

By: West
(Thompson)

S.B. No. 502

Substitute the following for S.B. No. 502:

By: Jackson

C.S.S.B. No. 502

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~~].

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

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

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

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

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

- 15 (1) the 60th day after the effective date of the
16 acknowledgment or denial, as provided by Section 160.304; or
17 (2) the date [~~of the first hearing in~~] a proceeding to
18 which the signatory is a party is initiated before a court to
19 adjudicate an issue relating to the child, including a proceeding
20 that establishes child support.

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

- 26 (1) as of the date the rescission is filed, a
27 proceeding has not been held affecting the child identified in the

1 acknowledgment of paternity or denial of paternity, including a
2 proceeding to establish child support;

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

5 (A) if the rescission is of an acknowledgment of
6 paternity, the other signatory of the acknowledgment of paternity
7 and the signatory of any related denial of paternity; or

8 (B) if the rescission is of a denial of
9 paternity, the signatories of the related acknowledgment of
10 paternity; and

11 (3) if a signatory to the acknowledgment of paternity
12 or denial of paternity is receiving services from the Title IV-D
13 agency, a copy of the completed rescission was sent by certified or
14 registered mail to the Title IV-D agency.

15 (c) On receipt of a completed rescission, the bureau of
16 vital statistics shall void the acknowledgment of paternity or
17 denial of paternity affected by the rescission and amend the birth
18 record of the child, if appropriate.

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

23 SECTION 4. Sections 160.308(a) and (c), Family Code, are
24 amended to read as follows:

25 (a) After the period for rescission under Section 160.307
26 has expired, a signatory of an acknowledgment of paternity or
27 denial of paternity may commence a proceeding to challenge the

1 acknowledgment or denial only on the basis of fraud, duress, or
2 material mistake of fact. The proceeding may ~~[must]~~ be commenced
3 at any time before the issuance of an order affecting the child
4 identified in ~~[fourth anniversary of the date]~~ the acknowledgment
5 or denial, including an order relating to support of the child ~~[is~~
6 ~~filed with the bureau of vital statistics unless the signatory was a~~
7 ~~minor on the date the signatory executed the acknowledgment or~~
8 ~~denial. If the signatory was a minor on the date the signatory~~
9 ~~executed the acknowledgment or denial, the proceeding must be~~
10 ~~commenced before the earlier of the fourth anniversary of the date~~
11 ~~of:~~

12 ~~[(1) the signatory's 18th birthday, or~~
13 ~~[(2) the removal of the signatory's disabilities of~~
14 ~~minority by court order, marriage, or by other operation of law].~~

15 (c) Notwithstanding any other provision of this chapter, a
16 collateral attack on an acknowledgment of paternity signed under
17 this chapter may not be maintained after the issuance of an order
18 affecting the child identified in the acknowledgment, including an
19 order relating to support of the child ~~[fourth anniversary of the~~
20 ~~date the acknowledgment of paternity is filed with the bureau of~~
21 ~~vital statistics unless the signatory was a minor on the date the~~
22 ~~signatory executed the acknowledgment. If the signatory was a~~
23 ~~minor on the date the signatory executed the acknowledgment, a~~
24 ~~collateral attack on the acknowledgment of paternity may not be~~
25 ~~maintained after the earlier of the fourth anniversary of the date~~
26 ~~of:~~

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

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

3 SECTION 5. Section 160.309, Family Code, is amended to read
4 as follows:

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

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

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

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

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

27 SECTION 6. Section 160.312, Family Code, is amended to read

1 as follows:

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

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

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

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

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

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

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

25 SECTION 8. Section 160.607(b), Family Code, is amended to
26 read as follows:

27 (b) A proceeding seeking to adjudicate the parentage of a

1 child having a [~~disprove the father-child relationship between a~~
2 ~~child and the child's~~] presumed father may be maintained at any time
3 if the court determines that:

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

7 (2) the presumed father was precluded from commencing
8 a proceeding to adjudicate the parentage of the child before the
9 expiration of the time prescribed by Subsection (a) because of the
10 mistaken belief that he was the child's biological father based on
11 misrepresentations that led him to that conclusion [~~never~~
12 ~~represented to others that the child was his own~~].

13 SECTION 9. Section 160.608(f), Family Code, is amended to
14 read as follows:

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

18 SECTION 10. Section 160.609(a), Family Code, is amended to
19 read as follows:

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

25 SECTION 11. (a) The changes in law made by this Act with
26 respect to an acknowledgment or denial of paternity apply only to an
27 acknowledgment or denial of paternity that becomes effective on or

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

6 (b) The changes in law made by this Act with respect to a
7 proceeding to adjudicate parentage apply only to a proceeding that
8 is commenced on or after the effective date of this Act. A
9 proceeding to adjudicate parentage commenced before the effective
10 date of this Act is governed by the law in effect on the date the
11 proceeding was commenced, and the former law is continued in effect
12 for that purpose.

13 SECTION 12. This Act takes effect September 1, 2011.