

- SUBJECT:** Procedures for rescinding an acknowledgment or denial of paternity
- COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, with amendment
- VOTE:** 8 ayes — Hunter, Hughes, Branch, Jackson, Leibowitz, Lewis, Madden, Woolley
- 0 nays
- 3 absent — Alonzo, Hartnett, Martinez
- SENATE VOTE:** On final passage, April 16 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** For — Sherri Evans, Texas Family Law Foundation; (*Registered, but did not testify*: Steve Bresnen, Texas Family Law Foundation)
- Against — None
- On — John J. Sampson; (*Registered, but did not testify*: Alicia Key, Office of the Attorney General; Sandra Lackey, Texas Department of State Health Services, Vital Statistics Unit)
- BACKGROUND:** Family Code, sec. 160.307 requires a person who wishes to rescind an acknowledgment or denial of paternity of a child to commence a judicial proceeding before the earlier of the 60th day after the effective date of the acknowledgment or denial or the date of the first hearing in any proceeding in which the person is a party before a court to adjudicate an issue relating to the child, such as parental rights or child support. Once the period for rescission has expired, a person may challenge an acknowledgment or denial of paternity only on the grounds of fraud, duress, or material mistake of fact. A challenge on these grounds must be commenced before the fourth anniversary of the date of the filing of the acknowledgment or denial with the Texas Department of Health Bureau of Vital Statistics, or, if the person who signed the acknowledgment or denial was a minor, the earlier of the fourth anniversary after the signatory's 18th birthday or the removal of the signatory's disabilities of minority by court order, marriage, or by other operation of law.

DIGEST:

SB 232 would allow a person to rescind the person's acknowledgment or denial of paternity of a child by filing a completed rescission with the Texas Department of Health Bureau of Vital Statistics on the proper prescribed form before the earlier of the 60th day after the effective date of the acknowledgment or denial or the date of the first hearing in any proceeding in which the person is a party before a court to adjudicate an issue relating to the child. The Bureau of Vital Statistics could not charge a fee for filing a rescission.

The person would have to declare in the rescission, under penalty of perjury, that:

- as of the date the rescission was filed, no court hearing had been held in a proceeding affecting the child identified in the acknowledgment or denial of paternity, including a proceeding to establish child support;
- a copy of the completed rescission had been sent by certified or registered mail, return receipt requested, to the required parties; and
- if the acknowledgment or denial was filed in connection with a Title IV-D case (child support matters), a copy of the completed rescission had been sent by certified or registered mail to the Title IV-D agency, the Office of the Attorney General.

If the rescission was of an acknowledgment of paternity, a copy of the completed rescission would have to be sent to the other signatory of the acknowledgment and the signatory of any related denial of paternity. If the rescission was of a denial of paternity, a copy of the completed rescission would have to be sent to both signatories of the acknowledgment of paternity.

SB 232 would require the Bureau of Vital Statistics, upon receiving a completed rescission accompanied by signed return receipts from each person required to be notified of the rescission, to void the acknowledgment or denial of paternity of a child and amend the birth record of the child, if appropriate.

SB 232 would allow a person to challenge an acknowledgment or denial of paternity on the grounds of fraud, duress, or material mistake of fact after the current applicable deadlines (the earlier of the fourth anniversary of the date of the person's 18th birthday or the removal of the person's minority disability) if no court hearing had been held in a proceeding

affecting the child identified in the acknowledgment or denial as of the date the challenge was commenced.

The bill would amend language in Family Code, sec. 160.309 that currently refers to procedures for a rescission of paternity to refer instead to a contest of a rescission.

The bill would require the Bureau of Vital Statistics to prescribe forms for the rescission of an acknowledgment or denial of paternity. The bill also would authorize the bureau to release information related to a denial of paternity or rescission of an acknowledgment of paternity to a signatory and to the courts and Title IV-D agency of this or another state.

SB 232 would apply only to an acknowledgment or denial of paternity that became effective on or after the bill's September 1, 2009, effective date.

**NOTES:**

The committee amendment to SB 232 would strike a provision in the bill that would allow any party affected by a rescission of an acknowledgment or denial of paternity, including the Title IV-D agency (the Office of the Attorney General), to contest the rescission by filing a proceeding not later than the 60th day after the date on which the rescission was filed with the Bureau of Vital Statistics.

According to the Legislative Budget Board, the bill would result in a probable revenue gain of \$40,000 in all funds per year for fiscal years 2010-2014.