

BILL ANALYSIS

S.B. 232
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Judiciary & Civil Jurisprudence
Committee Report (Amended)

BACKGROUND AND PURPOSE

Under current law, the rescission of an acknowledgment or denial of paternity requires a judicial proceeding. Also, under current law, after the period for rescission has passed, a proceeding to challenge the acknowledgment or denial of paternity may be based only on fraud, duress, or material mistake of fact and must be commenced before the fourth anniversary of the date of the filing of the acknowledgment or denial with the bureau of vital statistics or, if the signatory was a minor, the earlier of the fourth anniversary after the signatory's 18th birthday or the removal of the signatory's disabilities of minority by operation of law.

S.B. 232 authorizes a signatory to rescind an acknowledgment of paternity or denial of paternity by filing a completed rescission with the bureau and sets out the requirements of such rescission. The bill provides that there is no fee for such a filing. The bill provides that upon receipt of such rescission, the bureau is required to void the acknowledgment or denial of paternity and amend the child's birth record, if appropriate. The bill also authorizes a proceeding challenging the acknowledgment or denial on the basis of fraud, duress, or material mistake of fact to be commenced after the deadlines set out in statute if, as of the date the proceeding is commenced, a court had not rendered an order affecting 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

S.B. 232 amends the Family Code to authorize a signatory to rescind an acknowledgement or denial of paternity by filing a completed rescission with the bureau of vital statistics on the bureau-prescribed form before the prescribed deadline, accompanied by the signed return receipts from each person required to be notified that a rescission was completed, rather than by commencing a proceeding to rescind.

S.B. 232 requires a signatory seeking to rescind an acknowledgment or denial of paternity to file with the bureau a completed rescission, on the form prescribed by state law, in which the signatory declares under penalty of perjury that, as of the date the rescission is filed, a court hearing has not been held in a proceeding affecting the child identified in the acknowledgment or denial of paternity, including a proceeding to establish child support; that a copy of the completed rescission was sent by certified or registered mail, return receipt requested, to, if the rescission is of an acknowledgment of paternity, the other signatory of the acknowledgment and the signatory of any related denial of paternity, or if the rescission is of a denial of paternity, to both signatories of the acknowledgment of paternity; and that, if the acknowledgment or denial to be rescinded is filed in connection with a Title IV-D case, a copy of the completed rescission was sent by certified or registered mail to the Title IV-D agency, designated as the office of the attorney general under state law. The bill requires the bureau, on receipt of a completed rescission, accompanied by the signed return receipts from each person required to be notified, to

void the acknowledgment or denial of paternity affected by the rescission and amend the birth record of the child, if appropriate. The bill authorizes any party affected by the rescission, including the office of the attorney general, to contest the rescission by filing a proceeding not later than the 60th day after the date on which the rescission is filed with the bureau.

S.B. 232 authorizes a proceeding challenging an acknowledgment or denial of paternity based on fraud, duress, or material mistake of fact to be commenced after the applicable deadline if, as of the date the proceeding is commenced, a court has not rendered an order affecting the child identified in the acknowledgment or denial of paternity, including an order relating to support of the child. The bill makes provisions regarding the procedure for a rescission or a challenge of an acknowledgment or denial of paternity applicable instead to a contest of a rescission or a challenge of an acknowledgment or denial, and makes conforming changes.

S.B. 232 adds to those forms the bureau must prescribe to facilitate compliance with provisions regarding voluntary acknowledgment of paternity, forms for the rescission of an acknowledgement or denial of paternity, and makes conforming changes. The bill adds a rescission of an acknowledgment of paternity or denial of paternity to those filings for which the bureau of vital statistics is prohibited from charging a filing fee. The bill removes the provision requiring an acknowledgement of paternity to state that the signatories understand that a challenge to the signed acknowledgement is barred after four years.

S.B. 232 authorizes the bureau to release information relating to a rescission of the acknowledgment or denial of paternity, in addition to information relating to the acknowledgement or denial of paternity, to a signatory of the acknowledgement, denial, or rescission and to the courts and office of the attorney general of Texas or the Title IV-D agency of another state. The bill clarifies that if a child has an acknowledged father, a signatory to the acknowledgement or denial of paternity may commence a proceeding to contest the rescission of, rather than a proceeding seeking to rescind, the acknowledgment or denial or to challenge the paternity of the child only within the time allowed by provisions regarding rescission and challenges after the expiration of a period for rescission.

EFFECTIVE DATE

September 1, 2009.

EXPLANATION OF AMENDMENTS

Committee Amendment No.1

S.B. 232 is amended to remove a provision of the bill authorizing any party affected by the rescission, including the office of the attorney general, to contest the rescission by filing a proceeding not later than the 60th day after the date on which the rescission is filed with the bureau of vital statistics.