

SUBJECT: Child support and inheritance rights of fathers and non-biological children.

COMMITTEE: Juvenile Justice and Family Issues — favorable, without amendment

VOTE: 5 ayes — Eiland, Farias, Farrar, Gonzalez Toureilles, Hernandez
0 nays
4 absent — Dutton, Bolton, Strama, Vaught

WITNESSES: For — Roy Getting, Texas Fathers Alliance; Eddie Rueffer, Texas Parents Alliance; (*Registered, but did not testify*: Sudhir Joshi; Dean Metusalem; Chris Mire; Drew Montz, Texas Parents Alliance, Real Estate Sales)

Against — Sally Emerson, Texas Family Law Foundation; (*Registered, but did not testify*: Steve Bresnen, Doug Woodburn, Texas Family Law Foundation)

BACKGROUND: Family Code, ch. 154 governs child support obligations. Probate Code, ch. 2 governs inheritance by and from an adopted child.

DIGEST: HB 774 would amend Family Code, ch. 154 and Probate Code, ch. 2 to add that notwithstanding any other provision of the chapter or any other law, a court could not order a man to pay child support for a child in an amount greater than \$100 a month, and that for purposes of inheritance under the laws of descent and distribution, a child could not inherit from or through a man, and a man could not inherit from or through a child if the court found that:

- the man was not the biological father of the child based on results of genetic testing; and
- the mother of the child knew the man was not the biological father of the child, and the man did not know he was not the biological father of the child at the time the mother signed an acknowledgement of paternity with the intent to establish the man's paternity of the child or initiated a proceeding to adjudicate the man's paternity.

The limit of \$100 a month would not apply to a man in the same situation who voluntarily agreed to pay more child support for the child.

The inheritance prohibition would not prohibit a person from disposing of the person's property by will according to other law, nor would it affect the rights of inheritance of, from, or through an adopted child or an adoptive father under other Family Code provisions.

The bill would take effect September 1, 2007.

**SUPPORTERS
SAY:**

As genetic testing becomes a frequent tool for disproving paternity, fathers need legal redress for situations in which genetic testing indicates someone is not the biological father but still is subject to an order of child support on behalf of that child. The bill would force the court and state to recognize the scientific evidence regarding the father's paternity and allow the father to invalidate prior orders that wrongly designated him as the father who owed child support. It also would allow for a father to continue support of the child in question if he so desired. Furthermore, the bill would assure that the negation of a paternal relationship was reflected for inheritance purposes.

**OPPONENTS
SAY:**

The bill would provide an artificial limit on a father's obligations and would not provide a standard of proof regarding the mother's acknowledgement that he was not the father.

NOTES:

A related bill, HB 782 by Dutton, passed the House by 123-20 nays on April 26 and has been referred to the Senate Jurisprudence Committee.