



Senate Committee on
Health and Human Services

ID# 13562
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September 11, 1991

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Opinion Committee

The Honorable Dan Morales
Attorney General of Texas
P. O. Box 12548
Austin, Texas 78711

RD-178

Dear General Morales:

The U.S. Department of State has inquired as to whether Texas law provides a mechanism for legitimating a child born out of wedlock. As Chairman of the Senate Committee on Health and Human Services, I would respectfully request your assistance in clarifying the provisions of the Texas Family Code which pertain to voluntary establishment of paternity.

It is my understanding that Section 13.21, Texas Family Code, allows a person claiming to be the biological father of a child to file a petition for a decree adjudicating him as a parent of the child if he has executed a statement of paternity.

Under Section 13.22, a statement of paternity must be in writing and signed by the father. It also must state that the father acknowledges he is the father of the child, that he and the mother were not married to each other at the time of conception or any subsequent time, and that the child is not the biological child of another man. The court is required to enter the decree if the statement of paternity is properly executed, the facts stated therein are true, and it is not disputed by another party.

My staff and I have reviewed the statutes and cannot find any requirement for the biological parents to marry or to have been married at any time in order to establish paternity. To the contrary, it appears state law explicitly provides for voluntary establishment of paternity outside of wedlock. I know this procedure is used frequently in child support cases, particularly when one of the parents is a recipient of Aid to Families with Dependent Children (AFDC).

We would appreciate a written response from your office outlining the current requirements for voluntary establishment of paternity, including any mandatory court proceedings. If you have any questions regarding this request, please contact Ms. Leslie Lemon of our Committee office at 463-0360.

Sincerely,

Chet Brooks
Chairman

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