

FAMILY CODE

TITLE 2. CHILD IN RELATION TO THE FAMILY

SUBTITLE A. LIMITATIONS OF MINORITY

CHAPTER 35A. TEMPORARY AUTHORIZATION FOR INPATIENT MENTAL HEALTH
SERVICES FOR MINOR CHILD

Sec. 35A.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(a)(1), (2), or (3), and who has had actual care, custody, and control of the child for the six months preceding the filing of a petition under this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 988 (S.B. 1238), Sec. 1, eff. September 1, 2019.

Sec. 35A.002. TEMPORARY AUTHORIZATION. A person described by Section 35A.001 may seek a court order for temporary authorization to consent to voluntary inpatient mental health services for a child by filing a petition in the district court in the county in which the person resides.

Added by Acts 2019, 86th Leg., R.S., Ch. 988 (S.B. 1238), Sec. 1, eff. September 1, 2019.

Sec. 35A.003. PETITION FOR TEMPORARY AUTHORIZATION. A petition for temporary authorization to consent to voluntary inpatient mental health services for 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 six months that the child has resided with the petitioner;

(7) contain a certificate of medical examination for mental illness prepared by a physician who has examined the child not earlier than the third day before the date the petition is filed and be accompanied by a sworn statement containing the physician's opinion, and the detailed reasons for that opinion, that the child is a person:

(A) with mental illness or who demonstrates symptoms of a serious emotional disorder; and

(B) who presents a risk of serious harm to self or others if not immediately restrained or hospitalized; and

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

Added by Acts 2019, 86th Leg., R.S., Ch. 988 (S.B. [1238](#)), Sec. 1, eff. September 1, 2019.

Sec. 35A.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.

Added by Acts 2019, 86th Leg., R.S., Ch. 988 (S.B. [1238](#)), Sec. 1, eff. September 1, 2019.

Sec. 35A.005. ORDER FOR TEMPORARY AUTHORIZATION. (a) At the hearing on the petition, the court may hear evidence relating to the child's need for inpatient mental health services 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 dismiss the petition for temporary authorization if an objection is made by the child's parent, conservator, or guardian.

(c) The court shall grant the petition for temporary authorization only if the court finds:

(1) by a preponderance of the evidence that the child does not have available a parent, conservator, guardian, or other legal representative to give consent under Section 572.001, Health and Safety Code, for voluntary inpatient mental health services; and

(2) by clear and convincing evidence that the child is a person:

(A) with mental illness or who demonstrates symptoms of a serious emotional disorder; and

(B) who presents a risk of serious harm to self or others if not immediately restrained or hospitalized.

(d) Subject to Subsection (e), the order granting temporary authorization under this chapter expires on the earliest of:

(1) the date the petitioner requests that the child be discharged from the inpatient mental health facility;

(2) the date a physician determines that the criteria listed in Subsection (c)(2) no longer apply to the child; or

(3) subject to Subsection (e), the 10th day after the date the order for temporary authorization is issued under this section.

(e) The order granting temporary authorization continues in effect until the earlier occurrence of an event described by Subsection (d)(1) or (2) if the petitioner obtains an order for temporary managing conservatorship before the order expires as provided by Subsection (d)(3).

(f) A copy of an order granting 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 2019, 86th Leg., R.S., Ch. 988 (S.B. [1238](#)), Sec. 1,
eff. September 1, 2019.