

1-1 By: Roberts, et al. (Senate Sponsor - Perry) H.B. No. 871
1-2 (In the Senate - Received from the House April 24, 2017;
1-3 May 1, 2017, read first time and referred to Committee on Health &
1-4 Human Services; May 16, 2017, reported favorably by the following
1-5 vote: Yeas 9, Nays 0; May 16, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	<u>Schwertner</u>	X		
1-9	<u>Uresti</u>	X		
1-10	<u>Buckingham</u>	X		
1-11	<u>Burton</u>	X		
1-12	<u>Kolkhorst</u>	X		
1-13	<u>Miles</u>	X		
1-14	<u>Perry</u>	X		
1-15	<u>Taylor of Collin</u>	X		
1-16	<u>Watson</u>	X		

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to child and family support services for families in
1-20 crisis, including authorization agreements.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. The heading to Chapter 34, Family Code, is
1-23 amended to read as follows:

1-24 CHAPTER 34. AUTHORIZATION AGREEMENT FOR NONPARENT ADULT CAREGIVER
1-25 [~~RELATIVE~~]

1-26 SECTION 2. Section 34.0015, Family Code, is amended to read
1-27 as follows:

1-28 Sec. 34.0015. DEFINITIONS [~~DEFINITION~~]. In this chapter:

1-29 (1) "Adult caregiver" means an adult person whom a
1-30 parent has authorized to provide temporary care for a child under
1-31 this chapter.

1-32 (2) "Parent" [~~,"parent"~~] has the meaning assigned by
1-33 Section 101.024.

1-34 SECTION 3. Sections 34.002(a) and (c), Family Code, are
1-35 amended to read as follows:

1-36 (a) A parent or both parents of a child may enter into an
1-37 authorization agreement with an adult caregiver [~~a relative of the~~
1-38 ~~child listed in Section 34.001~~] to authorize the adult caregiver
1-39 [~~relative~~] to perform the following acts in regard to the child:

1-40 (1) to authorize medical, dental, psychological, or
1-41 surgical treatment and immunization of the child, including
1-42 executing any consents or authorizations for the release of
1-43 information as required by law relating to the treatment or
1-44 immunization;

1-45 (2) to obtain and maintain health insurance coverage
1-46 for the child and automobile insurance coverage for the child, if
1-47 appropriate;

1-48 (3) to enroll the child in a day-care program or
1-49 preschool or in a public or private elementary or secondary school;

1-50 (4) to authorize the child to participate in
1-51 age-appropriate extracurricular, civic, social, or recreational
1-52 activities, including athletic activities;

1-53 (5) to authorize the child to obtain a learner's
1-54 permit, driver's license, or state-issued identification card;

1-55 (6) to authorize employment of the child; and

1-56 (7) to apply for and receive public benefits on behalf
1-57 of the child.

1-58 (c) An authorization agreement under this chapter does not
1-59 confer on an adult caregiver [~~a relative of the child listed in~~
1-60 ~~Section 34.001 or a relative or other person with whom the child is~~
1-61 ~~placed under a child safety placement agreement~~] the right to

2-1 authorize the performance of an abortion on the child or the
 2-2 administration of emergency contraception to the child.

2-3 SECTION 4. Section 34.0021, Family Code, is amended to read
 2-4 as follows:

2-5 Sec. 34.0021. AUTHORIZATION AGREEMENT BY PARENT IN CHILD
 2-6 PROTECTIVE SERVICES CASE. A parent may enter into an authorization
 2-7 agreement with an adult caregiver [~~a relative or other person~~] with
 2-8 whom a child is placed under a parental child safety placement
 2-9 agreement approved by the Department of Family and Protective
 2-10 Services to allow the person to perform the acts described by
 2-11 Section 34.002(a) with regard to the child:

- 2-12 (1) during an investigation of abuse or neglect; or
- 2-13 (2) while the department is providing services to the
 2-14 parent.

2-15 SECTION 5. Chapter 34, Family Code, is amended by adding
 2-16 Section 34.0022 to read as follows:

2-17 Sec. 34.0022. INAPPLICABILITY OF CERTAIN LAWS. (a) An
 2-18 authorization agreement executed under this chapter between a
 2-19 child's parent and an adult caregiver does not subject the adult
 2-20 caregiver to any law or rule governing the licensing or regulation
 2-21 of a residential child-care facility under Chapter 42, Human
 2-22 Resources Code.

2-23 (b) A child who is the subject of an authorization agreement
 2-24 executed under this chapter is not considered to be placed in foster
 2-25 care and the parties to the authorization agreement are not subject
 2-26 to any law or rule governing foster care providers.

2-27 SECTION 6. Section 34.003, Family Code, is amended to read
 2-28 as follows:

2-29 Sec. 34.003. CONTENTS OF AUTHORIZATION AGREEMENT. (a) The
 2-30 authorization agreement must contain:

2-31 (1) the following information from the adult caregiver
 2-32 [~~relative of the child to whom the parent is giving authorization~~]:

- 2-33 (A) the name and signature of the adult caregiver
 2-34 [~~relative~~];
- 2-35 (B) the adult caregiver's [~~relative's~~]
 2-36 relationship to the child; and
- 2-37 (C) the adult caregiver's [~~relative's~~] current
 2-38 physical address and telephone number or the best way to contact the
 2-39 adult caregiver [~~relative~~];

2-40 (2) the following information from the parent:

- 2-41 (A) the name and signature of the parent; and
- 2-42 (B) the parent's current address and telephone
 2-43 number or the best way to contact the parent;

2-44 (3) the information in Subdivision (2) with respect to
 2-45 the other parent, if applicable;

2-46 (4) a statement that the adult caregiver [~~relative~~]
 2-47 has been given authorization to perform the functions listed in
 2-48 Section 34.002(a) as a result of a voluntary action of the parent
 2-49 and that the adult caregiver [~~relative~~] has voluntarily assumed the
 2-50 responsibility of performing those functions;

2-51 (5) statements that neither the parent nor the adult
 2-52 caregiver [~~relative~~] has knowledge that a parent, guardian,
 2-53 custodian, licensed child-placing agency, or other authorized
 2-54 agency asserts any claim or authority inconsistent with the
 2-55 authorization agreement under this chapter with regard to actual
 2-56 physical possession or care, custody, or control of the child;

2-57 (6) statements that:

2-58 (A) to the best of the parent's and adult
 2-59 caregiver's [~~relative's~~] knowledge:

2-60 (i) there is no court order or pending suit
 2-61 affecting the parent-child relationship concerning the child;

2-62 (ii) there is no pending litigation in any
 2-63 court concerning:

2-64 (a) custody, possession, or placement
 2-65 of the child; or

2-66 (b) access to or visitation with the
 2-67 child; and

2-68 (iii) the court does not have continuing
 2-69 jurisdiction concerning the child; or

3-1 (B) the court with continuing jurisdiction
3-2 concerning the child has given written approval for the execution
3-3 of the authorization agreement accompanied by the following
3-4 information:

3-5 (i) the county in which the court is
3-6 located;

3-7 (ii) the number of the court; and

3-8 (iii) the cause number in which the order
3-9 was issued or the litigation is pending;

3-10 (7) a statement that to the best of the parent's and
3-11 adult caregiver's [~~relative's~~] knowledge there is no current, valid
3-12 authorization agreement regarding the child;

3-13 (8) a statement that the authorization is made in
3-14 conformance with this chapter;

3-15 (9) a statement that the parent and the adult
3-16 caregiver [~~relative~~] understand that each party to the
3-17 authorization agreement is required by law to immediately provide
3-18 to each other party information regarding any change in the party's
3-19 address or contact information;

3-20 (10) a statement by the parent that:

3-21 (A) indicates the authorization agreement is for
3-22 a term of:

3-23 (i) six months from the date the parties
3-24 enter into the agreement, which renews automatically for six-month
3-25 terms unless the agreement is terminated as provided by Section
3-26 34.008; or

3-27 (ii) the time provided in the agreement
3-28 with a specific expiration date earlier than six months after the
3-29 date the parties enter into the agreement; and

3-30 (B) identifies [~~establishes~~] the circumstances
3-31 under which the authorization agreement may be:

3-32 (i) terminated as provided by Section
3-33 34.008 before the term of the agreement expires; or

3-34 (ii) continued beyond the term of the
3-35 agreement by a court as provided by Section 34.008(b) [expires,
3-36 including that the authorization agreement:

3-37 [(A) ~~is valid until revoked;~~

3-38 [(B) ~~continues in effect after the death or~~
3-39 ~~during any incapacity of the parent; or~~

3-40 [(C) ~~expires on a date stated in the~~
3-41 ~~authorization agreement]; and~~

3-42 (11) space for the signature and seal of a notary
3-43 public.

3-44 (b) The authorization agreement must contain the following
3-45 warnings and disclosures:

3-46 (1) that the authorization agreement is an important
3-47 legal document;

3-48 (2) that the parent and the adult caregiver [~~relative~~]
3-49 must read all of the warnings and disclosures before signing the
3-50 authorization agreement;

3-51 (3) that the persons signing the authorization
3-52 agreement are not required to consult an attorney but are advised to
3-53 do so;

3-54 (4) that the parent's rights as a parent may be
3-55 adversely affected by placing or leaving the parent's child with
3-56 another person;

3-57 (5) that the authorization agreement does not confer
3-58 on the adult caregiver [~~relative~~] the rights of a managing or
3-59 possessory conservator or legal guardian;

3-60 (6) that a parent who is a party to the authorization
3-61 agreement may terminate the authorization agreement and resume
3-62 custody, possession, care, and control of the child on demand and
3-63 that at any time the parent may request the return of the child;

3-64 (7) that failure by the adult caregiver [~~relative~~] to
3-65 return the child to the parent immediately on request may have
3-66 criminal and civil consequences;

3-67 (8) that, under other applicable law, the adult
3-68 caregiver [~~relative~~] may be liable for certain expenses relating to
3-69 the child in the adult caregiver's [~~relative's~~] care but that the

4-1 parent still retains the parental obligation to support the child;
 4-2 (9) that, in certain circumstances, the authorization
 4-3 agreement may not be entered into without written permission of the
 4-4 court;

4-5 (10) that the authorization agreement may be
 4-6 terminated by certain court orders affecting the child;

4-7 (11) that the authorization agreement does not
 4-8 supersede, invalidate, or terminate any prior authorization
 4-9 agreement regarding the child;

4-10 (12) that the authorization agreement is void if a
 4-11 prior authorization agreement regarding the child is in effect and
 4-12 has not expired or been terminated;

4-13 (13) that, except as provided by Section 34.005(a-1),
 4-14 the authorization agreement is void unless:

4-15 (A) the parties mail a copy of the authorization
 4-16 agreement by certified mail, return receipt requested, or
 4-17 international registered mail, return receipt requested, as
 4-18 applicable, to a parent who was not a party to the authorization
 4-19 agreement, if the parent is living and the parent's parental rights
 4-20 have not been terminated, not later than the 10th day after the date
 4-21 the authorization agreement is signed; and

4-22 (B) if the parties do not receive a response from
 4-23 the parent who is not a party to the authorization agreement before
 4-24 the 20th day after the date the copy of the authorization agreement
 4-25 is mailed under Paragraph (A), the parties mail a second copy of the
 4-26 authorization agreement by first class mail or international first
 4-27 class mail, as applicable, to the parent not later than the 45th day
 4-28 after the date the authorization agreement is signed; and

4-29 (14) that the authorization agreement does not confer
 4-30 on an adult caregiver [~~a relative of the child~~] the right to
 4-31 authorize the performance of an abortion on the child or the
 4-32 administration of emergency contraception to the child.

4-33 SECTION 7. Section 34.004(a), Family Code, is amended to
 4-34 read as follows:

4-35 (a) The authorization agreement must be signed and sworn to
 4-36 before a notary public by the parent and the adult caregiver
 4-37 [~~relative~~].

4-38 SECTION 8. Section 34.007(b), Family Code, is amended to
 4-39 read as follows:

4-40 (b) The authorization agreement does not affect the rights
 4-41 of the child's parent or legal guardian regarding the care,
 4-42 custody, and control of the child, and does not mean that the adult
 4-43 caregiver [~~relative~~] has legal custody of the child.

4-44 SECTION 9. Chapter 34, Family Code, is amended by adding
 4-45 Section 34.0075 to read as follows:

4-46 Sec. 34.0075. TERM OF AUTHORIZATION AGREEMENT. An
 4-47 authorization agreement executed under this chapter is for a term
 4-48 of six months from the date the parties enter into the agreement and
 4-49 renews automatically for six-month terms unless:

4-50 (1) an earlier expiration date is stated in the
 4-51 authorization agreement;

4-52 (2) the authorization agreement is terminated as
 4-53 provided by Section 34.008; or

4-54 (3) a court authorizes the continuation of the
 4-55 agreement as provided by Section 34.008(b).

4-56 SECTION 10. Section 34.008(c), Family Code, is amended to
 4-57 read as follows:

4-58 (c) An authorization agreement under this chapter
 4-59 terminates on written revocation by a party to the authorization
 4-60 agreement if the party:

4-61 (1) gives each party written notice of the revocation;

4-62 (2) files the written revocation with the clerk of the
 4-63 county in which:

4-64 (A) the child resides;

4-65 (B) the child resided at the time the
 4-66 authorization agreement was executed; or

4-67 (C) the adult caregiver [~~relative~~] resides; and

4-68 (3) files the written revocation with the clerk of
 4-69 each court:

- 5-1 (A) that has continuing, exclusive jurisdiction
- 5-2 over the child;
- 5-3 (B) in which there is a court order or pending
- 5-4 suit affecting the parent-child relationship concerning the child;
- 5-5 (C) in which there is pending litigation
- 5-6 concerning:
- 5-7 (i) custody, possession, or placement of
- 5-8 the child; or
- 5-9 (ii) access to or visitation with the
- 5-10 child; or
- 5-11 (D) that has entered an order regarding the
- 5-12 appointment of a guardian for the child under Subchapter B, Chapter
- 5-13 1104, Estates [Section 676, Texas Probate] Code.

5-14 SECTION 11. Subchapter C, Chapter 264, Family Code, is
5-15 amended by adding Sections 264.2042 and 264.2043 to read as
5-16 follows:

5-17 Sec. 264.2042. NONPROFIT ORGANIZATIONS PROVIDING CHILD AND
5-18 FAMILY SERVICES. (a) The department shall cooperate with
5-19 nonprofit organizations, including faith-based organizations, in
5-20 providing information to families in crisis regarding child and
5-21 family services, including respite care, voluntary guardianship,
5-22 and other support services, available in the child's community.

5-23 (b) The department does not incur any obligation as a result
5-24 of providing information as required by Subsection (a).

5-25 (c) The department is not liable for damages arising out of
5-26 the provision of information as required by Subsection (a).

5-27 Sec. 264.2043. PROHIBITION ON ABUSE OR NEGLECT
5-28 INVESTIGATION BASED SOLELY ON REQUEST FOR INFORMATION. The
5-29 department may not initiate an investigation of child abuse or
5-30 neglect based solely on a request submitted to the department by a
5-31 child's parent for information relating to child and family
5-32 services available to families in crisis.

5-33 SECTION 12. Section 42.041(b), Human Resources Code, is
5-34 amended to read as follows:

5-35 (b) This section does not apply to:

- 5-36 (1) a state-operated facility;
- 5-37 (2) an agency foster home or agency foster group home;
- 5-38 (3) a facility that is operated in connection with a
- 5-39 shopping center, business, religious organization, or
- 5-40 establishment where children are cared for during short periods
- 5-41 while parents or persons responsible for the children are attending
- 5-42 religious services, shopping, or engaging in other activities,
- 5-43 including retreats or classes for religious instruction, on or near
- 5-44 the premises, that does not advertise as a child-care facility or
- 5-45 day-care center, and that informs parents that it is not licensed by
- 5-46 the state;

5-47 (4) a school or class for religious instruction that
5-48 does not last longer than two weeks and is conducted by a religious
5-49 organization during the summer months;

5-50 (5) a youth camp licensed by the Department of State
5-51 Health Services;

5-52 (6) a facility licensed, operated, certified, or
5-53 registered by another state agency;

5-54 (7) an educational facility that is accredited by the
5-55 Texas Education Agency, the Southern Association of Colleges and
5-56 Schools, or an accreditation body that is a member of the Texas
5-57 Private School Accreditation Commission and that operates
5-58 primarily for educational purposes for prekindergarten and above, a
5-59 before-school or after-school program operated directly by an
5-60 accredited educational facility, or a before-school or
5-61 after-school program operated by another entity under contract with
5-62 the educational facility, if the Texas Education Agency, the
5-63 Southern Association of Colleges and Schools, or the other
5-64 accreditation body, as applicable, has approved the curriculum
5-65 content of the before-school or after-school program operated under
5-66 the contract;

5-67 (8) an educational facility that operates solely for
5-68 educational purposes for prekindergarten through at least grade
5-69 two, that does not provide custodial care for more than one hour

6-1 during the hours before or after the customary school day, and that
 6-2 is a member of an organization that promulgates, publishes, and
 6-3 requires compliance with health, safety, fire, and sanitation
 6-4 standards equal to standards required by state, municipal, and
 6-5 county codes;

6-6 (9) a kindergarten or preschool educational program
 6-7 that is operated as part of a public school or a private school
 6-8 accredited by the Texas Education Agency, that offers educational
 6-9 programs through grade six, and that does not provide custodial
 6-10 care during the hours before or after the customary school day;

6-11 (10) a family home, whether registered or listed;

6-12 (11) an educational facility that is integral to and
 6-13 inseparable from its sponsoring religious organization or an
 6-14 educational facility both of which do not provide custodial care
 6-15 for more than two hours maximum per day, and that offers an
 6-16 educational program in one or more of the following:
 6-17 prekindergarten through at least grade three, elementary grades, or
 6-18 secondary grades;

6-19 (12) an emergency shelter facility, other than a
 6-20 facility that would otherwise require a license as a child-care
 6-21 facility under this section, that provides shelter or care to a
 6-22 minor and the minor's child or children, if any, under Section
 6-23 [32.201](#), Family Code, if the facility:

6-24 (A) is currently under a contract with a state or
 6-25 federal agency; or

6-26 (B) meets the requirements listed under Section
 6-27 [51.005\(b\)\(3\)](#);

6-28 (13) a juvenile detention facility certified under
 6-29 Section [51.12](#), Family Code, a juvenile correctional facility
 6-30 certified under Section [51.125](#), Family Code, a juvenile facility
 6-31 providing services solely for the Texas Juvenile Justice
 6-32 Department, or any other correctional facility for children
 6-33 operated or regulated by another state agency or by a political
 6-34 subdivision of the state;

6-35 (14) an elementary-age (ages 5-13) recreation program
 6-36 operated by a municipality provided the governing body of the
 6-37 municipality annually adopts standards of care by ordinance after a
 6-38 public hearing for such programs, that such standards are provided
 6-39 to the parents of each program participant, and that the ordinances
 6-40 shall include, at a minimum, staffing ratios, minimum staff
 6-41 qualifications, minimum facility, health, and safety standards,
 6-42 and mechanisms for monitoring and enforcing the adopted local
 6-43 standards; and further provided that parents be informed that the
 6-44 program is not licensed by the state and the program may not be
 6-45 advertised as a child-care facility;

6-46 (15) an annual youth camp held in a municipality with a
 6-47 population of more than 1.5 million that operates for not more than
 6-48 three months and that has been operated for at least 10 years by a
 6-49 nonprofit organization that provides care for the homeless;

6-50 (16) a food distribution program that:

6-51 (A) serves an evening meal to children two years
 6-52 of age or older; and

6-53 (B) is operated by a nonprofit food bank in a
 6-54 nonprofit, religious, or educational facility for not more than two
 6-55 hours a day on regular business days;

6-56 (17) a child-care facility that operates for less than
 6-57 three consecutive weeks and less than 40 days in a period of 12
 6-58 months;

6-59 (18) a program:

6-60 (A) in which a child receives direct instruction
 6-61 in a single skill, talent, ability, expertise, or proficiency;

6-62 (B) that does not provide services or offerings
 6-63 that are not directly related to the single talent, ability,
 6-64 expertise, or proficiency;

6-65 (C) that does not advertise or otherwise
 6-66 represent that the program is a child-care facility, day-care
 6-67 center, or licensed before-school or after-school program or that
 6-68 the program offers child-care services;

6-69 (D) that informs the parent or guardian:

7-1 (i) that the program is not licensed by the
7-2 state; and
7-3 (ii) about the physical risks a child may
7-4 face while participating in the program; and
7-5 (E) that conducts background checks for all
7-6 program employees and volunteers who work with children in the
7-7 program using information that is obtained from the Department of
7-8 Public Safety;
7-9 (19) an elementary-age (ages 5-13) recreation program
7-10 that:
7-11 (A) adopts standards of care, including
7-12 standards relating to staff ratios, staff training, health, and
7-13 safety;
7-14 (B) provides a mechanism for monitoring and
7-15 enforcing the standards and receiving complaints from parents of
7-16 enrolled children;
7-17 (C) does not advertise as or otherwise represent
7-18 the program as a child-care facility, day-care center, or licensed
7-19 before-school or after-school program or that the program offers
7-20 child-care services;
7-21 (D) informs parents that the program is not
7-22 licensed by the state;
7-23 (E) is organized as a nonprofit organization or
7-24 is located on the premises of a participant's residence;
7-25 (F) does not accept any remuneration other than a
7-26 nominal annual membership fee;
7-27 (G) does not solicit donations as compensation or
7-28 payment for any good or service provided as part of the program; and
7-29 (H) conducts background checks for all program
7-30 employees and volunteers who work with children in the program
7-31 using information that is obtained from the Department of Public
7-32 Safety;
7-33 (20) a living arrangement in a caretaker's home
7-34 involving one or more children or a sibling group, excluding
7-35 children who are related to the caretaker, in which the caretaker:
7-36 (A) had a prior relationship with the child or
7-37 sibling group or other family members of the child or sibling group;
7-38 (B) does not care for more than one unrelated
7-39 child or sibling group;
7-40 (C) does not receive compensation or solicit
7-41 donations for the care of the child or sibling group; and
7-42 (D) has a written agreement with the parent to
7-43 care for the child or sibling group;
7-44 (21) a living arrangement in a caretaker's home
7-45 involving one or more children or a sibling group, excluding
7-46 children who are related to the caretaker, in which:
7-47 (A) the department is the managing conservator of
7-48 the child or sibling group;
7-49 (B) the department placed the child or sibling
7-50 group in the caretaker's home; and
7-51 (C) the caretaker had a long-standing and
7-52 significant relationship with the child or sibling group before the
7-53 child or sibling group was placed with the caretaker;
7-54 (22) a living arrangement in a caretaker's home
7-55 involving one or more children or a sibling group, excluding
7-56 children who are related to the caretaker, in which the child is in
7-57 the United States on a time-limited visa under the sponsorship of
7-58 the caretaker or of a sponsoring organization; [~~or~~]
7-59 (23) a facility operated by a nonprofit organization
7-60 that:
7-61 (A) does not otherwise operate as a child-care
7-62 facility that is required to be licensed under this section;
7-63 (B) provides emergency shelter and care for not
7-64 more than 15 days to children 13 years of age or older but younger
7-65 than 18 years of age who are victims of human trafficking alleged
7-66 under Section 20A.02, Penal Code;
7-67 (C) is located in a municipality with a
7-68 population of at least 600,000 that is in a county on an
7-69 international border; and

8-1 (D) meets one of the following criteria:
 8-2 (i) is licensed by, or operates under an
 8-3 agreement with, a state or federal agency to provide shelter and
 8-4 care to children; or
 8-5 (ii) meets the eligibility requirements for
 8-6 a contract under Section 51.005(b)(3); or
 8-7 (24) a living arrangement in a caretaker's home
 8-8 involving one or more children or a sibling group in which the
 8-9 caretaker:

8-10 (A) has a written authorization agreement under
 8-11 Chapter 34, Family Code, with the parent of each child or sibling
 8-12 group to care for each child or sibling group;

8-13 (B) does not care for more than six children,
 8-14 excluding children who are related to the caretaker; and

8-15 (C) does not receive compensation for caring for
 8-16 any child or sibling group.

8-17 SECTION 13. Sections 34.001 and 34.008(d), Family Code, are
 8-18 repealed.

8-19 SECTION 14. This Act takes effect September 1, 2017.

8-20 * * * * *