

By: King

H.B. No. 2203

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the adoption of, or termination of parental rights
3 regarding, a child.

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

5 SECTION 1. Section 102.003(a), Family Code, is amended to
6 read as follows:

7 (a) An original suit may be filed at any time by:

8 (1) a parent of the child;

9 (2) the child through a representative authorized by
10 the court;

11 (3) a custodian or person having the right of
12 visitation with or access to the child appointed by an order of a
13 court of another state or country;

14 (4) a guardian of the person or of the estate of the
15 child;

16 (5) a governmental entity;

17 (6) an authorized agency;

18 (7) a licensed child placing agency;

19 (8) a man alleging himself to be the father of a child
20 filing in accordance with Chapter 160, subject to the limitations
21 of that chapter, but not otherwise;

22 (9) a person, other than a foster parent, who has had
23 actual care, control, and possession of the child for at least six
24 months ending not more than 90 days preceding the date of the filing

1 of the petition;

2 (10) a person designated as the managing conservator
3 in a revoked or unrevoked affidavit of relinquishment under Chapter
4 161 or to whom consent to adoption has been given in writing under
5 Chapter 162;

6 (11) a person with whom the child and the child's
7 guardian, managing conservator, or parent have resided for at least
8 six months ending not more than 90 days preceding the date of the
9 filing of the petition if the child's guardian, managing
10 conservator, or parent is deceased at the time of the filing of the
11 petition;

12 (12) a person who is the foster parent of a child
13 placed by the Department of Protective and Regulatory Services in
14 the person's home for at least nine [~~12~~] months ending not more than
15 90 days preceding the date of the filing of the petition; or

16 (13) a person who is a relative of the child within the
17 third degree by consanguinity, as determined by Chapter 573,
18 Government Code, if the child's parents are deceased at the time of
19 the filing of the petition.

20 SECTION 2. Section 102.008(b), Family Code, is amended to
21 read as follows:

22 (b) The petition must include:

23 (1) a statement that the court in which the petition is
24 filed has continuing, exclusive jurisdiction or that no court has
25 continuing jurisdiction of the suit;

26 (2) the name and date of birth of the child, except
27 that if adoption of a child is requested, the name of the child may

1 be omitted;

2 (3) the full name of the petitioner and the
3 petitioner's relationship to the child or the fact that no
4 relationship exists;

5 (4) the names of the parents, except in a suit in which
6 adoption is requested and parental rights have been terminated;

7 (5) the name of the managing conservator, if any, or
8 the child's custodian, if any, appointed by order of a court of
9 another state or country;

10 (6) the names of the guardians of the person and estate
11 of the child, if any;

12 (7) the names of possessory conservators or other
13 persons, if any, having possession of or access to the child under
14 an order of the court;

15 (8) the name of an alleged father of the child or a
16 statement that the identity of the father of the child is unknown,
17 except in a suit in which adoption is requested and parental rights
18 have been terminated;

19 (9) a full description and statement of value of all
20 property owned or possessed by the child;

21 (10) a statement describing what action the court is
22 requested to take concerning the child and the statutory grounds on
23 which the request is made; and

24 (11) any other information required by this title.

25 SECTION 3. Sections 160.422(c) and (d), Family Code, are
26 amended to read as follows:

27 (c) Except as provided by Subsection (d), a [A] petitioner

1 must file the certificate of the results of a search of the registry
2 with the court before a proceeding for the adoption of or
3 termination of parental rights regarding a child may be concluded.

4 (d) A search of the registry is not required if the only man
5 alleged to be the father of the child:

6 (1) has signed a waiver of interest in, or
7 relinquishment of parental rights with regard to, the child; or

8 (2) has been personally served with citation regarding
9 a proceeding for the adoption of the alleged father's child or the
10 termination of the alleged father's parental rights.

11 SECTION 4. Section 161.002, Family Code, is amended by
12 amending Subsection (b) and adding Subsection (g) to read as
13 follows:

14 (b) The rights of an alleged father may be terminated if:

15 (1) after being served with citation, he does not
16 respond by timely filing an admission of paternity or a
17 counterclaim for paternity under Chapter 160;

18 (2) he has not registered with the paternity registry
19 under Chapter 160, and after the exercise of due diligence by the
20 petitioner:

21 (A) his identity and location are unknown; or

22 (B) his identity is known but he cannot be
23 located; ~~or~~

24 (3) he has registered with the paternity registry
25 under Chapter 160, but the petitioner's attempt to personally serve
26 citation at the address provided to the registry and at any other
27 address for the alleged father known by the petitioner has been

1 unsuccessful, despite the due diligence of the petitioner; or

2 (4) he has committed an act or omission described by
3 Section 161.001.

4 (g) The court may render an interlocutory order terminating
5 the parental rights of an alleged father before the birth of the
6 child if, after being served with citation, the alleged father does
7 not answer or appear on or before the date set for his answer or
8 appearance.

9 SECTION 5. Subchapter B, Chapter 161, is amended by adding
10 Section 161.1015 to read as follows:

11 Sec. 161.1015. JURISDICTION IN CERTAIN TERMINATION SUITS.

12 (a) Except as provided by Subsections (b) and (c), a court of this
13 state has jurisdiction of a proceeding to terminate parental rights
14 regarding a child only if:

15 (1) the child lived in this state with a parent,
16 guardian, person acting as a parent to the child, or person seeking
17 to adopt the child for at least the six-month period preceding the
18 commencement of the proceeding;

19 (2) in the case of a child who is less than six months
20 of age:

21 (A) the child lived in this state with a parent,
22 guardian, person acting as a parent to the child, or person seeking
23 to adopt the child beginning soon after the child's birth; and

24 (B) substantial evidence is available in this
25 state concerning the child's care, protection, training, and
26 personal relationships;

27 (3) the person seeking to adopt the child lived in this

1 state for at least the six-month period preceding the commencement
2 of the proceeding and there is available in this state substantial
3 evidence concerning the child's present or future care;

4 (4) the agency that placed the child for adoption is
5 located in this state and substantial evidence is available in this
6 state concerning the child's care, protection, training, and
7 personal relationships;

8 (5) the child and the person seeking to adopt the child
9 are present in this state and:

10 (A) the child has been abandoned;

11 (B) the child has been abused or neglected; or

12 (C) the child has been threatened with
13 mistreatment or abuse;

14 (6) a court of another state does not have
15 jurisdiction under Subdivisions (1)-(4) and substantial evidence
16 is available in this state concerning the child's care, protection,
17 training, and personal relationships; or

18 (7) a court of another state has declined to exercise
19 jurisdiction on the ground that this state is the more appropriate
20 forum under Section 152.207 or 152.208 and substantial evidence is
21 available in this state concerning the child's care, protection,
22 training, and personal relationships.

23 (b) A court in this state may not exercise jurisdiction over
24 a proceeding to terminate parental rights regarding a child if, at
25 the time the petition is filed, a proceeding concerning the
26 conservatorship of the child is pending in a court of another state
27 exercising jurisdiction substantially in conformity with Chapter

1 152 unless the proceeding is stayed by the court of the other state
2 on the ground that this state is the more appropriate forum or for
3 any other reason.

4 (c) If a court of another state has rendered an order
5 concerning the conservatorship of a child who may be the subject of
6 a termination proceeding in this state, a court of this state may
7 exercise jurisdiction over a termination proceeding regarding the
8 child only if the court of this state has jurisdiction over the
9 termination proceeding under this section and:

10 (1) the requirements for modifying an order of a court
11 of another state under Chapter 152 are met;

12 (2) the court of another state does not have
13 jurisdiction over a termination proceeding regarding the child; or

14 (3) the court of another state has declined to
15 exercise jurisdiction over a termination proceeding regarding the
16 child.

17 SECTION 6. Section 162.001, Family Code, is amended by
18 adding Subsection (d) to read as follows:

19 (d) A child who does not reside in this state may be adopted
20 only if at least one of the grounds under Subsection (b) is
21 satisfied and:

22 (1) the child is subject to the continuing
23 jurisdiction of a court of this state; or

24 (2) there is some other basis on which a court of this
25 state may assume jurisdiction over the child.

26 SECTION 7. Subchapter A, Chapter 162, Family Code, is
27 amended by amending Sections 162.0085 and 162.012 and adding

1 Section 162.023 to read as follows:

2 Sec. 162.0085. CRIMINAL HISTORY REPORT REQUIRED. (a) In a
3 suit affecting the parent-child relationship in which an adoption
4 is sought, the court shall order each person seeking to adopt the
5 child to obtain that person's own criminal history record
6 information. The court shall accept under this section a person's
7 criminal history record information that is provided by the
8 Department of Protective and Regulatory Services or by a licensed
9 child-placing agency that received the information from the
10 department if the information was obtained not more than 18 months
11 ~~[one year]~~ before the date the court ordered the history to be
12 obtained. The court shall accept under this section the criminal
13 history record information of a person providing the person's own
14 criminal history record information if the information was obtained
15 not more than nine months before the final hearing in the suit.

16 (b) If a [A] person who is required to obtain information
17 under this section is a resident of this state, the person
18 ~~[Subsection (a)]~~ shall obtain the information:

19 (1) in the manner provided by Section 411.128,
20 Government Code; or

21 (2) in any other manner authorized by the court.

22 (c) If a person who is required to obtain information under
23 this section is not a resident of this state, the person shall
24 obtain the information:

25 (1) in a manner authorized by the law of the state of
26 which the person is a resident; or

27 (2) in any other manner authorized by the court.

1 Sec. 162.012. DIRECT OR COLLATERAL ATTACK. (a)
2 Notwithstanding Rule 329, Texas Rules of Civil Procedure, the
3 validity of an adoption order is not subject to direct or collateral
4 attack after six months after the date the order was signed.

5 (b) The validity of a final adoption order is not subject to
6 direct or collateral attack because a health, social, educational,
7 and genetic history was not filed.

8 Sec. 162.023. ADOPTION ORDER FROM FOREIGN COUNTRY. (a)
9 Except as otherwise provided by federal law, an adoption order
10 rendered to a United States citizen that is made under due process
11 of law by a foreign country shall be accorded full faith and credit
12 by the courts of this state and enforced as if the order were
13 rendered by a court in this state.

14 (b) A person who adopts a child in a foreign country may
15 register the order in this state. A petition for registration of a
16 foreign adoption order may be combined with a petition for a name
17 change. If the court finds that the foreign adoption order meets
18 the requirements of Subsection (a), the court shall order the state
19 registrar to:

20 (1) register the order under Chapter 192, Health and
21 Safety Code; and

22 (2) file a certificate of birth for the child under
23 Section 192.006, Health and Safety Code.

24 SECTION 8. Section 162.101, Family Code, is amended to read
25 as follows:

26 Sec. 162.101. DEFINITIONS. (a) In this subchapter:

27 (1) "Appropriate public authorities," with reference

1 to this state, means the executive director.

2 (2) "Appropriate authority in the receiving state,"
3 with reference to this state, means the executive director.

4 (3) "Compact" means the Interstate Compact on the
5 Placement of Children.

6 (4) "Executive head," with reference to this state,
7 means the governor.

8 (b) In Article V of the compact, "jurisdiction" means the
9 legal responsibility for the child and does not mean jurisdiction
10 as it relates to the filing of a suit. The addition of this
11 subsection is intended as a technical clarification of the compact
12 and is not intended to make a substantive change to the compact.

13 SECTION 9. The changes in law made by this Act to Sections
14 102.003 and 102.008, Family Code, apply only to a suit affecting the
15 parent-child relationship filed on or after the effective date of
16 this Act. A suit filed before the effective date of this Act is
17 governed by the law in effect on the date the suit was filed, and the
18 former law is continued in effect for that purpose.

19 SECTION 10. Section 161.1015, Family Code, as added by this
20 Act, and the changes in law made by this Act to Section 161.002,
21 Family Code, apply only to a suit affecting the parent-child
22 relationship in which termination of the parent-child relationship
23 is sought filed on or after the effective date of this Act. A suit
24 affecting the parent-child relationship in which termination of the
25 parent-child relationship is sought filed before the effective date
26 of this Act is governed by the law in effect on the date the suit was
27 filed, and the former law is continued in effect for that purpose.

1 SECTION 11. The change in law made by this Act to Section
2 160.422, Family Code, applies only to a suit for the adoption of a
3 child or for termination of parental rights regarding a child filed
4 on or after the effective date of this Act. A suit for adoption or
5 for termination of parental rights filed before the effective date
6 of this Act is governed by the law in effect on the date the suit was
7 filed, and the former law is continued in effect for that purpose.

8 SECTION 12. The changes in law made by this Act to Sections
9 162.001 and 162.0085, Family Code, apply only to a suit affecting
10 the parent-child relationship in which adoption is sought filed on
11 or after the effective date of this Act. A suit filed before the
12 effective date of this Act is governed by the law in effect on the
13 date the suit was filed, and the former law is continued in effect
14 for that purpose.

15 SECTION 13. This Act takes effect September 1, 2003.