

- SUBJECT:** Prohibiting retroactive child support collection from certain fathers
- COMMITTEE:** Juvenile Justice and Family Issues — favorable, without amendment
- VOTE:** 5 ayes — Dutton, Eiland, Farrar, Gonzalez Toureilles, Hernandez
0 nays
4 absent — Bolton, Farias, Strama, Vaught
- WITNESSES:** None
- BACKGROUND:** Family Code, sec. 154.131 provides child support guidelines used for determining retroactive child support, including whether the obligor had knowledge of his obligation of support.
- Sec. 161.103 sets requirements for an affidavit of voluntary relinquishment of parental rights, including consent to the placement of the child for adoption by the Department of Protective and Regulatory Services or by a licensed child-placing agency.
- Sec. 161.106 sets requirements for an affidavit of waiver of interest in a child, which disclaims any interest in the child and waives notice or service in any suit affecting the parent-child relationship with respect to the child.
- DIGEST:** HB 620 would amend Family Code, sec. 154.131 to add that if a man executed an affidavit of voluntary relinquishment of parental rights, an affidavit of waiver of interest in a child, or other comparable affidavit with the good faith belief that the child would be placed for adoption and the man's parental rights terminated, the court could not order the man to pay retroactive child support for any period during which the man did not have actual knowledge that:
- the child was not subsequently placed for adoption; and
 - the man's parental rights were not terminated.

The bill also would add Family Code, sec.162.603 to require notification of fathers whose parental rights had not been terminated because an adoption failed to take place. A child-placing agency would be required to provide written notification to the child's father if a child's mother informed the agency in charge of her child's adoption that she would not place the child for adoption. This requirement would apply to a licensed child-placing agency that had a mailing address for the father of the child it anticipated would be placed for adoption.

The bill would take effect September 1, 2007.

**SUPPORTERS
SAY:**

HB 620 would protect a father who believed his child had been adopted from child support responsibilities that he knew nothing about. Under current law, a man who has properly executed affidavits relinquishing his parental rights and interest in a child can be required by a court to pay retroactive child support if, without the father's knowledge, the adoption failed to take place. This bill would prohibit a court from requiring a man with no knowledge of the failed adoption to make retroactive child support payments. In addition, it would require the child-placing agency to provide notice to the father if an expected adoption did not take place. While the child's best interests are very important in such matters, due process also requires that interested individuals receive fair notice of their legal obligations.

**OPPONENTS
SAY:**

A child's needs always are best served with payment of child support, regardless of the source. Children in legal limbo due to an adoption that fails to take place continue to need financial support even after their fathers believe they have signed away their rights. Prohibiting the collection of retroactive child support from the father in this situation may not be in the child's best interest.