

By: Guillen

H.B. No. 354

A BILL TO BE ENTITLED

AN ACT

relating to authorization for a caregiver who is a relative to enroll a child in school.

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

SECTION 1. Subtitle A, Title 2, Family Code, is amended by adding Chapter 35 to read as follows:

CHAPTER 35. RIGHTS OF CERTAIN RELATIVE CAREGIVERS TO ENROLL CHILD
IN SCHOOL

Sec. 35.001. DEFINITIONS. In this chapter:

(1) "Caregiver" means an individual with whom a child primarily resides and who has assumed responsibility for caring for and supervising the child.

(2) "Relative" means an individual related to a child by consanguinity or affinity, as determined under Sections 573.022 and 573.024, Government Code, respectively.

Sec. 35.002. AFFIDAVIT OF CAREGIVER. (a) A caregiver of a child who is a relative of the child may execute an affidavit indicating that:

(1) the child primarily resides with the caregiver;
and

(2) the parent or legal guardian cannot be contacted for authorization.

(b) The affidavit must be witnessed by two witnesses who are at least 18 years of age and at least one of whom is not related by

1 blood or marriage to the child or the caregiver.

2 (c) The completed affidavit must be notarized.

3 Sec. 35.003. RIGHTS AND DUTIES OF CHILD AND CAREGIVER. (a)

4 A caregiver may provide the affidavit under this chapter to a school
5 or school district to enroll the child in school.

6 (b) If the child no longer resides with the caregiver or if
7 the child's parent or guardian objects to the caregiver's
8 authorization, the affidavit is invalid and the caregiver shall
9 notify all parties to whom the caregiver provided the affidavit,
10 including the child's school.

11 Sec. 35.004. EFFECT OF AFFIDAVIT. (a) A person who relies
12 on an affidavit that complies with this chapter has no obligation to
13 make any further inquiry or investigation.

14 (b) The caregiver's authorization affidavit does not affect
15 the rights of the child's parent or legal guardian regarding the
16 care, custody, and control of the child and does not mean that the
17 caregiver has legal custody of the child.

18 Sec. 35.005. FORM OF AFFIDAVIT. The caregiver's
19 authorization affidavit must be on a form prescribed by the Texas
20 Education Agency and include:

21 (1) the name and date of birth of the child;

22 (2) the name and address of the caregiver;

23 (3) the relationship of the caregiver to the child;

24 (4) a certification by the caregiver that:

25 (A) the caregiver is a relative of the child;

26 (B) the child primarily resides with the

27 caregiver; and

1 (C) the child's parent or legal guardian cannot
2 be contacted for authorization;

3 (5) the printed names and signatures of the caregiver
4 and witnesses;

5 (6) the notary public's acknowledgment;

6 (7) acknowledgment that the form is signed under
7 penalty of perjury; and

8 (8) any other information required by Texas Education
9 Agency rule.

10 Sec. 35.006. RULES. (a) The commissioner of education
11 shall adopt rules to implement this chapter and to ensure that the
12 caregiver's authorization affidavit is accepted by schools and
13 school districts.

14 (b) The Texas Education Agency shall develop the form
15 required by Section 35.005 and make that form available on the
16 agency's Internet website.

17 SECTION 2. Section 25.001(b), Education Code, is amended to
18 read as follows:

19 (b) The board of trustees of a school district or its
20 designee shall admit into the public schools of the district free of
21 tuition a person who is over five and younger than 21 years of age on
22 the first day of September of the school year in which admission is
23 sought, and may admit a person who is at least 21 years of age and
24 under 26 years of age for the purpose of completing the requirements
25 for a high school diploma, if:

26 (1) the person and either parent of the person reside
27 in the school district;

1 (2) the person does not reside in the school district
2 but a parent of the person resides in the school district and that
3 parent is a joint managing conservator or the sole managing
4 conservator or possessory conservator of the person;

5 (3) the person and the person's guardian or other
6 person having lawful control of the person under a court order
7 reside within the school district;

8 (4) the person has established a separate residence
9 under Subsection (d);

10 (5) the person is homeless, as defined by 42 U.S.C.
11 Section 11302, regardless of the residence of the person, of either
12 parent of the person, or of the person's guardian or other person
13 having lawful control of the person;

14 (6) the person is a foreign exchange student placed
15 with a host family that resides in the school district by a
16 nationally recognized foreign exchange program, unless the school
17 district has applied for and been granted a waiver by the
18 commissioner under Subsection (e);

19 (7) the person resides at a residential facility
20 located in the district;

21 (8) the person resides in the school district and is 18
22 years of age or older or the person's disabilities of minority have
23 been removed; [~~or~~]

24 (9) the person does not reside in the school district
25 but the grandparent of the person:

26 (A) resides in the school district; and

27 (B) provides a substantial amount of

1 after-school care for the person as determined by the board; or
2 (10) the person lives with a relative who submits to
3 the district a caregiver's authorization affidavit executed under
4 Chapter 35, Family Code.

5 SECTION 3. Section 25.002(f), Education Code, is amended to
6 read as follows:

7 (f) [~~Except as otherwise provided by this subsection, for a~~
8 ~~child to be enrolled in a public school, the child must be enrolled~~
9 ~~by the child's parent or by the child's guardian or other person~~
10 ~~with legal control of the child under a court order.] A school
11 district shall record the name, address, and date of birth of the
12 person enrolling a child.~~

13 SECTION 4. Section 26.002, Education Code, is amended to
14 read as follows:

15 Sec. 26.002. DEFINITION. In this chapter, "parent"
16 includes a person standing in parental relation. The term includes
17 a relative who submits a caregiver's authorization affidavit
18 executed under Chapter 35, Family Code. The term does not include a
19 person as to whom the parent-child relationship has been terminated
20 or a person not entitled to possession of or access to a child under
21 a court order. Except as provided by federal law, all rights of a
22 parent under Title 2 of this code and all educational rights under
23 Section 151.001(a)(10) [~~151.003(a)(10)~~], Family Code, shall be
24 exercised by a student who is 18 years of age or older or whose
25 disabilities of minority have been removed for general purposes
26 under Chapter 31, Family Code, unless the student has been
27 determined to be incompetent or the student's rights have been

1 otherwise restricted by a court order.

2 SECTION 5. Sections 25.001, 25.002, and 26.002, Education
3 Code, as amended by this Act, apply beginning with the 2013-2014
4 school year.

5 SECTION 6. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2013.