

## **BILL ANALYSIS**

C.S.H.B. 3997  
By: Puente  
Juvenile Justice & Family Issues  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Currently, before a child can be placed up for adoption, the mother is required to notify all sexual partners who are a possible father of the child of her intent to place the child up for adoption.

C.S.H.B.3997 places the responsibility on the alleged father or fathers to register with the paternity registry. C.S.H.B.3997 insures that an alleged father who wishes to be notified, and is registered with the paternity registry in a timely fashion, will be notified of all actions taken regarding the child.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

Amends Section 102.009(a) of the Family Code by deleting language in (a)(8) to state that an alleged father, unless there is attached to the petition an affidavit of waiver of interest in a child executed by the alleged father as provided by Chapter 161 or unless the petitioner has complied with the provisions of Section 161.002(b)(2), (3), or (4).

Amends Section 160.403 of the Family Code by adding language to provide that except as provided by Section 161.002(b)(2), (3), and (4) and (f), notice of a proceeding to adopt or to terminate parental rights regarding a child must be given to a registrant who has timely registered with regard to that child. Notice must be given in a manner prescribed for service of process in a civil action.

Amends Section 160.422(d) of the Family Code by adding language in (d) and (d)(1), to provide that a parent-child relationship exists between a man and the child, as provided by Section 160.201(b), and that man has been served with citation and notice of the proceeding for termination of parental rights or has signed a relinquishment of parental rights with regard to the child.

Amends Section 161.002 of the Family Code by providing that except as otherwise provided by this section, the procedural and substantive standards for termination of parental rights apply to the termination of the rights of an alleged father. Additionally, this bill adds language that provides for the rights of an alleged father to be terminated if the child is over one year of age at the time the petition for termination of the parent-child relationship or for adoption is filed or the child is under one year of age at the time the petition for termination of the parent-child relationship or for adoption is filed and he has not registered with the paternity registry under Chapter 160.

The termination of the rights of an alleged father under Subsection (b)(2) rendered on or after January 1, 1998, and before January 1, 2008, does not require personal service of citation or citation by publication on the alleged father, (c-1) is added which provides that the termination of the rights of an alleged father under Subsection (b)(2) rendered on or after January 1, 2008, does not require personal service of citation or citation by publication on the alleged father, and there is no requirement to identify or locate a putative or alleged father who has not registered with the paternity registry under Chapter 160. (d) Provides that if the requirements of Subsection (b) are satisfied, the court may not require service of citation by publication on the alleged father.

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The court shall not to render an order terminating parental rights under Subsection (b)(2) or (3) unless the court receives evidence of a certificate of the results of a search of the paternity registry under Chapter 160 from the bureau of vital statistics indicating that no man has registered the intent to claim paternity. The court shall not render an order terminating parental rights under Subsection (b)(4) unless the court, finds that the petitioner exercised due diligence in attempting to obtain service on the alleged father.

Amends Section 161.103(b) of the Family Code by deleting language in (b)(7)(C) that provides for an affidavit of status of the child to be executed. Additionally corrects and changes the agency name from "Regulatory" to the Department of Family and Protective Services.

Amends Section 161.1035 of the Family Code by deleting language pertaining to "affidavit of waiver of interest in a child."

Amends Section 161.106 (f) of the Family Code by providing that a waiver in an affidavit is irrevocable under this section.

Amends Section 161.107 (a)(1) of the Family Code by adding language to provide that the meaning of "Parent" is defined by Section 160.102, whose parent-child relationship with a child has not been terminated. The term does not include a man who does not have a parent-child relationship established under Chapter 160.

Amends Section 161.107(b) of the Family Code by updating the agency name to the Department of Family and Protective Services.

Amends Section 161.109(a) of the Family Code by providing that if a parent-child relationship does not exist between the child and any man, a certificate from the bureau of vital statistics signed by the registrar that a diligent search has been made, and nothing pertaining to a registration has been found before a trial on the merits in the suit for termination may be held.

Amends Section 162.018(d) by deleting language pertaining to "affidavit of status of child."

Sections 161.105 and 161.106(g), (h), and (j) of the Family Code are repealed.

### **EFFECTIVE DATE**

September 1, 2007.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B.3997 modifies the original H.B.3997 by removing SECTION 2 of the original bill in its entirety. Subsequent SECTIONS of the substitute are renumbered accordingly. C.S.H.B.3997 further adds language stating that except as provided by Sections 161.002(b)(2), (3), and (4) and (f), notice of a proceeding to adopt or to terminate parental rights regarding a child must be given to a registrant who has timely registered with regard to that child. Notice must be given in a manner prescribed for service of process in civil action. C.S.H.B.3997 further adds Section 161.002(a) which provides that the procedural and substantive standards for termination of parental rights apply to the termination of the rights of an alleged father. C.S.H.B.3997 further adds language stating the rights of an alleged father may be terminated if the child is over one year of age at the time the petition for termination of the parent-child relationship or for adoption is filed. C.S.H.B.3997 replaces language originally stricken under Section 161.002 (b)(2), (b)(2)(A) and (B). C.S.H.B.3997 adds a new section stating that the rights of an alleged father may be terminated if the child is under one year of age at the time the petition for termination of the parent-child relationship or for adoption is filed and he has not registered with the paternity registry under Chapter 160. Also, renumbers subsequent subsections accordingly. In Section 161.002 (c-1), C.S.H.B.3997 adds language stating that the termination of the rights of an alleged father under Subsection (b)(2) or (3) rendered on or after January 1, 2008, does not require personal service of citation or citation by publication on the alleged father, and there is no requirement to identify or locate an alleged father who has not registered with the paternity registry under Chapter 160. In Section 161.002(d) which was not in the original H.B.3997,

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C.S.H.B.3997 replaces language stating that if the requirements of Subsection (b) are satisfied, the court may not require service of citation by publication on the alleged father. In Section 161.002(e), C.S.H.B.3997 adds language stating that the court shall not render an order terminating parental rights under Subsection (b)(2) or (3) unless the court receives evidence of a certificate of the results of a search of the paternity registry under Chapter 160 from the bureau of vital statistics indicating that no man has registered the intent to claim paternity. In Section 161.002(f) which was not in the introduced version, C.S.H.B.3997 replaces language stating that the court shall not render an order terminating parental rights under Subsection (b)(4) unless the court, after reviewing the petitioner's sworn affidavit describing the petitioner's effort to obtain personal service of citation on the alleged father and considering any evidence submitted by the alleged father and by the attorney ad litem for the alleged father, has found that the petitioner exercised due diligence in attempting to obtain service on the alleged father. The order shall contain specific findings regarding the exercise of due diligence of the petitioner. Finally, under Section 161.107 (a)(1), C.S.H.B.3997 replaces language stating that "Parent" means a parent, as defined by Section 160.102, whose parent-child relationship with a child has not been terminated. The term does not include a man who does not have parent-child relationship established under Chapter 160.