

BILL ANALYSIS

C.S.H.B. 154
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Legislation recently was passed into law relating to the termination of the parent-child relationship and the duty to pay child support in circumstances involving mistaken paternity. While this legislation provided a mechanism by which a man who has either signed an acknowledgement of paternity or is adjudicated to be the father of a child without obtaining genetic testing can have the parent-child relationship terminated, thereby ensuring the man is no longer required to pay child support in the future, there is concern that such provisions do not adequately address obligations to pay interest accrued after the date the relationship is terminated. C.S.H.B. 154 aims to further protect a mistaken father from certain child support payment obligations.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 154 amends the Family Code to extend the filing deadline for a petition for a suit to terminate the parent-child relationship between a man and a child by a man who, without obtaining genetic testing, signed an acknowledgment of paternity of the child or was adjudicated to be the father of the child in a previous proceeding in which genetic testing did not occur from not later than the first anniversary to not later than the second anniversary of the date on which the petitioner becomes aware of the facts alleged in the petition indicating the petitioner is not the child's genetic father.

C.S.H.B. 154 establishes that an order terminating the parent-child relationship based on the results of genetic testing, in addition to ending the petitioner's obligation for future child support as of the date the order is rendered, ends the petitioner's obligation to pay interest that accrues after that date on the basis of a child support arrearage or money judgment for a child support arrearage existing on that date.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 154 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 161.005, Family Code, is amended by amending Subsections (e) and (i) and adding Subsections (e-2), (e-3), and (p) to read as follows:

(e) A petition under Subsection (c) ~~may~~ **[must]** be filed ~~at any time, regardless [not later than the first anniversary]~~ **[at any time, regardless [not later than the second anniversary]]** of the date on which the petitioner becomes aware of the facts alleged in the petition indicating that the petitioner is not the child's genetic father.

(e-2) A man who files a petition under Subsection (c) and is unable for at least 60 days to obtain service of citation on the child's mother may request that the court order the suspension of withholding for support of the child from the man's disposable earnings. After hearing, the court shall order suspension if the man demonstrates he was unable to obtain service of citation despite a good faith effort. The suspension ends on the date that citation is served on the child's mother. A suspension ordered under this subsection applies to an order or judicial or administrative writ of withholding, notwithstanding any provision in Chapter 154 or 158.

(e-3) If, as a result of the suspension of child support withholding under Subsection (e-2), the child's mother contacts the court and indicates that the mother has concealed the address of her residence because of the threat of family violence as defined by Section 71.004, the court may order the court clerk to:
(1) make arrangements for citation to be served on the child's mother without disclosure of the address of the mother's residence to the man seeking to obtain service;
(2) strike information concerning the address of the mother's residence from the public records of the court; and
(3) maintain a confidential record of the address of the mother's residence for use only by the court.

(i) An order under Subsection (h) terminating the parent-child relationship ends the petitioner's obligation for future support of the child as of the date the order is rendered.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Sections 161.005(e) and (i), Family Code, are amended to read as follows:

(e) A petition under Subsection (c) ~~may~~ **[must]** be filed ~~at any time, regardless [not later than the first anniversary]~~ **[not later than the second [first] anniversary]** of the date on which the petitioner becomes aware of the facts alleged in the petition indicating that the petitioner is not the child's genetic father.

[No equivalent provision.]

[No equivalent provision.]

(i) An order under Subsection (h) terminating the parent-child relationship ends the petitioner's obligation for future support of the child as of the date the order is rendered, **[as well as the obligation to pay interest that accrues after that date on the basis of a child support arrearage or]**

The order ~~also ends [does not affect]~~ the petitioner's obligation to pay child support arrearages, including interest, accrued [obligations for support of the child incurred] before that date [or the petitioner's obligation to pay interest that accrues after that date on the basis of child support arrearages existing on that date. Those obligations are enforceable until satisfied by any means available for the enforcement of child support other than contempt]. The elimination of the obligation to pay child support arrearages, including interest, is for the purpose of correcting an act induced by a mistaken belief based on misrepresentations and is not a retroactive modification.

(p) A man who previously sought termination of the parent-child relationship under this section as it existed on or before January 1, 2011, is not precluded by Section 161.004 from filing a petition under Subsection (c) and obtaining the remedy to which he may be entitled under this section.

SECTION 2. Section 161.005, Family Code, as amended by this Act, applies only to a suit affecting the parent-child relationship pending in a trial court on the effective date of this Act or filed on or after that date. A suit affecting the parent-child relationship in which a final order is rendered before the effective date of this Act is governed by the law in effect on the date the order was rendered, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

~~money judgment for a child support arrearage existing on that date.~~

The order does not affect the petitioner's obligations for support of the child incurred before that date ~~[or the petitioner's obligation to pay interest that accrues after that date on the basis of child support arrearages existing on that date].~~ Those obligations are enforceable until satisfied by any means available for the enforcement of child support other than contempt.

No equivalent provision.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.