

BILL ANALYSIS

Senate Research Center

H.B. 1091
By: Goodman (Zaffirini)
Jurisprudence
5-2-97
Engrossed

DIGEST

In 1996, 862 adoptions were consummated in Texas. As of August 31, 1996, 1,400 children were legally free for adoption and in Texas Department of Protective and Regulatory Services (department) foster care. Before an adoption can take place, the parental rights of the biological parents must be terminated, which involves the final, irreversible severance of all legal rights and duties between the parents and the children. Chapter 161 of the Family Code governs the termination of parental rights by the state. Chapter 162 of the Family Code governs the adoption process whereby the biological parents of a child are replaced by adoptive legal parents. This bill will provide additional regulations regarding the parent-child relationship, including suits affecting the parent-child relationship, the establishment of paternity, the termination of the parent-child relationship, and the adoption of children; providing penalties.

PURPOSE

As proposed, H.B. 1091 provides additional regulations regarding the parent-child relationship, including suits affecting the parent-child relationship, the establishment of paternity, the termination of the parent-child relationship, and the adoption of children; provides penalties.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Board of Health in SECTIONS 24 and 27 (Sections 162.408 and 162.420(a), Family Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 102.009(a), Family Code, to provide that an alleged father, unless the the petitioner has complied with the provisions of Section 161.002(b)(2) or (b)(3), and a man who has filed a notice of intent to claim paternity as provided by Chapter 160D are entitled to service of citation on the filing of a petition in an original suit. Makes conforming changes.

SECTION 2. Amends Section 102.011(b), Family Code, to authorize the court to exercise personal jurisdiction over a person on whom service of citation is required or over the person's personal representative, although the person is not a resident or domiciliary of this state, if the person registered with the paternity registry maintained by the bureau of vital statistics (bureau) as provided by Chapter 160.

SECTION 3. Amends Section 103.001, Family Code, by amending Subsection (c) and adding Subsection (d), to provide that a child resides in the county where the child's parents have resided for not less than 90 days, or the child's parent has resided for not less than 90 days, if only one parent is living. Provides that, if a person whose residence is used to establish the residence of a child under Subsection (c) has not resided continuously for 90 days in a single county during the preceding year, the county in which the child resides is the county in which the person has resided for the longest period during the preceding year. Makes conforming changes.

SECTION 4. Amends Section 107.013, Family Code, to require the court to appoint an attorney ad litem, in a suit in which termination of the parent-child relationship is requested, to represent the interests of a parent served by citation by publication; an alleged father who failed to register with the registry under Chapter 160D, and whose identity or location is unknown; and an alleged father who

registered with the paternity registry under Chapter 160D, 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. Authorizes the court, if both parents of the child are entitled to the appointment of an attorney ad litem under this section and the court finds that the interests of the parents are not in conflict, to appoint a single attorney ad litem to represent the interests of both parents.

SECTION 5. Amends Section 153.434, Family Code, to prohibit a biological or adoptive grandparent from requesting possession of or access to a grandchild if the grandparent is a parent of a person who has executed an affidavit of waiver of interest in the child or an affidavit of relinquishment of parental rights under Chapter 161 and the affidavit designates an authorized agency, licensed child-placing agency, or person other than the child's stepparent as the managing conservator of the child, among other requirements. Makes conforming changes.

SECTION 6. Amends Section 159.201, Family Code, to make a conforming change.

SECTION 7. Amends Chapter 160, Family Code, by adding Subchapter D, as follows:

SUBCHAPTER D. PATERNITY REGISTRY

Sec. 160.251. PATERNITY REGISTRY; PURPOSE. Requires the bureau of to establish a paternity registry. Sets forth the purpose of the registry. Provides that the registry does not relieve a mother of the obligation to identify the known father of her child. Provides that a man is not required to register with the registry under certain conditions.

Sec. 160.252. REQUIRED INFORMATION. Sets forth information required to be provided by a man registering with the registry.

Sec. 160.253. INFORMATION MAINTAINED BY REGISTRY. Sets forth regulations regarding information maintained by the registry.

Sec. 160.254. KNOWLEDGE OF PREGNANCY. Provides that 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. Requires a man who claims to be the father of a child to 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 except as provided by this subchapter. Provides that 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. 160.255. FURNISHING OF REGISTRY INFORMATION; CONFIDENTIALITY; OFFENSE. Sets forth regulations regarding the furnishing of registry information to the mother and the confidentiality of information contained in the registry. Provides that a person commits a Class B misdemeanor if the person intentionally or unlawfully releases information for the registry to the public or makes any unlawful use of the information in violation of this subchapter.

Sec. 160.256. NOTICE OF INTENT TO CLAIM PATERNITY. Sets forth regulations regarding the notice of intent to claim paternity.

Sec. 160.257. DENIAL OF REGISTRANT'S PATERNITY; NOTIFICATION. Sets forth regulations regarding denial by a mother of a registrant's paternity and notification.

Sec. 160.258. EFFECT OF FAILURE TO FILE NOTICE OF INTENT. Sets forth the effect of a failure to file notice of intent.

Sec. 160.259. CHANGE OR REVOCATION OF REGISTRY INFORMATION. Sets forth regulations regarding a change in or revocation of registry information.

Sec. 160.260. FURNISHING OF CERTIFICATE OF REGISTRY SEARCH. Sets forth

regulations regarding the furnishing of a certificate regarding the result of a registry search by the bureau.

Sec. 160.261. **REMOVAL OF REGISTRANT'S NAME.** Sets forth regulations regarding the removal of a registrant's name from the registry.

Sec. 160.262. **REGISTRY FEES.** Sets forth regulations regarding fees charged by the bureau.

Sec. 160.263. **ADMISSIBILITY OF INFORMATION MAINTAINED BY REGISTRY.** Sets forth the admissibility of information maintained by the registry.

SECTION 8. Amends Section 161.002, Family Code, by amending Subsection (b) and adding Subsections (c)-(f), to authorize the rights of an alleged biological father to be terminated under certain conditions. Sets forth regulations regarding service of citation and the termination of parental rights.

SECTION 9. Amends Chapter 161A, Family Code, by adding Section 161.007, as follows:

Sec. 161.007. **TERMINATION WHEN PREGNANCY RESULTS FROM CRIMINAL ACT.** Authorizes the court to order the termination of the parent-child relationship of a parent and a child if the court makes certain findings.

SECTION 10. Amends Section 161.103, Family Code, to require an affidavit for voluntary relinquishment of parental rights to contain, if the relinquishment is revocable, a statement in boldfaced type concerning the right of the parent signing the affidavit to revoke the relinquishment only if the revocation is made before the 11th day after the date the affidavit is executed; if the relinquishment is revocable, the name and address of a person to whom the revocation is to be delivered; and the designation of certain persons as managing conservator of the child and the address of the person or agency. Authorizes the affidavit to contain certain information. Requires a copy of the affidavit to be provided to the parent at the time the parent signs the affidavit. Provides that a relinquishment that failed to state that the relinquishment is irrevocable for a stated time is revocable as provided by Section 161.1035. Sets forth regulations regarding revocation of a relinquishment.

SECTION 11. Amends Chapter 161B, Family Code, by adding Section 161.1035, as follows:

Sec. 161.1035. **REVOCABILITY OF CERTAIN AFFIDAVITS.** Sets forth regulations regarding the revocability of certain affidavits.

SECTION 12. Amends Section 161.106, Family Code, by adding Subsections (f)-(j), to set forth regulations regarding a waiver contained in an affidavit. Requires a copy of the affidavit to be provided to the person who executed the affidavit at the time the person signs the affidavit. Sets forth regulations for revocation of a waiver.

SECTION 13. Amends Chapter 161B, Family Code, by adding Sections 161.108 and 161.109, as follows:

Sec. 161.108. **RELEASE OF CHILD FROM HOSPITAL OR BIRTHING CENTER.** Sets forth regulations regarding the release of a child from a hospital or birthing center.

Sec. 161.109. **REQUIREMENT OF PATERNITY REGISTRY CERTIFICATE.** Sets forth regulations regarding a certificate issued by the registry stating that a diligent search has been made of the paternity registry for the father.

SECTION 14. Amends Chapter 162A, Family Code, by adding Section 162.0025, as follows:

Sec. 162.0025. **ADOPTIVE HOME SCREENING.** Sets forth regulations regarding the screening of an adoptive home.

SECTION 15. Amends Section 162.001, Family Code, to set forth regulations regarding the adoption of children who are at least two years old.

SECTION 16. Amends Chapter 162A, Family Code, by adding Section 162.0045, as follows:

Sec. 162.0045. PREFERENTIAL SETTING. Requires the court to grant a motion for preferential setting for a final hearing on an adoption and to give precedence to that hearing over all other civil cases not given preference by other law under certain circumstances.

SECTION 17. Amends Section 162.0085(a), Family Code, to require the court to accept under this section a person's criminal history record information that is provided by certain agencies if the information was obtained not more than one year before the date the court ordered the history to be obtained.

SECTION 18. Amends Section 162.018, Family Code, by adding Subsection (d), to require the court, at the time an adoption order is rendered, to provide to the parents of an adopted child certain information. Requires the licensed child-placing agency to provide to each of the child's biological parents known to the agency certain information. Requires the information to include the right of the child or biological parent to refuse to participate in the registry. Requires the court, if the adopted child is 14 years old or older, to provide the information to the child.

SECTION 19. Amends Section 162.025, Family Code, to delete a reference to the facilitation of the placement of a child for adoption.

SECTION 20. Amends Section 162.402, Family Code, to redefine "authorized agency" and "central registry," and to define "bureau."

SECTION 21. Amends Sections 162.403(a) and (c), Family Code, to require the bureau, rather than the Department of Protective and Regulatory Services (department), to establish and maintain a mutual consent voluntary adoption registry. Makes a conforming change.

SECTION 22. Amends Chapter 162E, Family Code, by adding Section 162.404, as follows:

Sec. 162.404. REQUIREMENT TO SEND INFORMATION TO CENTRAL REGISTRY. Sets forth regulations regarding the requirement to send information to the central registry.

SECTION 23. Amends Sections 162.407(b) and (c), Family Code, to make conforming and nonsubstantive changes.

SECTION 24. Amends Section 162.408, Family Code, to require the rules and minimum standards of the Texas Board of Health for the bureau to provide for proof of identity in order to facilitate certain objectives.

SECTION 25. Amends Section 162.411(d), Family Code, to make a conforming change.

SECTION 26. Amends Section 162.414(c), Family Code, to make conforming changes.

SECTION 27. Amends Section 162.420, Family Code, to require the Texas Board of Health, rather than the department, to make rules and adopt minimum standards for the bureau. Makes conforming changes.

SECTION 28. Amends Section 162.421(a), Family Code, to make a conforming change.

SECTION 29. Amends Sections 162.422(a) and (b), Family Code, to make conforming changes.

SECTION 30. Amends Section 192.008(a), Health and Safety Code, to require the supplementary birth certificate of an adopted child to be in the names of the adoptive parents, one of whom must be a female, named as the mother, and the other of whom must be a male, named as the

father. Provides that this subsection does not prohibit a single individual, male or female, from adopting a child.

SECTION 31. Amends Chapter 25, Penal Code, by adding Section 25.09, as follows:

Sec. 25.09. ADVERTISING FOR PLACEMENT OF CHILD. Sets forth regulations regarding advertising for placement of a child. Defines "child" and "public media."

SECTION 32. (a) Effective date: September 1, 1997.

(b) Makes application of this Act prospective, except for the transference of the administration of the central voluntary adoption from the Department of Protective and Regulatory Services to the bureau, which takes effect January 1, 1998.

SECTION 33. Emergency clause.