

## LEGISLATIVE PROPOSAL

From: LGBT Law Section

To: Legislative Policy Subcommittee of State Bar of Texas Board of Directors

Re: Legislative Proposal to conform Texas law in light of *Lawrence v. Texas*, 539 U.S. 558 (2003), *Obergefell v. Hodges*, 135 S. Ct. 2071 (2015), and the final judgment in *De Leon v. Perry*, No. SA-13-CA-00982-OLG (W.D. Tex., July 7, 2015)

Date: June 28, 2018

### **Wording of proposed legislation**

Attached are a bill and a joint resolution drafted by counsel at the Texas Legislative Council at the request of members of the 85th Legislature.

### **Explanation**

In *Lawrence v. Texas*, 539 U.S. 558 (2003), the Supreme Court of the United States reviewed the constitutionality of section 21.06 of the Texas Penal Code. On June 26, 2003, the Court struck down section 21.06 as unconstitutional under the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

In *Obergefell v. Hodges*, 135 S. Ct. 2071 (2015), the Supreme Court of the United States reviewed a decision of the Court of Appeals for the Sixth Circuit, which had upheld state laws in Michigan, Ohio, Kentucky, and Tennessee restricting marriage to opposite-sex couples. Like those states in the Sixth Circuit, Texas has both a constitutional (article I, section 32) and a statutory provision (Family Code section 6.204) limiting marriage to opposite-sex couples. On June 26, 2015, the Supreme Court struck down such laws and held that the fundamental right to marry is guaranteed to same-sex couples by both the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

The Texas federal case pending at the time of *Obergefell* was *De Leon v. Perry*, 975 F. Supp.

2d 632, 665 (W.D. Tex. 2014), *aff'd*, 791 F.3d 619 (5th Cir. 2015). On remand, the district court signed a final judgment on July 7, 2015 stating in part:

It is hereby ORDERED, ADJUDGED, and DECREED that:

- 1) Any Texas law denying same-sex couples the right to marry, including Article I, §32 of the Texas Constitution, any related provisions in the Texas Family Code, and any other laws or regulations prohibiting a person from marrying another person of the same sex or recognizing same-sex marriage, violate the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983;
- 2) Defendants are permanently enjoined from enforcing Texas's laws prohibiting same-sex marriage; and
- 3) Any taxable costs in this case are assessed against the Defendants.

Texas is bound by the final judgment in *De Leon* as well as by the Supreme Court's *Obergefell* decision.

The attached bill and joint resolution propose to remove those sections of the Constitution, Family Code, and Penal Code struck down by the *Lawrence* and *Obergefell* decisions, as well as references in other statutes to these provisions. Additionally, the Family Code and Health and Safety Code contain multiple provisions that assume marital and family relationships are based solely upon opposite-sex marriage. The attached bill drafted by counsel from the Texas Legislative Council with input from the LGBT Law Section conforms Texas law to both *Lawrence* and *Obergefell*, recognizing the legal issues being faced daily by Texas courts as a direct result of those opinions.

#### **Similar Legislation / Statement Regarding Prior Draft Legislation**

At this time, the LGBT Law Section is unaware of any similar legislation being considered by the Texas Legislature in the next legislative session.

This is the second time proposed legislation will be suggested to members of either the House or the Senate conforming Texas law to *Obergefell* by removing constitutional and Family Code provisions restricting marriage to opposite-sex couples and conforming the Family Code and

Health and Safety Code to the concept that marriage can include same- or opposite-sex couples.

Prior legislation was offered in both the Texas House and Senate as follows:

85th Legislature (2017)	H.B. 573	(Rep. Thompson) (includes 21.06 provisions)
	H.B. 1663	(Reps. Dutton and Reynolds)
	S.B. 236	(Sen. Menéndez) (Family Code section 6.204 repeal and 21.06 provisions only)
	S.B. 157	(Sen. Hinojosa and Rodríguez)
	S.B. 251	(Sen. Rodríguez) (includes 21.06 provisions)
	S.J.R. 16	(Sens. Rodríguez, Garcia, Hinojosa, Whitmire) (repeal of Texas Constitution article I, section 32)

No similar legislation conforming Texas law to the *Obergefell* decision has been considered prior to 2017 by any section or committee of the State Bar. The Section will be happy to supply the committee with information on the legislative history of the bills and joint resolution listed above.

Prior legislation to repeal Penal Code section 21.06, and at times references to section 21.06, has been offered in both the Texas House and Senate as follows:

*Pre-Lawrence* legislation to repeal section 21.06:

64th Legislature (1975)	H.B. 759	(Rep. Washington)
73rd Legislature (1993)	H.B. 652	(Reps. Maxey and Danburg)
75th Legislature (1997)	H.B. 1329	(Reps. Danburg, Ehrhardt, and Maxey)
76th Legislature (1999)	H.B. 337	(Rep. Danburg)
77th Legislature (2001)	H.B. 389	(Reps. Maxey and Ehrhardt)
77th Legislature (2001)	H.B. 687	(Reps. Danburg and Maxey)

This is the eighth proposal for the repeal of Penal Code section 21.06 following the *Lawrence* decision. In 2005, 2007, 2009, 2011, 2013, 2015, and 2017 the State Bar Board of Directors approved this proposal and included it in the State Bar's legislative package. In each session, the bill that was filed not only included the repeal of Penal Code section 21.06, but also included the repeal of references to Penal Code section 21.06 in Health and Safety Code sections 85.007(b) and 163.002:

79th Legislature (2005)	H.B. 3215	(Rep. Coleman)
80th Legislature (2007)	H.B. 1326	(Rep. Coleman)
81st Legislature (2009)	H.B. 3036	(Reps. Coleman and Farrar)
82nd Legislature (2011)	H.B. 604	(Rep. Farrar)
	H.B. 2156	(Rep. Coleman)
83rd Legislature (2013)	H.B. 1701	(Rep. Farrar)
	H.B. 3232	(Rep. Coleman)
	S.B. 538	(Sens. Rodríguez and Ellis)
84th Legislature (2015)	H.B. 553	(Rep. Moody)
	H.B. 1523	(Rep. Farrar)
	H.B. 2057	(Rep. Coleman)
	S.B. 148	(Sen. Rodríguez)
85th Legislature (2017)	H.B. 96	(Rep. Moody)
	H.B. 573	(Rep. Thompson) (includes same-sex marriage provisions)
	H.B. 1848	(Rep. Coleman)
	S.B. 166	(Sens. Rodríguez, Garcia, and Whitmire)
	S.B. 236	(Sen. Menéndez) (includes Family Code section 6.204 repeal)
	S.B. 251	(Sen. Rodríguez) (includes same-sex marriage provisions)

To date, none of the post-*Lawrence* bills have progressed past a favorable committee recommendation. The Section will be happy to supply the committee with information on the legislative history of the bills listed above.

In the 84th Legislature (2015), the Section is aware of two bills that were filed to repeal the Family Code’s prohibition against same-sex marriage: H.B. 130 (Rep. Anchia) and S.B. No. 98 (Sen. Hinojosa). The Section is also aware of two joint resolutions that were filed to repeal the constitutional prohibition against same-sex marriage: H.J.R. 34 (Rep. Coleman) and S.J.R. 13 (Sen. Rodríguez). None of this legislation received a committee hearing.

### **Economic Impact**

As the Section has argued in the past, keeping void laws “on the books” costs the state and local government money. The “homosexual conduct” law was used in a 2009 incident in El Paso

as possible grounds for the police to arrest patrons who were kissing in a restaurant, resulting in a law suit against the City. *De Leon v. City of El Paso*, 353 S.W.3d 285, 287–89 (Tex. App.—El Paso 2011, no pet.); Darren Meritz, *Controversial Kiss: Chico’s Tacos Security Firm Responds to Protests*, EL PASO TIMES (July 10, 2009). The suit has since been settled. Daniel Borunda, *‘Chico’s Five’ Settle Suit for Improved Police Training*, EL PASO TIMES (May 16, 2012).

It is completely foreseeable that failure to conform the laws of Texas to the unambiguous decisions in *Lawrence* and *Obergefell* will continue to waste scarce public funds. The laws are void, and should be repealed.

## **Conclusion**

A void statutory provision “must be considered as never having been enacted.” *Sanders v. State Dep’t of Pub. Welfare*, 472 S.W.2d 179, 181 (Tex. Civ. App.—Corpus Christi 1971, writ dism’d w.o.j.); *Genzer v. Fillip*, 134 S.W.2d 730, 732 (Tex. Civ. App.—Austin 1939, writ dism’d judm’t cor.). A statute is “utterly void and shall be treated as if “it had never been passed.” *Reyes v. State*, 753 S.W.2d 382, 383 (Tex. Crim. App. 1988). An unconstitutional statute is void ab initio, not merely from the date of the decision branding it unconstitutional. *Id.* at 383–84. Moreover, a decision of the Supreme Court of the United States constitutes the Supreme Law of the Land. *Cooper v. Aaron*, 358 U.S. 1 (1958).

**Verification**

I, Nicole LeBoeuf, chair of the LGBT Law Section, hereby verify that all sections and committees of the State Bar have been sent this proposed legislation for comment. No comments have been received as of this date. I will supplement this proposal with any comments that may be received immediately following the deadline for such comments.

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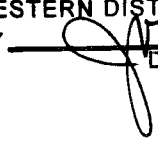
Nicole LeBoeuf  
nicole@leboeufllaw.com

June 29, 2018

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

FILED

JUL 07 2015

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY  DEPUTY CLERK

CLEOPATRA DE LEON, et al.  
Plaintiffs,

v.

RICK PERRY, in his official capacity as  
Governor of the State of Texas, et al.,  
Defendants.

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Cause No. SA-13-CA-00982-OLG

FINAL JUDGMENT

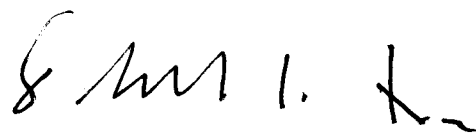
On July 1, 2015, the Fifth Circuit affirmed this Court's grant of a preliminary injunction and issued a mandate for this Court to enter judgment in favor of Plaintiffs in this case. *See De Leon v. Abbott*, No. 14-50196, 2015 WL 4032161, \_\_\_ F.3d \_\_\_ (5th Cir. 2015). In light of the United States Supreme Court's decision in *Obergefell v. Hodges*, No. 14-556, 2015 WL 2473451, \_\_\_ U.S. \_\_\_ (2015), and pursuant to the Fifth Circuit's mandate, the Court hereby enters judgment in this case.

It is hereby ORDERED, ADJUDGED, and DECREED that:

- 1) Any Texas law denying same-sex couples the right to marry, including Article I, §32 of the Texas Constitution, any related provisions in the Texas Family Code, and any other laws or regulations prohibiting a person from marrying another person of the same sex or recognizing same-sex marriage, violate the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983;
- 2) Defendants are permanently enjoined from enforcing Texas's laws prohibiting same-sex marriage; and
- 3) Any taxable costs in this case are assessed against the Defendants.

It is so ORDERED.

SIGNED this 7 day of July, 2015.



United States District Judge Orlando L. Garcia

By: \_\_\_\_\_

\_\_\_\_\_.J.R. No. \_\_\_\_\_

## A JOINT RESOLUTION

proposing a constitutional amendment to repeal the unconstitutional provision of the state constitution (1) providing that marriage in this state consists only of the union of one man and one woman and (2) prohibiting this state or a political subdivision of this state from creating or recognizing any legal status identical or similar to marriage.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 32, Article I, Texas Constitution, is repealed.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 5, 2019.

The ballot shall be printed to permit voting for or against the proposition: “The constitutional amendment repealing a provision of the Texas Constitution, which has been held to violate the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983, that (1) provides that marriage in this state consists only of the union of one man and one woman and (2) prohibits this state or a political subdivision of this state from creating or recognizing any legal status identical or similar to marriage.”



TEXAS LEGISLATIVE COUNCIL  
Preliminary Draft

By: \_\_\_\_\_

\_\_\_\_.B. No. \_\_\_\_\_

A BILL TO BE ENTITLED

AN ACT

relating to certain statutory changes to reflect and address same-sex marriages and parenting relationships and to the removal of provisions regarding the criminality or unacceptability of homosexual conduct.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. FAMILY CODE PROVISIONS

SECTION 1.01. Subchapter A, Chapter 1, Family Code, is amended by adding Section 1.0015 to read as follows:

Sec. 1.0015. CONSTRUCTION OF GENDER-SPECIFIC TERMINOLOGY.  
When necessary to implement the rights and duties of spouses or parents in a marriage between persons of the same sex under the laws of this state, gender-specific terminology must be construed in a neutral manner to refer to a person of either gender.

SECTION 1.02. Section 2.001(a), Family Code, is amended to read as follows:

(a) Two individuals [~~A man and a woman~~] desiring to enter into a ceremonial marriage must obtain a marriage license from the county clerk of any county of this state.

SECTION 1.03. Section 2.004(b), Family Code, is amended to read as follows:

(b) The application form must contain:

(1) a heading entitled "Application for Marriage License, \_\_\_\_\_ County, Texas";

1           (2) spaces for each applicant's full name, including  
2 the [~~woman's maiden~~] surname of an applicant intending to change  
3 the applicant's surname as a result of the marriage, address,  
4 social security number, if any, date of birth, and place of birth,  
5 including city, county, and state;

6           (3) a space for indicating the document tendered by  
7 each applicant as proof of identity and age;

8           (4) spaces for indicating whether each applicant has  
9 been divorced within the last 30 days;

10          (5) printed boxes for each applicant to check "true"  
11 or "false" in response to the following statement: "I am not  
12 presently married and the other applicant is not presently  
13 married.";

14          (6) printed boxes for each applicant to check "true"  
15 or "false" in response to the following statement: "The other  
16 applicant is not related to me as:

17               (A) an ancestor or descendant, by blood or  
18 adoption;

19               (B) a brother or sister, of the whole or half  
20 blood or by adoption;

21               (C) a parent's brother or sister, of the whole or  
22 half blood or by adoption;

23               (D) a son or daughter of a brother or sister, of  
24 the whole or half blood or by adoption;

25               (E) a current or former stepchild or stepparent;  
26 or

27               (F) a son or daughter of a parent's brother or

1 sister, of the whole or half blood or by adoption.";

2 (7) printed boxes for each applicant to check "true"  
3 or "false" in response to the following statement: "I am not  
4 presently delinquent in the payment of court-ordered child  
5 support.";

6 (8) a printed oath reading: "I SOLEMNLY SWEAR (OR  
7 AFFIRM) THAT THE INFORMATION I HAVE GIVEN IN THIS APPLICATION IS  
8 CORRECT.";

9 (9) spaces immediately below the printed oath for the  
10 applicants' signatures;

11 (10) a certificate of the county clerk that:

12 (A) each applicant made the oath and the date and  
13 place that it was made; or

14 (B) an applicant did not appear personally but  
15 the prerequisites for the license have been fulfilled as provided  
16 by this chapter;

17 (11) spaces for indicating the date of the marriage  
18 and the county in which the marriage is performed;

19 (12) a space for the address to which the applicants  
20 desire the completed license to be mailed; and

21 (13) a printed box for each applicant to check  
22 indicating that the applicant wishes to make a voluntary  
23 contribution of \$5 to promote healthy early childhood by supporting  
24 the Texas Home Visiting Program administered by the Office of Early  
25 Childhood Coordination of the Health and Human Services Commission.

26 SECTION 1.04. Section 2.401(a), Family Code, is amended to  
27 read as follows:

1           (a) In a judicial, administrative, or other proceeding, the  
2 marriage of two individuals [~~a man and woman~~] may be proved by  
3 evidence that:

4           (1) a declaration of their marriage has been signed as  
5 provided by this subchapter; or

6           (2) the individuals [~~man and woman~~] agreed to be  
7 married and after the agreement they lived together in this state as  
8 spouses [~~husband and wife~~] and there represented to others that  
9 they were married.

10          SECTION 1.05. Section 2.402(b), Family Code, is amended to  
11 read as follows:

12          (b) The declaration form must contain:

13           (1) a heading entitled "Declaration and Registration  
14 of Informal Marriage, \_\_\_\_\_ County, Texas";

15           (2) spaces for each party's full name, including the  
16 [~~woman's maiden~~] surname of a party intending to change the party's  
17 surname as a result of the marriage, address, date of birth, place  
18 of birth, including city, county, and state, and social security  
19 number, if any;

20           (3) a space for indicating the type of document  
21 tendered by each party as proof of age and identity;

22           (4) printed boxes for each party to check "true" or  
23 "false" in response to the following statement: "The other party  
24 is not related to me as:

25                   (A) an ancestor or descendant, by blood or  
26 adoption;

27                   (B) a brother or sister, of the whole or half

1 blood or by adoption;

2 (C) a parent's brother or sister, of the whole or

3 half blood or by adoption;

4 (D) a son or daughter of a brother or sister, of

5 the whole or half blood or by adoption;

6 (E) a current or former stepchild or stepparent;

7 or

8 (F) a son or daughter of a parent's brother or

9 sister, of the whole or half blood or by adoption.";

10 (5) a printed declaration and oath reading: "I

11 SOLEMNLY SWEAR (OR AFFIRM) THAT WE, THE UNDERSIGNED, ARE MARRIED TO

12 EACH OTHER BY VIRTUE OF THE FOLLOWING FACTS: ON OR ABOUT (DATE) WE

13 AGREED TO BE MARRIED, AND AFTER THAT DATE WE LIVED TOGETHER AS

14 SPOUSES [~~HUSBAND AND WIFE~~] AND IN THIS STATE WE REPRESENTED TO

15 OTHERS THAT WE WERE MARRIED. SINCE THE DATE OF MARRIAGE TO THE

16 OTHER PARTY I HAVE NOT BEEN MARRIED TO ANY OTHER PERSON. THIS

17 DECLARATION IS TRUE AND THE INFORMATION IN IT WHICH I HAVE GIVEN IS

18 CORRECT.";

19 (6) spaces immediately below the printed declaration

20 and oath for the parties' signatures; and

21 (7) a certificate of the county clerk that the parties

22 made the declaration and oath and the place and date it was made.

23 SECTION 1.06. Sections 3.401(4) and (5), Family Code, are

24 amended to read as follows:

25 (4) "Marital estate" means one of three estates:

26 (A) the community property owned by the spouses

27 together and referred to as the community marital estate;

1 (B) the separate property owned individually by  
2 one spouse [~~the husband~~] and referred to as a separate marital  
3 estate; or

4 (C) the separate property owned individually by  
5 the other spouse [~~wife~~], also referred to as a separate marital  
6 estate.

7 (5) "Spouse" means a party to a marriage [~~husband, who~~  
8 ~~is a man, or a wife, who is a woman. A member of a civil union or~~  
9 ~~similar relationship entered into in another state between persons~~  
10 ~~of the same sex is not a spouse~~].

11 SECTION 1.07. Section 6.104(b), Family Code, is amended to  
12 read as follows:

13 (b) In exercising its discretion, the court shall consider  
14 the pertinent facts concerning the welfare of the parties to the  
15 marriage, including whether a spouse [~~the female~~] is pregnant.

16 SECTION 1.08. Section 6.202(b), Family Code, is amended to  
17 read as follows:

18 (b) The later marriage that is void under this section  
19 becomes valid when the prior marriage is dissolved if, after the  
20 date of the dissolution, the parties have lived together as spouses  
21 [~~husband and wife~~] and represented themselves to others as being  
22 married.

23 SECTION 1.09. Section 6.203, Family Code, is amended to  
24 read as follows:

25 Sec. 6.203. CERTAIN VOID MARRIAGES VALIDATED. Except for a  
26 marriage that would have been void under Section 6.201, a marriage  
27 that was entered into before January 1, 1970, in violation of the

1 prohibitions of Article 496, Penal Code of Texas, 1925, is  
2 validated from the date the marriage commenced if the parties  
3 continued until January 1, 1970, to live together as spouses  
4 [~~husband and wife~~] and to represent themselves to others as being  
5 married.

6 SECTION 1.10. Section 6.704, Family Code, is amended to  
7 read as follows:

8 Sec. 6.704. TESTIMONY OF SPOUSE [~~HUSBAND OR WIFE~~]. (a) In  
9 a suit for dissolution of a marriage, each spouse is a [~~the husband~~  
10 ~~and wife are~~] competent witness [~~witnesses~~] for and against the  
11 [~~each~~] other spouse. A spouse may not be compelled to testify as to  
12 a matter that will incriminate the spouse.

13 (b) If a spouse [~~the husband or wife~~] testifies, the court  
14 or jury trying the case shall determine the credibility of the  
15 witness and the weight to be given the witness's testimony.

16 SECTION 1.11. Chapter 51, Family Code, is amended by adding  
17 Section 51.015 to read as follows:

18 Sec. 51.015. CONSTRUCTION OF GENDER-SPECIFIC TERMINOLOGY.  
19 When necessary to implement the rights and duties of spouses or  
20 parents in a marriage between persons of the same sex under the laws  
21 of this state, gender-specific terminology must be construed in a  
22 neutral manner to refer to a person of either gender.

23 SECTION 1.12. Section 51.02(9), Family Code, is amended to  
24 read as follows:

25 (9) "Parent" means a [~~the~~] mother or a [~~the~~] father of  
26 a child, but does not include a parent whose parental rights have  
27 been terminated.

1       SECTION 1.13. Chapter 101, Family Code, is amended by  
2 adding Section 101.0012 to read as follows:

3       Sec. 101.0012. CONSTRUCTION OF GENDER-SPECIFIC  
4 TERMINOLOGY. When necessary to implement the rights and duties of  
5 spouses or parents in a marriage between persons of the same sex  
6 under the laws of this state, gender-specific terminology must be  
7 construed in a neutral manner to refer to a person of either gender.

8       SECTION 1.14. Section 101.0015, Family Code, is amended to  
9 read as follows:

10       Sec. 101.0015. ALLEGED PARENT [~~FATHER~~]. (a) "Alleged  
11 parent [~~father~~]" means an individual [~~a man~~] who alleges himself or  
12 herself to be, or is alleged to be, a [~~the~~] genetic parent [~~father~~]  
13 or a possible genetic parent [~~father~~] of a child, but whose  
14 parentage [~~paternity~~] has not been determined. The term includes  
15 an alleged father or an alleged mother.

16       (b) The term does not include:

- 17               (1) a presumed parent [~~father~~]; or  
18               (2) an individual [~~a man~~] whose parental rights have  
19 been terminated or declared to not exist[, ~~or~~  
20 [~~(3) a male donor~~].

21       SECTION 1.15. Section 101.024, Family Code, is amended by  
22 amending Subsection (a) and adding Subsection (c) to read as  
23 follows:

24       (a) "Parent" means a [~~the~~] mother or father, an individual  
25 [~~a man~~] presumed to be a parent [~~the father~~], an individual [~~a man~~]  
26 legally determined to be a parent [~~the father~~], an individual [~~a~~  
27 ~~man~~] who has been adjudicated to be a parent [~~the father~~] by a court



1 of competent jurisdiction, an individual [~~a man~~] who has  
2 acknowledged the individual's parentage [~~his paternity~~] under  
3 applicable law, or an adoptive mother or father. Except as provided  
4 by Subsection (b), the term does not include a parent as to whom the  
5 parent-child relationship has been terminated.

6 (c) Nothing in this title may be construed to give  
7 preferential status or rights to a genetic parent over a nongenetic  
8 parent.

9 SECTION 1.16. Section 101.025, Family Code, is amended to  
10 read as follows:

11 Sec. 101.025. PARENT-CHILD RELATIONSHIP. "Parent-child  
12 relationship" means the legal relationship between a child and the  
13 child's parents as provided by Chapter 160. The term includes a  
14 [~~the~~] mother and child relationship and a [~~the~~] father and child  
15 relationship.

16 SECTION 1.17. Section 102.003(a), Family Code, is amended  
17 to read as follows:

- 18 (a) An original suit may be filed at any time by:
- 19 (1) a parent of the child;
  - 20 (2) the child through a representative authorized by  
21 the court;
  - 22 (3) a custodian or person having the right of  
23 visitation with or access to the child appointed by an order of a  
24 court of another state or country;
  - 25 (4) a guardian of the person or of the estate of the  
26 child;
  - 27 (5) a governmental entity;

1           (6) the Department of Family and Protective Services;  
2           (7) a licensed child placing agency;  
3           (8) a person claiming [~~a man alleging himself~~] to be a  
4 parent [~~the father~~] of a child filing in accordance with Chapter  
5 160, subject to the limitations of that chapter, but not otherwise;  
6           (9) a person, other than a foster parent, who has had  
7 actual care, control, and possession of the child for at least six  
8 months ending not more than 90 days preceding the date of the filing  
9 of the petition;  
10          (10) a person designated as the managing conservator  
11 in a revoked or unrevoked affidavit of relinquishment under Chapter  
12 161 or to whom consent to adoption has been given in writing under  
13 Chapter 162;  
14          (11) a person with whom the child and the child's  
15 guardian, managing conservator, or parent have resided for at least  
16 six months ending not more than 90 days preceding the date of the  
17 filing of the petition if the child's guardian, managing  
18 conservator, or parent is deceased at the time of the filing of the  
19 petition;  
20          (12) a person who is the foster parent of a child  
21 placed by the Department of Family and Protective Services in the  
22 person's home for at least 12 months ending not more than 90 days  
23 preceding the date of the filing of the petition;  
24          (13) a person who is a relative of the child within the  
25 third degree by consanguinity, as determined by Chapter 573,  
26 Government Code, if the child's parents are deceased at the time of  
27 the filing of the petition; or

1           (14) a person who has been named as a prospective  
2 adoptive parent of a child by a pregnant woman or the parent of the  
3 child, in a verified written statement to confer standing executed  
4 under Section 102.0035, regardless of whether the child has been  
5 born.

6           SECTION 1.18. Section 102.006(a), Family Code, is amended  
7 to read as follows:

8           (a) Except as provided by Subsections (b) and (c), if the  
9 parent-child relationship between the child and every living parent  
10 of the child has been terminated, an original suit may not be filed  
11 by:

12           (1) a former parent whose parent-child relationship  
13 with the child has been terminated by court order;

14           (2) a [~~the~~] father of the child; or

15           (3) a family member or relative by blood, adoption, or  
16 marriage of either a former parent whose parent-child relationship  
17 has been terminated or of a [~~the~~] father of the child.

18           SECTION 1.19. Section 102.008(b), Family Code, is amended  
19 to read as follows:

20           (b) The petition must include:

21           (1) a statement that the court in which the petition is  
22 filed has continuing, exclusive jurisdiction or that no court has  
23 continuing jurisdiction of the suit;

24           (2) the name and date of birth of the child, except  
25 that if adoption of a child is requested, the name of the child may  
26 be omitted;

27           (3) the full name of the petitioner and the

1 petitioner's relationship to the child or the fact that no  
2 relationship exists;

3 (4) the names of the parents, except in a suit in which  
4 adoption is requested;

5 (5) the name of the managing conservator, if any, or  
6 the child's custodian, if any, appointed by order of a court of  
7 another state or country;

8 (6) the names of the guardians of the person and estate  
9 of the child, if any;

10 (7) the names of possessory conservators or other  
11 persons, if any, having possession of or access to the child under  
12 an order of the court;

13 (8) the name of an alleged parent [~~father~~] of the child  
14 or a statement that the identity of a parent [~~the father~~] of the  
15 child is unknown;

16 (9) a full description and statement of value of all  
17 property owned or possessed by the child;

18 (10) a statement describing what action the court is  
19 requested to take concerning the child and the statutory grounds on  
20 which the request is made; and

21 (11) any other information required by this title.

22 SECTION 1.20. Section 102.009(d), Family Code, is amended  
23 to read as follows:

24 (d) If the petition requests the establishment,  
25 termination, modification, or enforcement of a support right  
26 assigned to the Title IV-D agency under Chapter 231 or the  
27 rescission of a voluntary acknowledgment of parentage [~~paternity~~]

1 under Chapter 160, notice shall be given to the Title IV-D agency in  
2 a manner provided by Rule 21a, Texas Rules of Civil Procedure.

3 SECTION 1.21. Section 102.011(b), Family Code, is amended  
4 to read as follows:

5 (b) The court may also exercise personal jurisdiction over a  
6 person on whom service of citation is required or over the person's  
7 personal representative, although the person is not a resident or  
8 domiciliary of this state, if:

9 (1) the person is personally served with citation in  
10 this state;

11 (2) the person submits to the jurisdiction of this  
12 state by consent, by entering a general appearance, or by filing a  
13 responsive document having the effect of waiving any contest to  
14 personal jurisdiction;

15 (3) the child resides in this state as a result of the  
16 acts or directives of the person;

17 (4) the person resided with the child in this state;

18 (5) the person resided in this state and provided  
19 prenatal expenses or support for the child;

20 (6) the person engaged in sexual intercourse in this  
21 state and the child may have been conceived by that act of  
22 intercourse;

23 (7) the person, as provided by Chapter 160:

24 (A) registered with the paternity registry  
25 maintained by the vital statistics unit; or

26 (B) signed an acknowledgment of parentage  
27 [~~paternity~~] of a child born in this state; or

1 (8) there is any basis consistent with the  
2 constitutions of this state and the United States for the exercise  
3 of the personal jurisdiction.

4 SECTION 1.22. The heading to Section 108.008, Family Code,  
5 is amended to read as follows:

6 Sec. 108.008. FILING INFORMATION AFTER DETERMINATION OF  
7 PARENTAGE [~~PATERNITY~~].

8 SECTION 1.23. Section 108.008(a), Family Code, is amended  
9 to read as follows:

10 (a) On a determination of parentage [~~paternity~~], the  
11 petitioner shall provide the clerk of the court in which the order  
12 was rendered the information necessary to prepare the report of  
13 determination of parentage [~~paternity~~]. The clerk shall:

14 (1) prepare the report on a form provided by the vital  
15 statistics unit; and

16 (2) complete the report immediately after the order  
17 becomes final.

18 SECTION 1.24. Section 108.009(b), Family Code, is amended  
19 to read as follows:

20 (b) The new certificate may not show that a parent [~~the~~  
21 ~~father~~] and child relationship was established after the child's  
22 birth but may show the child's actual place and date of birth.

23 SECTION 1.25. Section 152.310(d), Family Code, is amended  
24 to read as follows:

25 (d) A privilege against disclosure of communications  
26 between spouses and a defense of immunity based on the relationship  
27 of spouses [~~husband and wife~~] or parent and child may not be invoked

1 in a proceeding under this subchapter.

2 SECTION 1.26. Subchapter F, Chapter 153, Family Code, is  
3 amended by adding Section 153.318 to read as follows:

4 Sec. 153.318. SAME-SEX PARENTS: ALTERNATING MOTHER'S DAY  
5 OR FATHER'S DAY POSSESSION. In a standard possession order  
6 governing possession of a child by same-sex parents, the applicable  
7 rights of possession prescribed by this subchapter for Father's Day  
8 or Mother's Day alternate between the parents each year. The court  
9 shall specify which parent has those rights in the initial year  
10 covered by the order.

11 SECTION 1.27. Sections 154.131(b) and (d), Family Code, are  
12 amended to read as follows:

13 (b) In ordering retroactive child support, the court shall  
14 consider the net resources of the obligor during the relevant time  
15 period and whether:

16 (1) the obligee [~~mother~~] of the child had made any  
17 previous attempts to notify the obligor of his or her parentage  
18 [~~paternity~~] or probable parentage [~~paternity~~];

19 (2) the obligor had knowledge of his or her parentage  
20 [~~paternity~~] or probable parentage [~~paternity~~];

21 (3) the order of retroactive child support will impose  
22 an undue financial hardship on the obligor or the obligor's family;  
23 and

24 (4) the obligor has provided actual support or other  
25 necessities before the filing of the action.

26 (d) The presumption created under this section may be  
27 rebutted by evidence that the obligor:

1           (1) knew or should have known that the obligor was the  
2 parent [~~father~~] of the child for whom support is sought; and

3           (2) sought to avoid the establishment of a support  
4 obligation to the child.

5           SECTION 1.28. Section 155.001(b), Family Code, is amended  
6 to read as follows:

7           (b) The following final orders do not create continuing,  
8 exclusive jurisdiction in a court:

9           (1) a voluntary or involuntary dismissal of a suit  
10 affecting the parent-child relationship;

11           (2) in a suit to determine parentage, a final order  
12 finding that an alleged parent or a presumed parent [~~father~~] is not  
13 a parent [~~the father~~] of the child, except that the jurisdiction of  
14 the court is not affected if the child was subject to the  
15 jurisdiction of the court or some other court in a suit affecting  
16 the parent-child relationship before the commencement of the suit  
17 to adjudicate parentage; and

18           (3) a final order of adoption, after which a  
19 subsequent suit affecting the child must be commenced as though the  
20 child had not been the subject of a suit for adoption or any other  
21 suit affecting the parent-child relationship before the adoption.

22           SECTION 1.29. Sections 159.316(i) and (j), Family Code, are  
23 amended to read as follows:

24           (i) The defense of immunity based on the relationship of  
25 spouses [~~husband and wife~~] or parent and child does not apply in a  
26 proceeding under this chapter.

27           (j) A voluntary acknowledgment of parentage [~~paternity~~],



1 certified as a true copy, is admissible to establish parentage of  
2 the child.

3 SECTION 1.30. Section 159.401(b), Family Code, is amended  
4 to read as follows:

5 (b) The tribunal may issue a temporary child support order  
6 if the tribunal determines that such an order is appropriate and the  
7 individual ordered to pay is:

8 (1) a presumed parent [~~father~~] of the child;

9 (2) petitioning to have his or her parentage  
10 [~~paternity~~] adjudicated;

11 (3) identified as a parent [~~the father~~] of the child  
12 through genetic testing;

13 (4) an alleged parent [~~father~~] who has declined to  
14 submit to genetic testing;

15 (5) shown by clear and convincing evidence to be a  
16 parent [~~the father~~] of the child;

17 (6) an acknowledged parent [~~father~~] as provided by  
18 applicable state law;

19 (7) a [~~the~~] mother of the child; or

20 (8) an individual who has been ordered to pay child  
21 support in a previous proceeding and the order has not been reversed  
22 or vacated.

23 SECTION 1.31. Sections 160.102(1), (5), (6), (8), (12),  
24 (13), and (14), Family Code, are amended to read as follows:

25 (1) "Adjudicated parent [~~father~~]" means an individual  
26 [~~a man~~] who has been adjudicated by a court to be a parent [~~the~~  
27 ~~father~~] of a child. The term includes an adjudicated father or an

1 adjudicated mother.

2 (5) "Determination of parentage" means the  
3 establishment of the parent-child relationship by the signing of a  
4 valid acknowledgment of parentage [~~paternity~~] under Subchapter D or  
5 by an adjudication by a court.

6 (6) "Donor" means an individual who provides eggs or  
7 sperm to a licensed physician to be used for assisted reproduction,  
8 regardless of whether the eggs or sperm are provided for  
9 consideration. The term does not include:

10 (A) a spouse [~~husband~~] who provides sperm or [~~a~~  
11 ~~wife who provides~~] eggs to be used for assisted reproduction by that  
12 individual's spouse [~~the wife~~];

13 (B) a woman who gives birth to a child by means of  
14 assisted reproduction; or

15 (C) an unmarried individual [~~man~~] who, with the  
16 intent to be a parent [~~the father~~] of the resulting child, provides  
17 sperm or eggs to be used for assisted reproduction by an unmarried  
18 individual [~~woman~~], as provided by Section 160.7031.

19 (8) "Genetic testing" means an analysis of an  
20 individual's genetic markers to exclude or identify a man as a [~~the~~]  
21 father of a child or a woman as a [~~the~~] mother of a child. The term  
22 includes an analysis of one or more of the following:

23 (A) deoxyribonucleic acid; and

24 (B) blood-group antigens, red-cell antigens,  
25 human-leukocyte antigens, serum enzymes, serum proteins, or  
26 red-cell enzymes.

27 (12) "Paternity index" means the likelihood of

1 paternity determined by calculating the ratio between:

2 (A) the likelihood that the tested man is a ~~[the]~~  
3 father of the child, based on the genetic markers of the tested man,  
4 the mother of the child, and the child, conditioned on the  
5 hypothesis that the tested man is a ~~[the]~~ father of the child; and

6 (B) the likelihood that the tested man is not a  
7 ~~[the]~~ father of the child, based on the genetic markers of the  
8 tested man, the mother of the child, and the child, conditioned on  
9 the hypothesis that the tested man is not a ~~[the]~~ father of the  
10 child and that the genetic father of the child is of the same ethnic  
11 or racial group as the tested man.

12 (13) "Presumed parent ~~[father]~~" means an individual ~~[a~~  
13 ~~man]~~ who, by operation of law under Section 160.204, is recognized  
14 as a parent ~~[the father]~~ of a child until that status is rebutted or  
15 confirmed in a judicial proceeding. The term includes a presumed  
16 father or a presumed mother.

17 (14) "Probability of paternity" means the  
18 probability, with respect to the ethnic or racial group to which the  
19 alleged father belongs, that the alleged father is a ~~[the]~~ father of  
20 the child, compared to a random, unrelated man of the same ethnic or  
21 racial group, expressed as a percentage incorporating the paternity  
22 index and a prior probability.

23 SECTION 1.32. Section 160.201, Family Code, is amended to  
24 read as follows:

25 Sec. 160.201. ESTABLISHMENT OF PARENT-CHILD RELATIONSHIP.  
26 ~~[(a)]~~ The parent-child ~~[mother-child]~~ relationship is established  
27 between an individual ~~[a woman]~~ and a child by:

1           (1) the individual [~~woman~~] giving birth to the child;  
2           (2) an adjudication of the individual's parentage  
3 [~~woman's maternity~~]; [~~or~~]  
4           (3) [~~the adoption of the child by the woman.~~  
5        [~~(b) The father-child relationship is established between a~~  
6 ~~man and a child by:~~  
7           [~~(1)~~] an un rebutted presumption of the individual's  
8 parentage [~~man's paternity~~] of the child under Section 160.204;  
9           (4) [~~(2)~~] an effective acknowledgment of parentage  
10 [~~paternity~~] by the individual [~~man~~] under Subchapter D, unless the  
11 acknowledgment has been rescinded or successfully challenged;  
12           [~~(3) an adjudication of the man's paternity;~~]  
13           (5) [~~(4)~~] the adoption of the child by the individual  
14 [~~man~~]; or  
15           (6) [~~(5)~~] the individual's [~~man's~~] consenting to  
16 assisted reproduction by the individual's spouse [~~his wife~~] under  
17 Subchapter H, which resulted in the birth of the child.

18       SECTION 1.33. Section 160.204, Family Code, is amended to  
19 read as follows:

20       Sec. 160.204. PRESUMPTION OF PARENTAGE [~~PATERNITY~~]. (a)  
21 An individual [~~A man~~] is presumed to be a parent [~~the father~~] of a  
22 child if:

23           (1) the individual [~~he~~] is married to a parent [~~the~~  
24 ~~mother~~] of the child and the child is born during the marriage;  
25           (2) the individual [~~he~~] is married to a parent [~~the~~  
26 ~~mother~~] of the child and the child is born before the 301st day  
27 after the date the marriage is terminated by death, annulment,

1 declaration of invalidity, or divorce;

2 (3) the individual [~~he~~] married the parent [~~mother~~] of  
3 the child before the birth of the child in apparent compliance with  
4 law, even if the attempted marriage is or could be declared invalid,  
5 and the child is born during the invalid marriage or before the  
6 301st day after the date the marriage is terminated by death,  
7 annulment, declaration of invalidity, or divorce;

8 (4) the individual [~~he~~] married the parent [~~mother~~] of  
9 the child after the birth of the child in apparent compliance with  
10 law, regardless of whether the marriage is or could be declared  
11 invalid, the individual [~~he~~] voluntarily asserted the individual's  
12 parentage [~~his paternity~~] of the child, and:

13 (A) the assertion is in a record filed with the  
14 vital statistics unit;

15 (B) the individual [~~he~~] is voluntarily named as  
16 the child's parent [~~father~~] on the child's birth certificate; or

17 (C) the individual [~~he~~] promised in a record to  
18 support the child as his or her own; or

19 (5) during the first two years of the child's life, the  
20 individual [~~he~~] continuously resided in the household in which the  
21 child resided and the individual [~~he~~] represented to others that  
22 the child was his or her own.

23 (b) A presumption of parentage [~~paternity~~] established  
24 under this section may be rebutted only by:

25 (1) an adjudication under Subchapter G; or

26 (2) the filing of a valid denial of parentage  
27 [~~paternity~~] by a presumed parent [~~father~~] in conjunction with the

1 filing by another person of a valid acknowledgment of parentage  
2 [~~paternity~~] as provided by Section 160.305.

3 SECTION 1.34. Section 160.301, Family Code, is amended to  
4 read as follows:

5 Sec. 160.301. ACKNOWLEDGMENT OF PARENTAGE [~~PATERNITY~~]. The  
6 mother of a child and a man claiming to be the genetic [~~biological~~]  
7 father of the child may sign an acknowledgment of parentage  
8 [~~paternity~~] with the intent to establish the man's paternity.

9 SECTION 1.35. Section 160.302, Family Code, is amended to  
10 read as follows:

11 Sec. 160.302. EXECUTION OF ACKNOWLEDGMENT OF PARENTAGE  
12 [~~PATERNITY~~]. (a) An acknowledgment of parentage [~~paternity~~] must:

13 (1) be in a record;

14 (2) be signed, or otherwise authenticated, under  
15 penalty of perjury by the mother and the man seeking to establish  
16 paternity;

17 (3) state that the child whose paternity is being  
18 acknowledged:

19 (A) does not have a presumed parent [~~father~~] or  
20 has a presumed parent [~~father~~] whose full name is stated; and

21 (B) does not have another acknowledged or  
22 adjudicated father;

23 (4) state whether there has been genetic testing and,  
24 if so, that the acknowledging man's claim of paternity is  
25 consistent with the results of the testing; and

26 (5) state that the signatories understand that the  
27 acknowledgment is the equivalent of a judicial adjudication of the

1 parentage [~~paternity~~] of the child and that a challenge to the  
2 acknowledgment is permitted only under limited circumstances.

3 (b) An acknowledgment of parentage [~~paternity~~] is void if  
4 it:

5 (1) states that another man is a presumed father of the  
6 child, unless a denial of parentage [~~paternity~~] signed or otherwise  
7 authenticated by the presumed father is filed with the vital  
8 statistics unit;

9 (2) states that another man is an acknowledged or  
10 adjudicated father of the child; or

11 (3) falsely denies the existence of a presumed,  
12 acknowledged, or adjudicated father of the child.

13 (c) A presumed father may sign or otherwise authenticate an  
14 acknowledgment of parentage [~~paternity~~].

15 (d) An acknowledgment of parentage [~~paternity~~] constitutes  
16 an affidavit under Section 666(a)(5)(C), Social Security Act (42  
17 U.S.C. Section 666(a)(5)(C)).

18 SECTION 1.36. Section 160.303, Family Code, is amended to  
19 read as follows:

20 Sec. 160.303. DENIAL OF PARENTAGE [~~PATERNITY~~]. A presumed  
21 parent [~~father~~] of a child may sign a denial of the individual's  
22 parentage [~~his paternity~~]. The denial is valid only if:

23 (1) an acknowledgment of parentage [~~paternity~~] signed  
24 or otherwise authenticated by another individual [~~man~~] is filed  
25 under Section 160.305;

26 (2) the denial is in a record and is signed or  
27 otherwise authenticated under penalty of perjury; and

1           (3) the presumed parent [~~father~~] has not previously:

2           (A) acknowledged parentage [~~paternity~~] of the  
3 child, unless the previous acknowledgment has been rescinded under  
4 Section 160.307 or successfully challenged under Section 160.308;  
5 or

6           (B) been adjudicated to be the parent [~~father~~] of  
7 the child.

8           SECTION 1.37. Section 160.304, Family Code, is amended to  
9 read as follows:

10           Sec. 160.304. RULES FOR ACKNOWLEDGMENT AND DENIAL OF  
11 PARENTAGE [~~PATERNITY~~]. (a) An acknowledgment of parentage  
12 [~~paternity~~] and a denial of parentage [~~paternity~~] may be contained  
13 in a single document or in different documents and may be filed  
14 separately or simultaneously. If the acknowledgment and denial are  
15 both necessary, neither document is valid until both documents are  
16 filed.

17           (b) An acknowledgment of parentage [~~paternity~~] or a denial  
18 of parentage [~~paternity~~] may be signed before the birth of the  
19 child.

20           (c) Subject to Subsection (a), an acknowledgment of  
21 parentage [~~paternity~~] or denial of parentage [~~paternity~~] takes  
22 effect on the date of the birth of the child or the filing of the  
23 document with the vital statistics unit, whichever occurs later.

24           (d) An acknowledgment of parentage [~~paternity~~] or denial of  
25 parentage [~~paternity~~] signed by a minor is valid if it otherwise  
26 complies with this chapter.

27           SECTION 1.38. Section 160.305, Family Code, is amended to



1 read as follows:

2       Sec. 160.305. EFFECT OF ACKNOWLEDGMENT OR DENIAL OF  
3 PARENTAGE [~~PATERNITY~~]. (a) Except as provided by Sections 160.307  
4 and 160.308, a valid acknowledgment of parentage [~~paternity~~] filed  
5 with the vital statistics unit is the equivalent of an adjudication  
6 of the parentage [~~paternity~~] of a child and confers on the  
7 acknowledged parent [~~father~~] all rights and duties of a parent.

8       (b) Except as provided by Sections 160.307 and 160.308, a  
9 valid denial of parentage [~~paternity~~] filed with the vital  
10 statistics unit in conjunction with a valid acknowledgment of  
11 parentage [~~paternity~~] is the equivalent of an adjudication of the  
12 nonparentage [~~nonpaternity~~] of the presumed parent [~~father~~] and  
13 discharges the presumed parent [~~father~~] from all rights and duties  
14 of a parent.

15       SECTION 1.39. Section 160.306, Family Code, is amended to  
16 read as follows:

17       Sec. 160.306. FILING FEE NOT REQUIRED. The Department of  
18 State Health Services may not charge a fee for filing:

- 19           (1) an acknowledgment of parentage [~~paternity~~];  
20           (2) a denial of parentage [~~paternity~~]; or  
21           (3) a rescission of an acknowledgment of parentage  
22 [~~paternity~~] or denial of parentage [~~paternity~~].

23       SECTION 1.40. Sections 160.307(a), (b), and (c), Family  
24 Code, are amended to read as follows:

25       (a) A signatory may rescind an acknowledgment of parentage  
26 [~~paternity~~] or denial of parentage [~~paternity~~] as provided by this  
27 section before the earlier of:

1           (1) the 60th day after the effective date of the  
2 acknowledgment or denial, as provided by Section 160.304; or

3           (2) the date a proceeding to which the signatory is a  
4 party is initiated before a court to adjudicate an issue relating to  
5 the child, including a proceeding that establishes child support.

6           (b) A signatory seeking to rescind an acknowledgment of  
7 parentage [~~paternity~~] or denial of parentage [~~paternity~~] must file  
8 with the vital statistics unit a completed rescission, on the form  
9 prescribed under Section 160.312, in which the signatory declares  
10 under penalty of perjury that:

11           (1) as of the date the rescission is filed, a  
12 proceeding has not been held affecting the child identified in the  
13 acknowledgment of parentage [~~paternity~~] or denial of parentage  
14 [~~paternity~~], including a proceeding to establish child support;

15           (2) a copy of the completed rescission was sent by  
16 certified or registered mail, return receipt requested, to:

17           (A) if the rescission is of an acknowledgment of  
18 parentage [~~paternity~~], the other signatory of the acknowledgment of  
19 parentage [~~paternity~~] and the signatory of any related denial of  
20 parentage [~~paternity~~]; or

21           (B) if the rescission is of a denial of parentage  
22 [~~paternity~~], the signatories of the related acknowledgment of  
23 parentage [~~paternity~~]; and

24           (3) if a signatory to the acknowledgment of parentage  
25 [~~paternity~~] or denial of parentage [~~paternity~~] is receiving  
26 services from the Title IV-D agency, a copy of the completed  
27 rescission was sent by certified or registered mail to the Title

1 IV-D agency.

2 (c) On receipt of a completed rescission, the vital  
3 statistics unit shall void the acknowledgment of parentage  
4 [~~paternity~~] or denial of parentage [~~paternity~~] affected by the  
5 rescission and amend the birth record of the child, if appropriate.

6 SECTION 1.41. Section 160.308, Family Code, is amended to  
7 read as follows:

8 Sec. 160.308. CHALLENGE AFTER EXPIRATION OF PERIOD FOR  
9 RESCISSION. (a) After the period for rescission under Section  
10 160.307 has expired, a signatory of an acknowledgment of parentage  
11 [~~paternity~~] or denial of parentage [~~paternity~~] may commence a  
12 proceeding to challenge the acknowledgment or denial only on the  
13 basis of fraud, duress, or material mistake of fact. The  
14 proceeding may be commenced at any time before the issuance of an  
15 order affecting the child identified in the acknowledgment or  
16 denial, including an order relating to support of the child.

17 (b) A party challenging an acknowledgment of parentage  
18 [~~paternity~~] or denial of parentage [~~paternity~~] has the burden of  
19 proof.

20 (c) Notwithstanding any other provision of this chapter, a  
21 collateral attack on an acknowledgment of parentage [~~paternity~~]  
22 signed under this chapter may not be maintained after the issuance  
23 of an order affecting the child identified in the acknowledgment,  
24 including an order relating to support of the child.

25 (d) For purposes of Subsection (a), evidence that, based on  
26 genetic testing, the individual [~~man~~] who is the signatory of an  
27 acknowledgement of parentage [~~paternity~~] is not rebuttably

1 identified as a parent [~~the father~~] of a child in accordance with  
2 Section 160.505 constitutes a material mistake of fact.

3 SECTION 1.42. Section 160.309, Family Code, is amended to  
4 read as follows:

5 Sec. 160.309. PROCEDURE FOR CHALLENGE. (a) Each signatory  
6 to an acknowledgment of parentage [~~paternity~~] and any related  
7 denial of parentage [~~paternity~~] must be made a party to a proceeding  
8 to challenge the acknowledgment or denial of parentage [~~paternity~~].

9 (b) For purposes of a challenge to an acknowledgment of  
10 parentage [~~paternity~~] or denial of parentage [~~paternity~~], a  
11 signatory submits to the personal jurisdiction of this state by  
12 signing the acknowledgment or denial. The jurisdiction is  
13 effective on the filing of the document with the vital statistics  
14 unit.

15 (c) Except for good cause shown, while a proceeding is  
16 pending to challenge an acknowledgment of parentage [~~paternity~~] or  
17 a denial of parentage [~~paternity~~], the court may not suspend the  
18 legal responsibilities of a signatory arising from the  
19 acknowledgment, including the duty to pay child support.

20 (d) A proceeding to challenge an acknowledgment of  
21 parentage [~~paternity~~] or a denial of parentage [~~paternity~~] shall be  
22 conducted in the same manner as a proceeding to adjudicate  
23 parentage under Subchapter G.

24 (e) At the conclusion of a proceeding to challenge an  
25 acknowledgment of parentage [~~paternity~~] or a denial of parentage  
26 [~~paternity~~], the court shall order the vital statistics unit to  
27 amend the birth record of the child, if appropriate.

1           SECTION 1.43. Section 160.310, Family Code, is amended to  
2 read as follows:

3           Sec. 160.310. RATIFICATION BARRED. A court or  
4 administrative agency conducting a judicial or administrative  
5 proceeding may not ratify an unchallenged acknowledgment of  
6 parentage [~~paternity~~].

7           SECTION 1.44. Section 160.311, Family Code, is amended to  
8 read as follows:

9           Sec. 160.311. FULL FAITH AND CREDIT. A court of this state  
10 shall give full faith and credit to an acknowledgment of parentage  
11 [~~paternity~~] or a denial of parentage [~~paternity~~] that is effective  
12 in another state if the acknowledgment or denial has been signed and  
13 is otherwise in compliance with the law of the other state.

14          SECTION 1.45. Section 160.312, Family Code, is amended to  
15 read as follows:

16          Sec. 160.312. FORMS. (a) To facilitate compliance with  
17 this subchapter, the vital statistics unit shall prescribe forms  
18 for the:

19               (1) acknowledgment of parentage [~~paternity~~];  
20               (2) denial of parentage [~~paternity~~]; and  
21               (3) rescission of an acknowledgment or denial of  
22 parentage [~~paternity~~].

23               (b) A valid acknowledgment of parentage [~~paternity~~], denial  
24 of parentage [~~paternity~~], or rescission of an acknowledgment or  
25 denial of parentage [~~paternity~~] is not affected by a later  
26 modification of the prescribed form.

27          SECTION 1.46. Section 160.313, Family Code, is amended to

1 read as follows:

2 Sec. 160.313. RELEASE OF INFORMATION. The vital  
3 statistics unit may release information relating to the  
4 acknowledgment of parentage [~~paternity~~] or denial of parentage  
5 [~~paternity~~] to a signatory of the acknowledgment or denial and to  
6 the courts and Title IV-D agency of this or another state.

7 SECTION 1.47. Section 160.315(a), Family Code, is amended  
8 to read as follows:

9 (a) The Title IV-D agency and the vital statistics unit  
10 shall adopt a memorandum of understanding governing the collection  
11 and transfer of information for the voluntary acknowledgment of  
12 parentage [~~paternity~~].

13 SECTION 1.48. Section 160.404, Family Code, is amended to  
14 read as follows:

15 Sec. 160.404. TERMINATION OF PARENTAL RIGHTS: FAILURE TO  
16 REGISTER. The parental rights of a man alleged to be a parent [~~the~~  
17 ~~father~~] of a child may be terminated without notice as provided by  
18 Section 161.002 if the man:

19 (1) did not timely register with the vital statistics  
20 unit; and

21 (2) is not entitled to notice under Section 160.402 or  
22 161.002.

23 SECTION 1.49. Section 160.503(d), Family Code, is amended  
24 to read as follows:

25 (d) If, after recalculation using a different ethnic or  
26 racial group, genetic testing does not rebuttably identify a man as  
27 a [~~the~~] father of a child under Section 160.505, an individual who

1 has been tested may be required to submit to additional genetic  
2 testing.

3 SECTION 1.50. Section 160.505, Family Code, is amended to  
4 read as follows:

5 Sec. 160.505. GENETIC TESTING RESULTS; REBUTTAL. (a) A man  
6 is rebuttably identified as a [~~the~~] father of a child under this  
7 chapter if the genetic testing complies with this subchapter and  
8 the results disclose:

9 (1) that the man has at least a 99 percent probability  
10 of paternity, using a prior probability of 0.5, as calculated by  
11 using the combined paternity index obtained in the testing; and

12 (2) a combined paternity index of at least 100 to 1.

13 (b) A man identified as a [~~the~~] father of a child under  
14 Subsection (a) may rebut the genetic testing results only by  
15 producing other genetic testing satisfying the requirements of this  
16 subchapter that:

17 (1) excludes the man as a genetic father of the child;  
18 or

19 (2) identifies another man as a [~~the~~] possible father  
20 of the child.

21 (c) Except as otherwise provided by Section 160.510, if more  
22 than one man is identified by genetic testing as a [~~the~~] possible  
23 father of the child, the court shall order each man to submit to  
24 further genetic testing to identify the genetic father.

25 SECTION 1.51. Section 160.506(b), Family Code, is amended  
26 to read as follows:

27 (b) In cases in which the cost of genetic testing is

1 advanced by the support enforcement agency, the agency may seek  
2 reimbursement from a man who is rebuttably identified as the  
3 genetic father.

4 SECTION 1.52. Section 160.507, Family Code, is amended to  
5 read as follows:

6 Sec. 160.507. ADDITIONAL GENETIC TESTING. The court or the  
7 support enforcement agency shall order additional genetic testing  
8 on the request of a party who contests the result of the original  
9 testing. If the previous genetic testing identified a man as a  
10 [~~the~~] father of the child under Section 160.505, the court or agency  
11 may not order additional testing unless the party provides advance  
12 payment for the testing.

13 SECTION 1.53. Section 160.508(a), Family Code, is amended  
14 to read as follows:

15 (a) Subject to Subsection (b), if a genetic testing specimen  
16 for good cause and under circumstances the court considers to be  
17 just is not available from a man who may be the genetic father of a  
18 child, a court may order the following individuals to submit  
19 specimens for genetic testing:

- 20 (1) the parents of the man;
- 21 (2) any brothers or sisters of the man;
- 22 (3) any other children of the man and their mothers;
- 23 and
- 24 (4) other relatives of the man necessary to complete
- 25 genetic testing.

26 SECTION 1.54. Section 160.510, Family Code, is amended to  
27 read as follows:



1           Sec. 160.510. IDENTICAL BROTHERS. (a) The court may order  
2 genetic testing of a brother of a man identified as a [~~the~~] father  
3 of a child if the man is commonly believed to have an identical  
4 brother and evidence suggests that the brother may be the genetic  
5 father of the child.

6           (b) If each brother satisfies the requirements of Section  
7 160.505 for being the identified genetic father of the child and  
8 there is not another identical brother being identified as the  
9 genetic father of the child, the court may rely on nongenetic  
10 evidence to adjudicate which brother is the genetic father of the  
11 child.

12           SECTION 1.55. Section 160.602, Family Code, is amended to  
13 read as follows:

14           Sec. 160.602. STANDING TO MAINTAIN PROCEEDING. (a)  
15 Subject to Subchapter D and Sections 160.607 and 160.609 and except  
16 as provided by Subsection (b), a proceeding to adjudicate parentage  
17 may be maintained by:

- 18                   (1) the child;
- 19                   (2) a [~~the~~] mother of the child;
- 20                   (3) an individual [~~a man~~] whose parentage [~~paternity~~]  
21 of the child is to be adjudicated;
- 22                   (4) the support enforcement agency or another  
23 government agency authorized by other law;
- 24                   (5) an authorized adoption agency or licensed  
25 child-placing agency;
- 26                   (6) a representative authorized by law to act for an  
27 individual who would otherwise be entitled to maintain a proceeding

1 but who is deceased, is incapacitated, or is a minor;

2 (7) a person related within the second degree by  
3 consanguinity to a parent [~~the mother~~] of the child, if the parent  
4 [~~mother~~] is deceased; or

5 (8) a person who is an intended parent.

6 (b) After the date a child having no presumed, acknowledged,  
7 or adjudicated parent [~~father~~] becomes an adult, a proceeding to  
8 adjudicate the parentage of the adult child may only be maintained  
9 by the adult child.

10 SECTION 1.56. Section 160.603, Family Code, is amended to  
11 read as follows:

12 Sec. 160.603. NECESSARY PARTIES TO PROCEEDING. The  
13 following individuals must be joined as parties in a proceeding to  
14 adjudicate parentage:

15 (1) each parent [~~the mother~~] of the child; and

16 (2) an individual [~~a man~~] whose parentage [~~paternity~~]  
17 of the child is to be adjudicated.

18 SECTION 1.57. Section 160.605, Family Code, is amended to  
19 read as follows:

20 Sec. 160.605. VENUE. Venue for a proceeding to adjudicate  
21 parentage is in the county of this state in which:

22 (1) the child resides or is found;

23 (2) the respondent resides or is found if the child  
24 does not reside in this state; or

25 (3) a proceeding for probate or administration of the  
26 presumed or alleged parent's [~~father's~~] estate has been commenced.

27 SECTION 1.58. Section 160.606, Family Code, is amended to

1 read as follows:

2           Sec. 160.606. NO TIME LIMITATION: CHILD HAVING NO  
3 PRESUMED, ACKNOWLEDGED, OR ADJUDICATED PARENT [~~FATHER~~]. A  
4 proceeding to adjudicate the parentage of a child having no  
5 presumed, acknowledged, or adjudicated parent [~~father~~] may be  
6 commenced at any time, including after the date:

7                   (1) the child becomes an adult; or

8                   (2) an earlier proceeding to adjudicate parentage  
9 [~~paternity~~] has been dismissed based on the application of a  
10 statute of limitation then in effect.

11           SECTION 1.59. The heading to Section 160.607, Family Code,  
12 is amended to read as follows:

13           Sec. 160.607. TIME LIMITATION: CHILD HAVING PRESUMED PARENT  
14 [~~FATHER~~].

15           SECTION 1.60. Section 160.607(a), Family Code, is amended  
16 to read as follows:

17           (a) Except as otherwise provided by Subsection (b), a  
18 proceeding brought by a presumed parent [~~father~~], a [~~the~~] mother,  
19 or another individual to adjudicate the parentage of a child having  
20 a presumed parent [~~father~~] shall be commenced not later than the  
21 fourth anniversary of the date of the birth of the child.

22           SECTION 1.61. Sections 160.608(a), (b), (e), and (f),  
23 Family Code, are amended to read as follows:

24           (a) In a proceeding to adjudicate parentage, a court may  
25 deny a motion for an order for the genetic testing of a [~~the~~]  
26 mother, the child, and a [~~the~~] presumed father if the court  
27 determines that:

1           (1) the conduct of the mother or the presumed father  
2 estops that party from denying parentage; and

3           (2) it would be inequitable to disprove the  
4 father-child relationship between the child and the presumed  
5 father.

6           (b) In determining whether to deny a motion for an order for  
7 genetic testing under this section, the court shall consider the  
8 best interest of the child, including the following factors:

9           (1) the length of time between the date of the  
10 proceeding to adjudicate parentage and the date the presumed father  
11 was placed on notice that he might not be the genetic father;

12           (2) the length of time during which the presumed  
13 father has assumed the role of father of the child;

14           (3) the facts surrounding the presumed father's  
15 discovery of his possible nonparentage [~~nonpaternity~~];

16           (4) the nature of the relationship between the child  
17 and the presumed father;

18           (5) the age of the child;

19           (6) any harm that may result to the child if presumed  
20 paternity is successfully disproved;

21           (7) the nature of the relationship between the child  
22 and the alleged parent [~~father~~];

23           (8) the extent to which the passage of time reduces the  
24 chances of establishing the parentage [~~paternity~~] of another man  
25 and a child support obligation in favor of the child; and

26           (9) other factors that may affect the equities arising  
27 from the disruption of the parent-child [~~father-child~~]

1 relationship between the child and the presumed father or the  
2 chance of other harm to the child.

3 (e) If the court denies a motion for an order for genetic  
4 testing, the court shall issue an order adjudicating the presumed  
5 father to be a parent [~~the father~~] of the child.

6 (f) This section applies to a proceeding to challenge an  
7 acknowledgment of parentage [~~paternity~~] or a denial of parentage  
8 [~~paternity~~] as provided by Section 160.309(d).

9 SECTION 1.62. Section 160.609, Family Code, is amended to  
10 read as follows:

11 Sec. 160.609. TIME LIMITATION: CHILD HAVING ACKNOWLEDGED  
12 OR ADJUDICATED PARENT [~~FATHER~~]. (a) If a child has an  
13 acknowledged parent [~~father~~], a signatory to the acknowledgment or  
14 denial of parentage [~~paternity~~] may commence a proceeding under  
15 this chapter to challenge the parentage [~~paternity~~] of the child  
16 only within the time allowed under Section 160.308.

17 (b) If a child has an acknowledged parent [~~father~~] or an  
18 adjudicated parent [~~father~~], an individual, other than the child,  
19 who is not a signatory to the acknowledgment or a party to the  
20 adjudication and who seeks an adjudication of parentage [~~paternity~~]  
21 of the child must commence a proceeding not later than the fourth  
22 anniversary of the effective date of the acknowledgment or  
23 adjudication.

24 SECTION 1.63. Section 160.622(c), Family Code, is amended  
25 to read as follows:

26 (c) Genetic testing of a [~~the~~] mother of a child is not a  
27 prerequisite to testing the child and a man whose parentage

1 ~~[paternity]~~ is being determined. If the mother is unavailable or  
2 declines to submit to genetic testing, the court may order the  
3 testing of the child and each man whose parentage ~~[paternity]~~ is  
4 being adjudicated.

5 SECTION 1.64. Section 160.624(a), Family Code, is amended  
6 to read as follows:

7 (a) In a proceeding under this subchapter, the court shall  
8 render a temporary order for child support for a child if the order  
9 is appropriate and the individual ordered to pay child support:

10 (1) is a presumed parent ~~[father]~~ of the child;

11 (2) is petitioning to have the individual's parentage  
12 ~~[his paternity]~~ adjudicated;

13 (3) is identified as a ~~[the]~~ father through genetic  
14 testing under Section 160.505;

15 (4) is an alleged father who has declined to submit to  
16 genetic testing;

17 (5) is shown by clear and convincing evidence to be a  
18 ~~[the]~~ father of the child; or

19 (6) is a ~~[the]~~ mother of the child.

20 SECTION 1.65. Section 160.631, Family Code, is amended to  
21 read as follows:

22 Sec. 160.631. RULES FOR ADJUDICATION OF PATERNITY. (a) The  
23 court shall apply the rules stated in this section to adjudicate the  
24 paternity of a child.

25 (b) The paternity of a child having a presumed,  
26 acknowledged, or adjudicated genetic father may be disproved only  
27 by admissible results of genetic testing excluding that man as a

1 ~~[the]~~ father of the child or identifying another man as the genetic  
2 father of the child.

3 (c) Unless the results of genetic testing are admitted to  
4 rebut other results of genetic testing, the man identified as the  
5 genetic father of a child under Section 160.505 shall be  
6 adjudicated as being a parent ~~[the father]~~ of the child.

7 (d) Unless the results of genetic testing are admitted to  
8 rebut other results of genetic testing, a man excluded as the  
9 genetic father of a child by genetic testing shall be adjudicated as  
10 not being a parent ~~[the father]~~ of the child.

11 (e) If the court finds that genetic testing under Section  
12 160.505 does not identify or exclude a man as the genetic father of  
13 a child, the court may not dismiss the proceeding. In that event,  
14 the results of genetic testing and other evidence are admissible to  
15 adjudicate the issue of paternity.

16 SECTION 1.66. Section 160.634, Family Code, is amended to  
17 read as follows:

18 Sec. 160.634. ORDER ON DEFAULT. The court shall issue an  
19 order adjudicating the parentage ~~[paternity]~~ of a man who:

- 20 (1) after service of process, is in default; and  
21 (2) is found by the court to be a ~~[the]~~ father of a  
22 child.

23 SECTION 1.67. Sections 160.636(a) and (g), Family Code, are  
24 amended to read as follows:

25 (a) The court shall render an order adjudicating whether a  
26 man alleged or claiming to be a parent ~~[the father]~~ is the parent of  
27 the child.

1 (g) On a finding of parentage, the court may order  
2 retroactive child support as provided by Chapter 154 and, on a  
3 proper showing, order a party to pay an equitable portion of all of  
4 the prenatal and postnatal health care expenses of the natal mother  
5 and the child.

6 SECTION 1.68. Sections 160.637(a), (b), (c), and (e),  
7 Family Code, are amended to read as follows:

8 (a) Except as otherwise provided by Subsection (b) or  
9 Section 160.316, a determination of parentage is binding on:

10 (1) all signatories to an acknowledgment or denial of  
11 parentage [~~paternity~~] as provided by Subchapter D; and

12 (2) all parties to an adjudication by a court acting  
13 under circumstances that satisfy the jurisdictional requirements  
14 of Section 159.201.

15 (b) A child is not bound by a determination of parentage  
16 under this chapter unless:

17 (1) the determination was based on an unrescinded  
18 acknowledgment of parentage [~~paternity~~] and the acknowledgment is  
19 consistent with the results of genetic testing;

20 (2) the adjudication of parentage was based on a  
21 finding consistent with the results of genetic testing and the  
22 consistency is declared in the determination or is otherwise shown;  
23 or

24 (3) the child was a party or was represented in the  
25 proceeding determining parentage by an attorney ad litem.

26 (c) In a proceeding to dissolve a marriage, the court is  
27 considered to have made an adjudication of the parentage of a child



1 if the court acts under circumstances that satisfy the  
2 jurisdictional requirements of Section 159.201, and the final  
3 order:

4 (1) expressly identifies the child as "a child of the  
5 marriage" or "issue of the marriage" or uses similar words  
6 indicating that the spouse [~~husband~~] is a parent [~~the father~~] of the  
7 child; or

8 (2) provides for the payment of child support for the  
9 child by a spouse [~~the husband~~] unless parentage [~~paternity~~] is  
10 specifically disclaimed in the order.

11 (e) A party to an adjudication of parentage [~~paternity~~] may  
12 challenge the adjudication only under the laws of this state  
13 relating to appeal, the vacating of judgments, or other judicial  
14 review.

15 SECTION 1.69. Section 160.703, Family Code, is amended to  
16 read as follows:

17 Sec. 160.703. SPOUSAL [~~HUSBAND'S~~] PATERNITY OF CHILD OF  
18 ASSISTED REPRODUCTION. If a male spouse [~~husband~~] provides sperm  
19 for or consents to assisted reproduction by his female spouse  
20 [~~wife~~] as provided by Section 160.704, he is the parent [~~father~~] of  
21 a resulting child.

22 SECTION 1.70. Section 160.7031, Family Code, is amended to  
23 read as follows:

24 Sec. 160.7031. UNMARRIED INDIVIDUAL'S PARENTAGE [~~MAN'S~~  
25 ~~PATERNITY~~] OF CHILD OF ASSISTED REPRODUCTION. (a) If an unmarried  
26 individual [~~man~~], with the intent to be a parent [~~the father~~] of a  
27 resulting child, provides eggs or sperm to a licensed physician and

1 consents to the use of the eggs or [~~that~~] sperm for assisted  
2 reproduction by an unmarried individual [~~woman~~], that individual  
3 [~~he~~] is the parent [~~father~~] of a resulting child.

4 (b) Consent by an unmarried individual [~~man~~] who intends to  
5 be a parent [~~the father~~] of a resulting child in accordance with  
6 this section must be in a record signed by the two individuals [~~man~~  
7 ~~and the unmarried woman~~] and kept by a licensed physician.

8 SECTION 1.71. Section 160.704, Family Code, is amended to  
9 read as follows:

10 Sec. 160.704. CONSENT TO ASSISTED REPRODUCTION. (a)  
11 Consent by a married woman to assisted reproduction must be in a  
12 record signed by the woman and her spouse [~~husband~~] and kept by a  
13 licensed physician. This requirement does not apply to the  
14 donation of eggs by a married woman for assisted reproduction by  
15 another woman.

16 (b) Failure by the spouse [~~husband~~] to sign a consent  
17 required by Subsection (a) before or after the birth of the child  
18 does not preclude a finding that the spouse [~~husband~~] is the parent  
19 [~~father~~] of a child born to the spouse who is the natal mother [~~his~~  
20 ~~wife~~] if the two spouses [~~wife and husband~~] openly treated the child  
21 as their own.

22 SECTION 1.72. The heading to Section 160.705, Family Code,  
23 is amended to read as follows:

24 Sec. 160.705. LIMITATION ON SPOUSE'S [~~HUSBAND'S~~] DISPUTE OF  
25 PARENTAGE [~~PATERNITY~~].

26 SECTION 1.73. Sections 160.705(a) and (b), Family Code, are  
27 amended to read as follows:

1           (a) Except as otherwise provided by Subsection (b), an  
2 individual whose spouse [~~the husband of a wife who~~] gives birth to a  
3 child by means of assisted reproduction may not challenge his or her  
4 parentage [~~paternity~~] of the child unless:

5               (1) before the fourth anniversary of the date of  
6 learning of the birth of the child the individual [~~he~~] commences a  
7 proceeding to adjudicate his or her parentage [~~his paternity~~]; and

8               (2) the court finds that the individual [~~he~~] did not  
9 consent to the assisted reproduction before or after the birth of  
10 the child.

11           (b) A proceeding to adjudicate parentage [~~paternity~~] may be  
12 maintained at any time if the court determines that:

13               (1) the spouse [~~husband~~] did not provide eggs or sperm  
14 for or, before or after the birth of the child, consent to assisted  
15 reproduction by his or her spouse [~~wife~~];

16               (2) the spouses [~~husband and the mother of the child~~]  
17 have not cohabited since the probable time of assisted  
18 reproduction; and

19               (3) the spouse [~~husband~~] never openly treated the  
20 child as his or her own.

21           SECTION 1.74. Section 160.753, Family Code, is amended to  
22 read as follows:

23           Sec. 160.753. ESTABLISHMENT OF PARENT-CHILD RELATIONSHIP.  
24 [~~(a)~~] Notwithstanding any other provision of this chapter or  
25 another law, a parent-child [~~the mother-child~~] relationship exists  
26 between:

27               (1) a woman and a child by an adjudication confirming

1 the woman as a parent of the child born to a gestational mother  
2 under a gestational agreement if the gestational agreement is  
3 validated under this subchapter or enforceable under other law,  
4 regardless of the fact that the gestational mother gave birth to the  
5 child; and

6           (2) [~~.(b) The father-child relationship exists~~  
7 ~~between a child and~~] a man and a child by an adjudication confirming  
8 the man as a parent of the child born to a gestational mother under a  
9 gestational agreement if the gestational agreement is validated  
10 under this subchapter or enforceable under other law.

11           SECTION 1.75. Section 160.754(a), Family Code, is amended  
12 to read as follows:

13           (a) A prospective gestational mother, her spouse [~~husband~~]  
14 if she is married, each donor, and each intended parent may enter  
15 into a written agreement providing that:

16                   (1) the prospective gestational mother agrees to  
17 pregnancy by means of assisted reproduction;

18                   (2) the prospective gestational mother, her spouse  
19 [~~husband~~] if she is married, and each donor other than the intended  
20 parents, if applicable, relinquish all parental rights and duties  
21 with respect to a child conceived through assisted reproduction;

22                   (3) the intended parents will be the parents of the  
23 child; and

24                   (4) the gestational mother and each intended parent  
25 agree to exchange throughout the period covered by the agreement  
26 all relevant information regarding the health of the gestational  
27 mother and each intended parent.

1           SECTION 1.76. Section 160.755(b), Family Code, is amended  
2 to read as follows:

3           (b) A person may maintain a proceeding to validate a  
4 gestational agreement only if:

5                 (1) the prospective gestational mother or the intended  
6 parents have resided in this state for the 90 days preceding the  
7 date the proceeding is commenced;

8                 (2) the prospective gestational mother's spouse  
9 [~~husband~~], if she is married, is joined as a party to the  
10 proceeding; and

11                (3) a copy of the gestational agreement is attached to  
12 the petition.

13           SECTION 1.77. Section 160.756(b), Family Code, is amended  
14 to read as follows:

15           (b) The court may validate a gestational agreement as  
16 provided by Subsection (c) only if the court finds that:

17                 (1) the parties have submitted to the jurisdiction of  
18 the court under the jurisdictional standards of this chapter;

19                 (2) the medical evidence provided shows that each  
20 [~~the~~] intended mother is unable to carry a pregnancy to term and  
21 give birth to the child or is unable to carry the pregnancy to term  
22 and give birth to the child without unreasonable risk to her  
23 physical or mental health or to the health of the unborn child;

24                 (3) unless waived by the court, an agency or other  
25 person has conducted a home study of the intended parents and has  
26 determined that the intended parents meet the standards of fitness  
27 applicable to adoptive parents;

1           (4) each party to the agreement has voluntarily  
2 entered into and understands the terms of the agreement;

3           (5) the prospective gestational mother has had at  
4 least one previous pregnancy and delivery and carrying another  
5 pregnancy to term and giving birth to another child would not pose  
6 an unreasonable risk to the child's health or the physical or mental  
7 health of the prospective gestational mother; and

8           (6) the parties have adequately provided for which  
9 party is responsible for all reasonable health care expenses  
10 associated with the pregnancy, including providing for who is  
11 responsible for those expenses if the agreement is terminated.

12         SECTION 1.78. Sections 160.759(a) and (d), Family Code, are  
13 amended to read as follows:

14         (a) Before a prospective gestational mother becomes  
15 pregnant by means of assisted reproduction, the prospective  
16 gestational mother, her spouse [~~husband~~] if she is married, or  
17 either intended parent may terminate a gestational agreement  
18 validated under Section 160.756 by giving written notice of the  
19 termination to each other party to the agreement.

20         (d) A prospective gestational mother and her spouse  
21 [~~husband~~], if she is married, may not be liable to an intended  
22 parent for terminating a gestational agreement if the termination  
23 is in accordance with this section.

24         SECTION 1.79. Section 160.761, Family Code, is amended to  
25 read as follows:

26         Sec. 160.761. EFFECT OF GESTATIONAL MOTHER'S MARRIAGE AFTER  
27 VALIDATION OF AGREEMENT. If a gestational mother is married after

1 the court renders an order validating a gestational agreement under  
2 this subchapter:

3 (1) the validity of the gestational agreement is not  
4 affected;

5 (2) the gestational mother's spouse [~~husband~~] is not  
6 required to consent to the agreement; and

7 (3) the gestational mother's spouse [~~husband~~] is not a  
8 presumed parent [~~father~~] of the child born under the terms of the  
9 agreement.

10 SECTION 1.80. Sections 161.005(c) and (d), Family Code, are  
11 amended to read as follows:

12 (c) Subject to Subsection (d), a man may file a suit for  
13 termination of the parent-child relationship between the man and a  
14 child if, without obtaining genetic testing, the man signed an  
15 acknowledgment of parentage [~~paternity~~] of the child in accordance  
16 with Subchapter D, Chapter 160, or was adjudicated to be a [~~the~~]  
17 father of the child in a previous proceeding under this title in  
18 which genetic testing did not occur. The petition must be verified  
19 and must allege facts showing that the petitioner:

20 (1) is not the child's genetic father; and

21 (2) signed the acknowledgment of parentage  
22 [~~paternity~~] or failed to contest parentage in the previous  
23 proceeding because of the mistaken belief, at the time the  
24 acknowledgment was signed or on the date the court order in the  
25 previous proceeding was rendered, that he was the child's genetic  
26 father based on misrepresentations that led him to that conclusion.

27 (d) A man may not file a petition under Subsection (c) if:

- 1           (1) the man is the child's adoptive father;
- 2           (2) the child was conceived by assisted reproduction  
3 and the man consented to assisted reproduction by his spouse [~~wife~~]  
4 under Subchapter H, Chapter 160; or
- 5           (3) the man is an [~~the~~] intended father of the child  
6 under a gestational agreement validated by a court under Subchapter  
7 I, Chapter 160.

8           SECTION 1.81. Section 161.103(b), Family Code, is amended  
9 to read as follows:

10           (b) The affidavit must contain:

11           (1) the name, county of residence, and age of the  
12 parent whose parental rights are being relinquished;

13           (2) the name, age, and birth date of the child;

14           (3) the names and addresses of the guardians of the  
15 person and estate of the child, if any;

16           (4) a statement that the affiant is or is not presently  
17 obligated by court order to make payments for the support of the  
18 child;

19           (5) a full description and statement of value of all  
20 property owned or possessed by the child;

21           (6) an allegation that termination of the parent-child  
22 relationship is in the best interest of the child;

23           (7) one of the following, as applicable:

24           (A) the name and county of residence of the other  
25 parent;

26           (B) a statement that the parental rights of the  
27 other parent have been terminated by death or court order; or



1 (C) a statement that the child has no presumed  
2 parent [~~father~~];

3 (8) a statement that the parent has been informed of  
4 parental rights and duties;

5 (9) a statement that the relinquishment is revocable,  
6 that the relinquishment is irrevocable, or that the relinquishment  
7 is irrevocable for a stated period of time;

8 (10) if the relinquishment is revocable, a statement  
9 in boldfaced type concerning the right of the parent signing the  
10 affidavit to revoke the relinquishment only if the revocation is  
11 made before the 11th day after the date the affidavit is executed;

12 (11) if the relinquishment is revocable, the name and  
13 address of a person to whom the revocation is to be delivered; and

14 (12) the designation of a prospective adoptive parent,  
15 the Department of Family and Protective Services, if the department  
16 has consented in writing to the designation, or a licensed  
17 child-placing agency to serve as managing conservator of the child  
18 and the address of the person or agency.

19 SECTION 1.82. Section 161.106(d), Family Code, is amended  
20 to read as follows:

21 (d) The affidavit may contain a statement that the affiant  
22 does not admit being a a [~~the~~] father of the child or having had a  
23 sexual relationship with the natal mother of the child.

24 SECTION 1.83. Section 161.108(a), Family Code, is amended  
25 to read as follows:

26 (a) Before or at the time an affidavit of relinquishment of  
27 parental rights under Section 161.103 is executed, the natal mother

1 of a newborn child may authorize the release of the child from the  
2 hospital or birthing center to a licensed child-placing agency, the  
3 Department of Family and Protective Services, or another designated  
4 person.

5 SECTION 1.84. Section 161.109, Family Code, is amended to  
6 read as follows:

7 Sec. 161.109. REQUIREMENT OF PATERNITY REGISTRY  
8 CERTIFICATE. (a) If a parent-child relationship does not exist  
9 between the child and any man, a certificate from the vital  
10 statistics unit signed by the registrar that a diligent search has  
11 been made of the paternity registry maintained by the unit and that  
12 a registration has not been found pertaining to a ~~[the]~~ father of  
13 the child in question must be filed with the court before a trial on  
14 the merits in the suit for termination may be held.

15 (b) In a proceeding to terminate parental rights in which an  
16 ~~[the]~~ alleged or probable father has not been personally served  
17 with citation or signed an affidavit of relinquishment or an  
18 affidavit of waiver of interest, the court may not terminate the  
19 parental rights of the alleged or probable father, whether known or  
20 unknown, unless a certificate from the vital statistics unit signed  
21 by the registrar states that a diligent search has been made of the  
22 paternity registry maintained by the unit and that a filing or  
23 registration has not been found pertaining to a ~~[the]~~ father of the  
24 child in question.

25 SECTION 1.85. Section 162.014(a), Family Code, is amended  
26 to read as follows:

27 (a) If the joint petitioners are spouses ~~[husband and wife]~~

1 and it would be unduly difficult for one of the petitioners to  
2 appear at the hearing, the court may waive the attendance of that  
3 petitioner if the other spouse is present.

4 SECTION 1.86. Section 162.402(10), Family Code, is amended  
5 to read as follows:

6 (10) "Birth parent" means:

7 (A) the genetic [~~biological~~] mother of an  
8 adoptee;

9 (B) a [~~the~~] man adjudicated or presumed under  
10 Chapter 160 [~~151~~] to be the genetic [~~biological~~] father of an  
11 adoptee; and

12 (C) a man who has signed a consent to adoption,  
13 affidavit of relinquishment, affidavit of waiver of interest in  
14 child, or other written instrument releasing the adoptee for  
15 adoption, unless the consent, affidavit, or other instrument  
16 includes a sworn refusal to admit or a denial of parentage  
17 [~~paternity~~]. The term includes a birth mother and birth father but  
18 does not include a person adjudicated by a court of competent  
19 jurisdiction as not being the genetic [~~biological~~] parent of an  
20 adoptee.

21 SECTION 1.87. Section 203.007(a), Family Code, is amended  
22 to read as follows:

23 (a) A domestic relations office may obtain the records  
24 described by Subsections (b), (c), (d), and (e) that relate to a  
25 person who has:

26 (1) been ordered to pay child support;

27 (2) been designated as a conservator of a child;

- 1           (3) been designated to be a ~~[the]~~ father of a child;
- 2           (4) executed an acknowledgment of parentage
- 3 ~~[paternity]~~;
- 4           (5) court-ordered possession of a child; or
- 5           (6) filed suit to adopt a child.

6           SECTION 1.88. Section 231.108(a), Family Code, is amended

7 to read as follows:

8           (a) Except as provided by Subsection (c), all files and

9 records of services provided by the Title IV-D agency under this

10 title, including information concerning a custodial parent, a

11 noncustodial parent, a child, or an alleged or presumed parent

12 ~~[father]~~, are confidential.

13           SECTION 1.89. Section 231.112, Family Code, is amended to

14 read as follows:

15           Sec. 231.112. INFORMATION ON PARENTAGE ~~[PATERNITY]~~

16 ESTABLISHMENT. On notification by the state registrar under

17 Section 192.005(d), Health and Safety Code, that the items relating

18 to the child's father are not completed on a birth certificate filed

19 with the state registrar, the Title IV-D agency may provide to:

20           (1) a ~~[the child's]~~ mother of the child and, if

21 possible, the man claiming to be the child's genetic ~~[biological]~~

22 father written information necessary for the man to complete an

23 acknowledgment of parentage ~~[paternity]~~ as provided by Chapter 160;

24 and

25           (2) a ~~[the child's]~~ mother of the child written

26 information:

27                   (A) explaining the benefits of having the child's

1 parentage [~~paternity~~] established; and

2 (B) regarding the availability of parentage  
3 [~~paternity~~] establishment and child support enforcement services.

4 SECTION 1.90. Section 231.115(c), Family Code, is amended  
5 to read as follows:

6 (c) In adopting rules under this section that establish the  
7 basis for determining that a person has failed to cooperate with the  
8 Title IV-D agency, the Title IV-D agency shall consider whether:

9 (1) good cause exists for the failure to cooperate;

10 (2) the person has failed to disclose the name and  
11 location of an alleged or probable parent of the child, if known by  
12 the person, at the time of applying for public assistance or at a  
13 subsequent time; and

14 (3) the person named a man as the alleged father and  
15 the man was subsequently excluded by parentage testing as being a  
16 [~~the~~] father if the person has previously named another man as the  
17 child's father.

18 SECTION 1.91. Section 231.303(b), Family Code, is amended  
19 to read as follows:

20 (b) An individual or entity receiving an administrative  
21 subpoena under this section shall comply with the subpoena. The  
22 Title IV-D agency may impose a fine in an amount not to exceed \$500  
23 on an individual or entity that fails without good cause to comply  
24 with an administrative subpoena. An alleged or presumed parent  
25 [~~father~~] or a parent who fails to comply with a subpoena without  
26 good cause may also be subject to license suspension under Chapter  
27 232.

1           SECTION 1.92. Section 233.0095(a), Family Code, is amended  
2 to read as follows:

3           (a) If an individual has signed the acknowledgment of  
4 parentage [~~paternity~~] as a parent [~~the father~~] of the child or  
5 executed a statement of parentage [~~paternity~~], the Title IV-D  
6 agency may serve on the parties a notice of proposed child support  
7 review order.

8           SECTION 1.93. Section 233.019(c), Family Code, is amended  
9 to read as follows:

10          (c) If applicable, an acknowledgment of parentage  
11 [~~paternity~~] or a written report of a parentage testing expert and  
12 any documentary evidence relied upon by the agency shall be filed  
13 with the agreed review order as an exhibit to the order.

14          SECTION 1.94. Section 233.020(b), Family Code, is amended  
15 to read as follows:

16          (b) Documentary evidence relied on by the Title IV-D agency,  
17 including, if applicable, an acknowledgment of parentage  
18 [~~paternity~~] or a written report of a parentage testing expert,  
19 shall be filed with the clerk as exhibits to the petition, but are  
20 not required to be served on the parties. The petition must  
21 identify the exhibits that are filed with the clerk.

22          SECTION 1.95. Sections 233.028(a) and (e), Family Code, are  
23 amended to read as follows:

24          (a) If the parentage of a child has not been established,  
25 the notice of child support review delivered to the parties must  
26 include an allegation that the recipient is a genetic [~~biological~~]  
27 parent of the child. The notice shall inform the parties that:

1           (1) not later than the 15th day after the date of  
2 delivery of the notice, the alleged parent of the child shall either  
3 sign a statement of parentage [~~paternity~~] or an acknowledgment of  
4 parentage [~~paternity~~] or deny in writing that the alleged parent is  
5 the genetic [~~biological~~] parent of the child;

6           (2) either party may request that scientifically  
7 accepted parentage testing be conducted to assist in determining  
8 the identities of the child's parents;

9           (3) if the alleged parent timely denies parentage of  
10 the child, the Title IV-D agency shall order parentage testing; and

11           (4) if the alleged parent does not deny parentage of  
12 the child, the Title IV-D agency may conduct a negotiation  
13 conference.

14           (e) If the results of parentage testing exclude an alleged  
15 parent from being the genetic [~~biological~~] parent of the child, the  
16 Title IV-D agency shall issue and provide to each party a child  
17 support review order that declares that the excluded person is not a  
18 parent of the child.

19           SECTION 1.96. Section 262.205(d), Family Code, is amended  
20 to read as follows:

21           (d) If citation by publication is required for a parent or  
22 alleged or probable parent [~~father~~] in an action under this chapter  
23 because the location of the person is unknown, the court may render  
24 a temporary order without regard to whether notice of the citation  
25 has been published.

26           SECTION 1.97. The following provisions of the Family Code  
27 are repealed:

1           (1) Section 2.001(b); and

2           (2) Section 6.204.

3           ARTICLE 2. HEALTH AND SAFETY CODE PROVISIONS

4           SECTION 2.01. The heading to Section 32.0211, Health and  
5 Safety Code, is amended to read as follows:

6           Sec. 32.0211. WOMEN, INFANTS, AND CHILDREN PROGRAM OUTREACH  
7 CAMPAIGN TO PROMOTE PARENTAL [~~FATHERS~~] INVOLVEMENT.

8           SECTION 2.02. Sections 32.0211(a) and (b), Health and  
9 Safety Code, are amended to read as follows:

10          (a) The attorney general shall:

11               (1) subject to Subsections (b) and (c), develop and  
12 periodically update a publication that:

13                       (A) describes the importance and long-term  
14 positive effects on children of another parent's [~~a father's~~]  
15 involvement during a mother's pregnancy; and

16                       (B) provides guidance to a prospective second  
17 parent [~~fathers~~] on the positive actions that the parent [~~they~~] can  
18 take to support the pregnant mother during pregnancy and the effect  
19 those actions have on pregnancy outcomes; and

20               (2) make the publication described by Subdivision (1)  
21 available to any agency, organization, or other entity that  
22 contracts with the Special Supplemental Nutrition Program for  
23 Women, Infants, and Children and on the attorney general's Internet  
24 website in a format that allows the public to download and print the  
25 publication.

26          (b) The publication developed by the attorney general under  
27 Subsection (a) must include:



1           (1) information regarding the steps that unmarried  
2 parents must take if the parents want to establish legal parentage  
3 [~~paternity~~] and the benefits of parentage [~~paternity~~]  
4 establishment for children;

5           (2) a worksheet to help parents [~~fathers~~] identify  
6 personal risk behaviors, including smoking, substance abuse, and  
7 unemployment;

8           (3) information regarding how a parent's [~~father's~~]  
9 personal risk behaviors may affect the parent's [~~father's~~] child  
10 and a guide to resources that are available to the parent [~~father~~]  
11 to assist in making necessary lifestyle changes;

12           (4) information for a prospective second parent  
13 [~~fathers~~] about the mother's prenatal health, including the  
14 emotional and physical changes the [~~a~~] mother may [~~will~~] experience  
15 throughout pregnancy, the mother's nutritional needs, and an  
16 explanation of how the parent [~~father~~] may help the mother meet  
17 those needs;

18           (5) an explanation of prenatal health care visits,  
19 including an explanation of what they are and what to expect, and  
20 the practical ways a parent [~~father~~] may support the pregnant  
21 mother throughout pregnancy;

22           (6) information regarding a child's prenatal health,  
23 including the child's developmental stages, the importance of  
24 attending prenatal health care visits, the practical ways a  
25 prospective second parent [~~father~~] may contribute to healthy baby  
26 outcomes, and actions the parent [~~father~~] may take to prepare for  
27 the birth of a child;

1           (7) an explanation regarding prenatal tests,  
2 including an explanation of what the tests are and what tests to  
3 expect;

4           (8) basic infant care information, including:

5               (A) information regarding the basics of  
6 dressing, diapering, bathing, consoling, and stimulating an  
7 infant;

8               (B) health and safety issues, including issues  
9 relating to nutritional information, sleep needs and expectations,  
10 baby-proofing a home, and what to expect at the first well-child  
11 visits; and

12              (C) information on bonding and attachment and how  
13 each relates to an infant's development;

14           (9) healthy relationship and coparenting information,  
15 including communication strategies, conflict resolution  
16 strategies, and problem-solving techniques for coparenting;

17           (10) worksheets, activities, and exercises to aid each  
18 parent [~~fathers~~] and the couple in exploring the following topics:

19               (A) personal ideas about parenting [~~fatherhood~~]  
20 and the role of each parent [~~the father~~] in the family system;

21               (B) the immediate and long-term benefits of  
22 parental [~~father~~] involvement specific to their family; and

23               (C) perceived barriers to parental [~~father~~]  
24 involvement and strategies for overcoming those barriers; and

25           (11) activities and projects for parents [~~fathers~~]  
26 that increase the parents' [~~fathers'~~] understanding of the stages  
27 of child developmental and health and safety issues.

1           SECTION 2.03.   Section 85.007(b), Health and Safety Code, is  
2 amended to read as follows:

3           (b)   The materials in the education programs intended for  
4 persons younger than 18 years of age must[+]

5               [~~(1)~~]   emphasize sexual abstinence before marriage and  
6 fidelity in marriage as the expected standard in terms of public  
7 health and the most effective ways to prevent HIV infection,  
8 sexually transmitted diseases, and unwanted pregnancies[~~, and~~

9               [~~(2)~~ state that homosexual conduct is not an  
10 acceptable lifestyle and is a criminal offense under Section 21.06,  
11 Penal Code].

12          SECTION 2.04.   Section 161.501(a), Health and Safety Code,  
13 is amended to read as follows:

14          (a)   A hospital, birthing center, physician, nurse midwife,  
15 or midwife who provides prenatal care to a pregnant woman during  
16 gestation or at delivery of an infant shall:

17               (1)   provide the woman and the other parent [~~father~~] of  
18 the infant, if possible, or another adult caregiver for the infant,  
19 with a resource pamphlet that includes:

20                   (A)   a list of the names, addresses, and phone  
21 numbers of professional organizations that provide postpartum  
22 counseling and assistance to parents relating to postpartum  
23 depression and other emotional trauma associated with pregnancy and  
24 parenting;

25                   (B)   information regarding the prevention of  
26 shaken baby syndrome including:

27                       (i)   techniques for coping with anger caused

1 by a crying baby;

2 (ii) different methods for preventing a  
3 person from shaking a newborn, infant, or other young child;

4 (iii) the dangerous effects of shaking a  
5 newborn, infant, or other young child; and

6 (iv) the symptoms of shaken baby syndrome  
7 and who to contact, as recommended by the American Academy of  
8 Pediatrics, if a parent suspects or knows that a baby has been  
9 shaken in order to receive prompt medical treatment;

10 (C) a list of diseases for which a child is  
11 required by state law to be immunized and the appropriate schedule  
12 for the administration of those immunizations;

13 (D) the appropriate schedule for follow-up  
14 procedures for newborn screening;

15 (E) information regarding sudden infant death  
16 syndrome, including current recommendations for infant sleeping  
17 conditions to lower the risk of sudden infant death syndrome;

18 (F) educational information in both English and  
19 Spanish on:

20 (i) pertussis disease and the availability  
21 of a vaccine to protect against pertussis, including information on  
22 the Centers for Disease Control and Prevention recommendation that  
23 parents receive Tdap during the postpartum period to protect  
24 newborns from the transmission of pertussis; and

25 (ii) the incidence of cytomegalovirus,  
26 birth defects caused by congenital cytomegalovirus, and available  
27 resources for the family of an infant born with congenital

1 cytomegalovirus; and

2 (G) the danger of heatstroke for a child left

3 unattended in a motor vehicle;

4 (2) if the woman is a recipient of medical assistance

5 under Chapter 32, Human Resources Code, provide the woman and the

6 other parent [~~father~~] of the infant, if possible, or another adult

7 caregiver with a resource guide that includes information in both

8 English and Spanish relating to the development, health, and safety

9 of a child from birth until age five, including information

10 relating to:

11 (A) selecting and interacting with a primary

12 health care practitioner and establishing a "medical home" for the

13 child;

14 (B) dental care;

15 (C) effective parenting;

16 (D) child safety;

17 (E) the importance of reading to a child;

18 (F) expected developmental milestones;

19 (G) health care resources available in the state;

20 (H) selecting appropriate child care; and

21 (I) other resources available in the state;

22 (3) document in the woman's record that the woman

23 received the resource pamphlet described in Subdivision (1) and the

24 resource guide described in Subdivision (2), if applicable; and

25 (4) retain the documentation for at least five years

26 in the hospital's, birthing center's, physician's, nurse midwife's,

27 or midwife's records.

1           SECTION 2.05. Section 163.001(a), Health and Safety Code,  
2 is amended to read as follows:

3           (a) The department shall develop a model public health  
4 education program suitable for school-age children and shall make  
5 the program available to any person on request. The program should  
6 emphasize:

7                   (1) that abstinence from sexual intercourse is the  
8 most effective protection against unwanted teenage pregnancy,  
9 sexually transmitted diseases, and acquired immune deficiency  
10 syndrome (AIDS) when transmitted sexually;

11                   (2) that abstinence from sexual intercourse outside of  
12 ~~[lawful]~~ marriage is the expected societal standard for school-age  
13 unmarried persons; and

14                   (3) the physical, emotional, and psychological  
15 dangers of substance abuse, including the risk of acquired immune  
16 deficiency syndrome (AIDS) through the sharing of needles during  
17 intravenous drug usage.

18           SECTION 2.06. Section 163.002, Health and Safety Code, is  
19 amended to read as follows:

20           Sec. 163.002. INSTRUCTIONAL ELEMENTS. Course materials and  
21 instruction relating to sexual education or sexually transmitted  
22 diseases should include:

23                   (1) an emphasis on sexual abstinence as the only  
24 completely reliable method of avoiding unwanted teenage pregnancy  
25 and sexually transmitted diseases;

26                   (2) an emphasis on the importance of self-control,  
27 responsibility, and ethical conduct in making decisions relating to

1 sexual behavior;

2 (3) statistics, based on the latest medical  
3 information, that indicate the efficacy of the various forms of  
4 contraception;

5 (4) information concerning the laws relating to the  
6 financial responsibilities associated with pregnancy, childbirth,  
7 and child rearing;

8 (5) information concerning the laws prohibiting  
9 sexual abuse and the legal and counseling options available to  
10 victims of sexual abuse;

11 (6) information on how to cope with and rebuff  
12 unwanted physical and verbal sexual advances, as well as the  
13 importance of avoiding the sexual exploitation of other persons;  
14 and

15 (7) psychologically sound methods of resisting  
16 unwanted peer pressure[~~, and~~

17 ~~[(8) emphasis, provided in a factual manner and from a~~  
18 ~~public health perspective, that homosexuality is not a lifestyle~~  
19 ~~acceptable to the general public and that homosexual conduct is a~~  
20 ~~criminal offense under Section 21.06, Penal Code].~~

21 SECTION 2.07. Section 171.012(a), Health and Safety Code,  
22 is amended to read as follows:

23 (a) Consent to an abortion is voluntary and informed only  
24 if:

25 (1) the physician who is to perform the abortion  
26 informs the pregnant woman on whom the abortion is to be performed  
27 of:

1 (A) the physician's name;

2 (B) the particular medical risks associated with  
3 the particular abortion procedure to be employed, including, when  
4 medically accurate:

5 (i) the risks of infection and hemorrhage;

6 (ii) the potential danger to a subsequent  
7 pregnancy and of infertility; and

8 (iii) the possibility of increased risk of  
9 breast cancer following an induced abortion and the natural  
10 protective effect of a completed pregnancy in avoiding breast  
11 cancer;

12 (C) the probable gestational age of the unborn  
13 child at the time the abortion is to be performed; and

14 (D) the medical risks associated with carrying  
15 the child to term;

16 (2) the physician who is to perform the abortion or the  
17 physician's agent informs the pregnant woman that:

18 (A) medical assistance benefits may be available  
19 for prenatal care, childbirth, and neonatal care;

20 (B) the child's other parent [~~father~~] is liable  
21 for assistance in the support of the child without regard to whether  
22 the other parent [~~father~~] has offered to pay for the abortion; and

23 (C) public and private agencies provide  
24 pregnancy prevention counseling and medical referrals for  
25 obtaining pregnancy prevention medications or devices, including  
26 emergency contraception for victims of rape or incest;

27 (3) the physician who is to perform the abortion or the



1 physician's agent:

2 (A) provides the pregnant woman with the  
3 printed materials described by Section 171.014; and

4 (B) informs the pregnant woman that those  
5 materials:

6 (i) have been provided by the Department of  
7 State Health Services;

8 (ii) are accessible on an Internet website  
9 sponsored by the department;

10 (iii) describe the unborn child and list  
11 agencies that offer alternatives to abortion; and

12 (iv) include a list of agencies that offer  
13 sonogram services at no cost to the pregnant woman;

14 (4) before any sedative or anesthesia is administered  
15 to the pregnant woman and at least 24 hours before the abortion or  
16 at least two hours before the abortion if the pregnant woman waives  
17 this requirement by certifying that she currently lives 100 miles  
18 or more from the nearest abortion provider that is a facility  
19 licensed under Chapter 245 or a facility that performs more than 50  
20 abortions in any 12-month period:

21 (A) the physician who is to perform the abortion  
22 or an agent of the physician who is also a sonographer certified by  
23 a national registry of medical sonographers performs a sonogram on  
24 the pregnant woman on whom the abortion is to be performed;

25 (B) the physician who is to perform the abortion  
26 displays the sonogram images in a quality consistent with current  
27 medical practice in a manner that the pregnant woman may view them;

1 (C) the physician who is to perform the abortion  
2 provides, in a manner understandable to a layperson, a verbal  
3 explanation of the results of the sonogram images, including a  
4 medical description of the dimensions of the embryo or fetus, the  
5 presence of cardiac activity, and the presence of external members  
6 and internal organs; and

7 (D) the physician who is to perform the abortion  
8 or an agent of the physician who is also a sonographer certified by  
9 a national registry of medical sonographers makes audible the heart  
10 auscultation for the pregnant woman to hear, if present, in a  
11 quality consistent with current medical practice and provides, in a  
12 manner understandable to a layperson, a simultaneous verbal  
13 explanation of the heart auscultation;

14 (5) before receiving a sonogram under Subdivision  
15 (4)(A) and before the abortion is performed and before any sedative  
16 or anesthesia is administered, the pregnant woman completes and  
17 certifies with her signature an election form that states as  
18 follows:

19 "ABORTION AND SONOGRAM ELECTION

20 (1) THE INFORMATION AND PRINTED MATERIALS  
21 DESCRIBED BY SECTIONS 171.012(a)(1)-(3), TEXAS HEALTH  
22 AND SAFETY CODE, HAVE BEEN PROVIDED AND EXPLAINED TO  
23 ME.

24 (2) I UNDERSTAND THE NATURE AND CONSEQUENCES OF  
25 AN ABORTION.

26 (3) TEXAS LAW REQUIRES THAT I RECEIVE A SONOGRAM  
27 PRIOR TO RECEIVING AN ABORTION.

1           (4) I UNDERSTAND THAT I HAVE THE OPTION TO VIEW  
2 THE SONOGRAM IMAGES.

3           (5) I UNDERSTAND THAT I HAVE THE OPTION TO HEAR  
4 THE HEARTBEAT.

5           (6) I UNDERSTAND THAT I AM REQUIRED BY LAW TO  
6 HEAR AN EXPLANATION OF THE SONOGRAM IMAGES UNLESS I  
7 CERTIFY IN WRITING TO ONE OF THE FOLLOWING:

8           \_\_\_ I AM PREGNANT AS A RESULT OF A SEXUAL  
9 ASSAULT, INCEST, OR OTHER VIOLATION OF THE TEXAS PENAL  
10 CODE THAT HAS BEEN REPORTED TO LAW ENFORCEMENT  
11 AUTHORITIES OR THAT HAS NOT BEEN REPORTED BECAUSE I  
12 REASONABLY BELIEVE THAT DOING SO WOULD PUT ME AT RISK  
13 OF RETALIATION RESULTING IN SERIOUS BODILY INJURY.

14          \_\_\_ I AM A MINOR AND OBTAINING AN ABORTION IN  
15 ACCORDANCE WITH JUDICIAL BYPASS PROCEDURES UNDER  
16 CHAPTER 33, TEXAS FAMILY CODE.

17          \_\_\_ MY FETUS HAS AN IRREVERSIBLE MEDICAL  
18 CONDITION OR ABNORMALITY, AS IDENTIFIED BY RELIABLE  
19 DIAGNOSTIC PROCEDURES AND DOCUMENTED IN MY MEDICAL  
20 FILE.

21          (7) I AM MAKING THIS ELECTION OF MY OWN FREE WILL  
22 AND WITHOUT COERCION.

23          (8) FOR A WOMAN WHO LIVES 100 MILES OR MORE FROM  
24 THE NEAREST ABORTION PROVIDER THAT IS A FACILITY  
25 LICENSED UNDER CHAPTER 245 OR A FACILITY THAT PERFORMS  
26 MORE THAN 50 ABORTIONS IN ANY 12-MONTH PERIOD ONLY:

27 I CERTIFY THAT, BECAUSE I CURRENTLY LIVE 100

1 MILES OR MORE FROM THE NEAREST ABORTION PROVIDER THAT  
2 IS A FACILITY LICENSED UNDER CHAPTER 245 OR A FACILITY  
3 THAT PERFORMS MORE THAN 50 ABORTIONS IN ANY 12-MONTH  
4 PERIOD, I WAIVE THE REQUIREMENT TO WAIT 24 HOURS AFTER  
5 THE SONOGRAM IS PERFORMED BEFORE RECEIVING THE  
6 ABORTION PROCEDURE. MY PLACE OF RESIDENCE  
7 IS:\_\_\_\_\_.

8 \_\_\_\_\_  
9 SIGNATURE

\_\_\_\_\_  
DATE";

10 (6) before the abortion is performed, the physician  
11 who is to perform the abortion receives a copy of the signed,  
12 written certification required by Subdivision (5); and

13 (7) the pregnant woman is provided the name of each  
14 person who provides or explains the information required under this  
15 subsection.

16 SECTION 2.08. Section 171.0123, Health and Safety Code, is  
17 amended to read as follows:

18 Sec. 171.0123. PARENTAGE [~~PATERNITY~~] AND CHILD SUPPORT  
19 INFORMATION. If, after being provided with a sonogram and the  
20 information required under this subchapter, the pregnant woman  
21 chooses not to have an abortion, the physician or an agent of the  
22 physician shall provide the pregnant woman with a publication  
23 developed by the Title IV-D agency that provides information about  
24 parentage [~~paternity~~] establishment and child support, including:

25 (1) the steps necessary for unmarried parents to  
26 establish legal parentage [~~paternity~~];

27 (2) the benefits of parentage [~~paternity~~]

1 establishment for children;

2 (3) the steps necessary to obtain a child support  
3 order;

4 (4) the benefits of establishing a legal parenting  
5 order; and

6 (5) financial and legal responsibilities of  
7 parenting.

8 SECTION 2.09. Section 191.002(c), Health and Safety Code,  
9 is amended to read as follows:

10 (c) The department may use birth records and provide those  
11 records on request to other state agencies for programs notifying  
12 parents [~~mothers~~] of young children about children's health needs.

13 SECTION 2.10. Section 191.0046(b), Health and Safety Code,  
14 is amended to read as follows:

15 (b) The state registrar shall issue without fee a certified  
16 copy of a record not otherwise prohibited by law to a veteran or to  
17 the veteran's widow or widower, orphan, or other dependent if the  
18 copy is for use in settling a claim against the government.

19 SECTION 2.11. Section 191.036(b), Health and Safety Code,  
20 is amended to read as follows:

21 (b) In the next official revision of the prescribed forms  
22 for birth and fetal death certificates, the department shall  
23 include the following questions and instructions:

24 (1) Is either parent [~~the father~~] of Spanish origin?

25 (2) If yes for a parent, specify Mexican, Cuban,  
26 Puerto Rican, etc.

27 [~~(3) Is the mother of Spanish origin?~~]

1           ~~[(4) If yes, specify Mexican, Cuban, Puerto Rican,~~  
2 ~~etc.]~~

3           SECTION 2.12. Subchapter A, Chapter 192, Health and Safety  
4 Code, is amended by adding Section 192.0001 to read as follows:

5           Sec. 192.0001. RECORD OF MATERNITY. The provisions of this  
6 chapter relating to a record of paternity apply to a record of  
7 maternity.

8           SECTION 2.13. Sections 192.002(c) and (d), Health and  
9 Safety Code, are amended to read as follows:

10          (c) The form must include a space for recording the social  
11 security numbers ~~[of the mother and father]~~ and ~~[the]~~ signatures of  
12 each parent ~~[the biological mother and biological father]~~. These  
13 social security numbers and signatures are not a part of the legal  
14 birth certificate, shall be made available to the agency  
15 administering the state's plan under Part D of Title IV of the  
16 federal Social Security Act (42 U.S.C. Section 651 et seq.), and may  
17 not be used or disseminated for any purpose other than the  
18 establishment and the enforcement of child support orders.

19          (d) The social security numbers of each parent ~~[the mother~~  
20 ~~and father]~~ recorded on the form shall be made available to the  
21 United States Social Security Administration.

22           SECTION 2.14. Section 192.003(c), Health and Safety Code,  
23 is amended to read as follows:

24          (c) If there is no physician, midwife, or person acting as a  
25 midwife in attendance at a birth and if the birth does not occur in a  
26 hospital or birthing center, the following in the order listed  
27 shall report the birth to the local registrar:

- 1           (1) a parent [~~the father or mother~~] of the child; or  
2           (2) the owner or householder of the premises where the  
3 birth occurs.

4           SECTION 2.15. Section 192.0031(c), Health and Safety Code,  
5 is amended to read as follows:

6           (c) A notification under this section must include the name  
7 and address of the mother, any other parent who [~~the father, if the~~  
8 ~~father~~] is of school age and is named on the birth certificate, and  
9 the person born. Reports under this section shall be sent at least  
10 quarterly.

11          SECTION 2.16. Section 192.005, Health and Safety Code, is  
12 amended to read as follows:

13          Sec. 192.005. RECORD OF PARENTAGE [~~PATERNITY~~]. (a) The  
14 items on a birth certificate relating to the child's second parent  
15 [~~father~~] shall be completed only if:

16           (1) the child's mother was married to the second parent  
17 [~~father~~]:

18                   (A) at the time of the child's conception;

19                   (B) at the time of the child's birth; or

20                   (C) after the child's birth;

21           (2) parentage [~~paternity~~] is established by order of a  
22 court of competent jurisdiction; or

23           (3) a valid acknowledgment of parentage [~~paternity~~]  
24 executed by the second parent [~~father~~] has been filed with the vital  
25 statistics unit as provided by Subchapter D, Chapter 160, Family  
26 Code.

27           (c) A person may apply to the state registrar for the

1 removal of any indication of the absence of parentage [~~paternity~~]  
2 of a child who has no presumed parent [~~father~~] from the person's  
3 birth record.

4 (d) If the items relating to the child's second parent  
5 [~~father~~] are not completed on a birth certificate filed with the  
6 state registrar, the state registrar shall notify the attorney  
7 general.

8 SECTION 2.17. The heading to Section 192.0051, Health and  
9 Safety Code, is amended to read as follows:

10 Sec. 192.0051. REPORT OF DETERMINATION OF PARENTAGE  
11 [~~PATERNITY~~].

12 SECTION 2.18. Sections 192.0051(a) and (b), Health and  
13 Safety Code, are amended to read as follows:

14 (a) A report of each determination of parentage [~~paternity~~]  
15 in this state shall be filed with the state registrar.

16 (b) On a determination of parentage [~~paternity~~], the  
17 petitioner shall provide the clerk of the court in which the decree  
18 was granted with the information necessary to prepare the report.  
19 The clerk shall:

20 (1) report the determination on a form or in a manner  
21 provided by the department; and

22 (2) complete the report immediately after the decree  
23 becomes final.

24 SECTION 2.19. Sections 192.006(a) and (e), Health and  
25 Safety Code, are amended to read as follows:

26 (a) A supplementary birth certificate may be filed if the  
27 person who is the subject of the certificate:



1 (1) becomes the child of the person's parent [~~father~~]  
2 by the subsequent marriage of the person's parents;

3 (2) has the person's parentage determined by a court of  
4 competent jurisdiction; or

5 (3) is adopted under the laws of any state.

6 (e) In accordance with department rules, a supplementary  
7 birth certificate may be filed for a person whose parentage has been  
8 determined by an acknowledgment of parentage [~~paternity~~].

9 SECTION 2.20. Section 192.008(a), Health and Safety Code,  
10 is amended to read as follows:

11 (a) The supplementary birth certificate of an adopted child  
12 must be in the names of the adoptive parents[~~, one of whom must be a~~  
13 ~~female, named as the mother, and the other of whom must be a male,~~  
14 ~~named as the father~~]. This subsection does not prohibit a single  
15 individual, male or female, from adopting a child. Copies of the  
16 child's birth certificates or birth records may not disclose that  
17 the child is adopted.

18 SECTION 2.21. Section 192.012, Health and Safety Code, is  
19 amended to read as follows:

20 Sec. 192.012. RECORD OF ACKNOWLEDGMENT OF PARENTAGE  
21 [~~PATERNITY~~]. (a) If the mother of a child is not married to the  
22 child's second parent [~~father of the child~~], a person listed in  
23 Section 192.003 who is responsible for filing the birth certificate  
24 shall:

25 (1) provide an opportunity for the child's mother and  
26 putative second parent [~~father~~] to sign an acknowledgment of  
27 parentage [~~paternity~~] as provided by Subchapter D, Chapter 160,

1 Family Code; and

2 (2) provide oral and written information to the  
3 child's mother and putative second parent [~~father~~] about:

4 (A) establishing parentage [~~paternity~~],  
5 including an explanation of the rights and responsibilities that  
6 result from acknowledging parentage [~~paternity~~]; and

7 (B) the availability of child support services.

8 (b) The local registrar shall transmit the acknowledgment  
9 of parentage [~~paternity~~] to the state registrar.

10 (c) The state registrar shall record the information  
11 contained in the acknowledgment of parentage [~~paternity~~] and  
12 transmit the information to the Title IV-D agency.

13 (d) The Title IV-D agency may use the information contained  
14 in the acknowledgment of parentage [~~paternity~~] for any purpose  
15 directly connected with providing child support services under  
16 Chapter 231, Family Code.

17 SECTION 2.22. Section 192.027(b), Health and Safety Code,  
18 is amended to read as follows:

19 (b) The petition must include:

20 (1) the petitioner's:

21 (A) full name;

22 (B) place of residence;

23 (C) date of birth;

24 (D) city or town, if applicable, and county of  
25 birth;

26 (E) race or ethnicity; and

27 (F) gender;

1           (2) ~~[the full name and county of birth of the~~  
2 ~~petitioner's father,~~

3           ~~[(3)]~~ the full name, including any maiden or former  
4 name, and county of birth of each of the petitioner's parents  
5 ~~[mother]~~;

6           (3) ~~[(4)]~~ whether the petitioner has been the subject  
7 of a final felony conviction;

8           (4) ~~[(5)]~~ whether the petitioner is subject to the  
9 registration requirements of Chapter 62, Code of Criminal  
10 Procedure; and

11          (5) ~~[(6)]~~ a legible and complete set of the  
12 petitioner's fingerprints on a fingerprint card format acceptable  
13 to the Department of Public Safety and the Federal Bureau of  
14 Investigation.

15          SECTION 2.23. Section 193.006(a), Health and Safety Code,  
16 is amended to read as follows:

17          (a) This section applies to the death certificate of a  
18 person who:

19               (1) served in a war, campaign, or expedition of the  
20 United States, the Confederate States of America, or the Republic  
21 of Texas;

22               (2) was the spouse, widower, ~~[wife]~~ or widow of a  
23 person who served in a war, campaign, or expedition of the United  
24 States, the Confederate States of America, or the Republic of  
25 Texas; or

26               (3) at the time of death was in the service of the  
27 United States.

1           SECTION 2.24. Section 552.013(d), Health and Safety Code,  
2 is amended to read as follows:

3           (d) A patient who does not own a sufficient estate shall be  
4 maintained at the expense:

5                   (1) of the patient's spouse, if able to do so; or

6                   (2) if the patient is younger than 18 years of age, of  
7 the patient's parent [~~father or mother~~], if able to do so.

8           SECTION 2.25. Section 574.045(d), Health and Safety Code,  
9 is amended to read as follows:

10          (d) A female patient must be accompanied by a female  
11 attendant unless the patient is accompanied by her father, male  
12 spouse [~~husband~~], or adult brother or son.

13                           ARTICLE 3. PENAL CODE REPEALER

14          SECTION 3.01. Section 21.06, Penal Code, is repealed.

15                           ARTICLE 4. EFFECTIVE DATE

16          SECTION 4.01. This Act takes effect immediately if it  
17 receives a vote of two-thirds of all the members elected to each  
18 house, as provided by Section 39, Article III, Texas Constitution.  
19 If this Act does not receive the vote necessary for immediate  
20 effect, this Act takes effect September 1, 2019.