

By: West

S.B. No. 231

A BILL TO BE ENTITLED

AN ACT

relating to the adoption of a child who has an adjudicated,
presumed, or acknowledged father.

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

SECTION 1. Section 102.005, Family Code, is amended to read
as follows:

Sec. 102.005. STANDING TO REQUEST TERMINATION AND
ADOPTION. An original suit requesting only an adoption or for
termination of the parent-child relationship joined with a petition
for adoption may be filed by:

(1) a stepparent of the child;

(2) an adult who, as the result of a placement for
adoption, has had actual possession and control of the child at any
time during the 30-day period preceding the filing of the petition;

(3) an adult who has had actual possession and control
of the child for not less than two months during the three-month
period preceding the filing of the petition;

(4) an adult who has adopted, or is the foster parent
of and has petitioned to adopt, a sibling of the child; ~~or~~

(5) another adult whom the court determines to have
had substantial past contact with the child sufficient to warrant
standing to do so; or

(6) a man who alleges to be the biological father of
the child under Section 162.026.

1 SECTION 2. Section 162.001(b), Family Code, is amended to
2 read as follows:

3 (b) A child residing in this state may be adopted if:

4 (1) the parent-child relationship as to each living
5 parent of the child has been terminated or a suit for termination is
6 joined with the suit for adoption;

7 (2) the parent whose rights have not been terminated
8 is presently the spouse of the petitioner and the proceeding is for
9 a stepparent adoption;

10 (3) the child is at least two years old, the
11 parent-child relationship has been terminated with respect to one
12 parent, the person seeking the adoption has been a managing
13 conservator or has had actual care, possession, and control of the
14 child for a period of six months preceding the adoption or is the
15 child's former stepparent, and the nonterminated parent consents to
16 the adoption; ~~or~~

17 (4) the child is at least two years old, the
18 parent-child relationship has been terminated with respect to one
19 parent, and the person seeking the adoption is the child's former
20 stepparent and has been a managing conservator or has had actual
21 care, possession, and control of the child for a period of one year
22 preceding the adoption; or

23 (5) the child has an adjudicated, presumed, or
24 acknowledged father who has executed an irrevocable affidavit of
25 voluntary relinquishment of parental rights with regard to the
26 child, the affidavit of voluntary relinquishment designates the
27 person seeking the adoption as a prospective adoptive parent of the

1 child, and the person seeking the adoption alleges that the person
2 is the biological father of the child.

3 SECTION 3. Subchapter A, Chapter 162, Family Code, is
4 amended by adding Section 162.026 to read as follows:

5 Sec. 162.026. ADOPTION OF CHILD WITH ADJUDICATED, PRESUMED,
6 OR ACKNOWLEDGED FATHER. (a) A man who alleges to be the biological
7 father of a child may file a petition for adoption of the child
8 under Section 162.001(b)(5).

9 (b) The mother of the child must join in the petition for
10 adoption.

11 (c) The petition for adoption under this section must:

12 (1) allege that the petitioner is the biological
13 father of the child;

14 (2) request the termination of the parental rights of
15 the adjudicated, presumed, or acknowledged father; and

16 (3) include an affidavit verifying the matters alleged
17 in the petition, except for matters alleged on information and
18 belief.

19 (d) In a suit for adoption under this section, the court
20 shall order the child and the petitioner to submit to genetic
21 testing. Genetic testing under this section must comply with the
22 requirements of Subchapter F, Chapter 160.

23 (e) If the results of genetic testing rebuttably identify
24 the petitioner as the biological father of the child in accordance
25 with Section 160.505 and the court makes separate findings required
26 by Section 162.016, the court shall render an order:

27 (1) terminating the parent-child relationship between

1 the adjudicated, acknowledged, or presumed father and the child;
2 and

3 (2) granting the adoption of the child by the
4 petitioner.

5 (f) On rendering an order under Subsection (e), the court
6 shall vacate any order of support under which the adjudicated,
7 acknowledged, or presumed father was the obligor, except that
8 arrearages owed under an order at the time of the termination of the
9 parent-child relationship remain subject to enforcement under this
10 subtitle.

11 SECTION 4. This Act takes effect September 1, 2009.