

- SUBJECT:** Allowing relatives of a deceased mother to challenge paternity
- COMMITTEE:** Juvenile Justice and Family Issues — favorable, without amendment
- VOTE:** 6 ayes — Goodman, Staples, McReynolds, Naishtat, Reyna, Williams
0 nays
3 absent — Jones, McClendon, Smith
- WITNESSES:** For — Twyla Greenfield
Against — None
- BACKGROUND :** By law, certain people can challenge or contest the presumption of paternity of a child. The Family Code authorizes challenges by:
- the biological mother of the child;
 - the man presumed to be the child's father;
 - the man alleging to be the father; and
 - a governmental entity, authorized agency, or a licensed child-placing agency.
- DIGEST:** HB 1751 would allow a person related within the second degree of consanguinity to the biological mother to challenge paternity if the biological mother was deceased. These relatives would include the parents, grandparents, children, grandchildren or brothers and sisters of the biological mother. The challenge would be available to these relatives until the child reached the age of majority.
- HB 1751 would take effect September 1, 1997.
- SUPPORTERS SAY:** HB 1751 would allow a select group of immediate family members to assume the legal right of a mother who has died.
- There are many single and unwed mothers raising children by themselves, while receiving minimal or no assistance from the natural father. In many

cases, the natural father has played absolutely no role in the lives of any children born to the mother. The mother may not have even identified the father to her parents or to the child. If the mother should suffer an untimely death, the maternal grandparents, uncles, or aunts of the child should be allowed to act in the child's best interest to make certain that the person presumed or claiming to be the actual father is indeed entitled to that status.

HB 1751 would have no legal effect upon parental custody cases, when the identity of the father would already be firmly established. Nor would the terms of the bill alter any of the recognized legal preferences used by judges in determining whose custody would be more advantageous to the healthy development and growth of the child. Instead, the bill would provide a limited right in a specialized forum.

**OPPONENTS
SAY:**

HB 1751 would make unnecessary changes that could actually complicate legal matters rather than resolve them. In the vast majority of cases, a father's identity is already well established; it seems far-fetched that a person who was not the actual biological father of a child would claim otherwise, particularly only after the death of the mother. Rather, the provisions of this bill would more likely be used in situations where the mother's family was estranged from the father and was only seeking to create problems. Challenges to paternity can be filed at any time until the child reaches majority; HB 1751 would open the courthouse doors to the possibility of serious disruptions throughout a child's life.