

FAMILY CODE

TITLE 2. CHILD IN RELATION TO THE FAMILY

SUBTITLE A. LIMITATIONS OF MINORITY

CHAPTER 34. AUTHORIZATION AGREEMENT FOR NONPARENT ADULT CAREGIVER

Sec. 34.0015. DEFINITIONS. 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" has the meaning assigned by Section [101.024](#).

Added by Acts 2011, 82nd Leg., R.S., Ch. 897 (S.B. [482](#)), Sec. 1, eff. September 1, 2011.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 244 (H.B. [871](#)), Sec. 2, eff. September 1, 2017.

Sec. 34.002. AUTHORIZATION AGREEMENT. (a) A parent or both parents of a child may enter into an authorization agreement with an adult caregiver to authorize the adult caregiver 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;

(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.

(b) To the extent of any conflict or inconsistency between this chapter and any other law relating to the eligibility requirements other than parental consent to obtain a service under Subsection (a), the other law controls.

(c) An authorization agreement under this chapter does not confer on an adult caregiver the right to authorize the performance of an abortion on the child or the administration of emergency contraception to the child.

(d) Only one authorization agreement may be in effect for a child at any time. An authorization agreement is void if it is executed while a prior authorization agreement remains in effect. Added by Acts 2009, 81st Leg., R.S., Ch. 815 (S.B. 1598), Sec. 1, eff. June 19, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 484 (H.B. 848), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 897 (S.B. 482), Sec. 2, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1167 (S.B. 821), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 244 (H.B. 871), Sec. 3, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 885 (H.B. 3052), Sec. 2, eff. September 1, 2017.

Sec. 34.0021. AUTHORIZATION AGREEMENT BY PARENT IN CHILD PROTECTIVE SERVICES CASE. A parent may enter into an authorization

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

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 484 (H.B. 848), Sec. 3, eff. September 1, 2011.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 244 (H.B. 871), Sec. 4, eff. September 1, 2017.

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

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

Added by Acts 2017, 85th Leg., R.S., Ch. 244 (H.B. 871), Sec. 5, eff. September 1, 2017.

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

(1) the following information from the adult caregiver:

(A) the name and signature of the adult caregiver;

(B) the adult caregiver's relationship to the child; and

(C) the adult caregiver's current physical address and telephone number or the best way to contact the adult

caregiver;

(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 adult caregiver 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 adult caregiver has voluntarily assumed the responsibility of performing those functions;

(5) statements that neither the parent nor the adult caregiver 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 adult caregiver'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 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 adult caregiver'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 adult caregiver 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:

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

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

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

(B) identifies the circumstances under which the authorization agreement may be:

(i) terminated as provided by Section [34.008](#) before the term of the agreement expires; or

(ii) continued beyond the term of the agreement by a court as provided by Section [34.008\(b\)](#); 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 adult caregiver 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 adult caregiver 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 adult caregiver to return the child to the parent immediately on request may have criminal and civil consequences;

(8) that, under other applicable law, the adult caregiver may be liable for certain expenses relating to the child in the adult caregiver'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\(a-2\)](#), the authorization agreement is void unless not later than the 10th day after the date the authorization agreement is signed, the parties mail 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; and

(B) one copy of the authorization agreement by first class mail or international first class mail, as applicable; and

(14) that the authorization agreement does not confer on an adult caregiver the right to authorize the performance of an abortion on the child or the administration of emergency contraception to the child.

Added by Acts 2009, 81st Leg., R.S., Ch. 815 (S.B. 1598), Sec. 1, eff. June 19, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 897 (S.B. 482), Sec. 3, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 244 (H.B. 871), Sec. 6, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 885 (H.B. 3052), Sec. 3, eff. September 1, 2017.

Sec. 34.004. EXECUTION OF AUTHORIZATION AGREEMENT.

(a) The authorization agreement must be signed and sworn to before a notary public by the parent and the adult caregiver.

(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 court has continuing, exclusive jurisdiction over the child.

(c) An authorization agreement obtained in violation of Subsection (b) is void.

Added by Acts 2009, 81st Leg., R.S., Ch. 815 (S.B. 1598), Sec. 1, eff. June 19, 2009.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 244 (H.B. 871), Sec. 7, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 885 (H.B. 3052), Sec. 4, eff. September 1, 2017.

Sec. 34.005. DUTIES OF PARTIES TO AUTHORIZATION AGREEMENT.

(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 to the parent who was not a party to the authorization agreement at the parent's last known address, 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 copy of the executed authorization agreement by first class mail or international first class mail, as applicable.

(a-1) Except as otherwise provided by Subsection (a-2), an authorization agreement is void if the parties fail to comply with Subsection (a).

(a-2) 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.

(b) A party to the authorization agreement shall immediately inform each other party of any change in the party's address or contact information. If a party fails to comply with this subsection, the authorization agreement is voidable by the other party.

Added by Acts 2009, 81st Leg., R.S., Ch. 815 (S.B. 1598), Sec. 1, eff. June 19, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 897 (S.B. 482), Sec. 4, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 885 (H.B. 3052), Sec. 5, eff. September 1, 2017.

Sec. 34.006. AUTHORIZATION VOIDABLE. An authorization agreement is voidable by a party if the other party knowingly:

(1) obtained the authorization agreement by fraud, duress, or misrepresentation; or

(2) made a false statement on the authorization agreement.

Added by Acts 2009, 81st Leg., R.S., Ch. 815 (S.B. 1598), Sec. 1, eff. June 19, 2009.

Sec. 34.007. EFFECT OF AUTHORIZATION AGREEMENT. (a) A person who is not a party to the authorization agreement who relies in good faith on an authorization agreement under this chapter, without actual knowledge that the authorization agreement is void, revoked, or invalid, is not subject to civil or criminal liability to any person, and is not subject to professional disciplinary action, for that reliance if the agreement is completed as required

by this chapter.

(b) The authorization agreement does not affect the rights of the child's parent or legal guardian regarding the care, custody, and control of the child, and does not mean that the adult caregiver has legal custody of the child.

(c) An authorization agreement executed under this chapter does not confer or affect standing or a right of intervention in any proceeding under Title 5.

Added by Acts 2009, 81st Leg., R.S., Ch. 815 (S.B. 1598), Sec. 1, eff. June 19, 2009.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 244 (H.B. 871), Sec. 8, eff. September 1, 2017.

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

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

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

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

Added by Acts 2017, 85th Leg., R.S., Ch. 244 (H.B. 871), Sec. 9, eff. September 1, 2017.

Sec. 34.008. TERMINATION OF AUTHORIZATION AGREEMENT.

(a) Except as provided by Subsection (b), an authorization agreement under this chapter terminates if, after the execution of the authorization agreement, a court enters an order:

(1) affecting the parent-child relationship;

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

(3) concerning access to or visitation with the child;

or

(4) regarding the appointment of a guardian for the

child under Subchapter B, Chapter 1104, Estates Code.

(b) An authorization agreement may continue after a court order described by Subsection (a) is entered if the court entering the order gives written permission.

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

- (1) gives each party written notice of the revocation;
- (2) files the written revocation with the clerk of the

county in which:

- (A) the child resides;
- (B) the child resided at the time the authorization agreement was executed; or
- (C) the adult caregiver resides; and

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

- (A) that has continuing, exclusive jurisdiction over the child;
- (B) in which there is a court order or pending suit affecting the parent-child relationship concerning the child;
- (C) in which there is pending litigation concerning:

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

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

(D) that has entered an order regarding the appointment of a guardian for the child under Subchapter B, Chapter 1104, Estates Code.

(d) Repealed by Acts 2017, 85th Leg., R.S., Ch. 244 (H.B. 871), Sec. 13, eff. September 1, 2017.

(e) If both parents have signed the authorization agreement, either parent may revoke the authorization agreement without the other parent's consent.

(f) Execution of a subsequent authorization agreement does not by itself supersede, invalidate, or terminate a prior authorization agreement.

Added by Acts 2009, 81st Leg., R.S., Ch. 815 (S.B. 1598), Sec. 1, eff. June 19, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 897 (S.B. 482), Sec. 5, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 244 (H.B. 871), Sec. 10, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 244 (H.B. 871), Sec. 13, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.017, eff. September 1, 2017.

Sec. 34.009. PENALTY. (a) A person commits an offense if the person knowingly:

(1) presents a document that is not a valid authorization agreement as a valid authorization agreement under this chapter;

(2) makes a false statement on an authorization agreement; or

(3) obtains an authorization agreement by fraud, duress, or misrepresentation.

(b) An offense under this section is a Class B misdemeanor.
Added by Acts 2009, 81st Leg., R.S., Ch. 815 (S.B. 1598), Sec. 1, eff. June 19, 2009.