

Amend **HB 260** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. Subchapter A, Chapter 154, Family Code, is amended by adding Section 154.015 to read as follows:

Sec. 154.015. PATERNITY TEST REQUIRED. (a) Except as provided by Subsections (b) and (c), a court may not render an order requiring the payment of child support unless the court finds that:

(1) the parties have completed a genetic test to determine parentage that complies with the requirements of Subchapter F, Chapter 160, and, based on the genetic test, the man named as the father in the suit affecting the parent-child relationship is rebuttably identified as the father of the child in accordance with Section 160.505(a); or

(2) the party being ordered to pay child support is an adoptive parent of the child.

(b) If the parties to a suit affecting the parent-child relationship in which child support is requested have not completed a genetic test that complies with the requirements of Subchapter F, Chapter 160, the court shall order the child, the child's mother, and the alleged father to submit to genetic testing not later than the 30th day after the date the order requiring genetic testing is rendered. If an alleged father fails to submit to a genetic test ordered under this section, the court may render an order adjudicating the alleged father to be the father of the child and requiring the alleged father to pay child support.

(c) In a suit affecting the parent-child relationship, an alleged father of the child may file an affidavit with the court admitting paternity of the child. After receiving an affidavit under this subsection, the court may, without requiring a genetic test, render an order adjudicating the alleged father to be the father of the child and requiring the alleged father to pay child support. An alleged father who files an affidavit under this subsection may not challenge the adjudication of paternity.

(d) The parties, other than a governmental entity, shall bear the cost of the genetic test ordered under this section equally.

SECTION _____. Subsection (a), Section 160.308, Family Code, is amended to read as follows:

(a) After the period for rescission under Section 160.307 has expired, a signatory of an acknowledgment of paternity or denial of paternity may commence a proceeding to challenge the acknowledgment or denial only on the basis of fraud, duress, or material mistake of fact. The proceeding must be commenced before the child's 18th birthday [~~fourth anniversary of the date the acknowledgment or denial is filed with the bureau of vital statistics~~].

SECTION _____. Section 160.607, Family Code, is amended to read as follows:

Sec. 160.607. TIME LIMITATION: CHILD HAVING PRESUMED FATHER. A [~~(a) Except as otherwise provided by Subsection (b), a~~] proceeding brought by a presumed father, the mother, or another individual to adjudicate the parentage of a child having a presumed father must [~~shall~~] be commenced before the child's 18th birthday [~~not later than the fourth anniversary of the date of the birth of the child~~].

~~[(b) A proceeding seeking to disprove the father-child relationship between a child and the child's presumed father may be maintained at any time if the court determines that:~~

~~[(1) the presumed father and the mother of the child did not live together or engage in sexual intercourse with each other during the probable time of conception; and~~

~~[(2) the presumed father never represented to others that the child was his own.]~~

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

SUBCHAPTER J. PROCEEDINGS TO VACATE COURT ORDER

Sec. 160.801. MOTION TO VACATE COURT ORDER. (a) A person identified in a court order as the father of the child or the mother of the child may file a motion requesting the court to vacate the court order that states that the person identified in the order as the father of the child is the father of the child identified in the motion or that requires the person identified in the order as the father of the child 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. 160.802. 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 identified in the court order as the father of the child to submit to genetic testing not later than the 30th day after the date the order requiring genetic testing is rendered.

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

Sec. 160.803. FAILURE TO SUBMIT TO GENETIC TEST. (a) If a mother fails to submit to a genetic test ordered under Section 160.802, the court may suspend the legal obligation of the person identified in the court order as the father of the child to pay child support until the mother submits to the genetic test.

(b) If the person identified in the court order as the father of the child fails to submit to a genetic test ordered under Section 160.802, the court may dismiss the person's motion to vacate with prejudice.

Sec. 160.804. GROUNDS FOR VACATING ORDER. (a) Except as otherwise provided by this section, the court shall vacate an order described by Section 160.801 if the court finds that the person identified in the court order as the father of the child:

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

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

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

(b) The court may not grant a motion under this section if the court finds that at any time the person who filed the motion knew that the person identified in the court order as the father of the child was not the child's biological parent, and the person identified in the court order as the father of the child:

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

(2) was determined to be the child's father in a proceeding to determine parentage; or

(3) filed an acknowledgment of paternity with the bureau of vital statistics.

Sec. 160.805. POSSESSION ORDER; CHILD SUPPORT ARREARAGE.

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

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

(c) The elimination of an arrearage under a support order that is vacated as provided by this subchapter is for purposes of correcting a mistake and is not a retroactive modification.

Sec. 160.806. COURT COSTS. If the court does not grant the motion to vacate a court order under this subchapter, the court shall order the moving party to pay the costs of the action and each opposing party's reasonable attorney's fees.

Sec. 160.807. EXPIRATION. This subchapter expires September 1, 2007.

SECTION _____. Section 233.028, Family Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) The notice described in Subsection (a) and sent to a man alleged to be the father of a child shall include the following statement printed on the notice in boldfaced type, in capital letters, or underlined:

"YOU HAVE THE RIGHT TO REQUEST GENETIC TESTING TO DETERMINE THE PARENTAGE OF A CHILD WHOSE PARENTAGE HAS NOT BEEN ESTABLISHED. THE TITLE IV-D AGENCY WILL PAY FOR THE COSTS OF THE GENETIC TESTING, BUT IF THE RESULTS OF THE TESTING IDENTIFY YOU AS THE BIOLOGICAL FATHER OF THE CHILD, YOU MAY BE REQUIRED TO REIMBURSE THE AGENCY FOR

THOSE COSTS."

SECTION _____. Subsection (b), Section 233.028, Family Code, is amended to read as follows:

(b) If all parties agree to the child's parentage, the agency may file an agreed child support review order as provided by this chapter. The agreed order shall include a statement signed by the parties entitled to genetic testing in the case that the parties have waived their rights to request genetic testing.

SECTION _____. Section 233.028, Family Code, as amended by this Act, applies only to an administrative proceeding under Chapter 233, Family Code, for the determination of parentage commenced on or after the effective date of this Act.

SECTION _____. If before implementing any provision of this Act the Title IV-D agency determines that a waiver or authorization from a federal agency is necessary for implementation of the change in law made by this Act, the agency shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION _____. Section 154.015, Family Code, as added by this Act, and the change in law made by this Act to Sections 160.308 and 160.607, Family Code, apply only to a suit affecting the parent-child relationship filed on or after September 1, 2005. A suit affecting the parent-child relationship filed before that date is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.