By:  Dunnam

H.B. No. 2494

A BILL TO BE ENTITLED

1      AN ACT

2 relating to the termination of the parent-child relationship and

3 the duty to pay child support in circumstances involving mistaken

4 paternity.

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

6      SECTION 1.  Section 154.006(a), Family Code, is amended to

7 read as follows:

8      (a)  Unless  otherwise  agreed  in  writing  or  expressly

9 provided in the order or as provided by Subsection (b), the child

10 support order terminates on:

11           (1)  the marriage of the child;

12           (2)  the  removal  of  the  child's  disabilities  for

13 general purposes;

14           (3)  the death of the child;

15           (4)  a finding by a court that the child:

16                (A)  is 18 years of age or older; and

17                (B)  has failed to comply with the enrollment or

18 attendance requirements described by Section 154.002(a);

19           (5)  the issuance under Section 161.005(h) of an order

20 terminating the parent-child relationship between the obligor and

21 the child based on the results of genetic testing that exclude the

22 obligor as the child's genetic father; or

23           (6)  [(5)]  if the child enlists in the armed forces of

24 the United States, the date on which the child begins active service

1 as defined by 10 U.S.C. Section 101.

2     SECTION 2.  Section 161.005, Family Code, is amended by

3 amending Subsection (a) and adding Subsections (c)-(j) to read as

4 follows:

5     (a)  A parent may file a suit for termination of the

6 petitioner's parent-child relationship.  Except as provided by

7 Subsection (h), the [The] court may order termination if

8 termination is in the best interest of the child.

9     (c)  Subject to Subsection (d), a man may file a suit for

10 termination of the parent-child relationship between the man and a

11 child if the man signed an acknowledgment of paternity of the child

12 in accordance with Subchapter D, Chapter 160, or was adjudicated to

13 be the father of the child in a previous proceeding under this title

14 in which genetic testing did not occur.  The petition must be

15 verified, and must allege facts showing that the petitioner:

16     (1)  is not the child's genetic father; and

17     (2)  signed the acknowledgment of paternity or failed

18 to contest parentage in the previous proceeding because of the

19 mistaken belief, at the time the acknowledgment was signed or on the

20 date the court order in the previous proceeding was rendered, that

21 he was the child's genetic father based on misrepresentations that

22 led him to that conclusion.

23     (d)  A man may not file a petition under Subsection (c) if:

24     (1)  the man is the child's adoptive father;

25     (2)  the child was conceived by assisted reproduction

26 and the man consented to assisted reproduction by his wife under

27 Subchapter H, Chapter 160; or

1         (3)  the man is the intended father of the child under a

2 gestational agreement validated by a court under Subchapter I,

3 Chapter 160.

4         (e)  A petition under Subsection (c) must be filed not later

5 than the first anniversary of the date on which the petitioner

6 becomes aware of the acts alleged in the petition indicating that

7 the petitioner is not the child's genetic father.

8         (e-1)  Subsection (e) applies beginning September 1, 2010.

9 Before that date, a petition may be filed under Subsection (c)

10 regardless of the date on which the petitioner became aware of the

11 acts alleged in the petition indicating that the petitioner is not

12 the child's genetic father.  This subsection expires September 1,

13 2011.

14         (f)  In a proceeding initiated under Subsection (c), the

15 court shall hold a pretrial hearing to determine whether the

16 petitioner has established a meritorious prima facie case for

17 termination of the parent-child relationship.  If a meritorious

18 prima facie claim is established, the court shall order the

19 petitioner and the child to submit to genetic testing under

20 Subchapter F, Chapter 160.

21         (g)  If the results of genetic testing ordered under

22 Subsection (f) identify the petitioner as the child's genetic

23 father under the standards prescribed by Section 160.505 and the

24 results of any further testing requested by the petitioner and

25 ordered by the court under Subchapter F, Chapter 160, do not exclude

26 the petitioner as the child's genetic father, the court shall deny

27 the petitioner's request for termination of the parent-child

1  relationship.

2       (h) If the results of genetic testing ordered under
3  Subsection (f) exclude the petitioner as the child's genetic
4  father, the court shall render an order terminating the
5  parent-child relationship.

6       (i) An order under Subsection (h) terminating the
7  parent-child relationship ends the petitioner's obligation for
8  future support of the child as of the date the order is rendered.
9  The order does not affect the petitioner's obligations for support
10 of the child incurred before that date or the petitioner's
11 obligation to pay interest that accrues after that date on the basis
12 of child support arrearages existing on that date. Those
13 obligations are enforceable until satisfied by any means available
14 for the enforcement of child support other than contempt.

15      (j) An order under Subsection (h) terminating the
16 parent-child relationship does not preclude the establishment of
17 another man as the child's genetic father.

18      SECTION 3. The changes in law made by this Act to Section
19 154.006, Family Code, apply to an order for child support
20 regardless of whether the order was rendered before, on, or after
21 the effective date of this Act.

22      SECTION 4. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2009.