| **House Bill 3052**Senate AmendmentsSection-by-Section Analysis |
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| HOUSE VERSION | SENATE VERSION (IE) | CONFERENCE |
| No equivalent provision. | SECTION \_\_. Section 6.405, Family Code, is amended to read as follows:Sec. 6.405. PROTECTIVE ORDER AND RELATED ORDERS. (a) The petition in a suit for dissolution of a marriage must state whether, in regard to a party to the suit or a child of a party to the suit:(1) there is in effect:(A) a protective order under Title 4;(B) a protective order under Chapter 7A, Code of Criminal Procedure; or(C) an order for emergency protection under Article 17.292, Code of Criminal Procedure; [~~is in effect~~] or(2) [~~if~~] an application for an [~~a protective~~] order described by Subdivision (1) is pending [~~with regard to the parties to the suit~~].(b) The petitioner shall attach to the petition a copy of each [~~protective~~] order described by Subsection (a)(1) [~~issued under Title 4~~] in which a party [~~one of the parties~~] to the suit or the child of a party to the suit was the applicant or victim of the conduct alleged in the application or order and the other party was the respondent or defendant of an action regarding the conduct alleged in the application or order without regard to the date of the order. If a copy of the [~~protective~~] order is not available at the time of filing, the petition must state that a copy of the order will be filed with the court before any hearing. [FA1] |  |
| SECTION 1. Section 34.002(a), Family Code, is amended to read as follows:(a) A parent or both parents of a child may enter into an authorization agreement with a relative of the child listed in Section 34.001 to authorize the 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 executing any consents or authorizations for the release of information as required by law relating to the treatment or immunization;(2) to obtain and maintain health insurance coverage for the child and automobile insurance coverage for the child, if appropriate;(3) to enroll the child in a day-care program or preschool or in a public or private elementary or secondary school;(4) to authorize the child to participate in age-appropriate extracurricular, civic, social, or recreational activities, including athletic activities;(5) to authorize the child to obtain a learner's permit, driver's license, or state-issued identification card;(6) to authorize employment of the child; [~~and~~](7) to apply for and receive public benefits on behalf of the child; and(8) to obtain:(A) copies or originals of state-issued personal identification documents for the child, including the child's birth certificate; and(B) to the extent authorized under federal law, copies or originals of federally issued personal identification documents for the child, including the child's social security card. | SECTION 1. Same as House version. |  |
| SECTION 2. Section 34.003, Family Code, is amended to read as follows:Sec. 34.003. CONTENTS OF AUTHORIZATION AGREEMENT. (a) The authorization agreement must contain:(1) the following information from the relative of the child to whom the parent is giving authorization:(A) the name and signature of the relative;(B) the relative's relationship to the child; and(C) the relative's current physical address and telephone number or the best way to contact the relative;(2) the following information from the parent:(A) the name and signature of the parent; and(B) the parent's current address and telephone number or the best way to contact the parent;(3) the information in Subdivision (2) with respect to the other parent, if applicable;(4) a statement that the relative has been given authorization to perform the functions listed in Section 34.002(a) as a result of a voluntary action of the parent and that the relative has voluntarily assumed the responsibility of performing those functions;(5) statements that neither the parent nor the relative has knowledge that a parent, guardian, custodian, licensed child-placing agency, or other authorized agency asserts any claim or authority inconsistent with the authorization agreement under this chapter with regard to actual physical possession or care, custody, or control of the child;(6) statements that:(A) to the best of the parent's and relative's knowledge:(i) there is no court order or pending suit affecting the parent-child relationship concerning the child;(ii) there is no pending litigation in any court concerning:(a) custody, possession, or placement of the child; or(b) access to or visitation with the child; and(iii) a [~~the~~] court does not have continuing jurisdiction concerning the child; or(B) the court with continuing jurisdiction concerning the child has given written approval for the execution of the authorization agreement accompanied by the following information:(i) the county in which the court is located;(ii) the number of the court; and(iii) the cause number in which the order was issued or the litigation is pending;(7) a statement that to the best of the parent's and relative's knowledge there is no current, valid authorization agreement regarding the child;(8) a statement that the authorization is made in conformance with this chapter;(9) a statement that the parent and the relative understand that each party to the authorization agreement is required by law to immediately provide to each other party information regarding any change in the party's address or contact information;(10) a statement by the parent that establishes the circumstances under which the authorization agreement expires, including that the authorization agreement:(A) is valid until revoked;(B) continues in effect after the death or during any incapacity of the parent; or(C) expires on a date stated in the authorization agreement; and(11) space for the signature and seal of a notary public.(b) The authorization agreement must contain the following warnings and disclosures:(1) that the authorization agreement is an important legal document;(2) that the parent and the relative must read all of the warnings and disclosures before signing the authorization agreement;(3) that the persons signing the authorization agreement are not required to consult an attorney but are advised to do so;(4) that the parent's rights as a parent may be adversely affected by placing or leaving the parent's child with another person;(5) that the authorization agreement does not confer on the relative the rights of a managing or possessory conservator or legal guardian;(6) that a parent who is a party to the authorization agreement may terminate the authorization agreement and resume custody, possession, care, and control of the child on demand and that at any time the parent may request the return of the child;(7) that failure by the relative to return the child to the parent immediately on request may have criminal and civil consequences;(8) that, under other applicable law, the relative may be liable for certain expenses relating to the child in the relative's care but that the parent still retains the parental obligation to support the child;(9) that, in certain circumstances, the authorization agreement may not be entered into without written permission of the court;(10) that the authorization agreement may be terminated by certain court orders affecting the child;(11) that the authorization agreement does not supersede, invalidate, or terminate any prior authorization agreement regarding the child;(12) that the authorization agreement is void if a prior authorization agreement regarding the child is in effect and has not expired or been terminated;(13) that, except as provided by Section 34.005(a-2) [~~34.005(a-1)~~], the authorization agreement is void unless not later than the 10th day after the date the authorization agreement is signed, [~~:~~[~~(A)~~] the parties mail [~~a copy of the authorization agreement by certified mail, return receipt requested, or international registered mail, return receipt requested, as applicable,~~] to a parent who was not a party to the authorization agreement at the parent's last known address, if the parent is living and the parent's parental rights have not been terminated:(A) one copy of the authorization agreement by certified mail, return receipt requested, or international registered mail, return receipt requested, as applicable [~~, not later than the 10th day after the date the authorization agreement is signed~~]; and(B) one [~~if the parties do not receive a response from the parent who is not a party to the authorization agreement before the 20th day after the date the copy of the authorization agreement is mailed under Paragraph (A), the parties mail a second~~] copy of the authorization agreement by first class mail or international first class mail, as applicable[~~, to the parent not later than the 45th day after the date the authorization agreement is signed~~]; and(14) that the authorization agreement does not confer on a relative of the child the right to authorize the performance of an abortion on the child or the administration of emergency contraception to the child. | SECTION 2. Same as House version. |  |
| SECTION 3. Section 34.004(b), Family Code, is amended to read as follows:(b) A parent may not execute an authorization agreement without a written order by the appropriate court if:(1) there is a court order or pending suit affecting the parent-child relationship concerning the child;(2) there is pending litigation in any court concerning:(A) custody, possession, or placement of the child; or(B) access to or visitation with the child; or(3) a [~~the~~] court has continuing, exclusive jurisdiction over the child. | SECTION 3. Same as House version. |  |
| SECTION 4. Section 34.005, Family Code, is amended by amending Subsections (a) and (a-1) and adding Subsection (a-2) to read as follows:(a) If both parents did not sign the authorization agreement, not later than the 10th day after the date the authorization agreement is executed the parties shall mail [~~a copy of the executed authorization agreement by certified mail, return receipt requested, or international registered mail, return receipt requested, as applicable,~~] to the parent who was not a party to the authorization agreement at the parent's last known address, [~~not later than the 10th day after the date the authorization agreement is executed~~] if that parent is living and that parent's parental rights have not been terminated:(1) one copy of the executed authorization agreement by certified mail, return receipt requested, or international registered mail, return receipt requested, as applicable; and(2) one [~~. If the parties do not receive a response from the parent who is not a party to the authorization agreement before the 20th day after the date the copy of the authorization agreement is mailed, the parties shall mail a second~~] copy of the executed authorization agreement by first class mail or international first class mail, as applicable[~~, to the parent at the same address not later than the 45th day after the date the authorization agreement is executed~~].(a-1) Except as otherwise provided by Subsection (a-2), an [~~An~~] authorization agreement is void if the parties fail to comply with Subsection (a) [~~this subsection~~].(a-2) [~~(a-1)~~] Subsection (a) does not apply to an authorization agreement if the parent who was not a party to the authorization agreement:(1) does not have court-ordered possession of or access to the child who is the subject of the authorization agreement; and(2) has previously committed an act of family violence, as defined by Section 71.004, or assault against the parent who is a party to the authorization agreement, the child who is the subject of the authorization agreement, or another child of the parent who is a party to the authorization agreement, as documented by one or more of the following:(A) the issuance of a protective order against the parent who was not a party to the authorization agreement as provided under Chapter 85 or under a similar law of another state; or(B) the conviction of the parent who was not a party to the authorization agreement of an offense under Title 5, Penal Code, or of another criminal offense in this state or in another state an element of which involves a violent act or prohibited sexual conduct. | SECTION 4. Same as House version. |  |
| No equivalent provision. | SECTION \_\_. Section 102.008, Family Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:(b) The petition must include:(1) a statement that the court in which the petition is filed has continuing, exclusive jurisdiction or that no court has continuing jurisdiction of the suit;(2) the name and date of birth of the child, except that if adoption of a child is requested, the name of the child may be omitted;(3) the full name of the petitioner and the petitioner's relationship to the child or the fact that no relationship exists;(4) the names of the parents, except in a suit in which adoption is requested;(5) the name of the managing conservator, if any, or the child's custodian, if any, appointed by order of a court of another state or country;(6) the names of the guardians of the person and estate of the child, if any;(7) the names of possessory conservators or other persons, if any, having possession of or access to the child under an order of the court;(8) the name of an alleged father of the child or a statement that the identity of the father of the child is unknown;(9) a full description and statement of value of all property owned or possessed by the child;(10) a statement describing what action the court is requested to take concerning the child and the statutory grounds on which the request is made; [~~and~~](11) a statement as to whether, in regard to a party to the suit or a child of a party to the suit:(A) there is in effect:(i) a protective order under Title 4;(ii) a protective order under Chapter 7A, Code of Criminal Procedure; or(iii) an order for emergency protection under Article 17.292, Code of Criminal Procedure; or(B) an application for an order described by Paragraph (A) is pending; and(12) any other information required by this title.(c) The petitioner shall attach a copy of each order described by Subsection (b)(11)(A) in which a party to the suit or a child of a party to the suit was the applicant or victim of the conduct alleged in the application or order and the other party was the respondent or defendant of an action regarding the conduct alleged in the application or order without regard to the date of the order. If a copy of the order is not available at the time of filing, the petition must state that a copy of the order will be filed with the court before any hearing.(d) Notwithstanding any other provision of this section, if the Title IV-D agency files a petition in a suit affecting the parent-child relationship, the agency is not required to:(1) include in the petition the statement described by Subsection (b)(11); or(2) attach copies of the documentation described by Subsection (c). [FA1] |  |
| No equivalent provision. | SECTION \_\_. Subchapter G, Chapter 160, Family Code, is amended by adding Section 160.6035 to read as follows:Sec. 160.6035. CONTENTS OF PETITION; STATEMENT RELATING TO CERTAIN PROTECTIVE ORDERS REQUIRED. (a) The petition in a proceeding to adjudicate parentage must include a statement as to whether, in regard to a party to the proceeding or a child of a party to the proceeding:(1) there is in effect:(A) a protective order under Title 4;(B) a protective order under Chapter 7A, Code of Criminal Procedure; or(C) an order for emergency protection under Article 17.292, Code of Criminal Procedure; or(2) an application for an order described by Subdivision (1) is pending.(b) The petitioner shall attach a copy of each order described by Subsection (a)(1) in which a party to the proceeding or a child of a party to the proceeding was the applicant or victim of the conduct alleged in the application or order and the other party was the respondent or defendant of an action regarding the conduct alleged in the application or order without regard to the date of the order. If a copy of the order is not available at the time of filing, the petition must state that a copy of the order will be filed with the court before any hearing.(c) Notwithstanding any other provision of this section, if the Title IV-D agency files a petition in a proceeding to adjudicate parentage, the agency is not required to:(1) include in the petition the statement described by Subsection (a); or(2) attach copies of the documentation described by Subsection (b). [FA1] |  |
| No equivalent provision. | SECTION \_\_. Sections 6.405 and 102.008, Family Code, as amended by this Act, and Section 160.6035, Family Code, as added by this Act, apply only to a petition filed on or after September 1, 2017. A petition filed before September 1, 2017, is governed by the law in effect on the date the petition was filed, and the former law is continued in effect for that purpose. [FA1] |  |
| SECTION 5. The changes in law made by this Act apply only to an authorization agreement executed on or after the effective date of this Act. An authorization agreement executed before that date is governed by the law in effect on the date the authorization agreement was executed, and the former law is continued in effect for that purpose. | SECTION 5. Same as House version. |  |
| SECTION 6. This Act takes effect September 1, 2017. | SECTION 6. Same as House version. |  |