

## **BILL ANALYSIS**

Senate Research Center  
85R18692 MCK-F

H.B. 871  
By: Roberts et al. (Perry)  
Health & Human Services  
5/8/2017  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

H.B. 871 allows for nonprofit and faith-based organizations to actively reach out to their community to offer preventative services and programs, instead of having to wait to be approached, which is the current statute.

H.B. 871 facilitates such increased involvement by requiring the Department of Family and Protective Services to cooperate with such organizations to provide certain information regarding services and resources available to such families and by providing for an authorization agreement to be entered into between a child's parent and any authorized adult caregiver for the caregiver to temporarily care for the child.

H.B. 871 amends current law relating to child and family support services for families in crisis, including authorization agreements.

### **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 the heading to Chapter 34, Family Code, to read as follows:

#### CHAPTER 34. AUTHORIZATION AGREEMENT FOR NONPARENT ADULT CAREGIVER

SECTION 2. Amends Section 34.0015, Family Code, as follows:

Sec. 34.0015. New heading: DEFINITIONS. Defines "adult caregiver" and redesignates existing Subdivision (1) as Subdivision (2).

SECTION 3. Amends Sections 34.002(a) and (c), Family Code, as follows:

(a) Authorizes a parent or both parents of a child to enter into an authorization agreement with an adult caregiver to authorize the adult caregiver, rather than with a relative of the child listed in Section 34.001 (Applicability) to authorize the relative, to perform certain acts in regard to the child.

(c) Provides that an authorization agreement under this chapter does not confer on an adult caregiver, rather than a relative of the child listed in Section 34.001 or a relative or other person with whom the child is placed under a child safety placement agreement, the right to authorize the performance of an abortion on the child or the administration of emergency contraception to the child.

SECTION 4. Amends Section 34.0021, Family Code, to authorize a parent to enter into an authorization agreement with a certain adult caregiver, rather than a certain relative or other person, to allow the person to perform the acts described by Section 34.002(a) with regard to the

child during an investigation of abuse or neglect or while the Department of Family and Protective Services (DFPS) is providing services to the parent.

SECTION 5. Amends Chapter 34, Family Code, by adding Section 34.0022, as follows:

Sec. 34.0022. INAPPLICABILITY OF CERTAIN LAWS. (a) Provides that 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 (Regulation of Certain Facilities, Homes, and Agencies that Provide Child-Care Services), Human Resources Code.

(b) Provides that 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.

SECTION 6. Amends Section 34.003, Family Code, as follows:

Sec. 34.003. CONTENTS OF AUTHORIZATION AGREEMENT. (a) Requires the authorization agreement to contain:

(1) the following information from the adult caregiver, rather than relative of the child to whom the parent is giving information:

(A) the name and signature of the adult caregiver, rather than relative;

(B) the adult caregiver's, rather than relative's, relationship to the child; and

(C) makes conforming changes;

(2) and (3) makes no changes to these subdivisions;

(4) through (7) makes conforming changes;

(8) makes no changes to this subdivision;

(9) makes conforming changes;

(10) a statement from the parent that indicates the authorization agreement is for a certain term and identifies the circumstances under which the authorization agreement may be terminated or continued, rather than establishes the certain circumstances under which the authorization agreement expires; and

(11) makes no changes to this subdivision.

(b) Makes conforming changes.

SECTION 7. Amends Section 34.004(a), Family Code, to replace a reference to relative with adult caregiver.

SECTION 8. Amends Section 34.007(b), Family Code, to make a conforming change.

SECTION 9. Amends Chapter 34, Family Code, by adding Section 34.0075, as follows:

Sec. 34.0075. TERM OF AUTHORIZATION AGREEMENT. Provides that 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 certain criteria are met.

SECTION 10. Amends Section 34.008(c), Family Code, as follows:

(c) Provides that an authorization agreement under this chapter terminates on written revocation by a party to the authorization agreement if the party meets certain conditions, including if the party files the written revocation with the clerk of each court that has entered an order regarding the appointment of a guardian for the child under Subchapter B (Selection of Guardian for Minor), Chapter 1104 (Selection of and Eligibility to Serve as Guardian), Estates Code, rather than Section 676, Texas Probate Code. Makes a conforming change.

SECTION 11. Amends Subchapter C, Chapter 264, Family Code, by adding Sections 264.2042 and 264.1043, as follows:

Sec. 264.2042. **NONPROFIT ORGANIZATIONS PROVIDING CHILD AND FAMILY SERVICES.** (a) Requires DFPS to cooperate with nonprofit organizations, including faith-based organizations, in providing information to families in crisis regarding child and family services, including respite care, voluntary guardianship, and other support services, available in the child's community.

(b) Provides that DFPS does not incur any obligation as a result of providing information as required by Subsection (a).

(c) Provides that DFPS is not liable for damages arising out of the provision of information as required by Subsection (a).

Sec. 264.2043. **PROHIBITION ON ABUSE OR NEGLECT INVESTIGATION BASED SOLELY ON REQUEST FOR INFORMATION.** Prohibits DFPS from initiating an investigation of child abuse or neglect based solely on a request submitted to DFPS by a child's parent for information relating to child and family services available to families in crisis.

SECTION 12. Amends Section 42.041(b), Human Resources Code, to provide that this section (Required License) does not apply to certain facilities, homes, programs, camps, or living arrangements, including a living arrangement in a caretaker's home involving one or more children or a sibling group in which the caretaker has a written authorization agreement under Chapter 34 (Authorization Agreement for Nonparent Relative), Family Code, with the parent of each child or sibling group to care for each child or sibling group; does not care for more than six children, excluding children who are related to the caretaker; and does not receive compensation for caring for any child or sibling group.

SECTION 13. Repealers: Sections 34.001 (Applicability) and 34.008(d) (relating to an authorization agreement being valid until revoked if the agreement does not state when the agreement expires), Family Code.

SECTION 14. Effective date: September 1, 2017.