

By: Puente

H.B. No. 3997

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the uniform parentage act, termination of the rights of
3 an alleged father, and other matters relating to determination of
4 paternity.

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

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

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

11 (1) a managing conservator;

12 (2) a possessory conservator;

13 (3) a person having possession of or access to the
14 child under an order;

15 (4) a person required by law or by order to provide for
16 the support of the child;

17 (5) a guardian of the person of the child;

18 (6) a guardian of the estate of the child;

19 (7) each parent as to whom the parent-child
20 relationship has not been terminated or process has not been waived
21 under Chapter 161;

22 (8) an alleged father, unless there is attached to the
23 petition an affidavit of waiver of interest in a child executed by
24 the alleged father as provided by Chapter 161 or unless the

1 petitioner has complied with the provisions of Section
2 161.002(b)(3) [~~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 160.402(b), Family Code, is amended to
18 read as follows:

19 (b) A man is entitled to notice of a proceeding described by
20 Subsection (a) regardless of whether he registers with the registry
21 of paternity if:

22 (1) a father-child relationship between the man and
23 the child has been established under this chapter or another law; or

24 (2) the man commences a proceeding to adjudicate his
25 paternity before the court has entered a judgment terminating the
26 parental rights of all potential or putative fathers [~~terminated~~
27 ~~his parental rights~~].

1 SECTION 3. Section 160.403, Family Code, is amended to read
2 as follows:

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

9 SECTION 4. Section 160.422(d), Family Code, is amended to
10 read as follows:

11 (d) A search of the registry is not required if a
12 father-child relationship exists between a man and the child, as
13 provided by Section 160.201(b), and that man:

14 (1) has been served with citation and notice of the
15 proceeding for termination of parental rights; or

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

19 SECTION 5. Section 161.002, Family Code, is amended by
20 amending Subsections (b), (c), and (e) and adding Subsection (c-1)
21 to read as follows:

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

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

26 (2) he has not registered with the paternity registry
27 under Chapter 160[7, ~~and after the exercise of due diligence by the~~

1 ~~petitioner.~~

2 ~~[(A) his identity and location are unknown; or~~

3 ~~[(B) his identity is known but he cannot be~~
4 ~~located]; or~~

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

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

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

20 (e) The court shall not render an order terminating parental
21 rights under Subsection (b)(2) unless the court receives evidence
22 of a certificate of the results of a search of the paternity
23 registry under Chapter 160 from the bureau of vital statistics
24 indicating that no man has registered the intent to claim
25 paternity~~[, after reviewing the petitioner's sworn affidavit~~
26 ~~describing the petitioner's effort to identify and locate the~~
27 ~~alleged father and considering any evidence submitted by the~~

1 ~~attorney ad litem for the alleged father, has found that the~~
2 ~~petitioner exercised due diligence in attempting to identify and~~
3 ~~locate the alleged father. The order shall contain specific~~
4 ~~findings regarding due diligence of the petitioner].~~

5 SECTION 6. Section 161.103(b), Family Code, is amended to
6 read as follows:

7 (b) The affidavit must contain:

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

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

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

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

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

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

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

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

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

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

27 (8) a statement that the parent has been informed of

1 parental rights and duties;

2 (9) a statement that the relinquishment is revocable,
3 that the relinquishment is irrevocable, or that the relinquishment
4 is irrevocable for a stated period of time;

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

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

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

16 SECTION 7. Section 161.1035, Family Code, is amended to
17 read as follows:

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

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

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

26 SECTION 8. Section 161.106(f), Family Code, is amended to
27 read as follows:

1 (f) A waiver in an affidavit under this section [~~that~~
2 ~~designates the Department of Protective and Regulatory Services or~~
3 ~~a licensed child-placing agency to serve as the managing~~
4 ~~conservator~~] is irrevocable. [~~A waiver in any other affidavit~~
5 ~~under this section is revocable unless it expressly provides that~~
6 ~~it is irrevocable for a stated period not to exceed 60 days after~~
7 ~~the date of execution.~~]

8 SECTION 9. Section 161.107(a)(1), Family Code, is amended
9 to read as follows:

10 (1) "Parent" means a parent, as defined by Section
11 160.102, whose parent-child relationship with a child has not been
12 terminated. The term does not include a putative or potential
13 father whose name is not included in the paternity registry under
14 Chapter 160 and who has not commenced a proceeding to adjudicate
15 paternity.

16 SECTION 10. Section 161.107(b), Family Code, is amended to
17 read as follows:

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

22 SECTION 11. Section 161.109(a), Family Code, is amended to
23 read as follows:

24 (a) If a parent-child relationship does not exist between
25 the child and any man [~~an affidavit of status of child as provided~~
26 ~~by this chapter states that the father of the child is unknown and~~
27 ~~no probable father is known~~], a certificate from the bureau of vital

1 statistics signed by the registrar that a diligent search has been
2 made of the paternity registry maintained by the bureau and that a
3 registration has not been found pertaining to the father of the
4 child in question must be filed with the court before a trial on the
5 merits in the suit for termination may be held.

6 SECTION 12. Section 162.018(d), Family Code, is amended to
7 read as follows:

8 (d) At the time an adoption order is rendered, the court
9 shall provide to the parents of an adopted child information
10 provided by the bureau of vital statistics that describes the
11 functions of the voluntary adoption registry under Subchapter E.
12 The licensed child-placing agency shall provide to each of the
13 child's biological parents known to the agency, the information
14 when the parent signs an affidavit of relinquishment of parental
15 rights[~~, affidavit of status of child,~~] or affidavit of waiver of
16 interest in a child. The information shall include the right of the
17 child or biological parent to refuse to participate in the
18 registry. If the adopted child is 14 years old or older the court
19 shall provide the information to the child.

20 SECTION 13. Sections 161.105 and 161.106(g), (h), and (j),
21 Family Code, are repealed.

22 SECTION 14. The changes in law made by this Act apply only
23 to a suit affecting the parent-child relationship filed on or after
24 the effective date of this Act. A suit affecting the parent-child
25 relationship filed before the effective date of this Act is
26 governed by the law in effect on the date the suit was filed, and the
27 former law is continued in effect for that purpose.

1 SECTION 15. This Act takes effect September 1, 2007.