
 3-16 emergency contraception to the child.

3-17 SECTION 4. Section 34.005, Family Code, is amended by  
 3-18 amending Subsection (a) and adding Subsection (a-1) to read as  
 3-19 follows:

3-20 (a) If both parents did not sign the authorization  
 3-21 agreement, the parties shall mail a copy of the executed  
 3-22 authorization agreement by certified mail, return receipt  
 3-23 requested, or international registered mail, return receipt  
 3-24 requested, as applicable, to the parent who was not a party to the  
 3-25 authorization agreement at the parent's last known address not  
 3-26 later than the 10th day after the date the authorization agreement  
 3-27 is executed if that parent is living and that parent's parental  
 3-28 rights have not been terminated. If the parties do not receive a  
 3-29 response from the parent who is not a party to the authorization  
 3-30 agreement before the 20th day after the date the copy of the  
 3-31 authorization agreement is mailed, the parties shall mail a second  
 3-32 copy of the executed authorization agreement by first class mail or  
 3-33 international first class mail, as applicable, to the parent at the  
 3-34 same address not later than the 45th day after the date the  
 3-35 authorization agreement is executed. An authorization agreement is  
 3-36 void if the parties fail to comply with this subsection.

3-37 (a-1) Subsection (a) does not apply to an authorization  
 3-38 agreement if the parent who was not a party to the authorization  
 3-39 agreement:

3-40 (1) does not have court-ordered possession of or  
 3-41 access to the child who is the subject of the authorization  
 3-42 agreement; and

3-43 (2) has previously committed an act of family  
 3-44 violence, as defined by Section 71.004, or assault against the  
 3-45 parent who is a party to the authorization agreement, the child who  
 3-46 is the subject of the authorization agreement, or another child of  
 3-47 the parent who is a party to the authorization agreement, as  
 3-48 documented by one or more of the following:

3-49 (A) the issuance of a protective order against  
 3-50 the parent who was not a party to the authorization agreement as  
 3-51 provided under Chapter 85 or under a similar law of another state;  
 3-52 or

3-53 (B) the conviction of the parent who was not a  
 3-54 party to the authorization agreement of an offense under Title 5,  
 3-55 Penal Code, or of another criminal offense in this state or in  
 3-56 another state an element of which involves a violent act or  
 3-57 prohibited sexual conduct.

3-58 SECTION 5. Section 34.008, Family Code, is amended by  
 3-59 adding Subsection (f) to read as follows:

3-60 (f) Execution of a subsequent authorization agreement does  
 3-61 not by itself supersede, invalidate, or terminate a prior  
 3-62 authorization agreement.

3-63 SECTION 6. (a) Except as provided by Subsections (b) and  
 3-64 (c) of this section, the changes in law made by this Act apply only  
 3-65 to an authorization agreement executed on or after the effective  
 3-66 date of this Act. An authorization agreement executed before that  
 3-67 date is governed by the law in effect on the date the authorization  
 3-68 agreement was executed, and the former law is continued in effect  
 3-69 for that purpose.

4-1 (b) Subsection (d), Section 34.002, Family Code, as added by  
4-2 this Act, applies to an authorization agreement under Chapter 34,  
4-3 Family Code, regardless of whether the agreement was executed  
4-4 before, on, or after the effective date of this Act.

4-5 (c) Notwithstanding Subsection (b) of this section, if, on  
4-6 the effective date of this Act, more than one valid authorization  
4-7 agreement is in effect for a child, each authorization agreement  
4-8 remains in effect, under the law as it existed immediately before  
4-9 the effective date of this Act, until August 31, 2012, or until the  
4-10 date the authorization agreement is terminated, whichever date is  
4-11 earlier. If, on September 1, 2012, more than one valid  
4-12 authorization agreement remains in effect for a child, the most  
4-13 recently executed authorization agreement controls, and all  
4-14 authorization agreements executed before that agreement are  
4-15 considered terminated.

4-16 SECTION 7. This Act takes effect September 1, 2011.

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