

BILL ANALYSIS

Senate Research Center

H.B. 3052
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Business & Commerce
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law allows a parent, through a Chapter 34, Family Code, authorization agreement (agreement) to authorize a nonparent relative or voluntary caregiver to make certain decisions on behalf of the child. The agreement is an alternative to other legal options. The agreement allows the relative to authorize or obtain on behalf of the child: medical treatment, insurance coverage, public benefits, a driver's license, enrollment in school or programs, and participation in recreational activities. Interested parties note that the agreement does not allow for the authorized relative, often a grandparent, to obtain copies or originals of identification documents, namely birth certificates and social security cards, which may prevent the relative from carrying out permitted functions.

H.B. 3052 allows for the authorized relative to obtain copies or originals of the child's identification documents through the Chapter 34 agreement. In addition, if one parent is absent when the agreement is authorized, that parent must be notified of the agreement. The responsibility for notification often falls on the authorized relative, has multiple steps, and can be burdensome. H.B. 3052 simplifies this process for the authorized caregiver.

H.B. 3052 amends Chapter 34, Family Code, to allow authorized relatives to obtain copies or originals of the child's identification documents and streamline the notification process for a parent not party to the authorization agreement. (Original Author's / Sponsor's Statement of Intent)

H.B. 3052 amends current law relating to certain protective orders and agreements involving families.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 6.405, Family Code, as follows:

Sec. 6.405. New heading: PROTECTIVE ORDER AMD RELATED ORDERS. (a) Requires that the petition in a suit for dissolution of a marriage 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 protective order under Chapter 7A (Protective Order For Victims of Sexual Assault or Abuse, Stalking, or Trafficking), Code of Criminal Procedure, or an order for emergency protection under Article 17.292 (Magistrate's Order for Emergency Protection), Code of Criminal Procedure; or

(2) an application for an order described by Subdivision (1) is pending, rather than whether a protective order under Title 4 (Protective Orders and Family Violence) is in effect or if an application for a protective order is

pending with regard to the parties to the suit. Makes nonsubstantive changes.

(b) Requires the petitioner to attach to the petition a copy of each order described by Subsection (a)(1) (relating to a protective order under Title 4) in a which a party to the suit, rather than requires the petitioner to attach to the petition a copy of each protective order issued under Title 4 in which 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. Requires that the petition, if a copy of the order, rather than protective order, is not available at the time of filing, state that a copy of the order will be filed with the court before any hearing.

SECTION 2. Amends Section 34.002(a), Family Code, as follows:

(a) Authorizes a parent or both parents of a child to enter into an authorization agreement with a relative of the child listed in Section 34.001 (Applicability) to authorize the relative to perform the following acts in regard to the child:

(1) through (7) makes no changes to these subdivisions; and

(8) to obtain copies or originals of state-issued personal identification documents for the child, including the child's birth certificate, and, 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 3. Amends Section 34.003, Family Code, as follows:

Sec. 34.003. CONTENTS OF AUTHORIZATION AGREEMENT. (a) Makes a nonsubstantive change.

(b) Requires that the authorization agreement contain the following warnings and disclosures:

(1) through (12) makes no changes to these subdivisions;

(13) that, except as provided by Section 34.005(a-2), rather than Section 34.005(a-1), 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, certain copies of the authorization agreement; and

(14) makes no changes to this subdivision.

Deletes existing text requiring that the authorization agreements contain a warning and disclosure that the authorization agreement is void unless the parties mail certain copies of the authorization agreement not later than the 10th day after the date the authorization agreement is signed and requiring that a copy of the authorization agreement be sent under certain conditions.

SECTION 4. Amends Section 34.004(b), Family Code, to make a nonsubstantive change.

SECTION 5. Amends Section 34.005, Family Code, by amending Subsections (a) and (a-1) and adding Subsection (a-2), as follows:

(a) Requires the parties, if both parents did not sign the authorization agreement, not later than the 10th day after the date the authorization agreement is executed, to 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, one copy of the executed authorization agreement in certain manners and one copy of the executed authorization agreement in certain manners. Deletes existing text requiring the parties to mail a copy of the executed authorization agreement in certain manners not later than a certain date. Deletes existing text requiring that a copy of the authorization agreement be sent if a response is not received before a certain date.

(a-1) Creates this subsection from existing text. Provides that, except as otherwise provided by Subsection (a-2), an authorization agreement is void if the parties fail to comply with Subsection (a), rather than this subsection.

(a-2) Redesignates existing Subsection (a-1) as Subsection (a-2) and makes no further changes to this subsection.

SECTION 6. Amends Section 102.008, Family Code, by amending Subsection (b) and adding Subsections (c) and (d), as follows:

(b) Requires that the petition include a statement as to whether, in regard to a party to the suit or a child of a party to the suit there is in effect a protective order under Title 4, a protective order under Chapter 7A, Code of Criminal Procedure, or an order for emergency protection under Article 17.292, Code of Criminal Procedure, or an application for an order described by Paragraph (A) (relating to a protective order under Title 4) is pending.

(c) Requires the petitioner to 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. Requires that the petition, if a copy of the order is not available at the time of filing, state that a copy of the order will be filed with the court before any hearing.

(d) Provides that notwithstanding any other provision of this section, if the Title IV-D agency (agency) files a petition in a suit affecting the parent-child relationship, the agency is not required to include in the petition the statement described by Subsection (b)(11), or attach copies of the documentation described by Subsection (c).

SECTION 7. Amends Subchapter G, Chapter 160, Family Code, by adding Section 160.6035, as follows:

Sec. 160.6035. CONTENTS OF PETITION; STATEMENT RELATING TO CERTAIN PROTECTIVE ORDERS REQUIRED. (a) Requires that the petition in a proceeding to adjudicate parentage 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 protective order under Title 4, a protective order under Chapter 7A, Code of Criminal Procedure, or 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) Requires the petitioner to 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. Requires that the petition, if a copy of the order is not available at the time of filing, state that a copy of the order will be filed with the court before any hearing.

(c) Provides that, notwithstanding any other provision of this section, if the agency files a petition in a proceeding to adjudicate parentage, the agency is not required to include in the petition the statement described by Subsection (a), or attach copies of the documentation described by Subsection (b).

SECTION 8. Makes application of Sections 6.405 and 102.008, Family Code, as amended by this Act, and Section 160.6035, Family Code, as added by this Act, prospective to September 1, 2017.

SECTION 9. Makes application of this Act prospective.

SECTION 10. Effective date: September 1, 2017.