

By: Thompson

H.B. No. 2421

A BILL TO BE ENTITLED

AN ACT

relating to determinations of paternity; creating an offense.

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

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

(a) An acknowledgment of paternity must:

(1) be in a record;

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

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

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

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

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

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

SECTION 2. Section 160.305(b), Family Code, is amended to read as follows:

(b) Except as provided by Section [~~Sections 160.307 and~~ 160.308, a valid denial of paternity filed with the bureau of vital statistics in conjunction with a valid acknowledgment of paternity is the equivalent of an adjudication of the nonpaternity of the presumed father and discharges the presumed father from all rights and duties of a parent.

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

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

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

SECTION 4. Section 160.307, Family Code, is amended to read as follows:

Sec. 160.307. PROCEDURES [~~PROCEEDING~~] FOR RESCISSION. (a) A signatory may rescind an acknowledgment of paternity as provided by this section [~~or denial of paternity by commencing a proceeding to rescind~~] before the earlier of:

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

(2) the date an administrative or judicial [~~of the first hearing in a~~] proceeding relating to the child to which the signatory is a party is initiated [~~before a court to adjudicate an issue relating to the child~~], including a proceeding that

1 establishes child support.

2 (b) A signatory seeking to rescind an acknowledgment of
3 paternity must file with the bureau of vital statistics a completed
4 rescission, on the form prescribed under Section 160.312, in which
5 the signatory declares under penalty of perjury that:

6 (1) as of the date the rescission is filed, an
7 administrative or judicial proceeding has not been held affecting
8 the child identified in the acknowledgment of paternity, including
9 a proceeding to establish child support;

10 (2) a copy of the completed rescission was sent by
11 certified or registered mail, return receipt requested, to the
12 other signatory of the acknowledgment of paternity and the
13 signatory of any related denial of paternity; and

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

18 (c) On receipt of a completed rescission, the bureau of
19 vital statistics shall void the acknowledgment of paternity
20 affected by the rescission and amend the birth record of the child,
21 if appropriate.

22 (d) Any party affected by the rescission, including the
23 Title IV-D agency, may contest the rescission by bringing a
24 proceeding under Subchapter G to adjudicate the parentage of the
25 child.

26 SECTION 5. The heading to Section 160.308, Family Code, is
27 amended to read as follows:

1 Sec. 160.308. CHALLENGE OF ACKNOWLEDGEMENT OR DENIAL OF
2 PATERNITY [~~AFTER EXPIRATION OF PERIOD FOR RESCISSION~~].

3 SECTION 6. Section 160.308, Family Code, is amended by
4 amending Subsections (a) and (c) and adding Subsection (a-1) to
5 read as follows:

6 (a) After the period for rescission under Section 160.307
7 has expired, a signatory of an acknowledgment of paternity [~~or~~
8 ~~denial of paternity~~] may commence a proceeding to challenge the
9 acknowledgment [~~or denial~~] only on the basis of fraud, duress, or
10 material mistake of fact. The proceeding may [~~must~~] be commenced
11 at any time before the issuance of an administrative or judicial
12 order affecting the child identified in [~~fourth anniversary of the~~
13 ~~date~~] the acknowledgment, including an order relating to support of
14 the child [~~or denial is filed with the bureau of vital statistics~~
15 ~~unless the signatory was a minor on the date the signatory executed~~
16 ~~the acknowledgment or denial. If the signatory was a minor on the~~
17 ~~date the signatory executed the acknowledgment or denial, the~~
18 ~~proceeding must be commenced before the earlier of the fourth~~
19 ~~anniversary of the date of:~~

20 [~~(1) the signatory's 18th birthday, or~~

21 [~~(2) the removal of the signatory's disabilities of~~
22 ~~minority by court order, marriage, or by other operation of law~~].

23 (a-1) A signatory of a denial of paternity may commence a
24 proceeding to challenge the denial only on the basis of fraud,
25 duress, or material mistake of fact. The proceeding may be
26 commenced at any time before the issuance of an administrative or
27 judicial order affecting the child identified in the denial,

including an order relating to support of the child.

(c) Notwithstanding any other provision of this chapter, a collateral attack on an acknowledgment of paternity signed under this chapter may not be maintained after the issuance of an administrative or judicial order affecting the child identified in the acknowledgment, including an order relating to support of the child ~~[fourth anniversary of the date the acknowledgment of paternity is filed with the bureau of vital statistics unless the signatory was a minor on the date the signatory executed the acknowledgment. If the signatory was a minor on the date the signatory executed the acknowledgment, a collateral attack on the acknowledgment of paternity may not be maintained after the earlier of the fourth anniversary of the date of:~~

~~[(1) the signatory's 18th birthday, or~~

~~[(2) the removal of the signatory's disabilities of minority by court order, marriage, or by other operation of law].~~

SECTION 7. Section 160.309, Family Code, is amended to read as follows:

Sec. 160.309. PROCEDURE FOR ~~[RESCISSION OR]~~ CHALLENGE. (a) Each signatory to an acknowledgment of paternity and any related denial of paternity must be made a party to a proceeding to ~~[rescind or]~~ challenge the acknowledgment or denial of paternity.

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

1 (c) Except for good cause shown, while a proceeding is
2 pending to ~~[rescind or]~~ challenge an acknowledgment of paternity or
3 a denial of paternity, the court may not suspend the legal
4 responsibilities of a signatory arising from the acknowledgment,
5 including the duty to pay child support.

6 (d) A proceeding to ~~[rescind or to]~~ challenge an
7 acknowledgment of paternity or a denial of paternity shall be
8 conducted in the same manner as a proceeding to adjudicate
9 parentage under Subchapter G.

10 (e) At the conclusion of a proceeding to ~~[rescind or]~~
11 challenge an acknowledgment of paternity or a denial of paternity,
12 the court shall order the bureau of vital statistics to amend the
13 birth record of the child, if appropriate.

14 SECTION 8. Section 160.312, Family Code, is amended to read
15 as follows:

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

19 (1) acknowledgment of paternity;

20 (2) ~~[and the]~~ denial of paternity; and

21 (3) rescission of an acknowledgment of paternity.

22 (b) A valid acknowledgment of paternity, ~~[or]~~ denial of
23 paternity, or rescission of an acknowledgment of paternity is not
24 affected by a later modification of the prescribed form.

25 SECTION 9. Section 160.313, Family Code, is amended to read
26 as follows:

27 Sec. 160.313. RELEASE OF INFORMATION. The bureau of vital

1 statistics may release information relating to the acknowledgment
2 or denial of paternity or rescission of the acknowledgment [~~or~~
3 ~~denial~~] of paternity to a signatory of the acknowledgment, [~~or~~
4 denial, or rescission and to the courts and Title IV-D agency of
5 this or another state.

6 SECTION 10. Subchapter F, Chapter 160, Family Code, is
7 amended by adding Section 160.512 to read as follows:

8 Sec. 160.512. OFFENSE: FALSIFICATION OF SPECIMEN. (a) A
9 person commits an offense if the person alters, destroys, conceals,
10 fabricates, or falsifies genetic evidence in a proceeding to
11 adjudicate parentage, including inducing another person to provide
12 a specimen with the intent to affect the outcome of the proceeding.

13 (b) An offense under this section is a felony of the third
14 degree.

15 (c) An order excluding a man as the biological father of a
16 child based on genetic evidence shown to be altered, fabricated, or
17 falsified is void and unenforceable.

18 SECTION 11. Section 160.607(b), Family Code, is amended to
19 read as follows:

20 (b) A proceeding seeking to adjudicate the parentage of a
21 child having a [~~disprove the father-child relationship between a~~
22 ~~child and the child's~~] presumed father may be maintained at any time
23 if the court determines that:

24 (1) the presumed father and the mother of the child did
25 not live together or engage in sexual intercourse with each other
26 during the probable time of conception; or [~~and~~]

27 (2) the presumed father was precluded from commencing

1 a proceeding to adjudicate the parentage of the child before the
2 expiration of the time prescribed by Subsection (a) because of the
3 mistaken belief that he was the child's biological father based on
4 misrepresentations that led him to that conclusion [~~never~~
5 ~~represented to others that the child was his own~~].

6 SECTION 12. Section 160.608(f), Family Code, is amended to
7 read as follows:

8 (f) This section applies to a proceeding to [~~rescind or~~
9 challenge an acknowledgment of paternity or a denial of paternity
10 as provided by Section 160.309(d)].

11 SECTION 13. Section 160.609(a), Family Code, is amended to
12 read as follows:

13 (a) If a child has an acknowledged father, a signatory to
14 the acknowledgment or denial of paternity may commence a proceeding
15 [~~seeking to rescind the acknowledgment or denial or~~] to challenge
16 the paternity of the child only within the time allowed under
17 Section [~~160.307 or~~] 160.308.

18 SECTION 14. (a) The changes in law made by this Act with
19 respect to an acknowledgment or denial of paternity apply only to an
20 acknowledgment or denial of paternity that becomes effective on or
21 after the effective date of this Act. An acknowledgment or denial of
22 paternity that became effective before the effective date of this
23 Act is governed by the law in effect at the time the acknowledgment
24 or denial of paternity became effective, and the former law is
25 continued in effect for that purpose.

26 (b) The changes in law made by this Act with respect to a
27 proceeding to adjudicate parentage apply only to a proceeding that

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1 is commenced on or after the effective date of this Act. A
2 proceeding to adjudicate parentage commenced before the effective
3 date of this Act is governed by the law in effect on the date the
4 proceeding was commenced, and the former law is continued in effect
5 for that purpose.

6 SECTION 15. This Act takes effect September 1, 2011.