

FAMILY CODE

TITLE 2. CHILD IN RELATION TO THE FAMILY

SUBTITLE A. LIMITATIONS OF MINORITY

CHAPTER 35. TEMPORARY AUTHORIZATION FOR CARE OF MINOR CHILD

Sec. 35.001. APPLICABILITY. This chapter applies to a person whose relationship to a child would make the person eligible to consent to treatment under Section 32.001 or eligible to enter an authorization agreement under Section 34.001.

Added by Acts 2017, 85th Leg., R.S., Ch. 334 (H.B. 1043), Sec. 1, eff. June 1, 2017.

Sec. 35.002. TEMPORARY AUTHORIZATION. A person described by Section 35.001 may seek a court order for temporary authorization for care of a child by filing a petition in the district court in the county in which the person resides if:

(1) the child has resided with the person for at least the 30 days preceding the date the petition was filed; and

(2) the person does not have an authorization agreement under Chapter 34 or other signed, written documentation from a parent, conservator, or guardian that enables the person to provide necessary care for the child.

Added by Acts 2017, 85th Leg., R.S., Ch. 334 (H.B. 1043), Sec. 1, eff. June 1, 2017.

Sec. 35.003. PETITION FOR TEMPORARY AUTHORIZATION FOR CARE OF CHILD. (a) A petition for temporary authorization for care of a child must:

(1) be styled "ex parte" and be in the name of the child;

(2) be verified by the petitioner;

(3) state:

(A) the name, date of birth, and current physical address of the child;

(B) the name, date of birth, and current physical address of the petitioner; and

(C) the name and, if known, the current physical

and mailing addresses of the child's parents, conservators, or guardians;

(4) describe the status and location of any court proceeding in this or another state with respect to the child;

(5) describe the petitioner's relationship to the child;

(6) provide the dates during the preceding 12 months that the child has resided with the petitioner;

(7) describe any service or action that the petitioner is unable to obtain or undertake on behalf of the child without authorization from the court;

(8) state any reason that the petitioner is unable to obtain signed, written documentation from a parent, conservator, or guardian of the child;

(9) contain a statement of the period for which the petitioner is requesting temporary authorization; and

(10) contain a statement of any reason supporting the request for the temporary authorization.

(b) If the petition identifies a court proceeding with respect to the child under Subsection (a)(4), the petitioner shall submit a copy of any court order that designates a conservator or guardian of the child.

Added by Acts 2017, 85th Leg., R.S., Ch. 334 (H.B. [1043](#)), Sec. 1, eff. June 1, 2017.

Sec. 35.004. NOTICE; HEARING. (a) On receipt of the petition, the court shall set a hearing.

(b) A copy of the petition and notice of the hearing shall be delivered to the parent, conservator, or guardian of the child by personal service or by certified mail, return receipt requested, at the last known address of the parent, conservator, or guardian.

(c) Proof of service under Subsection (b) must be filed with the court at least three days before the date of the hearing.

Added by Acts 2017, 85th Leg., R.S., Ch. 334 (H.B. [1043](#)), Sec. 1, eff. June 1, 2017.

Sec. 35.005. ORDER FOR TEMPORARY AUTHORIZATION. (a) At

the hearing on the petition, the court may hear evidence relating to the child's need for care by the petitioner, any other matter raised in the petition, and any objection or other testimony of the child's parent, conservator, or guardian.

(b) The court shall award temporary authorization for care of the child to the petitioner if the court finds it is necessary to the child's welfare and no objection is made by the child's parent, conservator, or guardian. If an objection is made, the court shall dismiss the petition without prejudice.

(c) The court shall grant the petition for temporary authorization only if the court finds by a preponderance of the evidence that the child does not have a parent, conservator, guardian, or other legal representative available to give the necessary consent.

(d) The order granting temporary authorization under this chapter expires on the first anniversary of the date of issuance or at an earlier date determined by the court. The order may authorize the petitioner to:

(1) consent to medical, dental, psychological, and surgical treatment and immunization of the child;

(2) execute any consent or authorization for the release of information as required by law relating to the treatment or immunization under Subdivision (1);

(3) obtain and maintain any public benefit for the child;

(4) enroll the child in a day-care program, preschool, or public or private primary or secondary school;

(5) authorize the child to participate in age-appropriate extracurricular, civic, social, or recreational activities, including athletic activities; and

(6) authorize or consent to any other care for the child essential to the child's welfare.

(e) An order granting temporary authorization under this chapter must state:

(1) the name and date of birth of the person with temporary authorization to care for the child;

(2) the specific areas of authorization granted to the

person;

- (3) that the order does not supersede any rights of a parent, conservator, or guardian as provided by court order; and
- (4) the expiration date of the temporary authorization order.

(f) A copy of an order for temporary authorization must:

- (1) be filed under the cause number in any court that has rendered a conservatorship or guardian order regarding the child; and

- (2) be sent to the last known address of the child's parent, conservator, or guardian.

Added by Acts 2017, 85th Leg., R.S., Ch. 334 (H.B. [1043](#)), Sec. 1, eff. June 1, 2017.

Sec. 35.006. RENEWAL OR TERMINATION OF TEMPORARY AUTHORIZATION. (a) A temporary authorization order may be renewed by court order for a period of not more than one year on a showing by the petitioner of a continuing need for the order.

(b) At any time, the petitioner or the child's parent, conservator, or guardian may request the court to terminate the order. The court shall terminate the order on finding that there is no longer a need for the order.

Added by Acts 2017, 85th Leg., R.S., Ch. 334 (H.B. [1043](#)), Sec. 1, eff. June 1, 2017.

Sec. 35.007. EFFECT OF TEMPORARY AUTHORIZATION. (a) A person who relies in good faith on a temporary authorization order under this chapter is not subject to:

- (1) civil or criminal liability to any person; or
- (2) professional disciplinary action.

(b) A temporary authorization order does not affect the rights of the child's parent, conservator, or guardian regarding the care, custody, and control of the child, and does not establish legal custody of the child.

(c) A temporary authorization order does not confer or affect standing or a right of intervention in any proceeding under Title 5.

(d) An order under this chapter is not a child custody determination and does not create a court of continuing, exclusive jurisdiction under Title 5.

Added by Acts 2017, 85th Leg., R.S., Ch. 334 (H.B. [1043](#)), Sec. 1, eff. June 1, 2017.