

By: Davis of Dallas

H.B. No. 949

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the establishment of the paternity of a child;  
3 providing a criminal penalty.

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

5 SECTION 1. Subchapter B, Chapter 160, Family Code, is  
6 amended by adding Section 160.107 to read as follows:

7 Sec. 160.107. OFFENSE BY MOTHER OF CHILD. (a) A mother of a  
8 child commits an offense if the mother:

9 (1) signs an acknowledgment of paternity with the  
10 intent to establish the paternity of a man who the mother knows is  
11 not the biological father of the child; or

12 (2) maintains a proceeding under Subchapter G to  
13 adjudicate the parentage of a man who the mother knows is not the  
14 biological father of the child.

15 (b) An offense under this section is a Class C misdemeanor.

16 (c) It is a defense to prosecution under Subsection (a)(1)  
17 that both the mother of the child and the man who is not the  
18 biological father of the child knew that the man was not the  
19 biological father at the time the mother and the man executed the  
20 acknowledgment of paternity.

21 SECTION 2. Subchapter G, Chapter 160, Family Code, is  
22 amended by adding Section 160.6035 to read as follows:

23 Sec. 160.6035. WRITTEN NOTICE; PROOF OF SERVICE OF PROCESS.

24 (a) In a proceeding to adjudicate a man's parentage, service of

1 process on the man must include written notice detailing the legal  
2 consequences of an adjudication of parentage, including  
3 information regarding the duty to pay child support.

4 (b) At the first hearing in a proceeding to adjudicate a  
5 man's parentage, the petitioner must show proof of the service of  
6 process described by Subsection (a), including the time and manner  
7 of service. The proceeding may not continue unless proof is shown  
8 under this subsection.

9 SECTION 3. Section 160.636, Family Code, is amended by  
10 amending Subsection (c) and adding Subsections (i) and (j) to read  
11 as follows:

12 (c) Except as otherwise provided by Subsection (d) or  
13 Section 160.6365, the court may assess filing fees, reasonable  
14 attorney's fees, fees for genetic testing, other costs, and  
15 necessary travel and other reasonable expenses incurred in a  
16 proceeding under this subchapter. Attorney's fees awarded by the  
17 court may be paid directly to the attorney. An attorney who is  
18 awarded attorney's fees may enforce the order in the attorney's own  
19 name.

20 (i) Except as provided by Subsection (j), the court shall  
21 order the mother of a child to reimburse a man alleged by the mother  
22 to be the father of the child for any child support paid by the man  
23 for the child if the court finds that:

24 (1) the man is not the biological father of the child  
25 based on the results of genetic testing under Section 160.505; and

26 (2) the mother of the child knew the man was not the  
27 biological father of the child at the time the mother:

1           (A) signed an acknowledgment of paternity with  
2 the intent to establish the man's paternity; or

3           (B) initiated a proceeding to adjudicate the  
4 man's paternity of the child under this subchapter.

5           (j) The court may not order the reimbursement of child  
6 support under Subsection (i) if both the mother of the child and the  
7 man who is not the biological father of the child knew that the man  
8 was not the biological father of the child at the time the mother  
9 and the man executed the acknowledgment of paternity.

10           SECTION 4. Subchapter G, Chapter 160, Family Code, is  
11 amended by adding Section 160.6365 to read as follows:

12           Sec. 160.6365. COSTS OF GENETIC TESTING REQUESTED BY MOTHER  
13 OF CHILD. Notwithstanding Section 160.506, if the court orders  
14 genetic testing in response to a motion made by the mother of a  
15 child in a proceeding to adjudicate the parentage of the child, the  
16 mother must pay the costs of the genetic testing. If, based on the  
17 genetic test, the man whose paternity is to be adjudicated is  
18 rebuttably identified as the father of the child under Section  
19 160.505, the man must reimburse the mother of the child for half of  
20 the costs of the testing.

21           SECTION 5. Section 160.107, Family Code, as added by this  
22 Act, applies only to an acknowledgment of paternity signed, or a  
23 proceeding to adjudicate paternity commenced, on or after the  
24 effective date of this Act. An acknowledgment signed or a  
25 proceeding commenced before the effective date of this Act is  
26 governed by the law in effect on the date the acknowledgment was  
27 signed or the proceeding was commenced, and the former law is

1 continued in effect for that purpose.

2 SECTION 6. Section 160.6035, Family Code, as added by this  
3 Act, applies only to a proceeding to adjudicate parentage commenced  
4 on or after the effective date of this Act. A proceeding to  
5 adjudicate parentage commenced before the effective date of this  
6 Act is governed by the law in effect on the date the proceeding was  
7 commenced, and the former law is continued in effect for that  
8 purpose.

9 SECTION 7. Sections 160.636(i) and (j), Family Code, as  
10 added by this Act, apply only to an order adjudicating parentage  
11 rendered on or after the effective date of this Act. An order  
12 rendered before the effective date of this Act is governed by the  
13 law in effect on the date the order was rendered, and the former law  
14 is continued in effect for that purpose.

15 SECTION 8. Section 160.6365, Family Code, as added by this  
16 Act, applies only to an order for genetic testing rendered on or  
17 after the effective date of this Act. An order rendered before the  
18 effective date of this Act is governed by the law in effect on the  
19 date the order was rendered, and the former law is continued in  
20 effect for that purpose.

21 SECTION 9. This Act takes effect September 1, 2007.