

By: Puente

H.B. No. 3997

Substitute the following for H.B. No. 3997:

By: Eiland

C.S.H.B. No. 3997

A BILL TO BE ENTITLED

AN ACT

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relating to the Uniform Parentage Act, termination of the rights of an alleged father, and other matters relating to determination of paternity.

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

SECTION 1. Section 102.009(a), Family Code, is amended to read as follows:

(a) Except as provided by Subsection (b), the following are entitled to service of citation on the filing of a petition in an original suit:

- (1) a managing conservator;
- (2) a possessory conservator;
- (3) a person having possession of or access to the child under an order;
- (4) a person required by law or by order to provide for the support of the child;
- (5) a guardian of the person of the child;
- (6) a guardian of the estate of the child;
- (7) each parent as to whom the parent-child relationship has not been terminated or process has not been waived under Chapter 161;
- (8) 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

1 petitioner has complied with the provisions of Section  
2 161.002(b)(2), (3), or (4) [~~161.002(b)(2) or (b)(3)~~];

3 (9) a man who has filed a notice of intent to claim  
4 paternity as provided by Chapter 160;

5 (10) the Department of Family and Protective Services,  
6 if the petition requests that the department be appointed as  
7 managing conservator of the child;

8 (11) the Title IV-D agency, if the petition requests  
9 the termination of the parent-child relationship and support rights  
10 have been assigned to the Title IV-D agency under Chapter 231;

11 (12) a prospective adoptive parent to whom standing  
12 has been conferred under Section 102.0035; and

13 (13) a person designated as the managing conservator  
14 in a revoked or unrevoked affidavit of relinquishment under Chapter  
15 161 or to whom consent to adoption has been given in writing under  
16 Chapter 162.

17 SECTION 2. Section 160.403, Family Code, is amended to read  
18 as follows:

19 Sec. 160.403. NOTICE OF PROCEEDING. Except as provided by  
20 Sections 161.002(b)(2), (3), and (4) and (f), notice [~~Notice~~] of a  
21 proceeding to adopt or to terminate parental rights regarding a  
22 child must be given to a registrant who has timely registered with  
23 regard to that child. Notice must be given in a manner prescribed  
24 for service of process in a civil action.

25 SECTION 3. Section 160.422(d), Family Code, is amended to  
26 read as follows:

27 (d) A search of the registry is not required if a

1 parent-child relationship exists between a man and the child, as  
2 provided by Section 160.201(b), and that man:

3 (1) has been served with citation of the proceeding  
4 for termination of the parent-child relationship; or

5 (2) [the only man alleged to be the father of the  
6 child] has signed a [waiver of interest in, or] relinquishment of  
7 parental rights with regard to[7] the child.

8 SECTION 4. Section 161.002, Family Code, is amended to read  
9 as follows:

10 Sec. 161.002. TERMINATION OF THE RIGHTS OF AN ALLEGED  
11 BIOLOGICAL FATHER. (a) Except as otherwise provided by this  
12 section, the [The] procedural and substantive standards for  
13 termination of parental rights apply to the termination of the  
14 rights of an alleged father.

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

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

19 (2) the child is over one year of age at the time the  
20 petition for termination of the parent-child relationship or for  
21 adoption is filed, he has not registered with the paternity  
22 registry under Chapter 160, and after the exercise of due diligence  
23 by the petitioner:

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

25 (B) his identity is known but he cannot be  
26 located; ~~or~~

27 (3) the child is under one year of age at the time the

1 petition for termination of the parent-child relationship or for  
2 adoption is filed and he has not registered with the paternity  
3 registry under Chapter 160; or

4 (4) he has registered with the paternity registry  
5 under Chapter 160, but the petitioner's attempt to personally serve  
6 citation at the address provided to the registry and at any other  
7 address for the alleged father known by the petitioner has been  
8 unsuccessful, despite the due diligence of the petitioner.

9 (c) The termination of the rights of an alleged father under  
10 Subsection (b)(2) rendered on or after January 1, 1998, and before  
11 January 1, 2008, does not require personal service of citation or  
12 citation by publication on the alleged father.

13 (c-1) The termination of the rights of an alleged father  
14 under Subsection (b)(2) or (3) rendered on or after January 1, 2008,  
15 does not require personal service of citation or citation by  
16 publication on the alleged father, and there is no requirement to  
17 identify or locate an alleged father who has not registered with the  
18 paternity registry under Chapter 160.

19 (d) If the requirements of Subsection (b) are satisfied, the  
20 court may [~~The termination of rights of an alleged father under~~  
21 ~~Subsection (b)(3) does~~] not require service of citation by  
22 publication on the alleged father.

23 (e) The court shall not render an order terminating parental  
24 rights under Subsection (b)(2) or (3) unless the court receives  
25 evidence of a certificate of the results of a search of the  
26 paternity registry under Chapter 160 from the bureau of vital  
27 statistics indicating that no man has registered the intent to

1 claim paternity~~[, after reviewing the petitioner's sworn affidavit~~  
2 ~~describing the petitioner's effort to identify and locate the~~  
3 ~~alleged father and considering any evidence submitted by the~~  
4 ~~attorney ad litem for the alleged father, has found that the~~  
5 ~~petitioner exercised due diligence in attempting to identify and~~  
6 ~~locate the alleged father. The order shall contain specific~~  
7 ~~findings regarding due diligence of the petitioner]~~.

8 (f) The court shall not render an order terminating parental  
9 rights under Subsection (b)(4) [~~(b)(3)~~] unless the court, after  
10 reviewing the petitioner's sworn affidavit describing the  
11 petitioner's effort to obtain personal service of citation on the  
12 alleged father and considering any evidence submitted by the  
13 attorney ad litem for the alleged father, has found that the  
14 petitioner exercised due diligence in attempting to obtain service  
15 on the alleged father. The order shall contain specific findings  
16 regarding the exercise of due diligence of the petitioner.

17 SECTION 5. Section 161.103(b), Family Code, is amended to  
18 read as follows:

19 (b) The affidavit must contain:

20 (1) the name, address, and age of the parent whose  
21 parental rights are being relinquished;

22 (2) the name, age, and birth date of the child;

23 (3) the names and addresses of the guardians of the  
24 person and estate of the child, if any;

25 (4) a statement that the affiant is or is not presently  
26 obligated by court order to make payments for the support of the  
27 child;

1           (5) a full description and statement of value of all  
2 property owned or possessed by the child;

3           (6) an allegation that termination of the parent-child  
4 relationship is in the best interest of the child;

5           (7) one of the following, as applicable:

6                 (A) the name and address of the other parent;

7                 (B) a statement that the parental rights of the  
8 other parent have been terminated by death or court order; or

9                 (C) a statement that the child has no presumed  
10 father [~~and that an affidavit of status of the child has been~~  
11 ~~executed as provided by this chapter~~];

12           (8) a statement that the parent has been informed of  
13 parental rights and duties;

14           (9) a statement that the relinquishment is revocable,  
15 that the relinquishment is irrevocable, or that the relinquishment  
16 is irrevocable for a stated period of time;

17           (10) if the relinquishment is revocable, a statement  
18 in boldfaced type concerning the right of the parent signing the  
19 affidavit to revoke the relinquishment only if the revocation is  
20 made before the 11th day after the date the affidavit is executed;

21           (11) if the relinquishment is revocable, the name and  
22 address of a person to whom the revocation is to be delivered; and

23           (12) the designation of a prospective adoptive parent,  
24 the Department of Family and Protective [~~and Regulatory~~] Services,  
25 if the department has consented in writing to the designation, or a  
26 licensed child-placing agency to serve as managing conservator of  
27 the child and the address of the person or agency.

1 SECTION 6. Section 161.1035, Family Code, is amended to  
2 read as follows:

3 Sec. 161.1035. REVOCABILITY OF CERTAIN AFFIDAVITS. An  
4 affidavit of relinquishment of parental rights [~~or affidavit of~~  
5 ~~waiver of interest in a child~~] that fails to state that the  
6 relinquishment or waiver is irrevocable for a stated time is:

7 (1) revocable only if the revocation is made before  
8 the 11th day after the date the affidavit is executed; and

9 (2) irrevocable on or after the 11th day after the date  
10 the affidavit is executed.

11 SECTION 7. Section 161.106(f), Family Code, is amended to  
12 read as follows:

13 (f) A waiver in an affidavit under this section [~~that~~  
14 ~~designates the Department of Protective and Regulatory Services or~~  
15 ~~a licensed child-placing agency to serve as the managing~~  
16 ~~conservator~~] is irrevocable. [~~A waiver in any other affidavit~~  
17 ~~under this section is revocable unless it expressly provides that~~  
18 ~~it is irrevocable for a stated period not to exceed 60 days after~~  
19 ~~the date of execution.~~]

20 SECTION 8. Section 161.107(a)(1), Family Code, is amended  
21 to read as follows:

22 (1) "Parent" means a parent, as defined by Section  
23 160.102, whose parent-child relationship with a child has not been  
24 terminated. The term does not include a man who does not have a  
25 parent-child relationship established under Chapter 160.

26 SECTION 9. Section 161.107(b), Family Code, is amended to  
27 read as follows:

1 (b) If a parent of the child has not been personally served  
2 in a suit in which the Department of Family and Protective [~~and~~  
3 ~~Regulatory~~] Services seeks termination, the department must make a  
4 diligent effort to locate that parent.

5 SECTION 10. Section 161.109(a), Family Code, is amended to  
6 read as follows:

7 (a) If a parent-child relationship does not exist between  
8 the child and any man [~~an affidavit of status of child as provided~~  
9 ~~by this chapter states that the father of the child is unknown and~~  
10 ~~no probable father is known~~], a certificate from the bureau of vital  
11 statistics signed by the registrar that a diligent search has been  
12 made of the paternity registry maintained by the bureau and that a  
13 registration has not been found pertaining to the father of the  
14 child in question must be filed with the court before a trial on the  
15 merits in the suit for termination may be held.

16 SECTION 11. Section 162.018(d), Family Code, is amended to  
17 read as follows:

18 (d) At the time an adoption order is rendered, the court  
19 shall provide to the parents of an adopted child information  
20 provided by the bureau of vital statistics that describes the  
21 functions of the voluntary adoption registry under Subchapter E.  
22 The licensed child-placing agency shall provide to each of the  
23 child's biological parents known to the agency, the information  
24 when the parent signs an affidavit of relinquishment of parental  
25 rights[~~, affidavit of status of child,~~] or affidavit of waiver of  
26 interest in a child. The information shall include the right of the  
27 child or biological parent to refuse to participate in the



1 registry. If the adopted child is 14 years old or older the court  
2 shall provide the information to the child.

3 SECTION 12. Sections 161.105 and 161.106(g), (h), and (j),  
4 Family Code, are repealed.

5 SECTION 13. The changes in law made by this Act apply only  
6 to a suit affecting the parent-child relationship filed on or after  
7 the effective date of this Act. A suit affecting the parent-child  
8 relationship filed before the effective date of this Act is  
9 governed by the law in effect on the date the suit was filed, and the  
10 former law is continued in effect for that purpose.

11 SECTION 14. This Act takes effect September 1, 2007.