

1-1 By: West S.B. No. 232  
1-2 (In the Senate - Filed November 10, 2008; February 11, 2009,  
1-3 read first time and referred to Committee on Jurisprudence;  
1-4 April 6, 2009, reported favorably by the following vote: Yeas 5,  
1-5 Nays 0; April 6, 2009, sent to printer.)

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

1-8 relating to procedures for rescinding or challenging an  
1-9 acknowledgment or denial of paternity.

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

1-11 SECTION 1. Subsection (a), Section 160.302, Family Code, is  
1-12 amended to read as follows:

1-13 (a) An acknowledgment of paternity must:

1-14 (1) be in a record;

1-15 (2) be signed, or otherwise authenticated, under  
1-16 penalty of perjury by the mother and the man seeking to establish  
1-17 paternity;

1-18 (3) state that the child whose paternity is being  
1-19 acknowledged:

1-20 (A) does not have a presumed father or has a  
1-21 presumed father whose full name is stated; and

1-22 (B) does not have another acknowledged or  
1-23 adjudicated father;

1-24 (4) state whether there has been genetic testing and,  
1-25 if so, that the acknowledging man's claim of paternity is  
1-26 consistent with the results of the testing; and

1-27 (5) state that the signatories understand that the  
1-28 acknowledgment is the equivalent of a judicial adjudication of the  
1-29 paternity of the child and that a challenge to the acknowledgment is  
1-30 permitted only under limited circumstances [~~and is barred after~~  
1-31 ~~four years~~].

1-32 SECTION 2. Section 160.306, Family Code, is amended to read  
1-33 as follows:

1-34 Sec. 160.306. FILING FEE NOT REQUIRED. The bureau of vital  
1-35 statistics may not charge a fee for filing:

1-36 (1) an acknowledgment of paternity;

1-37 (2) a ~~or~~ denial of paternity; or

1-38 (3) a rescission of an acknowledgment of paternity or  
1-39 denial of paternity.

1-40 SECTION 3. Section 160.307, Family Code, is amended to read  
1-41 as follows:

1-42 Sec. 160.307. [~~PROCEEDING FOR~~] RESCISSION. (a) A  
1-43 signatory may rescind an acknowledgment of paternity or denial of  
1-44 paternity by filing a completed rescission under Subsection (b),  
1-45 accompanied by the signed return receipts from each person required  
1-46 to be notified under Subsection (b)(2), [commencing a proceeding to  
1-47 rescind] before the earlier of:

1-48 (1) the 60th day after the effective date of the  
1-49 acknowledgment or denial, as provided by Section 160.304; or

1-50 (2) the date of the first hearing in a proceeding to  
1-51 which the signatory is a party before a court to adjudicate an issue  
1-52 relating to the child, including a proceeding that establishes  
1-53 child support.

1-54 (b) A signatory seeking to rescind an acknowledgment of  
1-55 paternity or denial of paternity must file with the bureau of vital  
1-56 statistics a completed rescission, on the form prescribed under  
1-57 Section 160.312, in which the signatory declares under penalty of  
1-58 perjury that:

1-59 (1) as of the date the rescission is filed, a court  
1-60 hearing has not been held in a proceeding affecting the child  
1-61 identified in the acknowledgment of paternity or denial of  
1-62 paternity, including a proceeding to establish child support;

1-63 (2) a copy of the completed rescission was sent by  
1-64 certified or registered mail, return receipt requested, to:

2-1 (A) if the rescission is of an acknowledgment of  
 2-2 paternity, the other signatory of the acknowledgment of paternity  
 2-3 and the signatory of any related denial of paternity; or

2-4 (B) if the rescission is of a denial of  
 2-5 paternity, both signatories of the acknowledgment of paternity; and

2-6 (3) if the acknowledgment of paternity or denial of  
 2-7 paternity to be rescinded is filed in connection with a Title IV-D  
 2-8 case, a copy of the completed rescission was sent by certified or  
 2-9 registered mail to the Title IV-D agency.

2-10 (c) On receipt of a completed rescission, accompanied by the  
 2-11 signed return receipts from each person required to be notified  
 2-12 under Subsection (b)(2), the bureau of vital statistics shall void  
 2-13 the acknowledgment of paternity or denial of paternity affected by  
 2-14 the rescission and amend the birth record of the child, if  
 2-15 appropriate.

2-16 (d) Any party affected by the rescission, including the  
 2-17 Title IV-D agency, may contest the rescission by filing a  
 2-18 proceeding not later than the 60th day after the date on which the  
 2-19 rescission is filed with the bureau of vital statistics.

2-20 SECTION 4. Section 160.308, Family Code, is amended by  
 2-21 amending Subsection (a) and adding Subsection (e) to read as  
 2-22 follows:

2-23 (a) After the period for rescission under Section 160.307  
 2-24 has expired, a signatory of an acknowledgment of paternity or  
 2-25 denial of paternity may commence a proceeding to challenge the  
 2-26 acknowledgment or denial only on the basis of fraud, duress, or  
 2-27 material mistake of fact. Except as provided by Subsection (e),  
 2-28 the [The] proceeding must be commenced before the fourth  
 2-29 anniversary of the date the acknowledgment or denial is filed with  
 2-30 the bureau of vital statistics unless the signatory was a minor on  
 2-31 the date the signatory executed the acknowledgment or denial. If  
 2-32 the signatory was a minor on the date the signatory executed the  
 2-33 acknowledgment or denial, the proceeding must be commenced before  
 2-34 the earlier of the fourth anniversary of the date of:

2-35 (1) the signatory's 18th birthday; or

2-36 (2) the removal of the signatory's disabilities of  
 2-37 minority by court order, marriage, or by other operation of law.

2-38 (e) A proceeding authorized by Subsection (a) may be  
 2-39 commenced after the applicable deadline specified by that  
 2-40 subsection if, as of the date the proceeding is commenced, a court  
 2-41 has not rendered an order affecting the child identified in the  
 2-42 acknowledgment or denial of paternity, including an order relating  
 2-43 to support of the child.

2-44 SECTION 5. Section 160.309, Family Code, is amended to read  
 2-45 as follows:

2-46 Sec. 160.309. PROCEDURE FOR CONTEST OF RESCISSION OR  
 2-47 CHALLENGE. (a) Each signatory to an acknowledgment of paternity  
 2-48 and any related denial of paternity must be made a party to a  
 2-49 proceeding to contest a rescission of [~~rescind~~] or challenge the  
 2-50 acknowledgment or denial of paternity.

2-51 (b) For purposes of the contest of the rescission of or [a]  
 2-52 challenge to an acknowledgment of paternity or denial of paternity,  
 2-53 a signatory submits to the personal jurisdiction of this state by  
 2-54 signing the acknowledgment or denial. The jurisdiction is  
 2-55 effective on the filing of the document with the bureau of vital  
 2-56 statistics.

2-57 (c) Except for good cause shown, while a proceeding is  
 2-58 pending to contest a rescission of [~~rescind~~] or challenge an  
 2-59 acknowledgment of paternity or a denial of paternity, the court may  
 2-60 not suspend the legal responsibilities of a signatory arising from  
 2-61 the acknowledgment, including the duty to pay child support.

2-62 (d) A proceeding to contest a rescission of [~~rescind~~] or  
 2-63 [to] challenge an acknowledgment of paternity or a denial of  
 2-64 paternity shall be conducted in the same manner as a proceeding to  
 2-65 adjudicate parentage under Subchapter G.

2-66 (e) At the conclusion of a proceeding to contest a  
 2-67 rescission of [~~rescind~~] or challenge an acknowledgment of paternity  
 2-68 or a denial of paternity, the court shall order the bureau of vital  
 2-69 statistics to amend the birth record of the child, if appropriate.

3-1 SECTION 6. Section 160.312, Family Code, is amended to read  
3-2 as follows:

3-3 Sec. 160.312. FORMS [~~FOR ACKNOWLEDGMENT AND DENIAL OF~~  
3-4 ~~PATERNITY~~]. (a) To facilitate compliance with this subchapter,  
3-5 the bureau of vital statistics shall prescribe forms for the:

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

3-10 (b) A valid acknowledgment of paternity, [~~or~~] denial of  
3-11 paternity, or rescission of an acknowledgment or denial of  
3-12 paternity is not affected by a later modification of the prescribed  
3-13 form.

3-14 SECTION 7. Section 160.313, Family Code, is amended to read  
3-15 as follows:

3-16 Sec. 160.313. RELEASE OF INFORMATION. The bureau of vital  
3-17 statistics may release information relating to the acknowledgment  
3-18 or denial of paternity or rescission of the acknowledgment or  
3-19 denial of paternity to a signatory of the acknowledgment, [~~or~~]  
3-20 denial, or rescission and to the courts and Title IV-D agency of  
3-21 this or another state.

3-22 SECTION 8. Subsection (a), Section 160.609, Family Code, is  
3-23 amended to read as follows:

3-24 (a) If a child has an acknowledged father, a signatory to  
3-25 the acknowledgment or denial of paternity may commence a proceeding  
3-26 to contest the rescission of [~~seeking to rescind~~] the  
3-27 acknowledgment or denial or to challenge the paternity of the child  
3-28 only within the time allowed under Section 160.307 or 160.308.

3-29 SECTION 9. The changes in law made by this Act apply only to  
3-30 an acknowledgment or denial of paternity that becomes effective on  
3-31 or after the effective date of this Act. An acknowledgment or  
3-32 denial of paternity that became effective before the effective date  
3-33 of this Act is governed by the law in effect at the time the  
3-34 acknowledgment or denial of paternity became effective, and the  
3-35 former law is continued in effect for that purpose.

3-36 SECTION 10. This Act takes effect September 1, 2009.

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