

1-1 By: West S.B. No. 502  
1-2 (In the Senate - Filed February 1, 2011; February 17, 2011,  
1-3 read first time and referred to Committee on Jurisprudence;  
1-4 March 14, 2011, reported favorably by the following vote: Yeas 6,  
1-5 Nays 0; March 14, 2011, sent to printer.)

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

1-8 relating to determinations of paternity; creating an offense.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Subsection (a), Section 160.302, Family Code, is  
1-11 amended to read as follows:

1-12 (a) An acknowledgment of paternity must:

1-13 (1) be in a record;

1-14 (2) be signed, or otherwise authenticated, under  
1-15 penalty of perjury by the mother and the man seeking to establish  
1-16 paternity;

1-17 (3) state that the child whose paternity is being  
1-18 acknowledged:

1-19 (A) does not have a presumed father or has a  
1-20 presumed father whose full name is stated; and

1-21 (B) does not have another acknowledged or  
1-22 adjudicated father;

1-23 (4) state whether there has been genetic testing and,  
1-24 if so, that the acknowledging man's claim of paternity is  
1-25 consistent with the results of the testing; and

1-26 (5) state that the signatories understand that the  
1-27 acknowledgment is the equivalent of a judicial adjudication of the  
1-28 paternity of the child and that a challenge to the acknowledgment is  
1-29 permitted only under limited circumstances [~~and is barred after~~  
1-30 ~~four years~~].

1-31 SECTION 2. Subsection (b), Section 160.305, Family Code, is  
1-32 amended to read as follows:

1-33 (b) Except as provided by Section [~~Sections 160.307 and~~  
1-34 160.308, a valid denial of paternity filed with the bureau of vital  
1-35 statistics in conjunction with a valid acknowledgment of paternity  
1-36 is the equivalent of an adjudication of the nonpaternity of the  
1-37 presumed father and discharges the presumed father from all rights  
1-38 and duties of a parent.

1-39 SECTION 3. Section 160.306, Family Code, is amended to read  
1-40 as follows:

1-41 Sec. 160.306. FILING FEE NOT REQUIRED. The bureau of vital  
1-42 statistics may not charge a fee for filing:

1-43 (1) an acknowledgment of paternity;

1-44 (2) a ~~or~~ denial of paternity; or

1-45 (3) a rescission of an acknowledgment of paternity.

1-46 SECTION 4. Section 160.307, Family Code, is amended to read  
1-47 as follows:

1-48 Sec. 160.307. PROCEDURES [~~PROCEEDING~~] FOR RESCISSION. (a)  
1-49 A signatory may rescind an acknowledgment of paternity as provided  
1-50 by this section [~~or denial of paternity by commencing a proceeding~~  
1-51 ~~to rescind~~] before the earlier of:

1-52 (1) the 60th day after the effective date of the  
1-53 acknowledgment [~~or denial~~], as provided by Section 160.304; or

1-54 (2) the date an administrative or judicial [~~of the~~  
1-55 ~~first hearing in a~~] proceeding relating to the child to which the  
1-56 signatory is a party is initiated [~~before a court to adjudicate an~~  
1-57 ~~issue relating to the child~~], including a proceeding that  
1-58 establishes child support.

1-59 (b) A signatory seeking to rescind an acknowledgment of  
1-60 paternity must file with the bureau of vital statistics a completed  
1-61 rescission, on the form prescribed under Section 160.312, in which  
1-62 the signatory declares under penalty of perjury that:

1-63 (1) as of the date the rescission is filed, an  
1-64 administrative or judicial proceeding has not been held affecting

2-1 the child identified in the acknowledgment of paternity, including  
 2-2 a proceeding to establish child support;

2-3 (2) a copy of the completed rescission was sent by  
 2-4 certified or registered mail, return receipt requested, to the  
 2-5 other signatory of the acknowledgment of paternity and the  
 2-6 signatory of any related denial of paternity; and

2-7 (3) if the acknowledgment of paternity to be rescinded  
 2-8 is filed in connection with a Title IV-D case, a copy of the  
 2-9 completed rescission was sent by certified or registered mail to  
 2-10 the Title IV-D agency.

2-11 (c) On receipt of a completed rescission, the bureau of  
 2-12 vital statistics shall void the acknowledgment of paternity  
 2-13 affected by the rescission and amend the birth record of the child,  
 2-14 if appropriate.

2-15 (d) Any party affected by the rescission, including the  
 2-16 Title IV-D agency, may contest the rescission by bringing a  
 2-17 proceeding under Subchapter G to adjudicate the parentage of the  
 2-18 child.

2-19 SECTION 5. The heading to Section 160.308, Family Code, is  
 2-20 amended to read as follows:

2-21 Sec. 160.308. CHALLENGE OF ACKNOWLEDGEMENT OR DENIAL OF  
 2-22 PATERNITY [~~AFTER EXPIRATION OF PERIOD FOR RESCISSION~~].

2-23 SECTION 6. Section 160.308, Family Code, is amended by  
 2-24 amending Subsections (a) and (c) and adding Subsection (a-1) to  
 2-25 read as follows:

2-26 (a) After the period for rescission under Section 160.307  
 2-27 has expired, a signatory of an acknowledgment of paternity [~~or~~  
 2-28 ~~denial of paternity~~] may commence a proceeding to challenge the  
 2-29 acknowledgment [~~or denial~~] only on the basis of fraud, duress, or  
 2-30 material mistake of fact. The proceeding may [~~must~~] be commenced  
 2-31 at any time before the issuance of an administrative or judicial  
 2-32 order affecting the child identified in [~~fourth anniversary of the~~  
 2-33 ~~date~~] the acknowledgment, including an order relating to support of  
 2-34 the child [~~or denial is filed with the bureau of vital statistics~~  
 2-35 ~~unless the signatory was a minor on the date the signatory executed~~  
 2-36 ~~the acknowledgment or denial. If the signatory was a minor on the~~  
 2-37 ~~date the signatory executed the acknowledgment or denial, the~~  
 2-38 ~~proceeding must be commenced before the earlier of the fourth~~  
 2-39 ~~anniversary of the date of:~~

2-40 [~~(1) the signatory's 18th birthday, or~~

2-41 [~~(2) the removal of the signatory's disabilities of~~  
 2-42 ~~minority by court order, marriage, or by other operation of law].~~

2-43 (a-1) A signatory of a denial of paternity may commence a  
 2-44 proceeding to challenge the denial only on the basis of fraud,  
 2-45 duress, or material mistake of fact. The proceeding may be  
 2-46 commenced at any time before the issuance of an administrative or  
 2-47 judicial order affecting the child identified in the denial,  
 2-48 including an order relating to support of the child.

2-49 (c) Notwithstanding any other provision of this chapter, a  
 2-50 collateral attack on an acknowledgment of paternity signed under  
 2-51 this chapter may not be maintained after the issuance of an  
 2-52 administrative or judicial order affecting the child identified in  
 2-53 the acknowledgment, including an order relating to support of the  
 2-54 child [~~fourth anniversary of the date the acknowledgment of~~  
 2-55 ~~paternity is filed with the bureau of vital statistics unless the~~  
 2-56 ~~signatory was a minor on the date the signatory executed the~~  
 2-57 ~~acknowledgment. If the signatory was a minor on the date the~~  
 2-58 ~~signatory executed the acknowledgment, a collateral attack on the~~  
 2-59 ~~acknowledgment of paternity may not be maintained after the earlier~~  
 2-60 ~~of the fourth anniversary of the date of:~~

2-61 [~~(1) the signatory's 18th birthday, or~~

2-62 [~~(2) the removal of the signatory's disabilities of~~  
 2-63 ~~minority by court order, marriage, or by other operation of law].~~

2-64 SECTION 7. Section 160.309, Family Code, is amended to read  
 2-65 as follows:

2-66 Sec. 160.309. PROCEDURE FOR [~~RESCISSION OR~~] CHALLENGE.

2-67 (a) Each signatory to an acknowledgment of paternity and any  
 2-68 related denial of paternity must be made a party to a proceeding to  
 2-69 [~~rescind or~~] challenge the acknowledgment or denial of paternity.

3-1 (b) For purposes of ~~[the rescission of or]~~ a challenge to an  
 3-2 acknowledgment of paternity or denial of paternity, a signatory  
 3-3 submits to the personal jurisdiction of this state by signing the  
 3-4 acknowledgment or denial. The jurisdiction is effective on the  
 3-5 filing of the document with the bureau of vital statistics.

3-6 (c) Except for good cause shown, while a proceeding is  
 3-7 pending to ~~[rescind or]~~ challenge an acknowledgment of paternity or  
 3-8 a denial of paternity, the court may not suspend the legal  
 3-9 responsibilities of a signatory arising from the acknowledgment,  
 3-10 including the duty to pay child support.

3-11 (d) A proceeding to ~~[rescind or to]~~ challenge an  
 3-12 acknowledgment of paternity or a denial of paternity shall be  
 3-13 conducted in the same manner as a proceeding to adjudicate  
 3-14 parentage under Subchapter G.

3-15 (e) At the conclusion of a proceeding to ~~[rescind or]~~  
 3-16 challenge an acknowledgment of paternity or a denial of paternity,  
 3-17 the court shall order the bureau of vital statistics to amend the  
 3-18 birth record of the child, if appropriate.

3-19 SECTION 8. Section 160.312, Family Code, is amended to read  
 3-20 as follows:

3-21 Sec. 160.312. FORMS ~~[FOR ACKNOWLEDGMENT AND DENIAL OF~~  
 3-22 ~~PATERNITY]~~. (a) To facilitate compliance with this subchapter,  
 3-23 the bureau of vital statistics shall prescribe forms for the:

3-24 (1) acknowledgment of paternity;

3-25 (2) ~~[and the]~~ denial of paternity; and

3-26 (3) rescission of an acknowledgment of paternity.

3-27 (b) A valid acknowledgment of paternity, ~~[or]~~ denial of  
 3-28 paternity, or rescission of an acknowledgment of paternity is not  
 3-29 affected by a later modification of the prescribed form.

3-30 SECTION 9. Section 160.313, Family Code, is amended to read  
 3-31 as follows:

3-32 Sec. 160.313. RELEASE OF INFORMATION. The bureau of vital  
 3-33 statistics may release information relating to the acknowledgment  
 3-34 or denial of paternity or rescission of the acknowledgment ~~[or~~  
 3-35 denial] of paternity to a signatory of the acknowledgment, ~~[or]~~  
 3-36 denial, or rescission and to the courts and Title IV-D agency of  
 3-37 this or another state.

3-38 SECTION 10. Subchapter F, Chapter 160, Family Code, is  
 3-39 amended by adding Section 160.512 to read as follows:

3-40 Sec. 160.512. OFFENSE: FALSIFICATION OF SPECIMEN. (a) A  
 3-41 person commits an offense if the person alters, destroys, conceals,  
 3-42 fabricates, or falsifies genetic evidence in a proceeding to  
 3-43 adjudicate parentage, including inducing another person to provide  
 3-44 a specimen with the intent to affect the outcome of the proceeding.

3-45 (b) An offense under this section is a felony of the third  
 3-46 degree.

3-47 (c) An order excluding a man as the biological father of a  
 3-48 child based on genetic evidence shown to be altered, fabricated, or  
 3-49 falsified is void and unenforceable.

3-50 SECTION 11. Subsection (b), Section 160.607, Family Code,  
 3-51 is amended to read as follows:

3-52 (b) A proceeding seeking to adjudicate the parentage of a  
 3-53 child having a ~~[disprove the father-child relationship between a~~  
 3-54 child and the child's] presumed father may be maintained at any time  
 3-55 if the court determines that:

3-56 (1) the presumed father and the mother of the child did  
 3-57 not live together or engage in sexual intercourse with each other  
 3-58 during the probable time of conception; or [and]

3-59 (2) the presumed father was precluded from commencing  
 3-60 a proceeding to adjudicate the parentage of the child before the  
 3-61 expiration of the time prescribed by Subsection (a) because of the  
 3-62 mistaken belief that he was the child's biological father based on  
 3-63 misrepresentations that led him to that conclusion ~~[never~~  
 3-64 represented to others that the child was his own].

3-65 SECTION 12. Subsection (f), Section 160.608, Family Code,  
 3-66 is amended to read as follows:

3-67 (f) This section applies to a proceeding to ~~[rescind or]~~  
 3-68 challenge an acknowledgment of paternity or a denial of paternity  
 3-69 as provided by Section 160.309(d).

4-1 SECTION 13. Subsection (a), Section 160.609, Family Code,  
4-2 is amended to read as follows:

4-3 (a) If a child has an acknowledged father, a signatory to  
4-4 the acknowledgment or denial of paternity may commence a proceeding  
4-5 [~~seeking to rescind the acknowledgment or denial or~~] to challenge  
4-6 the paternity of the child only within the time allowed under  
4-7 Section [~~160.307 or~~] 160.308.

4-8 SECTION 14. (a) The changes in law made by this Act with  
4-9 respect to an acknowledgment or denial of paternity apply only to an  
4-10 acknowledgment or denial of paternity that becomes effective on or  
4-11 after the effective date of this Act. An acknowledgment or denial  
4-12 of paternity that became effective before the effective date of  
4-13 this Act is governed by the law in effect at the time the  
4-14 acknowledgment or denial of paternity became effective, and the  
4-15 former law is continued in effect for that purpose.

4-16 (b) The changes in law made by this Act with respect to a  
4-17 proceeding to adjudicate parentage apply only to a proceeding that  
4-18 is commenced on or after the effective date of this Act. A  
4-19 proceeding to adjudicate parentage commenced before the effective  
4-20 date of this Act is governed by the law in effect on the date the  
4-21 proceeding was commenced, and the former law is continued in effect  
4-22 for that purpose.

4-23 SECTION 15. This Act takes effect September 1, 2011.

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