

By: Wilson

H.B. No. 993

A BILL TO BE ENTITLED

AN ACT

relating to a proceeding to vacate an order of paternity or child support.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 160, Family Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. PROCEEDINGS TO VACATE COURT ORDER

Sec. 160.751. MOTION TO VACATE COURT ORDER. (a) A person may file a motion requesting the court to vacate a court order that states that the person is the father of a child identified in the motion or that requires the person to pay child support for the child. The motion may be filed at any time.

(b) The motion to vacate a court order must be accompanied by a certified copy of the court order to be vacated.

Sec. 160.752. GENETIC TESTING. (a) In a proceeding under this subchapter, the court, on application by or on behalf of either party, or on its own motion, shall order the child, the child's mother, and the person filing the motion to submit to genetic testing not later than the 30th day after the date the order requiring genetic testing is issued.

(b) Genetic testing under this section is subject to the same procedures as genetic testing ordered under Subchapter F.

Sec. 160.753. GROUNDS FOR VACATING ORDER. (a) Except as otherwise provided by this section, the court shall vacate an order

1 described by Section 160.751 if the court finds that the person who  
2 filed the motion to vacate:

3 (1) is not the child's adoptive parent;

4 (2) did not consent to assisted reproduction by his  
5 wife under Subchapter H; and

6 (3) based on genetic testing, is not rebuttably  
7 identified as the father of the child in accordance with Section  
8 160.505.

9 (b) The court may not grant a motion under this section if  
10 the court finds that:

11 (1) the person who filed the motion knew, more than six  
12 months before the date the person filed the motion, of genetic  
13 testing results that excluded the person as the child's parent  
14 unless the person shows good cause for the delay; or

15 (2) at any time, the person knew that he was not the  
16 child's biological parent, and the person:

17 (A) acknowledged paternity of the child in  
18 writing;

19 (B) consented to his name being entered as the  
20 child's biological father on the child's birth certificate;

21 (C) was determined to be the child's father in a  
22 proceeding to determine parentage;

23 (D) filed an acknowledgment of paternity with the  
24 bureau of vital statistics; or

25 (E) otherwise admitted that he is, or  
26 acknowledges himself as, the child's biological father.

27 Sec. 160.754. POSSESSION ORDER; CHILD SUPPORT ARREARAGE.

1 (a) If the court vacates a parentage or support order in a  
2 proceeding under this subchapter and the moving party is also  
3 entitled under an order to the possession of or access to the child  
4 who is the subject of the vacated order, the court shall determine  
5 whether the possession order should be terminated, modified, or  
6 continued based on the best interest of the child.

7 (b) If the court vacates a child support order under this  
8 subchapter and an arrearage exists under that child support order,  
9 the court may retroactively reduce the amount of the arrearage to  
10 zero. If the court eliminates an arrearage under this subsection,  
11 the court shall issue an order stating that the child support  
12 obligation including any arrearage is terminated.

13 Sec. 160.755. COURT COSTS. If the court does not grant the  
14 motion to vacate a court order under this subchapter, the court  
15 shall order the moving party to pay the costs of the action and each  
16 opposing party's reasonable attorney's fees.

17 SECTION 2. This Act takes effect September 1, 2003.