

Going to Court to Get Temporary Authorization to Care for a Child

[TexasLawHelp \(https://texaslawhelp.org/directory/legal-resource/texaslawhelp\)](https://texaslawhelp.org/directory/legal-resource/texaslawhelp) [1]

This article contains answers to common questions about how to get court-ordered temporary authority to care of a child. This article was written by [Texas Legal Services Center \(http://www.tlsc.org\)](http://www.tlsc.org) [2].



I need temporary authority to make decisions on behalf of a child. I have nothing in writing from the parent.

You can go to court to get an order giving you the temporary authority to care for a child. This kind of court order is only available if:

- The child has lived with the person applying for (at least) the 30-day period right before the date the petition was filed; and
- There is not *already* a written authorization agreement under [Texas Family Code chapter 34 \(http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.34.htm\)](http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.34.htm) [3] (or some other signed, written documentation from a parent, conservator, or guardian that enables the person to provide necessary care for the child); and
- The parent, conservator, or guardian does not object to the petitioner (that is, the person trying to get the temporary authorization) having the authority to care for the child.

See [Texas Family Code chapter 35 \(https://statutes.capitol.texas.gov/Docs/FA/htm/FA.35.htm\)](https://statutes.capitol.texas.gov/Docs/FA/htm/FA.35.htm) [4].

What is the petition for temporary authorization for care of a child?

A petition for temporary authorization for care of a child is a document you file in court to ask a judge to sign an order that shows you have the right to make certain decisions for a child.

Can the parent or parents revoke a temporary authorization order?

Yes. At any time, the following parties can ask the court to terminate the order:

- Petitioner or caretaker
- Child's parent, conservator, or guardian

The court shall terminate the order on finding there is no longer a need for the order.

Texas Family Code chapter 35.006(b) (<http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.35.htm#35.006>) [5].



How long does a temporary authorization order last?

A court order granting temporary authorization to care for a child expires on the first anniversary of the date the court signs it—unless the court says it expires sooner. The order can also be renewed if the petitioner shows that the order is still needed.

See **Texas Family Code chapters 35.005(d) (<http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.35.htm#35.005>) [6], 35.006(a) (<http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.35.htm#35.006>) [5].**

What if there is already a temporary authorization form for the care of a child filled out? Do I still have to go to court?

Probably not. **Texas Family Code chapter 34 (<http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.34.htm>) [3]** establishes forms for temporarily authorizing care of a child by a nonparent. See **Authorization for Nonparent Care of a Child (<https://texaslawhelp.org/article/authorization-nonparent-care-child>) [7].**

Who can seek a court order for temporary authorization for care of a child?

A court can give you the temporary authority to care for a child if your relationship to the child would make you eligible to consent to treatment under **Texas Family Code section 32.001 (<http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.32.htm#32.001>) [8]**, or eligible to enter an authorization agreement under **Texas Family Code chapter 34 (<http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.34.htm>) [3].**

This includes:

- The child's grandparent; adult sibling; or adult aunt or uncle;
- A school where the child is enrolled that has written authorization to consent (from a person having the right to consent);
- An adult who has actual care, control, and possession of the child *and* has written authorization to consent (from a person having the right to consent);
- A court having jurisdiction over a Suit Affecting the Parent-Child Relationship of which the child is the subject;
- An adult responsible for the actual care, control, and possession of a child under the jurisdiction of a juvenile court or committed by a juvenile court to the care of an agency of the state or county; or
- A peace officer who has lawfully taken custody of a minor, if the peace officer has reasonable grounds to believe the minor is in need of immediate medical treatment.



Texas Family Code chapter 32.001 (<http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.32.htm>) [9]; **Texas Family Code chapter 34** (<http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.34.htm>) [3]; **Texas Family Code chapter 35.001** (<http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.35.htm#35.001>) [10].

When do you have to go to court to get the temporary right to care for a child?

If there is *not* already an authorization agreement—or another signed, written documentation from a parent, conservator, or guardian that lets the person consent to necessary care for the child—then the caregiver can file the petition and get a court order.

Where do you file the petition?

File the petition in the district court in the county where the caregiver lives. The statute says that the child has to have lived with the caregiver for at least 30 days—so this will also be the county where the child resides.

What can this court order authorize a caregiver to do?

The order may give the petitioner the authority to:

1. consent to medical, dental, psychological, and surgical treatment and immunization of the child;
2. execute any consent or authorization for the release of information as required by law relating to that treatment or immunization;
3. obtain and maintain any public benefit for the child;
4. enroll the child in daycare, preschool, or primary or secondary school;
5. authorize the child to participate in age-appropriate extracurricular, civic, social, or recreational activities, including sports; and
6. authorize or consent to any other care for the child essential to the child's welfare.



See **Texas Family Code 35.005(d)** (<http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.35.htm#35.005>) [6].

What information do you put in the petition?

A petition for temporary authorization for care of a child must include

- the name, date of birth, and current physical address of the child;
- the name, date of birth, and current physical address of the petitioner; and
- the name and, if known, the current physical and mailing addresses of the child's parents, conservators, or guardians;
- the dates during the preceding 12 months that the child has resided with the petitioner;

It also has to describe:

- the status and location of any court proceeding in this or another state with respect to the child, and include a copy of any court order that designates a conservator or guardian of the child.
- the petitioner's relationship to the child;
- any service or action that the petitioner is unable to obtain or undertake on behalf of the child without court authorization;

The petition must also contain:

- any reason that the petitioner is unable to obtain signed, written

- documentation from a parent, conservator, or guardian of the child;
- a statement of the period for which the petitioner is requesting temporary authorization; and
 - a statement of any reason supporting the request for the temporary authorization.



Does a temporary authorization order give you custody?

No, a temporary authorization order is not the same as having custody. Please read **Texas Family Code chapter 35.007(d)**

(<http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.35.htm#35.007>) [11].

If you are not a parent and need to learn more about filing for custody (“conservatorship” under Texas law), please review **(SAPCR) I need a custody order. I am not the child’s parent.** (<https://texaslawhelp.org/toolkit/sapcr-i-need-custody-order-i-am-not-childs-parent>) [12]

The temporary authorization order must say that it does not supersede any rights of a parent, conservator, or guardian. This means that a parent, conservator, or guardian continue to have all the same rights they had before the temporary authorization was signed.

Does TexasLawHelp have forms for filing for a temporary authorization order?

TexasLawHelp.org's forms for a court order temporarily authorizing care of a minor can be found here: **I need court orders for temporary authorization for care of children.** (<https://www.texaslawhelp.org/node/5959>) [13]

Or hire a lawyer to draft the forms for you. You will have to go to court, and it is generally best to have an attorney if you appear in court—especially if not everyone agrees that the court should allow a temporary authorization order (see **Civil Litigation in Texas** (<https://texaslawhelp.org/article/civil-litigation-texas-basics-three-phases>) [14] for more about going to court). For help finding a lawyer, use TexasLawHelp.org’s **Legal Help Finder** (<https://texaslawhelp.org/legal-help/legal-help-finder>) [15] tool. You might also be able to find a template at your **nearest law library** (<https://www.sll.texas.gov/self-help/where-to-go-for-help/law-libraries-of-texas/>) [16].

My temporary authorization order is about to expire but I still need it. Can I renew it?

Texas Family Code 35.006(a) (<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.35.htm#35.006>) [17] allows you to request a renewal of your order for up to one additional year. You have to show a judge that there is a continuing need for the order.

It is good practice to attach a copy of the original temporary authorization order to your motion for renewal.



I am a parent and I do not agree to give temporary authorization to another person. What can I do?

Texas Family Code 35.005(b) (<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.35.htm#35.005>) [18] states that if a parent, conservator, or guardian of the child objects to (does not agree with) the request for temporary authorization, the judge should dismiss the case.

If you do not agree with the temporary authorization, you can file a Motion to Dismiss with the clerk's office and go to the hearing and tell the judge that you object. See **I am a parent and I do not agree to give temporary authorization to another person. What can I do?** (<https://texaslawhelp.org/faq/i-am-parent-and-i-do-not-agree-give-temporary-authorization-another-person-what-can-i-do>) [19]

If the order has already been granted by the judge, you can consider filing a Motion for Termination:

- **Motion to Dismiss Petition for Temporary Authorization for Care of Minor Children** (<https://texaslawhelp.org/form/motion-dismiss-petition-temporary-authorization-care-minor-children>) [20]
- **Order Dismissing Petition for Authorization for Temporary Care of a Child** (<https://texaslawhelp.org/form/order-dismissing-petition-authorization-temporary-care-child>) [21]

We have a temporary authorization order to care for a child, but we don't need it anymore. What can we do?

All temporary authorization orders should have an expiration date written on the order. You can check and see if your order has expired or is about to expire. If it has already expired, it is no longer in effect and you do not have to terminate it.

Texas Family Code 35.006(b) (<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.35.htm#35.006>) [17] states that, at any time, the petitioner, parent, conservator, or guardian of a child can request that the order be terminated. The judge should terminate the order if he or she finds that the order is no longer needed.



See these forms:

- **Motion to Terminate Temporary Authorization for Care of Minor Children** (<https://texaslawhelp.org/form/motion-terminate-temporary-authorization>) [22]
- **Order Terminating Temporary Authorization for Care of Minor Children** (<https://texaslawhelp.org/form/order-motion-terminate-temporary-authorization>) [23]

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Links

- [1] <https://texaslawhelp.org/directory/legal-resource/texaslawhelp>
- [2] <http://www.tlsc.org>
- [3] <http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.34.htm>
- [4] <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.35.htm>
- [5] <http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.35.htm#35.006>
- [6] <http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.35.htm#35.005>
- [7] <https://texaslawhelp.org/article/authorization-nonparent-care-child>
- [8] <http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.32.htm#32.001>
- [9] <http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.32.htm>
- [10] <http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.35.htm#35.001>
- [11] <http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.35.htm#35.007>
- [12] <https://texaslawhelp.org/toolkit/sapcr-i-need-custody-order-i-am-not-childs-parent>
- [13] <https://www.texaslawhelp.org/node/5959>

- [14] <https://texaslawhelp.org/article/civil-litigation-texas-basics-three-phases>
- [15] <https://texaslawhelp.org/legal-help/legal-help-finder>
- [16] <https://www.sll.texas.gov/self-help/where-to-go-for-help/law-libraries-of-texas/>
- [17] <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.35.htm#35.006>
- [18] <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.35.htm#35.005>
- [19] <https://texaslawhelp.org/faq/i-am-parent-and-i-do-not-agree-give-temporary-authorization-another-person-what-can-i-do>
- [20] <https://texaslawhelp.org/form/motion-dismiss-petition-temporary-authorization-care-minor-children>
- [21] <https://texaslawhelp.org/form/order-dismissing-petition-authorization-temporary-care-child>
- [22] <https://texaslawhelp.org/form/motion-terminate-temporary-authorization>
- [23] <https://texaslawhelp.org/form/order-motion-terminate-temporary-authorization>

