

By: West

S.B. No. 232

A BILL TO BE ENTITLED

1 AN ACT
2 relating to procedures for rescinding or challenging an
3 acknowledgment or denial of paternity.

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

5 SECTION 1. Section 160.302(a), Family Code, is amended to
6 read as follows:

7 (a) An acknowledgment of paternity must:

8 (1) be in a record;

9 (2) be signed, or otherwise authenticated, under
10 penalty of perjury by the mother and the man seeking to establish
11 paternity;

12 (3) state that the child whose paternity is being
13 acknowledged:

14 (A) does not have a presumed father or has a
15 presumed father whose full name is stated; and

16 (B) does not have another acknowledged or
17 adjudicated father;

18 (4) state whether there has been genetic testing and,
19 if so, that the acknowledging man's claim of paternity is
20 consistent with the results of the testing; and

21 (5) state that the signatories understand that the
22 acknowledgment is the equivalent of a judicial adjudication of the
23 paternity of the child and that a challenge to the acknowledgment is
24 permitted only under limited circumstances [~~and is barred after~~

1 ~~four years~~].

2 SECTION 2. Section 160.306, Family Code, is amended to read
3 as follows:

4 Sec. 160.306. FILING FEE NOT REQUIRED. The bureau of vital
5 statistics may not charge a fee for filing:

- 6 (1) an acknowledgment of paternity;
7 (2) a ~~or~~ denial of paternity; or
8 (3) a rescission of an acknowledgment of paternity or
9 denial of paternity.

10 SECTION 3. Section 160.307, Family Code, is amended to read
11 as follows:

12 Sec. 160.307. [~~PROCEEDING FOR~~] RESCISSION. (a) A signatory
13 may rescind an acknowledgment of paternity or denial of paternity
14 by filing a completed rescission under Subsection (b), accompanied
15 by the signed return receipts from each person required to be
16 notified under Subsection (b)(2), [~~commencing a proceeding to~~
17 rescind] before the earlier of:

18 (1) the 60th day after the effective date of the
19 acknowledgment or denial, as provided by Section 160.304; or

20 (2) the date of the first hearing in a proceeding to
21 which the signatory is a party before a court to adjudicate an issue
22 relating to the child, including a proceeding that establishes
23 child support.

24 (b) A signatory seeking to rescind an acknowledgment of
25 paternity or denial of paternity must file with the bureau of vital
26 statistics a completed rescission, on the form prescribed under
27 Section 160.312, in which the signatory declares under penalty of

1 perjury that:

2 (1) as of the date the rescission is filed, a court
3 hearing has not been held in a proceeding affecting the child
4 identified in the acknowledgment of paternity or denial of
5 paternity, including a proceeding to establish child support;

6 (2) a copy of the completed rescission was sent by
7 certified or registered mail, return receipt requested, to:

8 (A) if the rescission is of an acknowledgment of
9 paternity, the other signatory of the acknowledgment of paternity
10 and the signatory of any related denial of paternity; or

11 (B) if the rescission is of a denial of
12 paternity, both signatories of the acknowledgment of paternity; and

13 (3) if the acknowledgment of paternity or denial of
14 paternity to be rescinded is filed in connection with a Title IV-D
15 case, a copy of the completed rescission was sent by certified or
16 registered mail to the Title IV-D agency.

17 (c) On receipt of a completed rescission, accompanied by the
18 signed return receipts from each person required to be notified
19 under Subsection (b)(2), the bureau of vital statistics shall void
20 the acknowledgment of paternity or denial of paternity affected by
21 the rescission and amend the birth record of the child, if
22 appropriate.

23 (d) Any party affected by the rescission, including the
24 Title IV-D agency, may contest the rescission by filing a
25 proceeding not later than the 60th day after the date on which the
26 rescission is filed with the bureau of vital statistics.

27 SECTION 4. Section 160.308, Family Code, is amended by

1 amending Subsection (a) and adding Subsection (e) to read as
2 follows:

3 (a) After the period for rescission under Section 160.307
4 has expired, a signatory of an acknowledgment of paternity or
5 denial of paternity may commence a proceeding to challenge the
6 acknowledgment or denial only on the basis of fraud, duress, or
7 material mistake of fact. Except as provided by Subsection (e),
8 the [~~The~~] proceeding must be commenced before the fourth
9 anniversary of the date the acknowledgment or denial is filed with
10 the bureau of vital statistics unless the signatory was a minor on
11 the date the signatory executed the acknowledgment or denial. If
12 the signatory was a minor on the date the signatory executed the
13 acknowledgment or denial, the proceeding must be commenced before
14 the earlier of the fourth anniversary of the date of:

- 15 (1) the signatory's 18th birthday; or
16 (2) the removal of the signatory's disabilities of
17 minority by court order, marriage, or by other operation of law.

18 (e) A proceeding authorized by Subsection (a) may be
19 commenced after the applicable deadline specified by that
20 subsection if, as of the date the proceeding is commenced, a court
21 has not rendered an order affecting the child identified in the
22 acknowledgment or denial of paternity, including an order relating
23 to support of the child.

24 SECTION 5. Section 160.309, Family Code, is amended to read
25 as follows:

26 Sec. 160.309. PROCEDURE FOR CONTEST OF RESCISSION OR
27 CHALLENGE. (a) Each signatory to an acknowledgment of paternity and

1 any related denial of paternity must be made a party to a proceeding
2 to contest a rescission of [~~rescind~~] or challenge the
3 acknowledgment or denial of paternity.

4 (b) For purposes of the contest of the rescission of or [~~a~~]
5 challenge to an acknowledgment of paternity or denial of paternity,
6 a signatory submits to the personal jurisdiction of this state by
7 signing the acknowledgment or denial. The jurisdiction is
8 effective on the filing of the document with the bureau of vital
9 statistics.

10 (c) Except for good cause shown, while a proceeding is
11 pending to contest a rescission of [~~rescind~~] or challenge an
12 acknowledgment of paternity or a denial of paternity, the court may
13 not suspend the legal responsibilities of a signatory arising from
14 the acknowledgment, including the duty to pay child support.

15 (d) A proceeding to contest a rescission of [~~rescind~~] or
16 [~~to~~] challenge an acknowledgment of paternity or a denial of
17 paternity shall be conducted in the same manner as a proceeding to
18 adjudicate parentage under Subchapter G.

19 (e) At the conclusion of a proceeding to contest a
20 rescission of [~~rescind~~] or challenge an acknowledgment of paternity
21 or a denial of paternity, the court shall order the bureau of vital
22 statistics to amend the birth record of the child, if appropriate.

23 SECTION 6. Section 160.312, Family Code, is amended to read
24 as follows:

25 Sec. 160.312. FORMS [~~FOR ACKNOWLEDGMENT AND DENIAL OF~~
26 ~~PATERNITY~~]. (a) To facilitate compliance with this subchapter, the
27 bureau of vital statistics shall prescribe forms for the:

- 1 (1) acknowledgment of paternity;
2 (2) [~~and the~~] denial of paternity; and
3 (3) rescission of an acknowledgment or denial of
4 paternity.

5 (b) A valid acknowledgment of paternity, ~~[or]~~ denial of
6 paternity, or rescission of an acknowledgment or denial of
7 paternity is not affected by a later modification of the prescribed
8 form.

9 SECTION 7. Section 160.313, Family Code, is amended to read
10 as follows:

11 Sec. 160.313. RELEASE OF INFORMATION. The bureau of vital
12 statistics may release information relating to the acknowledgment
13 or denial of paternity or rescission of the acknowledgment or
14 denial of paternity to a signatory of the acknowledgment, ~~[or]~~
15 denial, or rescission and to the courts and Title IV-D agency of
16 this or another state.

17 SECTION 8. Section 160.609(a), Family Code, is amended to
18 read as follows:

19 (a) If a child has an acknowledged father, a signatory to
20 the acknowledgment or denial of paternity may commence a proceeding
21 to contest the rescission of [~~seeking to rescind~~] the
22 acknowledgment or denial or to challenge the paternity of the child
23 only within the time allowed under Section 160.307 or 160.308.

24 SECTION 9. The changes in law made by this Act apply only to
25 an acknowledgment or denial of paternity that becomes effective on
26 or after the effective date of this Act. An acknowledgment or
27 denial of paternity that became effective before the effective date

1 of this Act is governed by the law in effect at the time the
2 acknowledgment or denial of paternity became effective, and the
3 former law is continued in effect for that purpose.

4 SECTION 10. This Act takes effect September 1, 2009.