

By: Roberts, Frank, Miller, Wu, Klick,
et al.

H.B. No. 871

Substitute the following for H.B. No. 871:

By: Wu

C.S.H.B. No. 871

A BILL TO BE ENTITLED

AN ACT

relating to child and family support services for families in
crisis, including authorization agreements.

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

SECTION 1. The heading to Chapter 34, Family Code, is
amended to read as follows:

CHAPTER 34. AUTHORIZATION AGREEMENT FOR NONPARENT ADULT CAREGIVER
~~[RELATIVE]~~

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

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

(1) "Adult caregiver" means an adult person whom a
parent has authorized to provide temporary care for a child under
this chapter.

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

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

(a) A parent or both parents of a child may enter into an
authorization agreement with an adult caregiver ~~[a relative of the
child listed in Section 34.001]~~ to authorize the adult caregiver
~~[relative]~~ to perform the following acts in regard to the child:

(1) to authorize medical, dental, psychological, or
surgical treatment and immunization of the child, including

1 executing any consents or authorizations for the release of
2 information as required by law relating to the treatment or
3 immunization;

4 (2) to obtain and maintain health insurance coverage
5 for the child and automobile insurance coverage for the child, if
6 appropriate;

7 (3) to enroll the child in a day-care program or
8 preschool or in a public or private elementary or secondary school;

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

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

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

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

17 (c) An authorization agreement under this chapter does not
18 confer on an adult caregiver [~~a relative of the child listed in~~
19 ~~Section 34.001 or a relative or other person with whom the child is~~
20 ~~placed under a child safety placement agreement~~] the right to
21 authorize the performance of an abortion on the child or the
22 administration of emergency contraception to the child.

23 SECTION 4. Section 34.0021, Family Code, is amended to read
24 as follows:

25 Sec. 34.0021. AUTHORIZATION AGREEMENT BY PARENT IN CHILD
26 PROTECTIVE SERVICES CASE. A parent may enter into an authorization
27 agreement with an adult caregiver [~~a relative or other person~~] with

1 whom a child is placed under a parental child safety placement
2 agreement approved by the Department of Family and Protective
3 Services to allow the person to perform the acts described by
4 Section 34.002(a) with regard to the child:

- 5 (1) during an investigation of abuse or neglect; or
- 6 (2) while the department is providing services to the
7 parent.

8 SECTION 5. Chapter 34, Family Code, is amended by adding
9 Section 34.0022 to read as follows:

10 Sec. 34.0022. INAPPLICABILITY OF CERTAIN LAWS. (a) An
11 authorization agreement executed under this chapter between a
12 child's parent and an adult caregiver does not subject the adult
13 caregiver to any law or rule governing the licensing or regulation
14 of a residential child-care facility under Chapter 42, Human
15 Resources Code.

16 (b) A child who is the subject of an authorization agreement
17 executed under this chapter is not considered to be placed in foster
18 care and the parties to the authorization agreement are not subject
19 to any law or rule governing foster care providers.

20 SECTION 6. Section 34.003, Family Code, is amended to read
21 as follows:

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

24 (1) the following information from the adult caregiver
25 [~~relative of the child to whom the parent is giving authorization~~]:

26 (A) the name and signature of the adult caregiver
27 [~~relative~~];

1 (B) the adult caregiver's [~~relative's~~]
2 relationship to the child; and

3 (C) the adult caregiver's [~~relative's~~] current
4 physical address and telephone number or the best way to contact the
5 adult caregiver [~~relative~~];

6 (2) the following information from the parent:

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

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

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

12 (4) a statement that the adult caregiver [~~relative~~]
13 has been given authorization to perform the functions listed in
14 Section 34.002(a) as a result of a voluntary action of the parent
15 and that the adult caregiver [~~relative~~] has voluntarily assumed the
16 responsibility of performing those functions;

17 (5) statements that neither the parent nor the adult
18 caregiver [~~relative~~] has knowledge that a parent, guardian,
19 custodian, licensed child-placing agency, or other authorized
20 agency asserts any claim or authority inconsistent with the
21 authorization agreement under this chapter with regard to actual
22 physical possession or care, custody, or control of the child;

23 (6) statements that:

24 (A) to the best of the parent's and adult
25 caregiver's [~~relative's~~] knowledge:

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

1 (ii) there is no pending litigation in any
2 court concerning:

3 (a) custody, possession, or placement
4 of the child; or

5 (b) access to or visitation with the
6 child; and

7 (iii) the court does not have continuing
8 jurisdiction concerning the child; or

9 (B) the court with continuing jurisdiction
10 concerning the child has given written approval for the execution
11 of the authorization agreement accompanied by the following
12 information:

13 (i) the county in which the court is
14 located;

15 (ii) the number of the court; and

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

18 (7) a statement that to the best of the parent's and
19 adult caregiver's [~~relative's~~] knowledge there is no current, valid
20 authorization agreement regarding the child;

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

23 (9) a statement that the parent and the adult
24 caregiver [~~relative~~] understand that each party to the
25 authorization agreement is required by law to immediately provide
26 to each other party information regarding any change in the party's
27 address or contact information;

1 (10) a statement by the parent that:

2 (A) indicates the authorization agreement is for
3 a term of:

4 (i) six months from the date the parties
5 enter into the agreement, which renews automatically for six-month
6 terms unless the agreement is terminated as provided by Section
7 34.008; or

8 (ii) the time provided in the agreement
9 with a specific expiration date earlier than six months after the
10 date the parties enter into the agreement; and

11 (B) identifies [~~establishes~~] the circumstances
12 under which the authorization agreement may be:

13 (i) terminated as provided by Section
14 34.008 before the term of the agreement expires; or

15 (ii) continued beyond the term of the
16 agreement by a court as provided by Section 34.008(b) [~~expires,~~
17 ~~including that the authorization agreement:~~

18 [(A) ~~is valid until revoked,~~

19 [(B) ~~continues in effect after the death or~~
20 ~~during any incapacity of the parent; or~~

21 [(C) ~~expires on a date stated in the~~
22 ~~authorization agreement]; and~~

23 (11) space for the signature and seal of a notary
24 public.

25 (b) The authorization agreement must contain the following
26 warnings and disclosures:

27 (1) that the authorization agreement is an important

1 legal document;

2 (2) that the parent and the adult caregiver [~~relative~~]
3 must read all of the warnings and disclosures before signing the
4 authorization agreement;

5 (3) that the persons signing the authorization
6 agreement are not required to consult an attorney but are advised to
7 do so;

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

11 (5) that the authorization agreement does not confer
12 on the adult caregiver [~~relative~~] the rights of a managing or
13 possessory conservator or legal guardian;

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

18 (7) that failure by the adult caregiver [~~relative~~] to
19 return the child to the parent immediately on request may have
20 criminal and civil consequences;

21 (8) that, under other applicable law, the adult
22 caregiver [~~relative~~] may be liable for certain expenses relating to
23 the child in the adult caregiver's [~~relative's~~] care but that the
24 parent still retains the parental obligation to support the child;

25 (9) that, in certain circumstances, the authorization
26 agreement may not be entered into without written permission of the
27 court;

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

3 (11) that the authorization agreement does not
4 supersede, invalidate, or terminate any prior authorization
5 agreement regarding the child;

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

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

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

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

25 (14) that the authorization agreement does not confer
26 on an adult caregiver [~~a relative of the child~~] the right to
27 authorize the performance of an abortion on the child or the

1 administration of emergency contraception to the child.

2 SECTION 7. Section 34.004(a), Family Code, is amended to
3 read as follows:

4 (a) The authorization agreement must be signed and sworn to
5 before a notary public by the parent and the adult caregiver
6 [~~relative~~].

7 SECTION 8. Section 34.007(b), Family Code, is amended to
8 read as follows:

9 (b) The authorization agreement does not affect the rights
10 of the child's parent or legal guardian regarding the care,
11 custody, and control of the child, and does not mean that the adult
12 caregiver [~~relative~~] has legal custody of the child.

13 SECTION 9. Chapter 34, Family Code, is amended by adding
14 Section 34.0075 to read as follows:

15 Sec. 34.0075. TERM OF AUTHORIZATION AGREEMENT. An
16 authorization agreement executed under this chapter is for a term
17 of six months from the date the parties enter into the agreement and
18 renews automatically for six-month terms unless:

19 (1) an earlier expiration date is stated in the
20 authorization agreement;

21 (2) the authorization agreement is terminated as
22 provided by Section 34.008; or

23 (3) a court authorizes the continuation of the
24 agreement as provided by Section 34.008(b).

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

27 (c) An authorization agreement under this chapter

1 terminates on written revocation by a party to the authorization
2 agreement if the party:

3 (1) gives each party written notice of the revocation;

4 (2) files the written revocation with the clerk of the
5 county in which:

6 (A) the child resides;

7 (B) the child resided at the time the
8 authorization agreement was executed; or

9 (C) the adult caregiver [~~relative~~] resides; and

10 (3) files the written revocation with the clerk of
11 each court:

12 (A) that has continuing, exclusive jurisdiction
13 over the child;

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

16 (C) in which there is pending litigation
17 concerning:

18 (i) custody, possession, or placement of
19 the child; or

20 (ii) access to or visitation with the
21 child; or

22 (D) that has entered an order regarding the
23 appointment of a guardian for the child under Subchapter B, Chapter
24 1104, Estates [~~Section 676, Texas Probate~~] Code.

25 SECTION 11. Subchapter C, Chapter 264, Family Code, is
26 amended by adding Sections 264.2042 and 264.2043 to read as
27 follows:

1 Sec. 264.2042. NONPROFIT ORGANIZATIONS PROVIDING CHILD AND
2 FAMILY SERVICES. (a) The department shall cooperate with
3 nonprofit organizations, including faith-based organizations, in
4 providing information to families in crisis regarding child and
5 family services, including respite care, voluntary guardianship,
6 and other support services, available in the child's community.

7 (b) The department does not incur any obligation as a result
8 of providing information as required by Subsection (a).

9 (c) The department is not liable for damages arising out of
10 the provision of information as required by Subsection (a).

11 Sec. 264.2043. PROHIBITION ON ABUSE OR NEGLECT
12 INVESTIGATION BASED SOLELY ON REQUEST FOR INFORMATION. The
13 department may not initiate an investigation of child abuse or
14 neglect based solely on a request submitted to the department by a
15 child's parent for information relating to child and family
16 services available to families in crisis.

17 SECTION 12. Section 42.041(b), Human Resources Code, is
18 amended to read as follows:

19 (b) This section does not apply to:
20 (1) a state-operated facility;
21 (2) an agency foster home or agency foster group home;
22 (3) a facility that is operated in connection with a
23 shopping center, business, religious organization, or
24 establishment where children are cared for during short periods
25 while parents or persons responsible for the children are attending
26 religious services, shopping, or engaging in other activities,
27 including retreats or classes for religious instruction, on or near

1 the premises, that does not advertise as a child-care facility or
2 day-care center, and that informs parents that it is not licensed by
3 the state;

4 (4) a school or class for religious instruction that
5 does not last longer than two weeks and is conducted by a religious
6 organization during the summer months;

7 (5) a youth camp licensed by the Department of State
8 Health Services;

9 (6) a facility licensed, operated, certified, or
10 registered by another state agency;

11 (7) an educational facility that is accredited by the
12 Texas Education Agency, the Southern Association of Colleges and
13 Schools, or an accreditation body that is a member of the Texas
14 Private School Accreditation Commission and that operates
15 primarily for educational purposes for prekindergarten and above, a
16 before-school or after-school program operated directly by an
17 accredited educational facility, or a before-school or
18 after-school program operated by another entity under contract with
19 the educational facility, if the Texas Education Agency, the
20 Southern Association of Colleges and Schools, or the other
21 accreditation body, as applicable, has approved the curriculum
22 content of the before-school or after-school program operated under
23 the contract;

24 (8) an educational facility that operates solely for
25 educational purposes for prekindergarten through at least grade
26 two, that does not provide custodial care for more than one hour
27 during the hours before or after the customary school day, and that

1 is a member of an organization that promulgates, publishes, and
2 requires compliance with health, safety, fire, and sanitation
3 standards equal to standards required by state, municipal, and
4 county codes;

5 (9) a kindergarten or preschool educational program
6 that is operated as part of a public school or a private school
7 accredited by the Texas Education Agency, that offers educational
8 programs through grade six, and that does not provide custodial
9 care during the hours before or after the customary school day;

10 (10) a family home, whether registered or listed;

11 (11) an educational facility that is integral to and
12 inseparable from its sponsoring religious organization or an
13 educational facility both of which do not provide custodial care
14 for more than two hours maximum per day, and that offers an
15 educational program in one or more of the following:
16 prekindergarten through at least grade three, elementary grades, or
17 secondary grades;

18 (12) an emergency shelter facility, other than a
19 facility that would otherwise require a license as a child-care
20 facility under this section, that provides shelter or care to a
21 minor and the minor's child or children, if any, under Section
22 [32.201](#), Family Code, if the facility:

23 (A) is currently under a contract with a state or
24 federal agency; or

25 (B) meets the requirements listed under Section
26 [51.005\(b\)\(3\)](#);

27 (13) a juvenile detention facility certified under

1 Section 51.12, Family Code, a juvenile correctional facility
2 certified under Section 51.125, Family Code, a juvenile facility
3 providing services solely for the Texas Juvenile Justice
4 Department, or any other correctional facility for children
5 operated or regulated by another state agency or by a political
6 subdivision of the state;

7 (14) an elementary-age (ages 5-13) recreation program
8 operated by a municipality provided the governing body of the
9 municipality annually adopts standards of care by ordinance after a
10 public hearing for such programs, that such standards are provided
11 to the parents of each program participant, and that the ordinances
12 shall include, at a minimum, staffing ratios, minimum staff
13 qualifications, minimum facility, health, and safety standards,
14 and mechanisms for monitoring and enforcing the adopted local
15 standards; and further provided that parents be informed that the
16 program is not licensed by the state and the program may not be
17 advertised as a child-care facility;

18 (15) an annual youth camp held in a municipality with a
19 population of more than 1.5 million that operates for not more than
20 three months and that has been operated for at least 10 years by a
21 nonprofit organization that provides care for the homeless;

22 (16) a food distribution program that:

23 (A) serves an evening meal to children two years
24 of age or older; and

25 (B) is operated by a nonprofit food bank in a
26 nonprofit, religious, or educational facility for not more than two
27 hours a day on regular business days;

1 (17) a child-care facility that operates for less than
2 three consecutive weeks and less than 40 days in a period of 12
3 months;

4 (18) a program:

5 (A) in which a child receives direct instruction
6 in a single skill, talent, ability, expertise, or proficiency;

7 (B) that does not provide services or offerings
8 that are not directly related to the single talent, ability,
9 expertise, or proficiency;

10 (C) that does not advertise or otherwise
11 represent that the program is a child-care facility, day-care
12 center, or licensed before-school or after-school program or that
13 the program offers child-care services;

14 (D) that informs the parent or guardian:

15 (i) that the program is not licensed by the
16 state; and

17 (ii) about the physical risks a child may
18 face while participating in the program; and

19 (E) that conducts background checks for all
20 program employees and volunteers who work with children in the
21 program using information that is obtained from the Department of
22 Public Safety;

23 (19) an elementary-age (ages 5-13) recreation program
24 that:

25 (A) adopts standards of care, including
26 standards relating to staff ratios, staff training, health, and
27 safety;

1 (B) provides a mechanism for monitoring and
2 enforcing the standards and receiving complaints from parents of
3 enrolled children;

4 (C) does not advertise as or otherwise represent
5 the program as a child-care facility, day-care center, or licensed
6 before-school or after-school program or that the program offers
7 child-care services;

8 (D) informs parents that the program is not
9 licensed by the state;

10 (E) is organized as a nonprofit organization or
11 is located on the premises of a participant's residence;

12 (F) does not accept any remuneration other than a
13 nominal annual membership fee;

14 (G) does not solicit donations as compensation or
15 payment for any good or service provided as part of the program; and

16 (H) conducts background checks for all program
17 employees and volunteers who work with children in the program
18 using information that is obtained from the Department of Public
19 Safety;

20 (20) a living arrangement in a caretaker's home
21 involving one or more children or a sibling group, excluding
22 children who are related to the caretaker, in which the caretaker:

23 (A) had a prior relationship with the child or
24 sibling group or other family members of the child or sibling group;

25 (B) does not care for more than one unrelated
26 child or sibling group;

27 (C) does not receive compensation or solicit

1 donations for the care of the child or sibling group; and

2 (D) has a written agreement with the parent to
3 care for the child or sibling group;

4 (21) a living arrangement in a caretaker's home
5 involving one or more children or a sibling group, excluding
6 children who are related to the caretaker, in which:

7 (A) the department is the managing conservator of
8 the child or sibling group;

9 (B) the department placed the child or sibling
10 group in the caretaker's home; and

11 (C) the caretaker had a long-standing and
12 significant relationship with the child or sibling group before the
13 child or sibling group was placed with the caretaker;

14 (22) a living arrangement in a caretaker's home
15 involving one or more children or a sibling group, excluding
16 children who are related to the caretaker, in which the child is in
17 the United States on a time-limited visa under the sponsorship of
18 the caretaker or of a sponsoring organization; ~~or~~

19 (23) a facility operated by a nonprofit organization
20 that:

21 (A) does not otherwise operate as a child-care
22 facility that is required to be licensed under this section;

23 (B) provides emergency shelter and care for not
24 more than 15 days to children 13 years of age or older but younger
25 than 18 years of age who are victims of human trafficking alleged
26 under Section [20A.02](#), Penal Code;

27 (C) is located in a municipality with a

1 population of at least 600,000 that is in a county on an
2 international border; and

3 (D) meets one of the following criteria:

4 (i) is licensed by, or operates under an
5 agreement with, a state or federal agency to provide shelter and
6 care to children; or

7 (ii) meets the eligibility requirements for
8 a contract under Section 51.005(b)(3); or

9 (24) a living arrangement in a caretaker's home
10 involving one or more children or a sibling group in which the
11 caretaker:

12 (A) has a written authorization agreement under
13 Chapter 34, Family Code, with the parent of each child or sibling
14 group to care for each child or sibling group;

15 (B) does not care for more than six children,
16 excluding children who are related to the caretaker; and

17 (C) does not receive compensation for caring for
18 any child or sibling group.

19 SECTION 13. Sections 34.001 and 34.008(d), Family Code, are
20 repealed.

21 SECTION 14. This Act takes effect September 1, 2017.