

ENROLLED

AN ACT

relating to the adoption of the Uniform Parentage Act; providing penalties.

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

ARTICLE 1. UNIFORM PARENTAGE ACT

SECTION 1.01. Chapter 160, Family Code, is amended to read as follows:

CHAPTER 160. UNIFORM [~~DETERMINATION OF~~] PARENTAGE ACT

SUBCHAPTER A. APPLICATION AND CONSTRUCTION [~~GENERAL PROVISIONS~~]

Sec. 160.001. APPLICATION AND CONSTRUCTION. This chapter shall be applied and construed to promote the uniformity of the law among the states that enact the Uniform Parentage Act.

Sec. 160.002. CONFLICTS BETWEEN PROVISIONS. If a provision of this chapter conflicts with another provision of this title or another state statute or rule and the conflict cannot be reconciled, this chapter prevails.

[Sections 160.003-160.100 reserved for expansion]

SUBCHAPTER B. GENERAL PROVISIONS

Sec. 160.101. SHORT TITLE. This chapter may be cited as the Uniform Parentage Act.

Sec. 160.102. DEFINITIONS. In this chapter:

(1) "Adjudicated father" means a man who has been adjudicated by a court to be the father of a child.

(2) "Assisted reproduction" means a method of causing pregnancy other than sexual intercourse. The term includes:

(A) intrauterine insemination;

(B) donation of eggs;

(C) donation of embryos;

(D) in vitro fertilization and transfer of embryos; and

(E) intracytoplasmic sperm injection.

(3) "Child" means an individual of any age whose parentage may be determined under this chapter.

(4) "Commence" means to file the initial pleading seeking an adjudication of parentage in a court of this state.

(5) "Determination of parentage" means the establishment of the parent-child relationship by the signing of a valid acknowledgment of paternity under Subchapter D or by an adjudication by a court.

(6) "Donor" means an individual who produces eggs or sperm used for assisted reproduction, regardless of whether the production is for consideration. The term does not include:

(A) a husband who provides sperm or a wife who provides eggs to be used for assisted reproduction by the wife; or

(B) a woman who gives birth to a child by means of assisted reproduction.

(7) "Ethnic or racial group" means, for purposes of genetic testing, a recognized group that an individual identifies as all or part of the individual's ancestry or that is identified by other information.

(8) "Genetic testing" means an analysis of an individual's genetic markers to exclude or identify a man as the father of a child or a woman as the mother of a child. The term includes an analysis of one or more of the following:

(A) deoxyribonucleic acid; and

(B) blood-group antigens, red-cell antigens, human-leukocyte antigens, serum enzymes, serum proteins, or red-cell enzymes.

(9) "Intended parents" means individuals who enter into an agreement providing that the individuals will be the parents of a child born to a gestational mother by means of assisted reproduction, regardless of whether either individual has a genetic relationship with the child.

(10) "Man" means a male individual of any age.

(11) "Parent" means an individual who has established a parent-child relationship under Section 160.201.

(12) "Paternity index" means the likelihood of paternity determined by calculating the ratio between:

(A) the likelihood that the tested man is the father of the child, based on the genetic markers of the tested man, the mother of the child, and the child, conditioned on the hypothesis that the tested man is the father of the child; and

(B) the likelihood that the tested man is not the father of the child, based on the genetic markers of the tested man, the mother of the child, and the child, conditioned on the hypothesis that the tested man is not the father of the child and that the father of the child is of the same ethnic or racial group as the tested man.

(13) "Presumed father" means a man who, by operation of law under Section 160.204, is recognized as the father of a child until that status is rebutted or confirmed in a judicial proceeding.

(14) "Probability of paternity" means the probability, with respect to the ethnic or racial group to which the alleged father belongs, that the alleged father is the father of the child, compared to a random, unrelated man of the same ethnic or racial group, expressed as a percentage incorporating the paternity index and a prior probability.

(15) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in a perceivable form.

(16) "Signatory" means an individual who authenticates a record and is bound by its terms.

(17) "Support enforcement agency" means a public official or public agency authorized to seek:

(A) the enforcement of child support orders or laws relating to the duty of support;

(B) the establishment or modification of child support;

(C) the determination of parentage;

(D) the location of child-support obligors and their income and assets; or

(E) the conservatorship of a child or the termination of parental rights.

Sec. 160.103. SCOPE OF CHAPTER; CHOICE OF LAW. (a) This chapter governs every determination of parentage in this state.

(b) The court shall apply the law of this state to adjudicate the parent-child relationship. The applicable law does

not depend on:

(1) the place of birth of the child; or

(2) the past or present residence of the child.

(c) This chapter does not create, enlarge, or diminish parental rights or duties under another law of this state.

(d) This chapter does not authorize or prohibit an agreement between a woman and the intended parents of a child in which the woman relinquishes all rights as a parent of a child conceived by means of assisted reproduction and which provides that the intended parents become the parents of the child. If a birth results under a gestational agreement that is unenforceable under the law of this state, the parent-child relationship is determined as provided by Subchapter C.

Sec. 160.104. AUTHORIZED COURTS. The following courts are authorized to adjudicate parentage under this chapter:

(1) a court with jurisdiction to hear a suit affecting the parent-child relationship under this title; or

(2) a court with jurisdiction to adjudicate parentage under another law of this state.

Sec. 160.105. PROTECTION OF PARTICIPANTS. A proceeding under this chapter is subject to the other laws of this state governing the health, safety, privacy, and liberty of a child or any other individual who may be jeopardized by the disclosure of identifying information, including the person's address, telephone number, place of employment, and social security number and the name of the child's day-care facility and school.

Sec. 160.106. DETERMINATION OF MATERNITY. The provisions of this chapter relating to the determination of paternity apply to a determination of maternity.

[Sections 160.107-160.200 reserved for expansion]

SUBCHAPTER C. PARENT-CHILD RELATIONSHIP

Sec. 160.201. ESTABLISHMENT OF PARENT-CHILD RELATIONSHIP. (a) The mother-child relationship is established between a woman and a child by:

(1) the woman giving birth to the child;

(2) an adjudication of the woman's maternity; or

(3) the adoption of the child by the woman.

(b) The father-child relationship is established between a man and a child by:

(1) an un rebutted presumption of the man's paternity of the child under Section 160.204;

(2) an effective acknowledgment of paternity by the man under Subchapter D, unless the acknowledgment has been rescinded or successfully challenged;

(3) an adjudication of the man's paternity;

(4) the adoption of the child by the man; or

(5) the man's consenting to assisted reproduction by his wife under Subchapter H, which resulted in the birth of the child.

Sec. 160.202. NO DISCRIMINATION BASED ON MARITAL STATUS. A child born to parents who are not married to each other has the same rights under the law as a child born to parents who are married to each other.

Sec. 160.203. CONSEQUENCES OF ESTABLISHMENT OF PARENTAGE. Unless parental rights are terminated, a parent-child relationship established under this chapter applies for all purposes, except as otherwise provided by another law of this state.

Sec. 160.204. PRESUMPTION OF PATERNITY IN CONTEXT OF MARRIAGE. (a) A man is presumed to be the father of a child if:

(1) he is married to the mother of the child and the child is born during the marriage;

(2) he is married to the mother of the child and the child is born before the 301st day after the date the marriage is terminated by death, annulment, declaration of invalidity, or divorce;

(3) he married the mother of the child before the birth of the child in apparent compliance with law, even if the attempted marriage is or could be declared invalid, and the child is born during the invalid marriage or before the 301st day after the date the marriage is terminated by death, annulment, declaration of invalidity, or divorce; or

(4) he married the mother of the child after the birth of the child in apparent compliance with law, regardless of whether the marriage is or could be declared invalid, he voluntarily asserted his paternity of the child, and:

(A) the assertion is in a record filed with the bureau of vital statistics;

(B) he is voluntarily named as the child's father on the child's birth certificate; or

(C) he promised in a record to support the child as his own.

(b) A presumption of paternity established under this section may be rebutted only by an adjudication under Subchapter G.

[Sections 160.205-160.300 reserved for expansion]

SUBCHAPTER D. VOLUNTARY ACKNOWLEDGMENT OF PATERNITY

Sec. 160.301. ACKNOWLEDGMENT OF PATERNITY. The mother of a child and a man claiming to be the father of the child conceived as the result of sexual intercourse with the mother may sign an acknowledgment of paternity with the intent to establish the man's paternity.

Sec. 160.302. EXECUTION OF ACKNOWLEDGMENT OF PATERNITY. (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.

(b) An acknowledgment of paternity is void if it:

(1) states that another man is a presumed father of the child, unless a denial of paternity signed or otherwise authenticated by the presumed father is filed with the bureau of vital statistics;

(2) states that another man is an acknowledged or adjudicated father of the child; or

(3) falsely denies the existence of a presumed, acknowledged, or adjudicated father of the child.

(c) A presumed father may sign or otherwise authenticate an acknowledgment of paternity.

Sec. 160.303. DENIAL OF PATERNITY. A presumed father of a child may sign a denial of his paternity. The denial is valid only if:

(1) an acknowledgment of paternity signed or otherwise authenticated by another man is filed under Section 160.305;

(2) the denial is in a record and is signed or otherwise authenticated under penalty of perjury; and

(3) the presumed father has not previously:

(A) acknowledged paternity of the child, unless the previous acknowledgment has been rescinded under Section 160.307 or successfully challenged under Section 160.308; or

(B) been adjudicated to be the father of the child.

Sec. 160.304. RULES FOR ACKNOWLEDGMENT AND DENIAL OF PATERNITY. (a) An

acknowledgment of paternity and a denial of paternity may be contained in a single document or in different documents and may be filed separately or simultaneously. If the acknowledgment and denial are both necessary, neither document is valid until both documents are filed.

(b) An acknowledgment of paternity or a denial of paternity may be signed before the birth of the child.

(c) Subject to Subsection (a), an acknowledgment of paternity or denial of paternity takes effect on the date of the birth of the child or the filing of the document with the bureau of vital statistics, whichever occurs later.

(d) An acknowledgment of paternity or denial of paternity signed by a minor is valid if it otherwise complies with

this chapter.

Sec. 160.305. EFFECT OF ACKNOWLEDGMENT OR DENIAL OF PATERNITY. (a) Except as provided by Sections 160.307 and 160.308, a valid acknowledgment of paternity filed with the bureau of vital statistics is the equivalent of an adjudication of the paternity of a child and confers on the acknowledged father all rights and duties of a parent.

(b) Except as provided by 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.

Sec. 160.306. FILING FEE NOT REQUIRED. The bureau of vital statistics may not charge a fee for filing an acknowledgment of paternity or denial of paternity.

Sec. 160.307. PROCEEDING FOR RESCISSION. A signatory may rescind an acknowledgment of paternity 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 of the first hearing in a proceeding to which the signatory is a party before a court to adjudicate an issue relating to the child, including a proceeding that establishes child support.

Sec. 160.308. CHALLENGE AFTER EXPIRATION OF PERIOD FOR RESCISSION. (a) After the period for rescission under Section 160.307 has expired, a signatory of an acknowledgment of paternity or denial of paternity may commence a proceeding to challenge the acknowledgment or denial only on the basis of fraud, duress, or material mistake of fact. The proceeding must be commenced before the fourth anniversary of the date the acknowledgment or denial is filed with the bureau of vital statistics.

(b) A party challenging an acknowledgment of paternity or denial of paternity has the burden of proof.

(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 fourth anniversary of the date the acknowledgment of paternity is filed with the bureau of vital statistics.

(d) For purposes of Subsection (a), evidence that, based on genetic testing, the man who is the signatory of an acknowledgment of paternity is not rebuttably identified as the father of a child in accordance with Section 160.505 constitutes a material mistake of fact.

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.

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

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

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

Sec. 160.310. RATIFICATION BARRED. A court or administrative agency conducting a judicial or administrative proceeding may not ratify an unchallenged acknowledgment of paternity.

Sec. 160.311. FULL FAITH AND CREDIT. A court of this state shall give full faith and credit to an acknowledgment of paternity or a denial of paternity that is effective in another state if the acknowledgment or denial has been signed and is otherwise in compliance with the law of the other state.

Sec. 160.312. FORMS FOR ACKNOWLEDGMENT AND DENIAL OF PATERNITY. (a) To facilitate compliance with this subchapter, the bureau of vital statistics shall prescribe forms for the acknowledgment of paternity and the denial of paternity.

(b) A valid acknowledgment of paternity or denial of paternity is not affected by a later modification of the prescribed form.

Sec. 160.313. RELEASE OF INFORMATION. The bureau of vital statistics may release information relating to the acknowledgment of paternity or denial of paternity to a signatory of the acknowledgment or denial and to the courts and Title IV-D agency of this or another state.

Sec. 160.314. ADOPTION OF RULES. The Title IV-D agency and the bureau of vital statistics may adopt rules to implement this subchapter.

Sec. 160.315. MEMORANDUM OF UNDERSTANDING. (a) The Title IV-D agency and the bureau of vital statistics shall adopt a memorandum of understanding governing the collection and transfer of information for the voluntary acknowledgment of paternity.

(b) The Title IV-D agency and the bureau of vital statistics shall review the memorandum semiannually and renew or modify the memorandum as necessary.

Sec. 160.316. SUIT TO CONTEST VOLUNTARY STATEMENT OF PATERNITY. (a) A man who executed a voluntary statement of paternity before September 1, 1999, and who, on the basis of that statement, is the subject of a final order declaring him to be a parent of the child who is the subject of the statement may file a suit affecting the parent-child relationship to contest the statement on the basis of fraud, duress, or material mistake of fact in the same manner that a person may contest an acknowledgment of paternity under Sections 160.308 and 160.309. For purposes of this subsection, evidence that, based on genetic testing, the man is not rebuttably identified as the father of a child in accordance with Section 160.505 constitutes a material mistake of fact.

(b) A suit filed under this section to contest a voluntary statement of paternity is not affected by an order with respect to the child that was rendered on the basis of that statement.

(c) The court, on a preliminary finding in a suit under this section that there is credible evidence of fraud, duress, or material mistake of fact regarding the execution of the voluntary statement of paternity, shall order genetic

testing as provided by Subchapter F. The person contesting the voluntary statement of paternity shall pay the cost of the testing.

(d) Except as provided by Subsection (e), if the results of the genetic testing do not rebuttably identify the man as the father of the child in accordance with Section 160.505, the court shall set aside:

(1) the final order declaring the man to be a parent of the child; and

(2) any other order with respect to the child that was rendered on the basis of the voluntary statement of paternity.

(e) The court may not set aside under Subsection (d) a final order declaring a man to be a parent of a child if the man who executed the voluntary statement of paternity:

(1) executed the statement knowing that he was not the father of the child; or

(2) subsequently adopted the child.

(f) If the court sets aside a final order as provided by Subsection (d), the court shall order the bureau of vital statistics to amend the birth record of the child. The court may not as a result of the order being set aside:

(1) require an obligee to repay child support paid by the man who executed the voluntary statement of paternity;

or

(2) award damages to the man who executed the voluntary statement of paternity.

(g) A suit under this section must be filed before September 1, 2003.

(h) This section expires September 1, 2004.

[Sections 160.317-160.400 reserved for expansion]

SUBCHAPTER E. REGISTRY OF PATERNITY

Sec. 160.401. ESTABLISHMENT OF REGISTRY. A registry of paternity is established in the bureau of vital statistics.

Sec. 160.402. REGISTRATION FOR NOTIFICATION. (a) Except as otherwise provided by Subsection (b), a man who desires to be notified of a proceeding for the adoption of or the termination of parental rights

regarding a child that he may have fathered may register with the registry of paternity:

(1) before the birth of the child; or

(2) not later than the 31st day after the date of the birth of the child.

(b) A man is entitled to notice of a proceeding described by Subsection (a) regardless of whether he registers with the registry of paternity if:

(1) a father-child relationship between the man and the child has been established under this chapter or another law; or

(2) the man commences a proceeding to adjudicate his paternity before the court has terminated his parental rights.

(c) A registrant shall promptly notify the registry in a record of any change in the information provided by the registrant. The bureau of vital statistics shall incorporate all new information received into its records but is not required to affirmatively seek to obtain current information for incorporation in the registry.

Sec. 160.403. NOTICE OF PROCEEDING. Notice of a proceeding to adopt or to terminate parental rights regarding a child must be given to a registrant who has timely registered with regard to that child. Notice must be given in a manner prescribed for service of process in a civil action.

Sec. 160.404. TERMINATION OF PARENTAL RIGHTS: FAILURE TO REGISTER. The parental rights of a man alleged to be the father of a child may be terminated without notice as provided by Section 161.002 if the man:

(1) did not timely register with the bureau of vital statistics; and

(2) is not entitled to notice under Section 160.402 or 161.002.

[Sections 160.405-160.410 reserved for expansion]

Sec. 160.411. REQUIRED FORM. The bureau of vital statistics shall adopt a form for registering with the registry. The form must require the signature of the registrant. The form must state that:

(1) the form is signed under penalty of perjury;

(2) a timely registration entitles the registrant to notice of a proceeding for adoption of the child or for termination of the registrant's parental rights;

(3) a timely registration does not commence a proceeding to establish paternity;

(4) the information disclosed on the form may be used against the registrant to establish paternity;

(5) services to assist in establishing paternity are available to the registrant through the support enforcement agency;

(6) the registrant should also register in another state if the conception or birth of the child occurred in the other state;

(7) information on registries in other states is available from the bureau of vital statistics; and

(8) procedures exist to rescind the registration of a claim of paternity.

Sec. 160.412. FURNISHING OF INFORMATION; CONFIDENTIALITY. (a) The bureau of vital statistics is not required to attempt to locate the mother of a child who is the subject of a registration. The bureau of vital statistics shall send a copy of the notice of the registration to a mother who has provided an address.

(b) Information contained in the registry is confidential and may be released on request only to:

(1) a court or a person designated by the court;

(2) the mother of the child who is the subject of the registration;

(3) an agency authorized by another law to receive the information;

(4) a licensed child-placing agency;

(5) a support enforcement agency;

(6) a party, or the party's attorney of record, to a proceeding under this chapter or a proceeding to adopt or to terminate parental rights regarding a child who is the subject of the registration; and

(7) the registry of paternity in another state.

Sec. 160.413. OFFENSE: UNAUTHORIZED RELEASE OF INFORMATION. (a) A person commits an offense if the person intentionally releases information from the registry of paternity to another person, including

an agency, that is not authorized to receive the information under Section 160.412.

(b) An offense under this section is a Class A misdemeanor.

Sec. 160.414. RESCISSION OF REGISTRATION. A registrant may rescind his registration at any time by sending to the registry a rescission in a record or another manner authenticated by him and witnessed or notarized.

Sec. 160.415. UNTIMELY REGISTRATION. If a man registers later than the 30th day after the date of the birth of the child, the bureau of vital statistics shall notify the registrant that the registration was not timely filed.

Sec. 160.416. FEES FOR REGISTRY. (a) A fee may not be charged for filing a registration or to rescind a registration.

(b) Except as otherwise provided by Subsection (c), the bureau of vital statistics may charge a reasonable fee for making a search of the registry and for furnishing a certificate.

(c) A support enforcement agency is not required to pay a fee authorized by Subsection (b).

[Sections 160.417-160.420 reserved for expansion]

Sec. 160.421. SEARCH OF APPROPRIATE REGISTRY. (a) If a father-child relationship has not been established under this chapter, a petitioner for the adoption of or the termination of parental rights regarding the child must obtain a certificate of the results of a search of the registry.

(b) If the petitioner for the adoption of or the termination of parental rights regarding a child has reason to believe that the conception or birth of the child may have occurred in another state, the petitioner must obtain a certificate of the results of a search of the paternity registry, if any, in the other state.

Sec. 160.422. CERTIFICATE OF SEARCH OF REGISTRY. (a) The bureau of vital statistics shall furnish a certificate of the results of a search of the registry on request by an individual, a court, or an agency listed in Section 160.412(b).

(b) The certificate of the results of a search must be signed on behalf of the bureau and state that:

(1) a search has been made of the registry; and

(2) a registration containing the information required to identify the registrant:

(A) has been found and is attached to the certificate; or

(B) has not been found.

(c) A petitioner must file the certificate of the results of a search of the registry with the court before a proceeding for the adoption of or termination of parental rights regarding a child may be concluded.

(d) A search of the registry is not required if the only man alleged to be the father of the child has signed a waiver of interest in, or relinquishment of parental rights with regard to, the child.

Sec. 160.423. ADMISSIBILITY OF CERTIFICATE. A certificate of the results of a search of the registry in this state or of a paternity registry in another state is admissible in a proceeding for the adoption of or the termination of parental rights regarding a child and, if relevant, in other legal proceedings.

[Sections 160.424-160.500 reserved for expansion]

SUBCHAPTER F. GENETIC TESTING

Sec. 160.501. APPLICATION OF SUBCHAPTER. This subchapter governs genetic testing of an individual to determine parentage, regardless of whether the individual:

(1) voluntarily submits to testing; or

(2) is tested under an order of a court or a support enforcement agency.

Sec. 160.502. ORDER FOR TESTING. (a) Except as otherwise provided by this subchapter and by Subchapter G, a court shall order a child and other designated individuals to submit to genetic testing if the request is made by a party to a proceeding to determine parentage.

(b) If a request for genetic testing of a child is made before the birth of the child, the court or support enforcement agency may not order in utero testing.

(c) If two or more men are subject to court-ordered genetic testing, the testing may be ordered concurrently or sequentially.

Sec. 160.503. REQUIREMENTS FOR GENETIC TESTING. (a) Genetic testing must be of a type

reasonably relied on by experts in the field of genetic testing. The testing must be performed in a testing laboratory accredited by:

(1) the American Association of Blood Banks, or a successor to its functions;

(2) the American Society for Histocompatibility and Immunogenetics, or a successor to its functions; or

(3) an accrediting body designated by the federal secretary of health and human services.

(b) A specimen used in genetic testing may consist of one or more samples, or a combination of samples, of blood, buccal cells, bone, hair, or other body tissue or fluid. The specimen used in the testing is not required to be of the same kind for each individual undergoing genetic testing.

(c) Based on the ethnic or racial group of an individual, the testing laboratory shall determine the databases from which to select frequencies for use in the calculation of the probability of paternity of the individual. If there is disagreement as to the testing laboratory's choice:

(1) the objecting individual may require the testing laboratory, not later than the 30th day after the date of receipt of the report of the test, to recalculate the probability of paternity using an ethnic or racial group different from that used by the laboratory;

(2) the individual objecting to the testing laboratory's initial choice shall:

(A) if the frequencies are not available to the testing laboratory for the ethnic or racial group requested, provide the requested frequencies compiled in a manner recognized by accrediting bodies; or

(B) engage another testing laboratory to perform the calculations; and

(3) the testing laboratory may use its own statistical estimate if there is a question regarding which ethnic or racial group is appropriate and, if available, shall calculate the frequencies using statistics for any other ethnic or racial group requested.

(d) If, after recalculation using a different ethnic or racial group, genetic testing does not rebuttably identify a man as the father of a child under Section 160.505, an individual who has been tested may be required to submit to additional genetic testing.

Sec. 160.504. REPORT OF GENETIC TESTING. (a) A report of the results of genetic testing must be in a record and signed under penalty of perjury by a designee of the testing laboratory. A report made under the requirements of this subchapter is self-authenticating.

(b) Documentation from the testing laboratory is sufficient to establish a reliable chain of custody that allows the results of genetic testing to be admissible without testimony if the documentation includes:

- (1) the name and photograph of each individual whose specimens have been taken;
- (2) the name of each individual who collected the specimens;
- (3) the places in which the specimens were collected and the date of each collection;
- (4) the name of each individual who received the specimens in the testing laboratory; and
- (5) the dates the specimens were received.

Sec. 160.505. GENETIC TESTING RESULTS; REBUTTAL. (a) A man is rebuttably identified as the father of a child under this chapter if the genetic testing complies with this subchapter and the results disclose:

- (1) that the man has at least a 99 percent probability of paternity, using a prior probability of 0.5, as calculated by using the combined paternity index obtained in the testing; and
- (2) a combined paternity index of at least 100 to 1.

(b) A man identified as the father of a child under Subsection (a) may rebut the genetic testing results only by producing other genetic testing satisfying the requirements of this subchapter that:

- (1) excludes the man as a genetic father of the child; or
 - (2) identifies another man as the possible father of the child.
- (c) Except as otherwise provided by Section 160.510, if more than one man is identified by genetic testing as the possible father of the child, the court shall order each man to submit to further genetic testing to identify the genetic father.

Sec. 160.506. COSTS OF GENETIC TESTING. (a) Subject to the assessment of costs under Subchapter G, the cost of initial genetic testing must be advanced:

(1) by a support enforcement agency, if the agency is providing services in the proceeding;

(2) by the individual who made the request;

(3) as agreed by the parties; or

(4) as ordered by the court.

(b) In cases in which the cost of genetic testing is advanced by the support enforcement agency, the agency may seek reimbursement from a man who is rebuttably identified as the father.

Sec. 160.507. ADDITIONAL GENETIC TESTING. The court or the support enforcement agency shall order additional genetic testing on the request of a party who contests the result of the original testing. If the previous genetic testing identified a man as the father of the child under Section 160.505, the court or agency may not order additional testing unless the party provides advance payment for the testing.

Sec. 160.508. GENETIC TESTING WHEN ALL INDIVIDUALS NOT AVAILABLE. (a) Subject to Subsection (b), if a genetic testing specimen for good cause and under circumstances the court considers to be just is not available from a man who may be the father of a child, a court may order the following individuals to submit specimens for genetic testing:

(1) the parents of the man;

(2) any brothers or sisters of the man;

(3) any other children of the man and their mothers; and

(4) other relatives of the man necessary to complete genetic testing.

(b) A court may not render an order under this section unless the court finds that the need for genetic testing outweighs the legitimate interests of the individual sought to be tested.

Sec. 160.509. DECEASED INDIVIDUAL. For good cause shown, the court may order genetic testing of a deceased individual.

Sec. 160.510. IDENTICAL BROTHERS. (a) The court may order genetic testing of a brother of a man identified as the father of a child if the man is commonly believed to have an identical brother and evidence

suggests that the brother may be the genetic father of the child.

(b) If each brother satisfies the requirements of Section 160.505 for being the identified father of the child and there is not another identical brother being identified as the father of the child, the court may rely on nongenetic evidence to adjudicate which brother is the father of the child.

Sec. 160.511. OFFENSE: UNAUTHORIZED RELEASE OF SPECIMEN. (a) A person commits an offense if the person intentionally releases an identifiable specimen of another person for any purpose not relevant to the parentage proceeding and without a court order or the written permission of the person who furnished the specimen.

(b) An offense under this section is a Class A misdemeanor.

[Sections 160.512-160.600 reserved for expansion]

SUBCHAPTER G. PROCEEDING TO ADJUDICATE PARENTAGE

Sec. 160.601. PROCEEDING AUTHORIZED; RULES OF PROCEDURE. (a) A civil proceeding may be maintained to adjudicate the parentage of a child.

(b) The proceeding is governed by the Texas Rules of Civil Procedure.

Sec. 160.602. STANDING TO MAINTAIN PROCEEDING. Subject to Subchapter D and Sections 160.607 and 160.609, a proceeding to adjudicate parentage may be maintained by:

(1) the child;

(2) the mother of the child;

(3) a man whose paternity of the child is to be adjudicated;

(4) the support enforcement agency or another government agency authorized by other law;

(5) an authorized adoption agency or licensed child-placing agency;

(6) a representative authorized by law to act for an individual who would otherwise be entitled to maintain a proceeding but who is deceased, is incapacitated, or is a minor; or

(7) a person related within the second degree by consanguinity to the mother of the child, if the mother is

deceased.

Sec. 160.603. NECESSARY PARTIES TO PROCEEDING. The following individuals must be joined as parties in a proceeding to adjudicate parentage:

- (1) the mother of the child; and
- (2) a man whose paternity of the child is to be adjudicated.

Sec. 160.604. PERSONAL JURISDICTION. (a) An individual may not be adjudicated to be a parent unless the court has personal jurisdiction over the individual.

(b) A court of this state having jurisdiction to adjudicate parentage may exercise personal jurisdiction over a nonresident individual or the guardian or conservator of the individual if the conditions in Section 159.201 are satisfied.

(c) Lack of jurisdiction over one individual does not preclude the court from making an adjudication of parentage binding on another individual over whom the court has personal jurisdiction.

Sec. 160.605. VENUE. Venue for a proceeding to adjudicate parentage is in the county of this state in which:

- (1) the child resides or is found;
- (2) the respondent resides or is found if the child does not reside in this state; or
- (3) a proceeding for probate or administration of the presumed or alleged father's estate has been commenced.

Sec. 160.606. NO TIME LIMITATION: CHILD HAVING NO PRESUMED, ACKNOWLEDGED, OR ADJUDICATED FATHER. A proceeding to adjudicate the parentage of a child having no presumed, acknowledged, or adjudicated father may be commenced at any time, including after the date:

- (1) the child becomes an adult; or
- (2) an earlier proceeding to adjudicate paternity has been dismissed based on the application of a statute of limitation then in effect.

Sec. 160.607. TIME LIMITATION: CHILD HAVING PRESUMED FATHER. (a) Except as otherwise provided by Subsection (b), a proceeding brought by a presumed father, the mother, or another individual to

adjudicate the parentage of a child having a presumed father shall be commenced not later than the fourth anniversary of the date of the birth of the child.

(b) A proceeding seeking to disprove the father-child relationship between a child and the child's presumed father may be maintained at any time if the court determines that:

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

(2) the presumed father never openly treated the child as his own.

Sec. 160.608. AUTHORITY TO DENY MOTION FOR GENETIC TESTING. (a) In a proceeding to adjudicate parentage under circumstances described by Section 160.607, a court may deny a motion for an order for the genetic testing of the mother, the child, and the presumed father if the court determines that:

(1) the conduct of the mother or the presumed father estops that party from denying parentage; and

(2) it would be inequitable to disprove the father-child relationship between the child and the presumed father.

(b) In determining whether to deny a motion for an order for genetic testing under this section, the court shall consider the best interest of the child, including the following factors:

(1) the length of time between the date of the proceeding to adjudicate parentage and the date the presumed father was placed on notice that he might not be the genetic father;

(2) the length of time during which the presumed father has assumed the role of father of the child;

(3) the facts surrounding the presumed father's discovery of his possible nonpaternity;

(4) the nature of the relationship between the child and the presumed father;

(5) the age of the child;

(6) any harm that may result to the child if presumed paternity is successfully disproved;

(7) the nature of the relationship between the child and the alleged father;

(8) the extent to which the passage of time reduces the chances of establishing the paternity of another man and a child support obligation in favor of the child; and

(9) other factors that may affect the equities arising from the disruption of the father-child relationship between the child and the presumed father or the chance of other harm to the child.

(c) In a proceeding involving the application of this section, a child who is a minor or is incapacitated must be represented by a guardian ad litem.

(d) A denial of a motion for an order for genetic testing must be based on clear and convincing evidence.

(e) If the court denies a motion for an order for genetic testing, the court shall issue an order adjudicating the presumed father to be the father of the child.

Sec. 160.609. TIME LIMITATION: CHILD HAVING ACKNOWLEDGED OR ADJUDICATED

FATHER. (a) If a child has an acknowledged father, a signatory to the acknowledgment or denial of paternity may commence a proceeding seeking to rescind the acknowledgment or denial or to challenge the paternity of the child only within the time allowed under Section 160.307 or 160.308.

(b) If a child has an acknowledged father or an adjudicated father, an individual, other than the child, who is not a signatory to the acknowledgment or a party to the adjudication and who seeks an adjudication of paternity of the child must commence a proceeding not later than the fourth anniversary of the effective date of the acknowledgment or adjudication.

Sec. 160.610. JOINDER OF PROCEEDINGS. (a) Except as provided by Subsection (b), a proceeding to adjudicate parentage may be joined with a proceeding for adoption, termination of parental rights, possession of or access to a child, child support, divorce, annulment, or probate or administration of an estate or another appropriate proceeding.

(b) A respondent may not join a proceeding described by Subsection (a) with a proceeding to adjudicate parentage brought under Chapter 159.

Sec. 160.611. PROCEEDINGS BEFORE BIRTH. (a) A proceeding to determine parentage commenced before the birth of the child may not be concluded until after the birth of the child.

(b) In a proceeding described by Subsection (a), the following actions may be taken before the birth of the child:

(1) service of process;

(2) discovery; and

(3) except as prohibited by Section 160.502, collection of specimens for genetic testing.

Sec. 160.612. CHILD AS PARTY; REPRESENTATION. (a) A minor child is a permissible party, but is not a necessary party to a proceeding under this subchapter.

(b) The court shall appoint an attorney ad litem to represent a child who is a minor or is incapacitated if the child is a party or the court finds that the interests of the child are not adequately represented.

[Sections 160.613-160.620 reserved for expansion]

Sec. 160.621. ADMISSIBILITY OF RESULTS OF GENETIC TESTING; EXPENSES. (a) Except as otherwise provided by Subsection (c), a report of a genetic testing expert is admissible as evidence of the truth of the facts asserted in the report. The admissibility of the report is not affected by whether the testing was performed:

(1) voluntarily or under an order of the court or a support enforcement agency; or

(2) before or after the date of commencement of the proceeding.

(b) A party objecting to the results of genetic testing may call one or more genetic testing experts to testify in person or by telephone, videoconference, deposition, or another method approved by the court. Unless otherwise ordered by the court, the party offering the testimony bears the expense for the expert testifying.

(c) If a child has a presumed, acknowledged, or adjudicated father, the results of genetic testing are inadmissible to adjudicate parentage unless performed:

(1) with the consent of both the mother and the presumed, acknowledged, or adjudicated father; or

(2) under an order of the court under Section 160.502.

(d) Copies of bills for genetic testing and for prenatal and postnatal health care for the mother and child that are furnished to the adverse party on or before the 10th day before the date of a hearing are admissible to establish:

(1) the amount of the charges billed; and

(2) that the charges were reasonable, necessary, and customary.

Sec. 160.622. CONSEQUENCES OF DECLINING GENETIC TESTING. (a) An order for genetic testing is enforceable by contempt.

(b) A court may adjudicate parentage contrary to the position of an individual whose paternity is being determined on the grounds that the individual declines to submit to genetic testing as ordered by the court.

(c) Genetic testing of the mother of a child is not a prerequisite to testing the child and a man whose paternity is being determined. If the mother is unavailable or declines to submit to genetic testing, the court may order the testing of the child and each man whose paternity is being adjudicated.

Sec. 160.623. ADMISSION OF PATERNITY AUTHORIZED. (a) A respondent in a proceeding to adjudicate parentage may admit to the paternity of a child by filing a pleading to that effect or by admitting paternity under penalty of perjury when making an appearance or during a hearing.

(b) If the court finds that the admission of paternity satisfies the requirements of this section and that there is no reason to question the admission, the court shall render an order adjudicating the child to be the child of the man admitting paternity.

Sec. 160.624. TEMPORARY ORDER. (a) In a proceeding under this subchapter, the court shall render a temporary order for child support for a child if the order is appropriate and the individual ordered to pay child support:

(1) is a presumed father of the child;

(2) is petitioning to have his paternity adjudicated;

(3) is identified as the father through genetic testing under Section 160.505;

(4) is an alleged father who has declined to submit to genetic testing;

(5) is shown by clear and convincing evidence to be the father of the child; or

(6) is the mother of the child.

(b) A temporary order may include provisions for the possession of or access to the child as provided by other

laws of this state.

[Sections 160.625-160.630 reserved for expansion]

Sec. 160.631. RULES FOR ADJUDICATION OF PATERNITY. (a) The court shall apply the rules stated in this section to adjudicate the paternity of a child.

(b) The paternity of a child having a presumed, acknowledged, or adjudicated father may be disproved only by admissible results of genetic testing excluding that man as the father of the child or identifying another man as the father of the child.

(c) Unless the results of genetic testing are admitted to rebut other results of genetic testing, the man identified as the father of a child under Section 160.505 shall be adjudicated as being the father of the child.

(d) Unless the results of genetic testing are admitted to rebut other results of genetic testing, a man excluded as the father of a child by genetic testing shall be adjudicated as not being the father of the child.

(e) If the court finds that genetic testing under Section 160.505 does not identify or exclude a man as the father of a child, the court may not dismiss the proceeding. In that event, the results of genetic testing and other evidence are admissible to adjudicate the issue of paternity.

Sec. 160.632. JURY PROHIBITED. The court shall adjudicate paternity of a child without a jury.

Sec. 160.633. HEARINGS; INSPECTION OF RECORDS. (a) On the request of a party and for good cause shown, the court may order a proceeding under this subchapter closed to the public.

(b) A final order in a proceeding under this subchapter is available for public inspection. Other papers and records are available only with the consent of the parties or on order of the court for good cause.

Sec. 160.634. ORDER ON DEFAULT. The court shall issue an order adjudicating the paternity of a man who:

(1) after service of process, is in default; and

(2) is found by the court to be the father of a child.

Sec. 160.635. DISMISSAL FOR WANT OF PROSECUTION. The court may issue an order dismissing a proceeding commenced under this chapter for want of prosecution only without prejudice. An order of dismissal

for want of prosecution purportedly with prejudice is void and has only the effect of a dismissal without prejudice.

Sec. 160.636. ORDER ADJUDICATING PARENTAGE; COSTS. (a) The court shall render an order adjudicating whether a man alleged or claiming to be the father is the parent of the child.

(b) An order adjudicating parentage must identify the child by name and date of birth.

(c) Except as otherwise provided by Subsection (d), the court may assess filing fees, reasonable attorney's fees, fees for genetic testing, other costs, and necessary travel and other reasonable expenses incurred in a proceeding under this subchapter. Attorney's fees awarded by the court may be paid directly to the attorney. An attorney who is awarded attorney's fees may enforce the order in the attorney's own name.

(d) The court may not assess fees, costs, or expenses against the support enforcement agency of this state or another state, except as provided by other law.

(e) On request of a party and for good cause shown, the court may order that the name of the child be changed.

(f) If the order of the court is at variance with the child's birth certificate, the court shall order the bureau of vital statistics to issue an amended birth record.

(g) On a finding of parentage, the court may order retroactive child support as provided by Chapter 154 and, on a proper showing, order a party to pay an equitable portion of all of the prenatal and postnatal health care expenses of the mother and the child.

(h) In rendering an order for retroactive child support under this section, the court shall use the child support guidelines provided by Chapter 154, together with any relevant factors.

Sec. 160.637. BINDING EFFECT OF DETERMINATION OF PARENTAGE. (a) Except as otherwise provided by Subsection (b) or Section 160.316, a determination of parentage is binding on:

(1) all signatories to an acknowledgment or denial of paternity as provided by Subchapter D; and

(2) all parties to an adjudication by a court acting under circumstances that satisfy the jurisdictional requirements of Section 159.201.

(b) A child is not bound by a determination of parentage under this chapter unless:

(1) the determination was based on an unrescinded acknowledgment of paternity and the acknowledgment is consistent with the results of genetic testing;

(2) the adjudication of parentage was based on a finding consistent with the results of genetic testing and the consistency is declared in the determination or is otherwise shown; or

(3) the child was a party or was represented in the proceeding determining parentage by an attorney ad litem.

(c) In a proceeding to dissolve a marriage, the court is considered to have made an adjudication of the parentage of a child if the court acts under circumstances that satisfy the jurisdictional requirements of Section 159.201, and the final order:

(1) expressly identifies the child as "a child of the marriage" or "issue of the marriage" or uses similar words indicating that the husband is the father of the child; or

(2) provides for the payment of child support for the child by the husband unless paternity is specifically disclaimed in the order.

(d) Except as otherwise provided by Subsection (b), a determination of parentage may be a defense in a subsequent proceeding seeking to adjudicate parentage by an individual who was not a party to the earlier proceeding.

(e) A party to an adjudication of paternity may challenge the adjudication only under the laws of this state relating to appeal, the vacating of judgments, or other judicial review.

[Sections 160.638-160.700 reserved for expansion]

SUBCHAPTER H. CHILD OF ASSISTED REPRODUCTION

Sec. 160.701. SCOPE OF SUBCHAPTER. This subchapter applies only to a child conceived by means of assisted reproduction.

Sec. 160.702. PARENTAL STATUS OF DONOR. A donor is not a parent of a child conceived by means of assisted reproduction.

Sec. 160.703. HUSBAND'S PATERNITY OF CHILD OF ASSISTED REPRODUCTION. If a husband provides sperm for or consents to assisted reproduction by his wife as provided by Section 160.704, he is the father of a resulting child.

Sec. 160.704. CONSENT TO ASSISTED REPRODUCTION. (a) Consent by a married woman to assisted reproduction must be in a record signed by the woman and her husband. This requirement does not apply to the donation of eggs by a married woman for assisted reproduction by another woman.

(b) Failure by the husband to sign a consent required by Subsection (a) before or after the birth of the child does not preclude a finding that the husband is the father of a child born to his wife if the wife and husband openly treated the child as their own.

Sec. 160.705. LIMITATION ON HUSBAND'S DISPUTE OF PATERNITY. (a) Except as otherwise provided by Subsection (b), the husband of a wife who gives birth to a child by means of assisted reproduction may not challenge his paternity of the child unless:

(1) before the fourth anniversary of the date of learning of the birth of the child he commences a proceeding to adjudicate his paternity; and

(2) the court finds that he did not consent to the assisted reproduction before or after the birth of the child.

(b) A proceeding to adjudicate paternity may be maintained at any time if the court determines that:

(1) the husband did not provide sperm for or, before or after the birth of the child, consent to assisted reproduction by his wife;

(2) the husband and the mother of the child have not cohabited since the probable time of assisted reproduction; and

(3) the husband never openly treated the child as his own.

(c) The limitations provided by this section apply to a marriage declared invalid after assisted reproduction.

Sec. 160.706. EFFECT OF DISSOLUTION OF MARRIAGE. (a) If a marriage is dissolved before the placement of eggs, sperm, or embryos, the former spouse is not a parent of the resulting child unless the former

spouse consented in a record that if assisted reproduction were to occur after a divorce the former spouse would be a parent of the child.

(b) The consent of a former spouse to assisted reproduction may be withdrawn by that individual in a record at any time before the placement of eggs, sperm, or embryos.

Sec. 160.707. PARENTAL STATUS OF DECEASED SPOUSE. If a spouse dies before the placement of eggs, sperm, or embryos, the deceased spouse is not a parent of the resulting child unless the deceased spouse consented in a record that if assisted reproduction were to occur after death the deceased spouse would be a parent of the child.

~~[Sec. 160.001. APPLICABILITY. This chapter governs a suit affecting the parent-child relationship in which the parentage of the biological mother or biological father is:~~

~~[(1) sought to be adjudicated;~~

~~[(2) voluntarily admitted by the putative father; or~~

~~[(3) jointly acknowledged by the mother and putative father.~~

~~[Sec. 160.002. TIME IN WHICH TO BRING SUIT TO DETERMINE PARENTAGE. (a) A suit affecting the parent-child relationship to determine parentage under Subchapter B may be brought before the birth of the child, but must be brought on or before the second anniversary of the date the child becomes an adult, or the suit is barred:~~

~~[(b) This section applies to a child for whom a parentage suit was brought but dismissed because a statute of limitations of less than 18 years was then in effect.~~

~~[Sec. 160.003. NECESSARY PARTY: REPRESENTATION OF CHILD. (a) The child is not a necessary party to a suit under this chapter:~~

~~[(b) It is rebuttably presumed in a trial on the merits before a judge or jury that the interests of the child will be adequately represented by the party bringing suit to determine parentage of the child. If the court finds that the interests of the child will not be adequately represented by a party to the suit or are adverse to that party, the~~

court shall appoint an attorney ad litem to represent the child.

~~[(c) The child shall be represented in a settlement agreement, dismissal, or nonsuit by a guardian ad litem or an attorney ad litem appointed by the court, unless the court finds on the record that the interests of the child will be adequately represented by a party to the suit or are not adverse to that party, and that the court approves the settlement agreement, dismissal, or nonsuit.~~

~~[Sec. 160.004. TEMPORARY ORDERS. The court may render a temporary order authorized in a suit under this title, including an order for temporary support of a child, if the person ordered to pay support:~~

~~[(1) is a presumed parent under Chapter 151;~~

~~[(2) is an alleged father petitioning to have his paternity adjudicated or who admits paternity in pleadings filed with the court;~~

~~[(3) is found by the court at the pretrial conference authorized by this chapter not to be excluded as the biological father of the child, with the court finding that at least 99 percent of the male population is excluded from being the biological father of the child; or~~

~~[(4) executed a statement or acknowledgment of paternity under Subchapter C.~~

~~[Sec. 160.005. CONSERVATORSHIP, SUPPORT, AND PAYMENTS. (a) In a suit in which a determination of parentage is sought, the court may provide for the managing and possessory conservatorship and support of and access to the child.~~

~~[(b) On a finding of parentage, the court may order support retroactive to the time of the birth of the child and, on a proper showing, may order a party to pay an equitable portion of all prenatal and postnatal health care expenses of the mother and child.~~

~~[(c) In making an order for retroactive child support under this section, the court shall use the child support guidelines provided by Chapter 154 together with any relevant factors.~~

~~[Sec. 160.006. FINAL ORDER REGARDING PARENTAGE. (a) On a verdict of the jury, or on a finding of the court if there is no jury, the court shall render a final order declaring whether an alleged parent is the~~

biological parent of the child.

~~[(b) The effect of an order declaring that an alleged parent is the biological parent of the child is to confirm or create the parent-child relationship between the parent and the child for all purposes.~~

~~[(c) If parentage is established, the order shall state the name of the child.~~

~~[Sec. 160.007. SUIT BARRED. (a) Except as provided by Subsection (b), a suit under this chapter with respect to a child is barred if final judgment has been rendered by a court of competent jurisdiction:~~

~~[(1) adjudicating a named individual to be the biological father of the child; or~~

~~[(2) terminating the parent-child relationship between the child and each living parent of the child; or~~

~~[(3) granting a petition for the adoption of the child.~~

~~[(b) During the pendency of an appeal or direct attack on a judgment described by Subsection (a), a suit under this chapter may be filed but shall, on motion of a party, be stayed pending the final disposition of the appeal or direct attack on the judgment.~~

[SUBCHAPTER B. PARENTAGE SUIT

~~[Sec. 160.101. DENIAL OF PATERNITY. (a) The presumption that a man is the biological father of a child under Chapter 151 may be contested by:~~

~~[(1) the biological mother of the child;~~

~~[(2) a person related within the second degree of consanguinity to the biological mother of the child, if the biological mother of the child is deceased;~~

~~[(3) a man presumed to be the father of the child, who may contest his own or another man's presumed paternity;~~

~~[(4) a man alleging himself to be the biological father of the child; or~~

~~[(5) a governmental entity, authorized agency, or a licensed child-placing agency.~~

~~[(b) A contest of paternity must be raised by an express statement denying paternity of the child in a party's pleadings in the suit, without regard to whether the presumed father or biological mother is a petitioner or~~

respondent:

~~[(c) In a suit in which a question of paternity is raised, the court shall conduct the pretrial proceedings and order scientifically accepted paternity testing as provided by this chapter.~~

~~[Sec. 160.102. ORDER FOR PARENTAGE TESTING. (a) When the respondent appears in a parentage suit, the court shall order the mother, an alleged father, and the child to submit to the taking of blood, body fluid, or tissue samples for the purpose of scientifically accepted parentage testing.~~

~~[(b) If the respondent fails to appear and wholly defaults or if the allegation of parentage is admitted, the court may waive parentage testing.~~

~~[Sec. 160.103. REQUIREMENTS OF TESTING. The court shall require in its order testing necessary to ascertain the possibility of an alleged father's paternity and shall require that the tests exclude at least 99 percent of the male population from the possibility of being the father of the child, except that the court shall permit the omission of any further testing if the testing has been conducted sufficiently to establish that an alleged father is not the father of the child, or if the costs of testing have reached an amount that the court determines to be the greatest amount that may reasonably be borne by one or more parties to the suit. If the appearance is before the birth of the child, the court shall order the taking of blood, body fluid, or tissue samples to be made as soon as medically practical after the birth.~~

~~[Sec. 160.104. APPOINTMENT OF EXPERTS. (a) The court shall:~~

~~[(1) appoint one or more experts qualified in parentage testing to perform the tests;~~

~~[(2) determine the number and qualifications of the experts; and~~

~~[(3) prescribe the arrangements for conducting the tests.~~

~~[(b) The court may:~~

~~[(1) order a reasonable fee for each court-appointed expert; and~~

~~[(2) require the fee to be paid by any or all of the parties in the amounts and in the manner directed or tax all, part, or none of the fee as costs in the suit.~~

~~[(c) A party may employ other experts qualified in parentage testing. The court may order blood, body fluid, or tissue samples made available to these experts if requested.~~

~~[Sec. 160.105. PRETRIAL CONFERENCE. (a) After completion of parentage testing, the court shall order all parties to appear, either in person or by attorney, at a pretrial conference.~~

~~[(b) Either party may call a parentage testing expert to testify in person or by deposition about the expert's tests and findings.~~

~~[(c) A witness at a pretrial conference is governed by the Texas Rules of Civil Evidence.~~

~~[(d) A verified written report of a parentage testing expert is admissible at the pretrial conference as evidence of the truth of the matters it contains.~~

~~[(e) All evidence admitted at the pretrial conference is a part of the record of the case.~~

~~[(f) Parentage test results offered at a pretrial conference are admissible as evidence if the tests were conducted under a court order or by agreement without regard to whether the tests were performed before or after the filing of a suit.~~

~~[Sec. 160.106. EFFECT OF PARENTAGE TESTS. (a) At the conclusion of the pretrial conference, if the court finds that the tests show by clear and convincing evidence that an alleged or presumed father is not the father of the child, the court shall dismiss with prejudice the parentage suit as to that man.~~

~~[(b) If the court finds that the parentage tests do not exclude an alleged father as the father of the child, the court shall set the suit for trial.~~

~~[(c) If the court finds that at least 99 percent of the male population is excluded by the tests and that an alleged father is not excluded from the possibility of being the child's father, the burden of proof at trial is on the party opposing the establishment of the alleged father's parentage.~~

~~[Sec. 160.107. EFFECT OF REFUSING PARENTAGE TESTING. (a) An order for parentage testing is enforceable by contempt and:~~

~~[(1) if the petitioner is the mother or an alleged father and refuses to submit to parentage testing, the court may~~

dismiss the suit; or

~~[(2) if a party refuses to submit to court-ordered parentage testing, on proof sufficient to render a default judgment the court may resolve the question of parentage against that party.~~

~~[(b) If a parent or an alleged parent refuses to submit to parentage testing, the fact of refusal may be introduced as evidence as provided by this subchapter.~~

~~[Sec. 160.108. PREFERENTIAL TRIAL SETTING. (a) In a suit provided by this chapter, after a hearing the court shall grant a motion for a preferential setting for trial on the merits filed by a party to the suit or by the attorney or guardian ad litem for the child. The court shall give precedence to that trial over other civil cases if discovery has been completed or sufficient time has elapsed since the filing of the suit for the completion of all necessary and reasonable discovery if diligently pursued.~~

~~[(b) The provisions of this section regarding preferential setting apply to trial on the merits without regard to whether the suit is set for a trial before the court or before a jury.~~

~~[Sec. 160.109. EVIDENCE AT TRIAL. (a) A party may call a parentage testing expert to testify at the trial in person or by deposition.~~

~~[(b) A verified written report of a parentage testing expert is admissible at the trial as evidence of the truth of the matters it contains.~~

~~[(c) If the parentage tests show the possibility of an alleged father's paternity, the court shall admit this evidence if offered at the trial.~~

~~[(d) Parentage test results offered at the trial shall be admissible as evidence if the tests were conducted under court order or by agreement, without regard to whether the tests were performed before or after the filing of a suit.~~

~~[(e) The party seeking to establish an alleged father's paternity retains the right to open and close at trial without regard to whether the court has shifted the burden of proof to the opposing party.~~

~~[(f) If a copy is provided to the adverse party and to the court at the pretrial conference, submission of a copy of~~

~~a medical bill for the prenatal and postnatal health care expenses of the mother and child or for charges directly related to the parentage testing constitutes a prima facie showing that the charges are reasonable, necessary, and customary and may be admitted as evidence of the truth of the matters stated in the bill.~~

~~[Sec. 160.110. PRESUMPTIONS; BURDEN OF PROOF. (a) In a suit in which there is a presumption of parentage under Chapter 151, the party denying a presumed father's paternity of the child has the burden of rebutting the presumption of paternity by clear and convincing evidence.~~

~~[(b) If the parentage tests show the possibility of an alleged father's paternity and that at least 99 percent of the male population is excluded from the possibility of being the father, evidence of these facts constitutes a prima facie showing of an alleged father's paternity, and the party opposing the establishment of the alleged father's paternity has the burden of proving that the alleged father is not the father of the child.~~

~~[(c) A party who refuses to submit to parentage testing has the burden of proving that an alleged father is not the father of the child.~~

~~[(d) The court shall dismiss with prejudice a claim regarding a presumed father whose paternity is excluded by scientifically accepted paternity testing.~~

~~[(e) If two or more presumptions are in conflict, the presumption that is founded on the weightier considerations of policy and logic controls. The court shall find that the weightier presumption of paternity is that of a presumed father who is not excluded as the biological father of the child by scientifically accepted paternity testing that shows that at least 99 percent of the male population is excluded.~~

~~[(f) The court shall dismiss a suit contesting a presumption of paternity filed by a man who is not a presumed father, but who alleges himself to be the biological father of a child, if:~~

~~[(1) the suit is filed after the second anniversary of the later of:~~

~~[(A) the date of birth of the child; or~~

~~[(B) the time the presumption of paternity came into existence after the child was born; and~~

~~[(2) the presumed father.~~

~~[(A) has resided in the same household as the child in a father-child relationship or has established a father-child relationship with the child through his other actions; and~~

~~[(B) requests an order designating him as the father of the child.~~

~~[(g) A suit contesting a presumption that a man is the biological father of a child may be filed at any time during the minority of the child by:~~

~~[(1) the biological mother of the child;~~

~~[(2) a person related within the second degree of consanguinity to the biological mother of the child, if the biological mother of the child is deceased;~~

~~[(3) a presumed father; or~~

~~[(4) a governmental entity, authorized agency, or licensed child-placing agency.~~

~~[(h) If a presumption of paternity is rebutted, the court shall enter an order finding that the man presumed to be the father of the child is not the biological father.~~

~~[SUBCHAPTER C. ACKNOWLEDGMENT OR DENIAL OF PATERNITY~~

~~[Sec. 160.201. VOLUNTARY ACKNOWLEDGMENT OF PATERNITY. The mother of a child and a man claiming to be the father of the child may execute an acknowledgment of paternity as provided by this subchapter to establish the man's paternity.~~

~~[Sec. 160.202. EXECUTION OF ACKNOWLEDGMENT OF PATERNITY. (a) An acknowledgment of paternity must:~~

~~[(1) be in writing;~~

~~[(2) be signed by the mother and the putative father; and~~

~~[(3) state whether the child whose paternity is being acknowledged has a presumed father under Section 151.002.~~

~~[(b) If the mother declares in the acknowledgment that there is a presumed father of the child, the acknowledgment must be accompanied by a denial of paternity signed by the presumed father, unless the~~

presumed father is the man who has signed the acknowledgment.

~~[Sec. 160.203. FILING ACKNOWLEDGMENT OF PATERNITY. (a) An acknowledgment of paternity executed under this subchapter shall be filed with the bureau of vital statistics.~~

~~[(b) The bureau of vital statistics may not charge a fee to file the acknowledgment.~~

~~[Sec. 160.204. SIGNING OF ACKNOWLEDGMENT OR DENIAL OF PATERNITY. (a) An acknowledgment of paternity or a denial of paternity may contain the mother's signature and the putative father's signature on separate documents.~~

~~[(b) An acknowledgment of paternity or a denial of paternity may be signed before the birth of the child.~~

~~[(c) An adult or a minor may sign an acknowledgment of paternity or a denial of paternity.~~

~~[Sec. 160.205. EFFECT OF ACKNOWLEDGMENT OF PATERNITY. (a) Subject to the right to rescind or contest an acknowledgment of paternity under this subchapter, a signed acknowledgment of paternity filed with the bureau of vital statistics is a legal finding of paternity of a child equivalent to a judicial determination.~~

~~[(b) If the mother or the man claiming to be the father falsely denies the existence of a presumed father in an acknowledgment of paternity, the acknowledgment of paternity is voidable within the time to rescind under Section 160.206.~~

~~[Sec. 160.206. SUIT TO RESCIND ACKNOWLEDGMENT OR DENIAL. (a) Subject to the requirements of Subsection (b), a person who signs an acknowledgment of paternity or a denial of paternity may file a suit affecting the parent-child relationship to rescind the acknowledgment of paternity or denial of paternity.~~

~~[(b) The petition to rescind an acknowledgment of paternity or a denial of paternity must be filed not later than the earlier of:~~

~~[(1) the 61st day after the date the acknowledgment of paternity or denial of paternity is filed with the bureau of vital statistics; or~~

~~[(2) the date of the first hearing before a tribunal to determine an issue relating to the child in which the person is a party, including a proceeding that establishes support.~~

~~[(c) If a proceeding to rescind an acknowledgment of paternity or a denial of paternity is filed jointly or agreed to by all necessary parties, the court shall order the bureau of vital statistics to amend the birth record of the child by removing the father's name:~~

~~[(d) If the proceeding to rescind is not agreed to by all parties, the court shall conduct a hearing in the same manner as a proceeding to determine parentage under this chapter:~~

~~[Sec. 160.207. SUIT TO CONTEST ACKNOWLEDGMENT OR DENIAL. (a) A person who may contest a presumption of paternity under Section 160.101 may contest an acknowledgment of paternity or a denial of paternity by filing a suit affecting the parent-child relationship. A suit to contest an acknowledgment of paternity or a denial of paternity that is filed after the time for a suit to rescind under Section 160.206 may be filed only on the basis of fraud, duress, or material mistake of fact. The party challenging the acknowledgment of paternity or the denial of paternity has the burden of proof:~~

~~[(b) A suit to contest an acknowledgment of paternity or a denial of paternity shall be conducted in the same manner as a proceeding to determine parentage under this chapter:~~

~~[(c) A person must bring suit to contest an acknowledgment of paternity or a denial of paternity not later than the fourth anniversary of the date the acknowledgment of paternity or the denial of paternity is filed with the bureau of vital statistics:~~

~~[(d) A suit to contest an unrescinded acknowledgment of paternity may not be filed after the date a court has rendered an order, including a child support order, based on the acknowledgment of paternity:~~

~~[(e) Notwithstanding any other provision of this chapter, a collateral attack on an acknowledgment of paternity executed under this subchapter may not be filed after the fourth anniversary of the date the acknowledgment of paternity is filed with the bureau of vital statistics:~~

~~[Sec. 160.208. PROCEDURE FOR SUIT TO RESCIND OR CONTEST. (a) Each person who signs an acknowledgment of paternity or a denial of paternity must be made a party to a suit to rescind or contest the acknowledgment of paternity or denial of paternity:~~

~~[(b) Except for good cause shown, the court may not suspend the legal responsibility of a person arising from the acknowledgment of paternity, including the duty to pay child support, while a suit is pending:~~

~~[(c) On a determination of paternity or nonpaternity, the court shall order the bureau of vital statistics to amend the birth record of the child in accordance with the order of the court:~~

~~[Sec. 160.209. COURT RATIFICATION. An unrescinded and uncontested acknowledgment of paternity is valid and effective without court ratification. In a judicial, administrative, or other proceeding, parentage of a child may be proved by evidence that an unrescinded and uncontested acknowledgment of paternity of the child has been filed with the bureau of vital statistics:~~

~~[Sec. 160.210. FULL FAITH AND CREDIT. An acknowledgment of paternity signed in another state shall be accorded full faith and credit by the courts of this state if the acknowledgment is signed in apparent compliance with the other state's law:~~

~~[Sec. 160.211. VALIDATION OF EARLIER STATEMENT. A statement admitting paternity or an obligation to support a child that was signed before September 1, 1999, is valid and binding even though the statement is not executed as provided by this subchapter:~~

~~[Sec. 160.212. FORMS FOR ACKNOWLEDGMENT AND DENIAL OF PATERNITY. (a) The bureau of vital statistics shall prescribe forms for an acknowledgment of paternity and a denial of paternity to comply with this subchapter:~~

~~[(b) The forms prescribed under this section must:~~

~~[(1) contain information regarding the procedure to rescind an acknowledgment or a denial;~~

~~[(2) provide that the signatures on the forms are witnessed and signed under penalty of perjury; and~~

~~[(3) state whether the mother, the putative father, or the presumed father is a minor:~~

~~[(c) The form for acknowledgment of paternity must inform the putative father that signing the acknowledgment of paternity with the consent of the mother:~~

~~[(1) creates the parent-child relationship between him and the child;~~

~~[(2) imposes upon him a legal duty to support the child; and~~

~~[(3) enables a court to grant him the right of custody or visitation with the child.~~

~~[(d) The form for denial of paternity must inform the man that signing the denial of paternity with the consent of the mother:~~

~~[(1) legally determines his nonpaternity of the child;~~

~~[(2) removes the legal duty that he support the child; and~~

~~[(3) terminates his right of conservatorship or possession of or access to the child.~~

~~[Sec. 160.213. VALIDITY OF FORMS. The validity of an acknowledgment of paternity or a denial of paternity is not affected by a modification of the prescribed form by the bureau of vital statistics that occurs after the acknowledgment of paternity or denial of paternity is signed if the form met the requirements of state law at the time it was signed.~~

~~[Sec. 160.214. RELEASE OF INFORMATION. The bureau of vital statistics shall release information relating to the acknowledgment or denial of paternity and rescinding an acknowledgment or a denial of paternity to the Title IV-D agency and any other person authorized by law.~~

~~[Sec. 160.215. ADOPTION OF RULES. The Title IV-D agency and the bureau of vital statistics may adopt rules to implement this subchapter.~~

~~[Sec. 160.216. MEMORANDUM OF UNDERSTANDING. The Title IV-D agency and the bureau of vital statistics shall adopt a memorandum of understanding governing the collection and transfer of information for the voluntary acknowledgment of paternity. The Title IV-D agency and the bureau of vital statistics shall review the memorandum semiannually and renew or modify the memorandum as necessary.~~

~~[SUBCHAPTER D. PATERNITY REGISTRY~~

~~[Sec. 160.251. PATERNITY REGISTRY; PURPOSE. (a) The bureau of vital statistics shall establish a paternity registry:~~

~~[(b) The bureau of vital statistics shall administer the registry to:~~

~~[(1) protect the parental rights of fathers who affirmatively assume responsibility for children they may have fathered; and~~

~~[(2) expedite adoptions of children whose biological fathers are unwilling to assume responsibility for their children by registering with the registry or otherwise acknowledging their children.~~

~~[(c) The registry does not relieve a mother of the obligation to identify the known father of her child.~~

~~[(d) A man is not required to register with the paternity registry if he:~~

~~[(1) is presumed to be the biological father of a child under Chapter 151;~~

~~[(2) has been adjudicated to be the biological father of a child by a court of competent jurisdiction; or~~

~~[(3) has filed an acknowledgment of paternity under Subchapter C.~~

~~[Sec. 160.252. REQUIRED INFORMATION. A man registering with the registry shall provide:~~

~~[(1) the name, last known address, driver's license number, and social security number, if known, of the mother of the child;~~

~~[(2) the name of the child and the location and date of birth of the child, if known, or the probable month and year of the expected birth of the child;~~

~~[(3) the man's name, address, driver's license number, and social security number; and~~

~~[(4) a statement in which the man claims to be the father of the child identified by the man.~~

~~[Sec. 160.253. INFORMATION MAINTAINED BY REGISTRY. The registry shall record the name;~~

~~address, driver's license number, and social security number of a man who claims to be the father of a child~~

~~whose paternity has not been adjudicated by a court of competent jurisdiction by giving notice of intent to claim paternity, as provided by this subchapter.~~

~~[Sec. 160.254. KNOWLEDGE OF PREGNANCY. (a) A person who has sexual intercourse with a person of the opposite sex is deemed to have knowledge that sexual intercourse can result in the woman's pregnancy.~~

~~[(b) Except as provided by this subchapter, a man who claims to be the father of a child shall file a notice of intent to assert as provided by this subchapter his right to establish paternity of a child that may result from the~~

sexual intercourse:

~~[(c) Ignorance of a pregnancy is not a sufficient reason for failing to register with the registry to claim paternity of the child born of the pregnancy:~~

~~[Sec. 160.2545. INFORMATION REGARDING REGISTRY, BIRTH RECORDS, AND ACKNOWLEDGMENTS OF PATERNITY FILED WITH BUREAU OF VITAL STATISTICS. (a) On receipt of a request for a certificate under Section 160.260 attesting to the results of a search of the paternity registry, the bureau of vital statistics shall search:~~

~~[(1) notices of intent to claim paternity filed with the registry under this subchapter;~~

~~[(2) birth records maintained by the bureau;~~

~~[(3) acknowledgments of paternity filed with the bureau under Subchapter C; and~~

~~[(4) central file records identifying a court of continuing jurisdiction and identifying the adjudicated father, if any.~~

~~[(b) The bureau shall furnish information resulting from a search under Subsection (a) to the requestor.~~

~~[Sec. 160.255. FURNISHING OF REGISTRY INFORMATION; CONFIDENTIALITY; OFFENSE. (a) If the mother's address has been provided, the registry shall send a copy of the notice of intent to claim paternity to the mother as notification that a man has registered with the paternity registry claiming to be the father of the mother's child:~~

~~[(b) Information contained in the registry is confidential and may be released on request only to:~~

~~[(1) a court;~~

~~[(2) the mother of a child;~~

~~[(3) an authorized agency;~~

~~[(4) a licensed child-placing agency;~~

~~[(5) an attorney at law in this state who is participating or assisting in a suit affecting the parent-child relationship, including termination of the parent-child relationship or a suit for the adoption of the child that the registrant claims to have fathered; or~~

~~[(6) any other person or entity the bureau of vital statistics considers to have a legitimate interest in the information:~~

~~[(c) The registry shall furnish registry information by electronic data exchange or any other means to the state's Title IV-D agency and the Department of Protective and Regulatory Services:~~

~~[(d) A person commits an offense if the person intentionally and unlawfully releases information from the registry to the public or makes any other unlawful use of the information in violation of this subchapter. An offense under this subsection is a Class B misdemeanor:~~

~~[Sec. 160.256. NOTICE OF INTENT TO CLAIM PATERNITY. (a) Except as provided by Subsection (d), a person may register as provided by this subchapter by filing a notice of intent to claim paternity on a form provided by the bureau of vital statistics. This form shall be signed and acknowledged before a notary public:~~

~~[(b) The bureau shall make registration forms available to all:~~

~~[(1) hospitals and other birthing places in this state;~~

~~[(2) licensed child-placing agencies;~~

~~[(3) county and district clerks;~~

~~[(4) municipal clerks;~~

~~[(5) justices of the peace;~~

~~[(6) jails;~~

~~[(7) prisons; and~~

~~[(8) facilities of the Texas Department of Criminal Justice and Texas Youth Commission:~~

~~[(c) A notice of intent to claim paternity may be filed before the birth of the child but may not be filed after the 30th day after the date of birth of the child:~~

~~[(d) If the bureau of vital statistics has received from the clerk of the court notice under Chapter 108 of a decree terminating the parent-child relationship between the person applying to register and the child, the bureau shall notify the person that the person's parent-child relationship with the child has been terminated and may not enter~~

into the registry a notice of intent to claim paternity filed by the person.

~~[Sec. 160.257. DENIAL OF REGISTRANT'S PATERNITY; NOTIFICATION. (a) Not later than the 30th day after the date of the receipt of notification from the bureau of vital statistics that a notice of intent to claim paternity has been filed, the mother of the child may deny the registrant's claim of paternity on a form provided by the bureau and signed and acknowledged before a notary public.~~

~~[(b) If the mother denies that the registrant is the father of the child, the bureau of vital statistics shall immediately notify the registrant of the denial and of the registrant's right to file a legal action to establish paternity.~~

~~[Sec. 160.258. EFFECT OF FAILURE TO FILE NOTICE OF INTENT. Except as provided by Chapter 102 and Chapter 161, a man who fails to file a notice of intent to claim paternity before the 30th day after the date of the birth of the child may not assert an interest in the child other than by filing a suit to establish paternity before the termination of the man's parental rights.~~

~~[Sec. 160.259. CHANGE OR REVOCATION OF REGISTRY INFORMATION. (a) A man who files a notice of intent to claim paternity with the registry shall promptly notify the registry in writing of any change in the information, including a change of address.~~

~~[(b) A man who files a notice of intent to claim paternity may at any time revoke the notice by sending the registry a written statement signed and acknowledged by the registrant before a notary public. The statement must include a declaration that, to the best of the registrant's knowledge and belief:~~

~~[(1) the registrant is not the father of the named child; or~~

~~[(2) a court has adjudicated paternity and a person other than the registrant has been determined to be the father of the child.~~

~~[Sec. 160.260. FURNISHING OF CERTIFICATE OF REGISTRY SEARCH. On request, the bureau of vital statistics shall furnish a certificate, signed by the state registrar of vital statistics, attesting to the results of a search of the registry regarding a notice of intent to claim paternity to:~~

~~[(1) a court;~~

~~[(2) the mother of a child;~~

~~[(3) an authorized agency;~~

~~[(4) a licensed child-placing agency;~~

~~[(5) an attorney licensed to practice law in this state who is participating or assisting in an adoption; or~~

~~[(6) any other person or entity the bureau of vital statistics considers to have a legitimate interest in the information.~~

~~[Sec. 160.261. REMOVAL OF REGISTRANT'S NAME. If a court determines that a registrant is not the father of the child, the court shall order the bureau of vital statistics to remove the registrant's name from the registry. On receipt of an order for the removal of a registrant's name, the bureau of vital statistics shall remove the name from the registry.~~

~~[Sec. 160.262. REGISTRY FEES. (a) A fee may not be charged for filing with the registry a notice of intent to claim paternity of a child or a denial of a registrant's paternity.~~

~~[(b) Except as provided by Subsection (c), the Texas Department of Health may charge a fee for processing a search of the paternity registry and for furnishing a certificate under Section 160.260.~~

~~[(c) The Department of Protective and Regulatory Services and the Title IV-D agency are not required to pay a fee under Subsection (b).~~

~~[Sec. 160.263. ADMISSIBILITY OF INFORMATION MAINTAINED BY REGISTRY. Information maintained by the paternity registry is admissible in a proceeding in a court or administrative tribunal of this state for any purpose, including for the establishment of the registrant's paternity or an action to terminate parental rights.]~~

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. Section 32.003(a), Family Code, is amended to read as follows:

(a) A child may consent to medical, dental, psychological, and surgical treatment for the child by a licensed physician or dentist if the child:

- (1) is on active duty with the armed services of the United States of America;
- (2) is:
 - (A) 16 years of age or older and resides separate and apart from the child's parents, managing conservator, or guardian, with or without the consent of the parents, managing conservator, or guardian and regardless of the duration of the residence; and
 - (B) managing the child's own financial affairs, regardless of the source of the income;
- (3) consents to the diagnosis and treatment of an infectious, contagious, or communicable disease that is required by law or a rule to be reported by the licensed physician or dentist to a local health officer or the Texas Department of Health, including all diseases within the scope of Section 81.041, Health and Safety Code;
- (4) is unmarried and pregnant and consents to hospital, medical, or surgical treatment, other than abortion, related to the pregnancy;
- (5) consents to examination and treatment for drug or chemical addiction, drug or chemical dependency, or any other condition directly related to drug or chemical use; or
- (6) is unmarried, is the parent of a child, and has actual custody of his or her ~~[the child's biological]~~ child and consents to medical, dental, psychological, or surgical treatment for the child.

SECTION 2.02. Section 51.02(9), Family Code, is amended to read as follows:

- (9) "Parent" means the mother ~~or~~ the father of a ~~[whether or not the]~~ child ~~[is legitimate, or an adoptive parent]~~, but does not include a parent whose parental rights have been terminated.

SECTION 2.03. Section 71.003, Family Code, is amended to read as follows:

Sec. 71.003. FAMILY. "Family" includes individuals related by consanguinity or affinity, as determined under Sections 573.022 and 573.024, Government Code, individuals who are former spouses of each other, individuals who are the ~~[biological]~~ parents of the same child, without regard to marriage, and a foster child and foster parent, without regard to whether those individuals reside together.

SECTION 2.04. Chapter 101, Family Code, is amended by adding Sections 101.0010 and 101.0015 to read

as follows:

Sec. 101.0010. ACKNOWLEDGED FATHER. "Acknowledged father" means a man who has established a father-child relationship under Chapter 160.

Sec. 101.0015. ALLEGED FATHER. (a) "Alleged father" means a man who alleges himself to be, or is alleged to be, the genetic father or a possible genetic father of a child, but whose paternity has not been determined.

(b) The term does not include:

(1) a presumed father;

(2) a man whose parental rights have been terminated or declared to not exist; or

(3) a male donor.

SECTION 2.05. Section 101.024, Family Code, is amended to read as follows:

Sec. 101.024. PARENT. "Parent" means the mother, a man presumed to be the [biological] father, a man legally determined to be the [biological] father, a man who has been adjudicated to be the [biological] father by a court of competent jurisdiction, a man who has acknowledged his paternity under applicable law, or an adoptive mother or father. The term does not include a parent as to whom the parent-child relationship has been terminated.

SECTION 2.06. Section 101.025, Family Code, is amended to read as follows:

Sec. 101.025. PARENT-CHILD RELATIONSHIP. "Parent-child relationship" means the legal relationship between a child and the child's [biological or adoptive] parents as provided by Chapter 160 [151]. The term includes the mother and child relationship and the father and child relationship.

SECTION 2.07. Section 102.003(a), Family Code, is amended to read as follows:

(a) An original suit may be filed at any time by:

(1) a parent of the child;

(2) the child through a representative authorized by the court;

(3) a custodian or person having the right of visitation with or access to the child appointed by an order of a

court of another state or country;

- (4) a guardian of the person or of the estate of the child;
- (5) a governmental entity;
- (6) an authorized agency;
- (7) a licensed child placing agency;
- (8) a man alleging himself to be the [biological] father of a child filing in accordance with Chapter 160, subject to the limitations of that chapter [~~Section 160.101~~], but not otherwise;
- (9) a person, other than a foster parent, who has had actual care, control, and possession of the child for at least six months ending not more than 90 days preceding the date of the filing of the petition;
- (10) a person designated as the managing conservator in a revoked or unrevoked affidavit of relinquishment under Chapter 161 or to whom consent to adoption has been given in writing under Chapter 162;
- (11) a person with whom the child and the child's guardian, managing conservator, or parent have resided for at least six months ending not more than 90 days preceding the date of the filing of the petition if the child's guardian, managing conservator, or parent is deceased at the time of the filing of the petition;
- (12) a person who is the foster parent of a child placed by the Department of Protective and Regulatory Services in the person's home for at least 12 months ending not more than 90 days preceding the date of the filing of the petition; or
- (13) a person who is a relative of the child within the third degree by consanguinity, as determined by Chapter 573, Government Code, if the child's parents are deceased at the time of the filing of the petition.

SECTION 2.08. Section 102.006(a), Family Code, is amended to read as follows:

- (a) Except as provided by Subsection (b), if the parent-child relationship between the child and every living parent of the child has been terminated, an original suit may not be filed by:
 - (1) a former parent whose parent-child relationship with the child has been terminated by court order;
 - (2) the [biological] father of the child; or

(3) a family member or relative by blood, adoption, or marriage of either a former parent whose parent-child relationship has been terminated or of the [biological] father of the child.

SECTION 2.09. Section 102.009(a), Family Code, is amended to read as follows:

(a) Except as provided by Subsection (b), the following are entitled to service of citation on the filing of a petition in an original suit:

- (1) a managing conservator;
- (2) a possessory conservator;
- (3) a person having possession of or access to the child under an order;
- (4) a person required by law or by order to provide for the support of the child;
- (5) a guardian of the person of the child;
- (6) a guardian of the estate of the child;
- (7) each parent as to whom the parent-child relationship has not been terminated or process has not been waived under Chapter 161;
- (8) an alleged father, unless there is attached to the petition an affidavit of waiver of interest in a child executed by the alleged father as provided by Chapter 161 or unless the petitioner has complied with the provisions of Section 161.002(b)(2) or (b)(3);
- (9) a man who has filed a notice of intent to claim paternity as provided by [~~Subchapter D,~~] Chapter 160;
- (10) the Department of Protective and Regulatory Services, if the petition requests that the department be appointed as managing conservator of the child; and
- (11) the Title IV-D agency, if the petition requests the termination of the parent-child relationship and support rights have been assigned to the Title IV-D agency under Chapter 231.

SECTION 2.10. Section 105.002(b), Family Code, is amended to read as follows:

(b) A party may not demand a jury trial in:

- (1) a suit in which adoption is sought, including a trial on the issue of denial or revocation of consent to the

adoption by the managing conservator; or

(2) a suit to adjudicate [~~determine~~] parentage under Chapter 160.

SECTION 2.11. Section 107.013(a), Family Code, is amended to read as follows:

(a) In a suit in which termination of the parent-child relationship is requested, the court shall appoint an attorney ad litem to represent the interests of:

(1) an indigent parent of the child who responds in opposition to the termination;

(2) a parent served by citation by publication;

(3) an alleged father who failed to register with the registry under [~~Subchapter D;~~] Chapter 160[;] and whose identity or location is unknown; and

(4) an alleged father who registered with the paternity registry under [~~Subchapter D;~~] Chapter 160, but the petitioner's attempt to personally serve citation at the address provided to the registry and at any other address for the alleged father known by the petitioner has been unsuccessful.

SECTION 2.12. Section 108.009(a), Family Code, is amended to read as follows:

(a) The state registrar shall substitute a new birth certificate for the original based on the order in accordance with laws or rules that permit the correction or substitution of a birth certificate [~~certificates~~] for an adopted child or a child whose parents marry each other [~~children or children presumed to be biological children by the~~] subsequent to the birth of the child [~~marriage of their parents~~].

SECTION 2.13. Chapter 151, Family Code, is amended to read as follows:

CHAPTER 151. RIGHTS AND DUTIES IN [~~THE~~]

PARENT-CHILD RELATIONSHIP

[~~SUBCHAPTER A. GENERAL PROVISIONS~~]

Sec. 151.001. [~~RELATION OF CHILD TO MOTHER AND FATHER.~~] (a) ~~The parent-child relationship may be established between a child and:~~

[~~(1) the biological mother by proof of her having given birth to the child;~~

~~[(2) the biological father as provided by this code; and~~

~~[(3) an adoptive parent by proof of adoption.~~

~~[(b) The parent-child relationship extends equally to every child and parent regardless of the marital status of the parents:~~

~~[Sec. 151.002. PRESUMPTION OF PATERNITY. (a) A man is presumed to be the biological father of a child if:~~

~~[(1) he and the child's biological mother are or have been married to each other and the child is born during the marriage or not more than 300 days after the date the marriage terminated by death, annulment, or divorce or by having been declared void;~~

~~[(2) before the child's birth, he and the child's biological mother attempted to marry each other by a marriage in apparent compliance with law, although the attempted marriage is or could be declared void, and the child is born during the attempted marriage or not more than 300 days after the date the attempted marriage terminated by death, annulment, or divorce or by having been declared void; or~~

~~[(3) after the child's birth, he and the child's biological mother have married or attempted to marry each other by a marriage in apparent compliance with law, although the attempted marriage is or could be declared void or voided by annulment, and:~~

~~[(A) he has filed a written acknowledgment of his paternity of the child under Chapter 160;~~

~~[(B) he consents in writing to be named and is named as the child's father on the child's birth certificate; or~~

~~[(C) he is obligated to support the child under a written voluntary promise or by court order.~~

~~[(b) A presumption under this section may be rebutted as provided by Section 160.110.~~

~~[Sec. 151.003.] RIGHTS AND DUTIES OF PARENT. (a) A parent of a child has the following rights and duties:~~

~~(1) the right to have physical possession, to direct the moral and religious training, and to establish the residence of the child;~~

- (2) the duty of care, control, protection, and reasonable discipline of the child;
 - (3) the duty to support the child, including providing the child with clothing, food, shelter, medical and dental care, and education;
 - (4) the duty, except when a guardian of the child's estate has been appointed, to manage the estate of the child, including the right as an agent of the child to act in relation to the child's estate if the child's action is required by a state, the United States, or a foreign government;
 - (5) the right to the services and earnings of the child;
 - (6) the right to consent to the child's marriage, enlistment in the armed forces of the United States, medical and dental care, and psychiatric, psychological, and surgical treatment;
 - (7) the right to represent the child in legal action and to make other decisions of substantial legal significance concerning the child;
 - (8) the right to receive and give receipt for payments for the support of the child and to hold or disburse funds for the benefit of the child;
 - (9) the right to inherit from and through the child;
 - (10) the right to make decisions concerning the child's education; and
 - (11) any other right or duty existing between a parent and child by virtue of law.
- (b) The duty of a parent to support his or her child exists while the child is an unemancipated minor and continues as long as the child is fully enrolled in an accredited secondary school in a program leading toward a high school diploma until the end of the school year in which the child graduates.
- (c) A parent who fails to discharge the duty of support is liable to a person who provides necessities to those to whom support is owed.
- (d) The rights and duties of a parent are subject to:
- (1) a court order affecting the rights and duties;
 - (2) an affidavit of relinquishment of parental rights; and

(3) an affidavit by the parent designating another person or agency to act as managing conservator.

Sec. 151.002 [~~151.004~~]. RIGHTS OF A LIVING CHILD AFTER AN ABORTION OR PREMATURE

BIRTH. (a) A living human child born alive after an abortion or premature birth is entitled to the same rights, powers, and privileges as are granted by the laws of this state to any other child born alive after the normal gestation period.

(b) In this code, "born alive" means the complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of pregnancy, which, after such separation, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached. Each product of the birth is considered born alive.

Sec. 151.003 [~~151.005~~]. LIMITATION ON STATE AGENCY ACTION. A state agency may not adopt rules or policies or take any other action that violates the fundamental right and duty of a parent to direct the upbringing of the parent's child.

[SUBCHAPTER B. ~~ASSISTED CONCEPTION~~

[~~Sec. 151.101. ARTIFICIAL INSEMINATION. (a) If a husband consents to the artificial insemination of his wife, any resulting child is the child of both of them. The consent must be in writing and must be acknowledged.~~

[~~(b) If a woman is artificially inseminated, the resulting child is not the child of the donor unless he is the husband.~~

[~~Sec. 151.102. OOCYTE DONATION. (a) If a husband consents to provide sperm to fertilize a donor oocyte by in vitro fertilization or other assisted reproductive techniques and the wife consents to have a donor oocyte that has been fertilized with her husband's sperm, pursuant to his consent, placed in her uterus, a resulting child is the child of both of them. The consent of each must be in writing.~~

[~~(b) If a donor oocyte that has been fertilized with her husband's sperm implants in a wife's uterus, a resulting child is not the child of the donor of the oocyte.~~

[~~Sec. 151.103. EMBRYO DONATION. (a) If, with the consent of the husband and the wife, a donated~~

~~preimplantation embryo implants in the uterus of the wife, a resulting child is the child of both of them. The consent must be in writing.~~

~~[(b) If, with the consent of the husband and the wife, a donated preimplantation embryo implants in the uterus of the wife, a resulting child is not the child of the donor or donors of the preimplantation embryo.~~

~~[(c) Subsections (a) and (b) apply whether the donated preimplantation embryo is the result of separate egg and sperm donations or the result of donation of an embryo created for the purpose of assisting the reproduction of the donating couple.]~~

SECTION 2.14. Section 154.131(b), Family Code, is amended to read as follows:

(b) In ordering retroactive child support, the court shall consider the net resources of the obligor during the relevant time period and whether:

(1) the mother of the child had made any previous attempts to notify the obligor [biological father] of his paternity or probable paternity;

(2) the obligor [biological father] had knowledge of his paternity or probable paternity;

(3) the order of retroactive child support will impose an undue financial hardship on the obligor or the obligor's family; and

(4) the obligor has provided actual support or other necessities before the filing of the action.

SECTION 2.15. Section 155.001(b), Family Code, is amended to read as follows:

(b) The following final orders do not create continuing, exclusive jurisdiction in a court:

(1) a voluntary or involuntary dismissal of a suit affecting the parent-child relationship;

(2) in a suit to determine parentage, a final order finding that an alleged or presumed father is not the [biological] father of the child, except that the jurisdiction of the court is not affected if the child was subject to the jurisdiction of the court or some other court in a suit affecting the parent-child relationship before the commencement of the suit to adjudicate [determine] parentage; and

(3) a final order of adoption, after which a subsequent suit affecting the child must be commenced as though the

child had not been the subject of a suit for adoption or any other suit affecting the parent-child relationship before the adoption.

SECTION 2.16. Sections 161.002(a)-(e), Family Code, are amended to read as follows:

- (a) The procedural and substantive standards for termination of parental rights apply to the termination of the rights of an alleged [biological] father.
- (b) The rights of an alleged [biological] father may be terminated if:
 - (1) after being served with citation, he does not respond by timely filing an admission of paternity or a counterclaim for paternity under Chapter 160 prior to the final hearing in the suit;
 - (2) he has not registered with the paternity registry under [~~Subchapter D;~~] Chapter 160, and after the exercise of due diligence by the petitioner:
 - (A) his identity and location are unknown; or
 - (B) his identity is known but he cannot be located; or
 - (3) he has registered with the paternity registry under [~~Subchapter D;~~] Chapter 160, but the petitioner's attempt to personally serve citation at the address provided to the registry and at any other address for the alleged father known by the petitioner has been unsuccessful, despite the due diligence of the petitioner.
- (c) The termination of the rights of an alleged [biological] father under Subsection (b)(2) rendered on or after January 1, 1998, does not require personal service of citation or citation by publication on the alleged father.
- (d) The termination of rights of an alleged [biological] father under Subsection (b)(3) does not require service of citation by publication on the alleged father.
- (e) The court shall not render an order terminating parental rights under Subsection (b)(2) unless the court, after reviewing the petitioner's sworn affidavit describing the petitioner's effort to identify and locate the alleged [biological] father and considering any evidence submitted by the attorney ad litem for the alleged [biological] father, has found that the petitioner exercised due diligence in attempting to identify and locate the alleged [biological] father. The order shall contain specific findings regarding due diligence of the petitioner.

SECTION 2.17. Section 233.028(d), Family Code, is amended to read as follows:

(d) If genetic [parentage] testing identifies [does not exclude] the alleged parent as the parent of the child and the results of a verified written report of a genetic [parentage] testing expert meet the requirements of Chapter 160 for issuing a temporary order, the Title IV-D agency may conduct a negotiation conference to resolve any issues of support and file with the court a child support review order.

SECTION 2.18. Section 42(b)(1), Texas Probate Code, is amended to read as follows:

(1) For the purpose of inheritance, a child is the child of his biological father if the child is born under circumstances described by Section 160.201 [151.002], Family Code, is adjudicated to be the child of the father by court decree as provided by Chapter 160, Family Code, was adopted by his father, or if the father executed an acknowledgment [a statement] of paternity as provided by Subchapter D, Chapter 160 [Section 160.202], Family Code, or a like statement properly executed in another jurisdiction, so that he and his issue shall inherit from his father and from his paternal kindred, both descendants, ascendants, and collaterals in all degrees, and they may inherit from him and his issue. A person claiming to be a biological child of the decedent, who is not otherwise presumed to be a child of the decedent, or claiming inheritance through a biological child of the decedent, who is not otherwise presumed to be a child of the decedent, may petition the probate court for a determination of right of inheritance. If the court finds by clear and convincing evidence that the purported father was the biological father of the child, the child is treated as any other child of the decedent for the purpose of inheritance and he and his issue may inherit from his paternal kindred, both descendants, ascendants, and collaterals in all degrees, and they may inherit from him and his issue. This section does not permit inheritance by a purported father of a child, whether recognized or not, if the purported father's parental rights have been terminated.

ARTICLE 3. EFFECTIVE DATE AND TRANSITION

SECTION 3.01. 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, 2001.

SECTION 3.02. The change in law made by this Act applies to a motion or other request for relief made in a parentage or paternity proceeding that is commenced on or after the effective date of this Act. A motion or request for relief in a parentage or paternity proceeding commenced before the effective date of this Act is governed by the law in effect at the time the proceeding was commenced, and the former law is continued in effect for that purpose.

SECTION 3.03. The change in law made by Section 160.316, Family Code, as added by this Act, applies to a suit affecting the parent-child relationship commenced on or after the effective date of this Act and before September 1, 2003. A suit commenced before September 1, 2003, that is pending on or after September 1, 2004, is governed by Section 160.316, Family Code, as that section existed on the date the suit was filed, and that law is continued in effect for that purpose.

President of the Senate

Speaker of the House

I certify that H.B. No. 920 was passed by the House on May 11, 2001, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 920 on May 25, 2001, by the following vote: Yeas 139, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 920 was passed by the Senate, with amendments, on May 22, 2001, by the following

vote: Yeas 29, Nays 1, 1 present, not voting.

Secretary of the Senate

APPROVED: _____

Date

Governor