

## **BILL ANALYSIS**

H.B. 1043  
By: Blanco  
Juvenile Justice & Family Issues  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties express concern that when an extended family member of a child takes the child into the family member's home while the child's parents are unable to care for the child, the family member is often unable to consent to care that may be necessary for the child's welfare. The goal of H.B. 1043 is to provide a procedure for an extended family member to obtain temporary authorization to consent to such care.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 1043 amends the Family Code to authorize a person whose relationship to a child would make the person eligible to consent to medical, dental, psychological, or surgical treatment of the child or eligible to enter an authorization agreement regarding making certain decisions for another person's child to 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 the child has resided with the person for at least the 30 days preceding the date the petition was filed and the person does not have such an authorization agreement or other signed, written documentation from a parent, conservator, or guardian that enables the person to provide necessary care for the child.

H.B. 1043 sets out the required content of a petition for temporary authorization for care of a child. The bill requires a petitioner who identifies in the petition a court proceeding in Texas or another state with respect to the child to submit a copy of any court order that designates a conservator or guardian of the child. The bill requires a court to set a hearing on receipt of the petition and requires delivery of a copy of the petition and notice of the hearing to the parent, conservator, or guardian of the child by personal service or by certified mail, return receipt requested, at the person's last known address. The bill requires proof of such service to be filed with the court at least three days before the date of the hearing.

H.B. 1043 authorizes the court to hear at the hearing on the petition 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. The bill requires the court to 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 and to dismiss the petition without prejudice if an objection is made. The bill conditions the court's authority to grant the petition on the court finding 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. The bill sets a temporary authorization order to expire on the first anniversary of the date of issuance or at an earlier date determined by the court.

H.B. 1043 authorizes a temporary authorization order to authorize the petitioner to consent to medical, dental, psychological, and surgical treatment and immunization of the child; to execute any consent or authorization for the release of information as required by law relating to such treatment or immunization; to obtain and maintain any public benefit for the child; to enroll the child in a day-care program, preschool, or public or private primary or secondary school; to authorize the child to participate in age-appropriate extracurricular, civic, social, or recreational activities; and to authorize or consent to any other care for the child essential to the child's welfare. The bill sets out the information required to be stated on a temporary authorization order and requires a copy of the order to be filed under the cause number in any court that has rendered a conservatorship or guardian order regarding the child and to be sent to the last known address of the child's parent, conservator, or guardian.

H.B. 1043 authorizes the renewal of a temporary authorization order 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. The bill authorizes the petitioner or the child's parent, conservator, or guardian to request at any time that the court terminate the order and requires the court to terminate the order on finding that there is no longer a need for the order. The bill exempts a person who relies in good faith on a temporary authorization order from civil or criminal liability and from professional disciplinary action. The bill establishes that 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; does not establish legal custody of the child; does not confer or affect standing or a right of intervention in any proceeding regarding the parent-child relationship; is not a child custody determination; and does not create a court of continuing, exclusive jurisdiction for purposes of the parent-child relationship.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.