

## **BILL ANALYSIS**

Senate Research Center

H.B. 638  
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Jurisprudence  
5/10/2001  
Engrossed

### **DIGEST AND PURPOSE**

Under current Texas law, if a man voluntarily accepts parental responsibility and is later proven not to be the biological father of the child, it is possible that the man may be required to continue paying child support. H.B. 638 authorizes certain men who have executed a voluntary statement of paternity and are subject to a final order declaring paternity to petition a court for the termination of a parent-child relationship on the basis of fraud, duress, or material mistake of fact.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 160.007(a), Family Code, to add an additional exception.

SECTION 2. Amends Section 160.207(a), Family Code, to provide that for purposes of this subsection, evidence that a man is excluded as the father of a child based on scientifically accepted parentage testing constitutes a material mistake of fact.

SECTION 3. Amends Chapter 160C, Family Code, by adding Section 160.217, as follows:

Sec. 160.217. SUIT TO CONTEST VOLUNTARY STATEMENT OF PATERNITY. (a) Authorizes 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 to 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 160.207 and 160.208. Provides that for purposes of this subsection, evidence that a man is excluded as the father of a child based on scientifically accepted parentage testing constitutes a material mistake of fact.

(b) Provides that 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) Requires 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, to order scientifically accepted parentage testing as provided by Section 160.102. Requires the person contesting the voluntary statement of paternity to pay the cost of the testing.

(d) Requires the court, except as provided by Subsection (e), if the court finds that at least 99 percent of the male population is excluded by the test ordered under

Subsection (c) and that the man who executed the voluntary statement of paternity is excluded from the possibility of being the child's father, to set aside the final order declaring the man to be a parent of the child and any other order with respect to the child that was rendered on the basis of the voluntary statement of paternity.

(e) Prohibits the court from setting aside under Subsection (d) a final order declaring a man to be a parent of a child under certain conditions.

(f) Requires the court, if the court sets aside a final order as provided by Subsection (d), to order the bureau of vital statistics to amend the birth record of the child. Prohibits the court, as a result of the order being set aside, from requiring an obligee to repay child support paid by the man who executed the voluntary statement of paternity or awarding damages to the man who executed the voluntary statement of paternity.

(g) Requires a suit under this section to be filed before September 1, 2003.

(h) Provide that this section expires September 1, 2004.

SECTION 4. Provide that the change in law made by Section 160.217, 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. Provides that a suit commenced before September 1, 2003, that is pending on or after September 1, 2004, is governed by Section 160.217, Family Code, as that section existed on the date the suit was filed, and that law is continued in effect for that purpose.

SECTION 5. Makes application of the change in law made by Section 160.207, Family Code, as amended by this Act, prospective.

SECTION 6. Effective date: September 1, 2001.