

1-1 By: Herrero (Senate Sponsor - Watson) H.B. No. 3052
 1-2 (In the Senate - Received from the House May 10, 2017;
 1-3 May 12, 2017, read first time and referred to Committee on Business
 1-4 & Commerce; May 21, 2017, reported favorably by the following vote:
 1-5 Yeas 8, Nays 0; May 21, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14	X			
1-15	X			
1-16	X			

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

1-19 relating to an authorization agreement between a parent and a
 1-20 nonparent relative of the child.

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

1-22 SECTION 1. Section 34.002(a), Family Code, is amended to
 1-23 read as follows:

1-24 (a) A parent or both parents of a child may enter into an
 1-25 authorization agreement with a relative of the child listed in
 1-26 Section 34.001 to authorize the relative to perform the following
 1-27 acts in regard to the child:

1-28 (1) to authorize medical, dental, psychological, or
 1-29 surgical treatment and immunization of the child, including
 1-30 executing any consents or authorizations for the release of
 1-31 information as required by law relating to the treatment or
 1-32 immunization;

1-33 (2) to obtain and maintain health insurance coverage
 1-34 for the child and automobile insurance coverage for the child, if
 1-35 appropriate;

1-36 (3) to enroll the child in a day-care program or
 1-37 preschool or in a public or private elementary or secondary school;

1-38 (4) to authorize the child to participate in
 1-39 age-appropriate extracurricular, civic, social, or recreational
 1-40 activities, including athletic activities;

1-41 (5) to authorize the child to obtain a learner's
 1-42 permit, driver's license, or state-issued identification card;

1-43 (6) to authorize employment of the child; ~~and~~

1-44 (7) to apply for and receive public benefits on behalf
 1-45 of the child; and

1-46 (8) to obtain:

1-47 (A) copies or originals of state-issued personal
 1-48 identification documents for the child, including the child's birth
 1-49 certificate; and

1-50 (B) to the extent authorized under federal law,
 1-51 copies or originals of federally issued personal identification
 1-52 documents for the child, including the child's social security
 1-53 card.

1-54 SECTION 2. Section 34.003, Family Code, is amended to read
 1-55 as follows:

1-56 Sec. 34.003. CONTENTS OF AUTHORIZATION AGREEMENT. (a) The
 1-57 authorization agreement must contain:

1-58 (1) the following information from the relative of the
 1-59 child to whom the parent is giving authorization:

1-60 (A) the name and signature of the relative;

1-61 (B) the relative's relationship to the child; and

2-1 (C) the relative's current physical address and
2-2 telephone number or the best way to contact the relative;
2-3 (2) the following information from the parent:
2-4 (A) the name and signature of the parent; and
2-5 (B) the parent's current address and telephone
2-6 number or the best way to contact the parent;
2-7 (3) the information in Subdivision (2) with respect to
2-8 the other parent, if applicable;
2-9 (4) a statement that the relative has been given
2-10 authorization to perform the functions listed in Section 34.002(a)
2-11 as a result of a voluntary action of the parent and that the
2-12 relative has voluntarily assumed the responsibility of performing
2-13 those functions;
2-14 (5) statements that neither the parent nor the
2-15 relative has knowledge that a parent, guardian, custodian, licensed
2-16 child-placing agency, or other authorized agency asserts any claim
2-17 or authority inconsistent with the authorization agreement under
2-18 this chapter with regard to actual physical possession or care,
2-19 custody, or control of the child;
2-20 (6) statements that:
2-21 (A) to the best of the parent's and relative's
2-22 knowledge:
2-23 (i) there is no court order or pending suit
2-24 affecting the parent-child relationship concerning the child;
2-25 (ii) there is no pending litigation in any
2-26 court concerning:
2-27 (a) custody, possession, or placement
2-28 of the child; or
2-29 (b) access to or visitation with the
2-30 child; and
2-31 (iii) a [~~the~~] court does not have
2-32 continuing jurisdiction concerning the child; or
2-33 (B) the court with continuing jurisdiction
2-34 concerning the child has given written approval for the execution
2-35 of the authorization agreement accompanied by the following
2-36 information:
2-37 (i) the county in which the court is
2-38 located;
2-39 (ii) the number of the court; and
2-40 (iii) the cause number in which the order
2-41 was issued or the litigation is pending;
2-42 (7) a statement that to the best of the parent's and
2-43 relative's knowledge there is no current, valid authorization
2-44 agreement regarding the child;
2-45 (8) a statement that the authorization is made in
2-46 conformance with this chapter;
2-47 (9) a statement that the parent and the relative
2-48 understand that each party to the authorization agreement is
2-49 required by law to immediately provide to each other party
2-50 information regarding any change in the party's address or contact
2-51 information;
2-52 (10) a statement by the parent that establishes the
2-53 circumstances under which the authorization agreement expires,
2-54 including that the authorization agreement:
2-55 (A) is valid until revoked;
2-56 (B) continues in effect after the death or during
2-57 any incapacity of the parent; or
2-58 (C) expires on a date stated in the authorization
2-59 agreement; and
2-60 (11) space for the signature and seal of a notary
2-61 public.
2-62 (b) The authorization agreement must contain the following
2-63 warnings and disclosures:
2-64 (1) that the authorization agreement is an important
2-65 legal document;
2-66 (2) that the parent and the relative must read all of
2-67 the warnings and disclosures before signing the authorization
2-68 agreement;
2-69 (3) that the persons signing the authorization

3-1 agreement are not required to consult an attorney but are advised to
 3-2 do so;

3-3 (4) that the parent's rights as a parent may be
 3-4 adversely affected by placing or leaving the parent's child with
 3-5 another person;

3-6 (5) that the authorization agreement does not confer
 3-7 on the relative the rights of a managing or possessory conservator
 3-8 or legal guardian;

3-9 (6) that a parent who is a party to the authorization
 3-10 agreement may terminate the authorization agreement and resume
 3-11 custody, possession, care, and control of the child on demand and
 3-12 that at any time the parent may request the return of the child;

3-13 (7) that failure by the relative to return the child to
 3-14 the parent immediately on request may have criminal and civil
 3-15 consequences;

3-16 (8) that, under other applicable law, the relative may
 3-17 be liable for certain expenses relating to the child in the
 3-18 relative's care but that the parent still retains the parental
 3-19 obligation to support the child;

3-20 (9) that, in certain circumstances, the authorization
 3-21 agreement may not be entered into without written permission of the
 3-22 court;

3-23 (10) that the authorization agreement may be
 3-24 terminated by certain court orders affecting the child;

3-25 (11) that the authorization agreement does not
 3-26 supersede, invalidate, or terminate any prior authorization
 3-27 agreement regarding the child;

3-28 (12) that the authorization agreement is void if a
 3-29 prior authorization agreement regarding the child is in effect and
 3-30 has not expired or been terminated;

3-31 (13) that, except as provided by Section 34.005(a-2)
 3-32 [~~34.005(a-1)~~], the authorization agreement is void unless not later
 3-33 than the 10th day after the date the authorization agreement is
 3-34 signed, [+]

3-35 [~~(A)]~~ the parties mail [~~a copy of the~~
 3-36 ~~authorization agreement by certified mail, return receipt~~
 3-37 ~~requested, or international registered mail, return receipt~~
 3-38 ~~requested, as applicable,~~] to a parent who was not a party to the
 3-39 authorization agreement at the parent's last known address, if the
 3-40 parent is living and the parent's parental rights have not been
 3-41 terminated:

3-42 (A) one copy of the authorization agreement by
 3-43 certified mail, return receipt requested, or international
 3-44 registered mail, return receipt requested, as applicable [~~not~~
 3-45 ~~later than the 10th day after the date the authorization agreement~~
 3-46 ~~is signed]; and~~

3-47 (B) one [~~if the parties do not receive a response~~
 3-48 ~~from the parent who is not a party to the authorization agreement~~
 3-49 ~~before the 20th day after the date the copy of the authorization~~
 3-50 ~~agreement is mailed under Paragraph (A), the parties mail a second]~~
 3-51 copy of the authorization agreement by first class mail or
 3-52 international first class mail, as applicable [~~to the parent not~~
 3-53 ~~later than the 45th day after the date the authorization agreement~~
 3-54 ~~is signed]; and~~

3-55 (14) that the authorization agreement does not confer
 3-56 on a relative of the child the right to authorize the performance of
 3-57 an abortion on the child or the administration of emergency
 3-58 contraception to the child.

3-59 SECTION 3. Section 34.004(b), Family Code, is amended to
 3-60 read as follows:

3-61 (b) A parent may not execute an authorization agreement
 3-62 without a written order by the appropriate court if:

3-63 (1) there is a court order or pending suit affecting
 3-64 the parent-child relationship concerning the child;

3-65 (2) there is pending litigation in any court
 3-66 concerning:

3-67 (A) custody, possession, or placement of the
 3-68 child; or

3-69 (B) access to or visitation with the child; or

4-1 (3) a ~~[the]~~ court has continuing, exclusive
4-2 jurisdiction over the child.

4-3 SECTION 4. Section 34.005, Family Code, is amended by
4-4 amending Subsections (a) and (a-1) and adding Subsection (a-2) to
4-5 read as follows:

4-6 (a) If both parents did not sign the authorization
4-7 agreement, not later than the 10th day after the date the
4-8 authorization agreement is executed the parties shall mail [a copy
4-9 of the executed authorization agreement by certified mail, return
4-10 receipt requested, or international registered mail, return
4-11 receipt requested, as applicable,] to the parent who was not a party
4-12 to the authorization agreement at the parent's last known address,
4-13 ~~[not later than the 10th day after the date the authorization~~
4-14 ~~agreement is executed]~~ if that parent is living and that parent's
4-15 parental rights have not been terminated:

4-16 (1) one copy of the executed authorization agreement
4-17 by certified mail, return receipt requested, or international
4-18 registered mail, return receipt requested, as applicable; and

4-19 (2) one ~~[. If the parties do not receive a response~~
4-20 ~~from the parent who is not a party to the authorization agreement~~
4-21 ~~before the 20th day after the date the copy of the authorization~~
4-22 ~~agreement is mailed, the parties shall mail a second]~~ copy of the
4-23 executed authorization agreement by first class mail or
4-24 international first class mail, as applicable~~[, to the parent at~~
4-25 ~~the same address not later than the 45th day after the date the~~
4-26 ~~authorization agreement is executed].~~

4-27 (a-1) Except as otherwise provided by Subsection (a-2), an
4-28 ~~[An]~~ authorization agreement is void if the parties fail to comply
4-29 with Subsection (a) ~~[this subsection].~~

4-30 (a-2) ~~[(a-1)]~~ Subsection (a) does not apply to an
4-31 authorization agreement if the parent who was not a party to the
4-32 authorization agreement:

4-33 (1) does not have court-ordered possession of or
4-34 access to the child who is the subject of the authorization
4-35 agreement; and

4-36 (2) has previously committed an act of family
4-37 violence, as defined by Section 71.004, or assault against the
4-38 parent who is a party to the authorization agreement, the child who
4-39 is the subject of the authorization agreement, or another child of
4-40 the parent who is a party to the authorization agreement, as
4-41 documented by one or more of the following:

4-42 (A) the issuance of a protective order against
4-43 the parent who was not a party to the authorization agreement as
4-44 provided under Chapter 85 or under a similar law of another state;
4-45 or

4-46 (B) the conviction of the parent who was not a
4-47 party to the authorization agreement of an offense under Title 5,
4-48 Penal Code, or of another criminal offense in this state or in
4-49 another state an element of which involves a violent act or
4-50 prohibited sexual conduct.

4-51 SECTION 5. The changes in law made by this Act apply only to
4-52 an authorization agreement executed on or after the effective date
4-53 of this Act. An authorization agreement executed before that date
4-54 is governed by the law in effect on the date the authorization
4-55 agreement was executed, and the former law is continued in effect
4-56 for that purpose.

4-57 SECTION 6. This Act takes effect September 1, 2017.

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