

SUBJECT: Revising affidavit requirements in a parent-child termination suit

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 8 ayes — Goodman, Isett, P. King, Morrison, Naishtat, A. Reyna, E. Reyna, Truitt
0 nays
1 absent — Pickett

WITNESSES: For — None
Against — None
On — Charles Childress, Texas Department of Protective and Regulatory Services; John J. Sampson

BACKGROUND: Under current law, a father may file a waiver of interest or a voluntary relinquishment of parental rights to terminate his parental relationship with a child. A waiver of interest requires no admission of paternity. An affidavit of relinquishment requires admission of paternity and must be signed within 48 hours of the child's birth.

DIGEST: CSHB 1006 would amend the Family Code to provide that an affidavit of waiver of interest in a child could be filed in a suit for termination of the parent-child relationship between a child and the man who had signed the affidavit, which could serve as the basis for terminating the parental rights of the purported father. A court could render an order terminating the parent-child relationship between a child and a man who had signed an affidavit of waiver of interest in the child.

The bill would delete the requirement that a court-filed executed statement of paternity and a court-filed affidavit of relinquishment of parental rights be included in an affidavit of the status of the child.

This bill would take effect September 1, 1999.

**SUPPORTERS
SAY:**

CSHB 1006 would close any loopholes to subsequent parental-rights claims that a purported father might have after signing a waiver of interest in a suit terminating the parent-child relationship.

Traditionally, a waiver of interest in a child has been used in suits affecting the parent-child relationship in cases where the child was born out of wedlock. The basis of the waiver was the idea that the father of an illegitimate child had no parental rights, only obligations if the child's mother chose to establish paternity through a lawsuit. The waiver was used as a type of quit-claim deed whereby the father made no admission of paternity and expressed no interest in the child. In recent years, however, the Texas Supreme Court has ruled that a biological father has parental rights that he may pursue legally even if the child is born out of wedlock.

With an affidavit of voluntary relinquishment, a purported father must admit paternity first in order to relinquish parental rights. Moreover, the affidavit of voluntary relinquishment must be signed within two days of the child's birth.

CSHB 1006 would make both the waiver and the affidavit equal for purposes of waiving the father's parental rights in a suit terminating the parent-child relationship. This would be helpful in adoption cases, where both parents must relinquish parental rights before the adoption may proceed. With a waiver, parental rights are severed without the need for the father to admit paternity or to sign an affidavit within 48 hours of the child's birth.

Removing the requirement that a statement of paternity and an affidavit of relinquishment of parental rights be included in an affidavit of status of child would eliminate an unreasonable burden on the child's mother. The affidavit of status of child is prepared by the mother and issued when a child is born out of wedlock. The affidavit states, in part, the name and whereabouts of the alleged father. Under current law, a mother must have the cooperation of the alleged father to file the affidavit of status. This bill would remove that burden from the mother.

**OPPONENTS
SAY:**

CSHB 1006 would make it too easy for the father to relinquish parental rights. A father should have to admit paternity before he is allowed to relinquish it.