

By: King of Taylor

H.B. No. 2837

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to authorization agreements between a parent and a  
3 relative or other person for the care and custody of the parent's  
4 child.

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

6 SECTION 1. Section 34.001, Family Code, is amended to read  
7 as follows:

8 Sec. 34.001. APPLICABILITY. This chapter applies only to:

9 (1) an authorization agreement between a parent of a  
10 child and a person who is the child's:

11 (A) grandparent;

12 (B) adult sibling; or

13 (C) adult aunt or uncle; ~~and~~

14 (2) an authorization agreement between a parent of a  
15 child and the person with whom the child is placed under a parental  
16 child safety placement agreement; and

17 (3) an authorization agreement between a parent of a  
18 child and a person who is unrelated to the child with whom the child  
19 is placed through a qualified nonprofit organization that assists  
20 the parent with executing the authorization agreement.

21 SECTION 2. Section 34.0015, Family Code, is amended to read  
22 as follows:

23 Sec. 34.0015. DEFINITIONS ~~[DEFINITION]~~. In this chapter:

24 (1) "Department" means the Department of Family and

1 Protective Services.

2           (2) "Parent" [,~~"parent"~~] has the meaning assigned by  
3 Section 101.024.

4           (3) "Qualified nonprofit organization" means a  
5 charitable or religious institution that is exempt from federal  
6 income taxation under Section 501(a), Internal Revenue Code of  
7 1986, as an organization described by Section 501(c)(3) of that  
8 code, that assists a parent or legal guardian of a child with the  
9 process of entering into an authorization agreement under this  
10 chapter, including identifying an appropriate placement for each  
11 child subject to the agreement and providing services and resources  
12 to support the child, parents, and other persons authorized to  
13 provide temporary care of the child under the agreement.

14           SECTION 3. Sections 34.002(a) and (c), Family Code, are  
15 amended to read as follows:

16           (a) A parent or both parents of a child may enter into an  
17 authorization agreement with a relative of the child or other  
18 person listed in Section 34.001 to authorize the relative or other  
19 person to perform the following acts in regard to the child:

20           (1) to authorize medical, dental, psychological, or  
21 surgical treatment and immunization of the child, including  
22 executing any consents or authorizations for the release of  
23 information as required by law relating to the treatment or  
24 immunization;

25           (2) to obtain and maintain health insurance coverage  
26 for the child and automobile insurance coverage for the child, if  
27 appropriate;

1 (3) to enroll the child in a day-care program or  
2 preschool or in a public or private primary or secondary school;

3 (4) to authorize the child to participate in  
4 age-appropriate extracurricular, civic, social, or recreational  
5 activities, including athletic activities;

6 (5) to authorize the child to obtain a learner's  
7 permit, driver's license, or state-issued identification card;

8 (6) to authorize employment of the child; and

9 (7) to apply for and receive public benefits on behalf  
10 of the child.

11 (c) An authorization agreement under this chapter does not  
12 confer on a relative of the child or other person listed in Section  
13 34.001 or a relative or other person with whom the child is placed  
14 under a child safety placement agreement the right to consent to the  
15 marriage or adoption of the child, consent to the termination of  
16 parental rights to the child, or authorize the performance of an  
17 abortion on the child or the administration of emergency  
18 contraception to the child.

19 SECTION 4. Chapter 34, Family Code, is amended by adding  
20 Sections 34.0022, 34.0023, and 34.0024 to read as follows:

21 Sec. 34.0022. AUTHORIZATION AGREEMENT BETWEEN PARENT AND  
22 NONRELATIVE. (a) A parent may enter into an authorization  
23 agreement with a person who is not a relative of the parent's child  
24 only if the authorization agreement is entered into with the  
25 assistance of a qualified nonprofit organization in accordance with  
26 this chapter. This subsection does not apply to a parent whose  
27 child is the subject of an ongoing investigation by the department

1 of child abuse or neglect or to whom the department is providing  
2 services.

3 (b) A child placed through an authorization agreement under  
4 this section is not in foster care and is not considered in the  
5 conservatorship of the department.

6 (c) A person with whom a child is placed under an  
7 authorization agreement entered into under this chapter is not a  
8 foster home and is not subject to state foster care regulations.

9 Sec. 34.0023. PARENTAL RIGHTS NOT ADVERSELY AFFECTED. A  
10 parent's execution of an authorization agreement under this chapter  
11 does not constitute abandonment or child abuse or neglect and may  
12 not independently adversely affect the parent's rights with respect  
13 to the parent's child.

14 Sec. 34.0024. SERVICES OF QUALIFIED NONPROFIT  
15 ORGANIZATION. (a) For each request received by a qualified  
16 nonprofit organization to assist a parent and a person who is not  
17 related to the parent's child with entering into an authorization  
18 agreement and placement of a child under this chapter, the  
19 qualified nonprofit organization shall:

20 (1) complete a criminal history background check and  
21 child abuse and neglect background check on each adult in the  
22 person's household;

23 (2) ensure that each person providing care for a child  
24 under an authorization agreement authorized by this chapter is  
25 trained in the rights, duties, and limitations regarding providing  
26 care for a child under an authorization agreement as provided in  
27 this chapter; and

1           (3) notify the department of the request and verify  
2 that the department does not have an open investigation of child  
3 abuse or neglect involving the child or parent or is not otherwise  
4 providing services to the parent.

5           (b) If the department has an open investigation of abuse and  
6 neglect related to the child or is providing services to the parent,  
7 the department must approve the authorization agreement.

8           (c) If the department does not have an open investigation  
9 involving the child or parent or is not otherwise providing  
10 services to the parent, the department may not open an  
11 investigation based solely on receiving the notification required  
12 by Subsection (a)(3).

13           SECTION 5. Section 34.003, Family Code, is amended to read  
14 as follows:

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

17           (1) the following information from the relative of the  
18 child or other person to whom the parent is giving authorization:

19                   (A) the name and signature of the relative or  
20 other person;

21                   (B) the relative's or other person's relationship  
22 to the child; and

23                   (C) the relative's or other person's current  
24 physical address and telephone number or the best way to contact the  
25 relative or other person;

26           (2) the following information from the parent:

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

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

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

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

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

16 (6) statements that:

17 (A) to the best of the parent's and relative's or  
18 other person's knowledge:

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

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

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

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

27 (iii) the court does not have continuing

1 jurisdiction concerning the child; or

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

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

8 (ii) the number of the court; and

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

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

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

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

21 (10) a statement by the parent that establishes the  
22 circumstances under which the authorization agreement expires,  
23 including that the authorization agreement:

24 (A) is valid until revoked;

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

27 (C) expires on a date stated in the authorization

1 agreement; ~~and~~

2 (11) if the authorization agreement is executed with  
3 the assistance of a qualified nonprofit organization, the following  
4 information:

5 (A) the organization's name, tax identification  
6 number, and current physical address and telephone number; and

7 (B) the name and signature of the individual  
8 authorized to act on behalf of the organization; and

9 (12) space for the signature and seal of a notary  
10 public.

11 (b) The authorization agreement must contain the following  
12 warnings and disclosures:

13 (1) that the authorization agreement is an important  
14 legal document;

15 (2) that the parent and the relative or other person  
16 must read all of the warnings and disclosures before signing the  
17 authorization agreement;

18 (3) that the persons signing the authorization  
19 agreement are not required to consult an attorney but are advised to  
20 do so;

21 (4) ~~[that the parent's rights as a parent may be~~  
22 ~~adversely affected by placing or leaving the parent's child with~~  
23 ~~another person;~~

24 ~~(5)~~ that the authorization agreement does not confer  
25 on the relative or other person the rights of a managing or  
26 possessory conservator or legal guardian;

27 (5) ~~(6)~~ that a parent who is a party to the



1 authorization agreement may terminate the authorization agreement  
2 and resume custody, possession, care, and control of the child on  
3 demand and that at any time the parent may request the return of the  
4 child;

5 (6) [~~(7)~~] that failure by the relative or other person  
6 to return the child to the parent immediately on request may have  
7 criminal and civil consequences;

8 (7) [~~(8)~~] that, under other applicable law, the  
9 relative or other person may be liable for certain expenses  
10 relating to the child in the relative's or other person's care but  
11 that the parent still retains the parental obligation to support  
12 the child;

13 (8) [~~(9)~~] that, in certain circumstances, the  
14 authorization agreement may not be entered into without written  
15 permission of the court;

16 (9) [~~(10)~~] that the authorization agreement may be  
17 terminated by certain court orders affecting the child;

18 (10) [~~(11)~~] that the authorization agreement does not  
19 supersede, invalidate, or terminate any prior authorization  
20 agreement regarding the child;

21 (11) [~~(12)~~] that the authorization agreement is void  
22 if a prior authorization agreement regarding the child is in effect  
23 and has not expired or been terminated;

24 (12) [~~(13)~~] that, except as provided by Section  
25 34.005(a-1), the authorization agreement is void unless:

26 (A) the parties mail a copy of the authorization  
27 agreement by certified mail, return receipt requested, or

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

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

13 (13) [~~(14)~~] that the authorization agreement does not  
14 confer on a relative of the child or other person the right to  
15 consent to the marriage or adoption of the child, consent to  
16 termination of the parental rights of the child, or authorize the  
17 performance of an abortion on the child or the administration of  
18 emergency contraception to the child.

19 SECTION 6. Section 34.004(a), Family Code, is amended to  
20 read as follows:

21 (a) The authorization agreement must be signed and sworn to  
22 before a notary public by:

23 (1) the parent;

24 (2) [~~and~~] the relative or other person who is granted  
25 authority to care for the child under the authorization agreement;  
26 and

27 (3) if the authorization agreement is executed with

1 the assistance of a qualified nonprofit organization, a  
2 representative of the organization.

3 SECTION 7. Section 34.007(b), Family Code, is amended to  
4 read as follows:

5 (b) The authorization agreement does not affect the rights  
6 of the child's parent or legal guardian regarding the care,  
7 custody, and control of the child, and does not mean that the  
8 relative or other person has legal custody of the child.

9 SECTION 8. Section 34.008(c), Family Code, is amended to  
10 read as follows:

11 (c) An authorization agreement under this chapter  
12 terminates on written revocation by a party to the authorization  
13 agreement if the party:

14 (1) gives each party written notice of the revocation;  
15 (2) files the written revocation with the clerk of the  
16 county in which:

17 (A) the child resides;  
18 (B) the child resided at the time the  
19 authorization agreement was executed; or

20 (C) the relative or other person resides; and  
21 (3) files the written revocation with the clerk of  
22 each court:

23 (A) that has continuing, exclusive jurisdiction  
24 over the child;

25 (B) in which there is a court order or pending  
26 suit affecting the parent-child relationship concerning the child;

27 (C) in which there is pending litigation

1 concerning:

2 (i) custody, possession, or placement of  
3 the child; or

4 (ii) access to or visitation with the  
5 child; or

6 (D) that has entered an order regarding the  
7 appointment of a guardian for the child under Subchapter B, Chapter  
8 1104, Estates [~~Section 676, Texas Probate~~] Code.

9 SECTION 9. This Act takes effect September 1, 2015.