

By: Harris

S.B. No. 519

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.