

- SUBJECT:** Creating caregiver authorization affidavits to enroll a child in school
- COMMITTEE:** Judiciary and Civil Jurisprudence — committee substitute recommended
- VOTE:** 8 ayes — Lewis, Farrar, Farney, Gooden, Hunter, K. King, Raymond, S. Thompson
- 0 nays
- 1 absent — Hernandez Luna
- WITNESSES:** For — Katherine Barillas, One Voice Texas; Duncan Cormie, Texas Network of Youth Services; Carlos Salinas, Alliance for Texas Families; (*Registered, but did not testify:* Ashley Harris, Texans Care for Children)
- Against — None
- On — (*Registered, but did not testify:* Pamela Parker, Department of Family and Protective Services)
- BACKGROUND:** Education Code, sec. 25.002(f) limits those permitted to enroll a child in a public school to the child’s parent, guardian, or a person with legal control of the child under a court order. Family Code, sec. 34.002 allows one or both parents of a child to enter into a number of authorization agreements with a relative of the child, including an agreement allowing the relative to enroll the child in school.
- DIGEST:** CSHB 454 would create a caregiver’s authorization affidavit and authorize its use by a child’s relative to enroll the child in public school. The relative would be required to verify that neither of the child’s parents could be contacted and that the child resided primarily with the caregiver.
- To be valid, the affidavit would need to be witnessed by two people, at least one of whom was not related to the child or caregiver, and be notarized. It would remain valid until the child’s parent or guardian objected to it or the child no longer resided with the caregiver.
- CSHB 454 would specify that a caretaking relative with either an

authorization agreement or an authorization affidavit would have parental rights and responsibilities in the public school system. The affidavit would not affect the rights of a parent or guardian regarding their child's care or custody, and would not transfer legal custody of the child to the caregiver.

The bill would provide a model caregiver's authorization affidavit and would require that the Texas Education Agency (TEA) develop one in substantially the same form and make it available on the agency's website. The commissioner of education would be required to adopt rules to ensure the affidavit was accepted by schools.

CSHB 454 would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013. The affidavit would be valid in schools beginning with the 2013-14 school year.

**SUPPORTERS
SAY:**

CSHB 454 would reduce lapses in children's schooling. Currently, children being raised by a relative without parental involvement cannot be enrolled in a public school unless the relative obtains either legal custody of the child or a court order to enroll them in school. This process can be lengthy and expensive, causing already vulnerable children to fall behind their peers in the classroom.

The bill would not infringe upon parents' legal rights, and the benefit of increased attendance for students and society would vastly outweigh any minor obligations placed on TEA.

**OPPONENTS
SAY:**

Implementing CSHB 454 would pose an administrative burden to TEA. The agency scarcely has the staff to carry out its existing duties without being required to follow yet another government mandate.