

1-1 By: Puentes (Senate Sponsor - Harris) H.B. No. 3997
1-2 (In the Senate - Received from the House May 10, 2007;
1-3 May 14, 2007, read first time and referred to Committee on
1-4 Jurisprudence; May 17, 2007, reported favorably by the following
1-5 vote: Yeas 4, Nays 0; May 17, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the Uniform Parentage Act, termination of parental
1-9 rights, and matters relating to determination of paternity.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 102.009(a), Family Code, is amended to
1-12 read as follows:

1-13 (a) Except as provided by Subsection (b), the following are
1-14 entitled to service of citation on the filing of a petition in an
1-15 original suit:

1-16 (1) a managing conservator;
1-17 (2) a possessory conservator;
1-18 (3) a person having possession of or access to the
1-19 child under an order;

1-20 (4) a person required by law or by order to provide for
1-21 the support of the child;

1-22 (5) a guardian of the person of the child;

1-23 (6) a guardian of the estate of the child;

1-24 (7) each parent as to whom the parent-child
1-25 relationship has not been terminated or process has not been waived
1-26 under Chapter 161;

1-27 (8) an alleged father, unless there is attached to the
1-28 petition an affidavit of waiver of interest in a child executed by
1-29 the alleged father as provided by Chapter 161 or unless the
1-30 petitioner has complied with the provisions of Section
1-31 161.002(b)(2), (3), or (4) [~~161.002(b)(2) or (b)(3)~~];

1-32 (9) a man who has filed a notice of intent to claim
1-33 paternity as provided by Chapter 160;

1-34 (10) the Department of Family and Protective Services,
1-35 if the petition requests that the department be appointed as
1-36 managing conservator of the child;

1-37 (11) the Title IV-D agency, if the petition requests
1-38 the termination of the parent-child relationship and support rights
1-39 have been assigned to the Title IV-D agency under Chapter 231;

1-40 (12) a prospective adoptive parent to whom standing
1-41 has been conferred under Section 102.0035; and

1-42 (13) a person designated as the managing conservator
1-43 in a revoked or unrevoked affidavit of relinquishment under Chapter
1-44 161 or to whom consent to adoption has been given in writing under
1-45 Chapter 162.

1-46 SECTION 2. Section 160.403, Family Code, is amended to read
1-47 as follows:

1-48 Sec. 160.403. NOTICE OF PROCEEDING. Except as provided by
1-49 Sections 161.002(b)(2), (3), and (4) and (f), notice [Notice] of a
1-50 proceeding to adopt or to terminate parental rights regarding a
1-51 child must be given to a registrant who has timely registered with
1-52 regard to that child. Notice must be given in a manner prescribed
1-53 for service of process in a civil action.

1-54 SECTION 3. Section 160.422(d), Family Code, is amended to
1-55 read as follows:

1-56 (d) A search of the registry is not required if a
1-57 parent-child relationship exists between a man and the child, as
1-58 provided by Section 160.201(b), and that man:

1-59 (1) has been served with citation of the proceeding
1-60 for termination of the parent-child relationship; or

1-61 (2) [the only man alleged to be the father of the
1-62 child] has signed a [waiver of interest in, or] relinquishment of
1-63 parental rights with regard to [7] the child.

1-64 SECTION 4. Section 161.002, Family Code, is amended to read

2-1 as follows:

2-2 Sec. 161.002. TERMINATION OF THE RIGHTS OF AN ALLEGED
 2-3 BIOLOGICAL FATHER. (a) Except as otherwise provided by this
 2-4 section, the [The] procedural and substantive standards for
 2-5 termination of parental rights apply to the termination of the
 2-6 rights of an alleged father.

2-7 (b) The rights of an alleged father may be terminated if:

2-8 (1) after being served with citation, he does not
 2-9 respond by timely filing an admission of paternity or a
 2-10 counterclaim for paternity under Chapter 160;

2-11 (2) the child is over one year of age at the time the
 2-12 petition for termination of the parent-child relationship or for
 2-13 adoption is filed, he has not registered with the paternity
 2-14 registry under Chapter 160, and after the exercise of due diligence
 2-15 by the petitioner:

2-16 (A) his identity and location are unknown; or

2-17 (B) his identity is known but he cannot be
 2-18 located; [~~or~~]

2-19 (3) the child is under one year of age at the time the
 2-20 petition for termination of the parent-child relationship or for
 2-21 adoption is filed and he has not registered with the paternity
 2-22 registry under Chapter 160; or

2-23 (4) he has registered with the paternity registry
 2-24 under Chapter 160, but the petitioner's attempt to personally serve
 2-25 citation at the address provided to the registry and at any other
 2-26 address for the alleged father known by the petitioner has been
 2-27 unsuccessful, despite the due diligence of the petitioner.

2-28 (c) The termination of the rights of an alleged father under
 2-29 Subsection (b)(2) rendered on or after January 1, 1998, and before
 2-30 January 1, 2008, does not require personal service of citation or
 2-31 citation by publication on the alleged father.

2-32 (c-1) The termination of the rights of an alleged father
 2-33 under Subsection (b)(2) or (3) rendered on or after January 1, 2008,
 2-34 does not require personal service of citation or citation by
 2-35 publication on the alleged father, and there is no requirement to
 2-36 identify or locate an alleged father who has not registered with the
 2-37 paternity registry under Chapter 160.

2-38 (d) The termination of rights of an alleged father under
 2-39 Subsection (b)(4) [~~(b)(3)~~] does not require service of citation by
 2-40 publication on the alleged father.

2-41 (e) The court shall not render an order terminating parental
 2-42 rights under Subsection (b)(2) or (3) unless the court receives
 2-43 evidence of a certificate of the results of a search of the
 2-44 paternity registry under Chapter 160 from the bureau of vital
 2-45 statistics indicating that no man has registered the intent to
 2-46 claim paternity[, after reviewing the petitioner's sworn affidavit
 2-47 describing the petitioner's effort to identify and locate the
 2-48 alleged father and considering any evidence submitted by the
 2-49 attorney ad litem for the alleged father, has found that the
 2-50 petitioner exercised due diligence in attempting to identify and
 2-51 locate the alleged father. The order shall contain specific
 2-52 findings regarding due diligence of the petitioner].

2-53 (f) The court shall not render an order terminating parental
 2-54 rights under Subsection (b)(4) [~~(b)(3)~~] unless the court, after
 2-55 reviewing the petitioner's sworn affidavit describing the
 2-56 petitioner's effort to obtain personal service of citation on the
 2-57 alleged father and considering any evidence submitted by the
 2-58 attorney ad litem for the alleged father, has found that the
 2-59 petitioner exercised due diligence in attempting to obtain service
 2-60 on the alleged father. The order shall contain specific findings
 2-61 regarding the exercise of due diligence of the petitioner.

2-62 SECTION 5. Section 161.103(b), Family Code, is amended to
 2-63 read as follows:

2-64 (b) The affidavit must contain:

2-65 (1) the name, address, and age of the parent whose
 2-66 parental rights are being relinquished;

2-67 (2) the name, age, and birth date of the child;

2-68 (3) the names and addresses of the guardians of the
 2-69 person and estate of the child, if any;

3-1 (4) a statement that the affiant is or is not presently
3-2 obligated by court order to make payments for the support of the
3-3 child;

3-4 (5) a full description and statement of value of all
3-5 property owned or possessed by the child;

3-6 (6) an allegation that termination of the parent-child
3-7 relationship is in the best interest of the child;

3-8 (7) one of the following, as applicable:

3-9 (A) the name and address of the other parent;

3-10 (B) a statement that the parental rights of the
3-11 other parent have been terminated by death or court order; or

3-12 (C) a statement that the child has no presumed
3-13 father [~~and that an affidavit of status of the child has been~~
3-14 ~~executed as provided by this chapter~~];

3-15 (8) a statement that the parent has been informed of
3-16 parental rights and duties;

3-17 (9) a statement that the relinquishment is revocable,
3-18 that the relinquishment is irrevocable, or that the relinquishment
3-19 is irrevocable for a stated period of time;

3-20 (10) if the relinquishment is revocable, a statement
3-21 in boldfaced type concerning the right of the parent signing the
3-22 affidavit to revoke the relinquishment only if the revocation is
3-23 made before the 11th day after the date the affidavit is executed;

3-24 (11) if the relinquishment is revocable, the name and
3-25 address of a person to whom the revocation is to be delivered; and

3-26 (12) the designation of a prospective adoptive parent,
3-27 the Department of Family and Protective [~~and Regulatory~~] Services,
3-28 if the department has consented in writing to the designation, or a
3-29 licensed child-placing agency to serve as managing conservator of
3-30 the child and the address of the person or agency.

3-31 SECTION 6. Section 161.1035, Family Code, is amended to
3-32 read as follows:

3-33 Sec. 161.1035. REVOCABILITY OF CERTAIN AFFIDAVITS. An
3-34 affidavit of relinquishment of parental rights [~~or affidavit of~~
3-35 ~~waiver of interest in a child~~] that fails to state that the
3-36 relinquishment or waiver is irrevocable for a stated time is:

3-37 (1) revocable only if the revocation is made before
3-38 the 11th day after the date the affidavit is executed; and

3-39 (2) irrevocable on or after the 11th day after the date
3-40 the affidavit is executed.

3-41 SECTION 7. Section 161.106(f), Family Code, is amended to
3-42 read as follows:

3-43 (f) A waiver in an affidavit under this section [~~that~~
3-44 ~~designates the Department of Protective and Regulatory Services or~~
3-45 ~~a licensed child-placing agency to serve as the managing~~
3-46 ~~conservator~~] is irrevocable. [~~A waiver in any other affidavit~~
3-47 ~~under this section is revocable unless it expressly provides that~~
3-48 ~~it is irrevocable for a stated period not to exceed 60 days after~~
3-49 ~~the date of execution.~~]

3-50 SECTION 8. Section 161.107(a)(1), Family Code, is amended
3-51 to read as follows:

3-52 (1) "Parent" means a parent, as defined by Section
3-53 160.102, whose parent-child relationship with a child has not been
3-54 terminated. The term does not include a man who does not have a
3-55 parent-child relationship established under Chapter 160.

3-56 SECTION 9. Section 161.107(b), Family Code, is amended to
3-57 read as follows:

3-58 (b) If a parent of the child has not been personally served
3-59 in a suit in which the Department of Family and Protective [~~and~~
3-60 ~~Regulatory~~] Services seeks termination, the department must make a
3-61 diligent effort to locate that parent.

3-62 SECTION 10. Section 161.109(a), Family Code, is amended to
3-63 read as follows:

3-64 (a) If a parent-child relationship does not exist between
3-65 the child and any man [~~an affidavit of status of child as provided~~
3-66 ~~by this chapter states that the father of the child is unknown and~~
3-67 ~~no probable father is known~~], a certificate from the bureau of vital
3-68 statistics signed by the registrar that a diligent search has been
3-69 made of the paternity registry maintained by the bureau and that a

4-1 registration has not been found pertaining to the father of the
4-2 child in question must be filed with the court before a trial on the
4-3 merits in the suit for termination may be held.

4-4 SECTION 11. Section 162.018(d), Family Code, is amended to
4-5 read as follows:

4-6 (d) At the time an adoption order is rendered, the court
4-7 shall provide to the parents of an adopted child information
4-8 provided by the bureau of vital statistics that describes the
4-9 functions of the voluntary adoption registry under Subchapter E.
4-10 The licensed child-placing agency shall provide to each of the
4-11 child's biological parents known to the agency, the information
4-12 when the parent signs an affidavit of relinquishment of parental
4-13 rights[~~, affidavit of status of child,~~] or affidavit of waiver of
4-14 interest in a child. The information shall include the right of the
4-15 child or biological parent to refuse to participate in the
4-16 registry. If the adopted child is 14 years old or older the court
4-17 shall provide the information to the child.

4-18 SECTION 12. Sections 263.407(a) and (c), Family Code, are
4-19 amended to read as follows:

4-20 (a) There is a rebuttable presumption that a parent who
4-21 delivers a child to a designated emergency infant care provider in
4-22 accordance with Subchapter D, Chapter 262:

- 4-23 (1) is the child's biological parent; [~~and~~]
- 4-24 (2) intends to relinquish parental rights and consents
- 4-25 to the termination of parental rights with regard to the child; and
- 4-26 (3) intends to waive the right to notice of the suit
- 4-27 terminating the parent-child relationship.

4-28 (c) Before the court may render an order terminating [~~filing~~
4-29 ~~a petition to terminate the~~] parental rights with regard to a child
4-30 taken into the department's custody under Section 262.303, the
4-31 department must:

- 4-32 (1) verify with the National Crime Information Center
- 4-33 and state and local law enforcement agencies that the child is not a
- 4-34 missing child; and
- 4-35 (2) obtain a certificate of the search of the
- 4-36 paternity registry under Subchapter E, Chapter 160, not earlier
- 4-37 than the date the department estimates to be the 30th day after the
- 4-38 child's date of birth.

4-39 SECTION 13. Sections 161.105 and 161.106(g), (h), and (j),
4-40 Family Code, are repealed.

4-41 SECTION 14. The change in law made by this Act by the
4-42 amendment of Sections 263.407(a) and (c), Family Code, applies to a
4-43 child for whom the Department of Family and Protective Services
4-44 assumes responsibility under Subchapter D, Chapter 262, Family
4-45 Code, regardless of whether the department assumed responsibility
4-46 for the child before, on, or after the effective date of this Act.

4-47 SECTION 15. The changes in law made by this Act apply only
4-48 to a suit affecting the parent-child relationship filed on or after
4-49 the effective date of this Act. A suit affecting the parent-child
4-50 relationship filed before the effective date of this Act is
4-51 governed by the law in effect on the date the suit was filed, and the
4-52 former law is continued in effect for that purpose.

4-53 SECTION 16. This Act takes effect September 1, 2007.

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