

Temporary Authorization for Care of Minor Child

Use these forms if:

1. You have been caring for a child in your home for at least 30 days and you are NOT the child's parent, conservator, or guardian.
2. You are the child's grandparent, adult brother or sister, adult aunt or uncle, or an adult who has a written authorization from the parent or conservator to consent to medical care for the child.
3. The parents, conservator, or guardian of the child will not object to you obtaining a court order for temporary authorization for you to care for the child.
4. The child does not have a parent, conservator, or guardian available to consent to things or to authorize care that is necessary for the child's welfare.
5. You need a court order that gives you the right to do things such as consent to medical treatment, obtain public benefits, enroll children in school or daycare, authorize extra-curricular activities, or authorize other care that is essential to the child's welfare.
6. You are unable to obtain a written or some other written documentation from a parent of the child that enables you to provide necessary care for the child.

This packet includes:

1. Petition for Temporary Authorization for Care of Minor Children
2. Appendix to Petition for Temporary Authorization for Care of Minor Children
3. Notice of Hearing on Petition for Temporary Authorization to Care for Minor Children
4. Order for Temporary Authorization to Care for Minor Children

Note: You may not need all of the forms listed or you may need additional forms. Get more information at www.TexasLawHelp.org. Talk to a lawyer if you have questions.

Steps for Getting Court Orders for Temporary Authorization for Care of Children

Warning: *The information and forms in this guide are not a substitute for the advice and help of a lawyer.*

First, see [Going to Court to Get Temporary Authorization for Care for a Child](#).

Use these instructions and forms if:

1. You have been caring for a child in your home for at least 30 days and you are NOT the child's parent, conservator, or guardian.
2. You are the child's adult caregiver (that is, an adult person whom a parent has authorized to provide temporary care for a child), grandparent, adult sibling, adult aunt/uncle, or an adult who has a written authorization from the parent or conservator to consent to medical care for the child.
3. The parents, conservator, or guardian of the child will not object to you obtaining a court order for temporary authorization for you to care for the child.
4. The child does not have a parent, conservator, or guardian available to consent to things or to authorize care that is necessary for the child's welfare.
5. You need a court order that gives you the right to do things such as consent to medical treatment, obtain public benefits, enroll children in school or daycare, authorize extracurricular activities, or authorize other care that is essential to the child's welfare.

6. You are unable to obtain a written **Chapter 34 Authorization Agreement** or some other written documentation from a parent of the child that enables you to provide necessary care for the child.

Checklist Steps

Step 1 Fill out petition and order

Fill out the [petition](#) and [order](#).

The person filling out the petition is the “Petitioner.” Fill in all of the blanks. The judge will read this petition to help him or her determine whether or not to grant your request for the temporary authorization order.

- Fill out and attach [Appendix A](#) if there are additional individuals with conservatorship or guardianship rights to the children besides the mother and father. In Appendix A you will fill in the full name, physical address, and mailing address of additional individuals with conservatorship or guardianship rights to the children.

The petition form **MUST** be signed in front of a notary. Do not sign it until you are in front of a notary.

If any other conservatorship, guardianship orders have been issued by any other court, a copy of those orders must be attached to your petition. If anyone has ever paid child support for the children, that is a good clue that there are orders for the children. Often, the orders will be from the county where the children lived when they were last with their parent. You can contact the clerk from that county to ask for a copy of the orders.

If you are not sure if there are prior orders, the [Inquiry on Court of Continuing Jurisdiction for a Child form](#) can be used to determine whether any court has issued conservatorship orders for a child.

Each petition only has the space to fill in the names of two parents. If you are seeking temporary authorizations for several children with different parents, you should fill out a different petition for each child. You can use the same petition for multiple children with the same two parents.

- Fill out and attach [Appendix A](#) if there are additional individuals with conservatorship or guardianship rights to the children besides the mother and father. In Appendix A you will fill in the full name, physical address, and mailing address of additional individuals with conservatorship or guardianship rights to the children.

The [order](#) should also be filled out before going to court. You do not need to sign this form; the judge will sign it if he or she grants your petition.

If you are planning to file your petition in person, make enough copies of it so that you can keep one copy and you have one additional copy for each parent, conservator, or guardian who needs to be served.

Step 2 File (turn in) the petition

[Texas Family Code 35.002](#) states that a person may file the petition in the district court in the county where the petitioner resides.

Because it is required that the child has lived with you for at least 30 days before you file the petition, this will also be the county where the child lives.

You can file in person or e-file online. Whether you file in person or e-file online, you must pay a filing fee or, if you have a low income, file a [**Statement of Inability to Afford Payment of Court Costs**](#). Contact the district clerk's office in your county to learn the filing fee for a Temporary Authorization for Care of Minor Child.

To file in person, take the following to the district clerk's office in the county where you live:

- One original and your additional copies of the [**Verified Petition for Temporary Authorization for Care of a Minor Child**](#)
- [**Statement of Inability to Afford Payment of Court Costs**](#) (only if you are asking the judge to waive the filing fee).

Ask the clerk if there is a local [**standing order**](#) that you need to follow or attach to any of your documents. And ask if there are any local rules you need to follow.

The clerk will write your "Cause Number" and "Court Number" at the top of the first page of your Petition. (Write these numbers at the top of any other document you file in this case.) The clerk will "file-stamp" your copies with the date and time. The clerk will keep the original and give the copies back to you. One copy is for you to keep and the other copies are for you serve on the parents, conservators, or guardians.

To e-file online, go to [**E-File Texas**](#) and follow the instructions. You will e-file your Motion and, if applicable, a [**Statement of Inability to Afford Payment of Court Costs**](#).

Step 3 Set a hearing

[Texas Family Code 35.004\(a\)](#) says that once the court receives the petition, the court must set a hearing. Ask the clerk's office or the appropriate court coordinator how you can set your case for a hearing. Once the hearing is set, the clerk or judge will fill out the Notice of Hearing on the last page of your petition, or they may tell you when the hearing is set and you will fill out the Notice of Hearing (which is also available as a separate document [here](#)).

□ **Step 4 Give notice of the hearing and copy of petition to parents/conservators/guardians**

[Texas Family Code 35.004\(b\)](#) requires the petitioner to serve (or give) a copy of the petition and the completed [Notice of Hearing](#) on each parent, conservator, or guardian of the child. Service can be done in one of two ways:

1. Personal service – the documents will be hand delivered to the parents, conservator, or guardian in person. You can contact your local clerk, constable, sheriff or private process server's office to set this up.

OR

2. Certified mail, return receipt requested, to the last known address of the parent, conservator, or guardian. You can find certified mail forms at your local post office. Save the receipt when you pay to send something by certified mail. Make three copies of the petition and notice.

You should send one copy of the letter by certified mail, return

receipt requested; a second copy by regular mail; and keep the third copy for your records.

WARNING! If a suit is filed after January 1, 2021, and a party to a family law case files an answer, both sides usually must exchange certain information and documents within 30 days. Talk to a lawyer about exceptions to this rule. The form is here: [Required Initial Disclosures](#).

Step 5 File proof of service with court at least 3 days before the hearing.

[Texas Family Code 35.004\(c\)](#) requires the petitioner to file proof of service with the court at least three days before the hearing.

If the parent, conservator, or guardian was served by personal service, you should have received a “Return of Service” form that says when and where the parent, conservator, or guardian was served. This form can be filed with the clerk’s office at least three days before the hearing.

If the parent, conservator, or guardian was served by certified mail, the green card (“return receipt”) with their signature on it that you received in the mail can be filed with the clerk’s office at least three days before the hearing.

Step 6 Go to the hearing

Take your petition and your completed order form with you. You can also bring any other witnesses or evidence that you believe may be helpful.

At the hearing, the judge will review your petition and order and listen to any evidence presented. The judge may ask you some additional questions.

If a parent, conservator, or guardian attends the hearing and objects to giving you temporary authorization, the judge CANNOT grant your petition.

If the judge agrees that there are no parents, conservators, or guardians available to provide the necessary consents or authorizations for the child, and that the temporary authorization is in the child's best interest, then the judge may agree to grant your petition.

If the judge grants your petition, the judge will sign the [Order for Temporary Authorization for Care of Minor Children](#).

Read [Tips for the Courtroom](#).

Step 7 File copy of order in the Court of Continuing Exclusive Jurisdiction

[Texas Family Code 35.005\(f\)\(1\)](#) states that a copy of the temporary authorization order must be filed under the cause number in any court that has rendered a conservatorship or guardianship order regarding the children. (You should already know the case number and county where these orders are from because you attached copies of the orders to your petition before you filed it.)

You can contact the clerk's office for the county that issued the conservatorship or guardianship order to find out how to file a copy of your temporary authorization order with their office.

☐ Step 8 Mail a copy of the order to any parent, conservator, or guardian

[Texas Family Code 35.005\(f\)\(2\)](#) states that a copy of the temporary authorization order must be mailed to the last known address of the child's parents and any other conservators or guardians of the child.

Cause Number: _____

Ex Parte

(Write the initials of each child.)

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____

In the _____
Court Number

- District Court
- County Court at Law of:

_____ County, Texas

Minor Children

**Verified Petition for Temporary Authorization
for Care of Minor Children**

My full name is: _____.

I am the Petitioner, the person asking the court for the Temporary Authorization for Care of Minor Children under Texas Family Code 35.

My date of birth is: _____.

My current physical address is: _____.

1. Children

This case is about the following children:

	Child's name	Date of Birth	Child's Physical Address
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____

2. Parents of the Children

The full name of the **mother** of the children is: _____

_____. Her

current physical address is: _____.

Her current physical address is unknown.

Her current mailing address is: _____.

Her current mailing address is unknown.

The full name of the **father** of the children is: _____
_____.

The father's name is unknown.

His current physical address is: _____.

His current physical address is unknown.

His current mailing address is: _____.

His current mailing address is unknown.

(Check this box and attach Appendix A if there are additional individuals with conservatorship or guardianship rights to the children.)

See Appendix A for the full name, physical address, and mailing address of additional individuals with conservatorship or guardianship rights to the children.

3. Court Proceedings Regarding the Children

(Check each that applies. If there is an existing court order for the children, it must be attached to this petition.)

There is an existing court order that designates conservators or guardians for the children. I have attached a copy of the order to this Petition. The order was issued by the following court:

Court number: _____

District Court

County Court

County: _____

State: _____

There is a pending court case to determine conservatorship or guardianship rights for the children. The case is being heard by the following court:

Court number: _____

District Court

County Court

County: _____

State: _____

To the best of my knowledge, there have never been any court proceedings in this state or any other state regarding the children.

To the best of my knowledge, there are no pending court proceedings regarding the children.

4. Request for Temporary Authorization

1. I am eligible to request a court order for temporary authorization for care of the children named in this petition because:

A. I am: (Check one.)

A grandparent of the children;

An adult brother or sister of the children;

An adult aunt or uncle of the children;

An adult who has actual care, control and possession of the children, and has written authorization to consent to medical treatment of the children from the person who has the right to consent to medical treatment of the children;

B. The children resided with me for at least 30 days before I filed this petition; and

C. I do not have an authorization agreement under Chapter 34 or any other signed, written document from a parent, conservator, or guardian that would allow me to provide necessary care for the children.

(Texas Family Code 35.001, 35.002)

2. I am asking that I be authorized to do the following things for the children:

1. consent to medical, dental, psychological, and surgical treatment and immunization of the children;

2. execute any consent or authorization for the release of information as required by law relating to the treatment or immunization of the children;
3. obtain and maintain any public benefit for the children;
4. enroll the children in a day-care program, preschool, or public or private primary or secondary school;
5. authorize the children to participate in age-appropriate extracurricular, civic, social, or recreational activities, including athletic activities; and
6. authorize or consent to any other care for the child essential to the child's welfare.

(Texas Family Code 35.005(d))

3. I am requesting that I be given temporary authorization to care for the children for:
(Check one.)

One year from the date the order is signed, or

Another period of time that is less than a year:

Starting date: _____

Ending date: _____

(Texas Family Code 35.005(d))

4. My relationship with the children is:

5. During the past 12 months, the children have lived with me during these dates:

6. I am unable to obtain these services or do these things for the children because I do not have authorization from the court:

7. I am unable to obtain signed, written consent or documentation from the parent, conservator, or guardian of the children because:

8. (Optional.) Additional reasons why I need this temporary authorization to care for the children are:

(Texas Family Code 35.003(a)(5-8, 10))

9. I ask the Court to set this matter for hearing, and I ask that the Court make the orders I have asked for in this petition.

Respectfully,

_____	()
Petitioner's Signature	Phone number
→	
_____	_____
Petitioner's Printed Name	Date

Petitioner's Mailing Address: _____

city state ZIP

Petitioner's Email Address: _____

Petitioner's Fax (if available): _____



Signature of Petitioner (Do not sign until you are in front of notary.) _____

Date _____

Notary fills out below.

State of _____ County of _____
(Name of state where this petition is notarized) (Name of county where this petition is notarized)

Sworn to and subscribed before me, the undersigned notary, on this date: _____ / _____ /20
Month day year

at _____ a.m./p.m.
time circle one

by _____
(Print name of person who is signing this petition. NOT the notary's name.)

[Notary Stamps Here]



Notary's Signature

Notice of Hearing

The above motion is set for hearing on _____ at
____:____ a.m. p.m. at the _____ County Courthouse,
located at:

Physical Address of Courthouse City State ZIP

Signature of Judge or Clerk

Appendix A

There are additional people with conservatorship or guardianship rights to the children.

1. Full name: _____

Legal relationship to the children: _____

Current physical address: _____

Current mailing address: _____

2. Full name: _____

Legal relationship to the children: _____

Current physical address: _____

Current mailing address: _____

3. Full name: _____

Legal relationship to the children: _____

Current physical address: _____

Current mailing address: _____

4. Full name: _____

Legal relationship to the children: _____

Current physical address: _____

Current mailing address: _____

Cause Number: _____

Ex Parte

(Write the initials of each child.)

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____

In the _____
Court Number

- District Court
- County Court at Law of:

_____ County, Texas

Minor Children

Notice of Final Hearing on Petition for Temporary Authorization for Care of Minor Children

To: _____
Print the other side's full name.

A final hearing in this case will be held at _____ a.m. p.m on this date, _____, at the _____ County Courthouse, located at:

Physical Address of Courthouse City State Zip

I estimate that the entire hearing (my side and your side) will take _____ hour(s).

If you do not come to this hearing a default judgment may be taken against you.

→ _____
Signature of Party Setting Hearing

Date

Printed Name

Phone Number

Mailing Address

City State Zip

Email Address

Fax # (if available)

Certificate of Service

I will give a copy of this document to each party in this case, or if a party is represented by an attorney to the party's attorney, on the same day this document is filed with (turned in to) the Court as follows:

If I file this document electronically, I will send a copy of it to the party or the party's attorney through the electronic file manager if possible. If not possible, I will give a copy to the party or the party's attorney in person, by mail, by commercial delivery service, by fax, or by email.

If I file a paper copy of this document, I will give a copy of it to the other party or the other party's attorney in person, by mail, by commercial delivery service, by fax, or by email.

→

Signature of Party Setting Hearing

Date

Certificate of Conference

I certify that I made a reasonable effort to talk with the other party's attorney or the other party (if the other party does not have an attorney) about the date and time of this hearing before setting this hearing.

→

Signature of Party Setting Hearing

Date

Cause Number: _____

Ex Parte

(Write the initials of each child.)

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____

In the _____
Court Number

- District Court
- County Court at Law of:

_____ County, Texas

Minor Children

**Order for Temporary Authorization
For Care of Minor Children**

This Court heard the Petition for Temporary Authorization for Care of Minor Children brought by the Petitioner, _____, on _____.
Petitioner's full name Date'

The children who are the subject of this order are:

Child's name	Date of Birth
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

Findings

The Court considered the petition and the evidence presented and makes the following findings:

- 1. Petitioner is a grandparent of the children, an adult brother or sister of the children, an adult aunt or uncle of the children, or an adult who has actual care, control and possession of the children, and has written authorization to consent to medical treatment of the children from the person who has the right to consent to medical treatment of the children, and is therefore eligible to consent to medical care pursuant to Texas Family Code Chapter 32.001 or eligible to enter into an authorization agreement under Texas Family Code Chapter 34.001. (Texas Family Code 35.001)

2. The children who are the subject of this order resided with Petitioner for at least 30 days before the petition was filed. (Texas Family Code 35.002(1))
3. The Petitioner does not have an authorization agreement under Chapter 34 of the Texas Family Code or any other signed, written documentation from a parent, conservator, or guardian that enables the person to provide necessary care for the children. (Texas Family Code 35.002(2))
4. The order for temporary authorization is necessary for the children's welfare. (Texas Family Code 35.005(b))
5. No objection to the temporary authorization was made by the children's parent, conservator, or guardian. (Texas Family Code 35.005(b))
6. The children do not have a parent, conservator, guardian, or other legal representative available to give the necessary consent. (Texas Family Code 35.005(c))

Order for Temporary Authorization

The Court **grants** Petitioner's request for temporary authorization to care for minor children.

Petitioner's full name is: _____

Petitioner's date of birth is: _____

Petitioner is authorized to take the following action on behalf of the children who are the subject of this order:

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

(Texas Family Code 35.005(d))

This order expires:

- One year from the date the order is signed, or
- _____ (alternative expiration date).

This order does not supersede any rights of a parent, conservator or guardian as provided by court order.

Signed this _____ day of _____, 20_____.

JUDGE PRESIDING