

SUBJECT: Time for disproving father-child relationship in situations involving fraud

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Hunter, Hughes, Branch, Jackson, Leibowitz, Lewis, Madden, Woolley

0 nays

3 absent — Alonzo, Hartnett, Martinez

SENATE VOTE: On final passage, April 16 — 31-0, on Local and Uncontested Calendar

WITNESSES: For — None

Against — None

On — John J. Sampson; (*Registered, but did not testify*: Sherri Evans, Texas Family Law Foundation; Alicia Key, Office of the Attorney General)

BACKGROUND: Family Code, sec. 160.607 requires a proceeding to adjudicate the parentage of a child who has a presumed father to be commenced not later than child's fourth birthday. An exception exists for a proceeding seeking to disprove the father-child relationship between a child and the child's presumed father. This type of proceeding may be maintained at any time if the court determines that:

- the presumed father and the mother of the child did not live together or engage in sexual intercourse with each other during the probable time of conception; and
- the presumed father never represented to others that the child was his own.

DIGEST: SB 233 would allow a person to commence a proceeding seeking to disprove a father-child relationship at any time if the court determined that the presumed father was prevented from commencing a proceeding before

the child's fourth birthday because another person fraudulently had led the presumed father to believe he was the father of the child.

SB 233 would apply only to a proceeding to adjudicate parentage that was commenced on or after the bill's effective date.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.