

House Bill 1172

By: Representatives Lucas of the 124th, Murphy of the 18th, Walker of the 141st, Skipper of the 137th and Sinkfield of the 57th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 7 of Title 19 of the Official Code of Georgia Annotated, relating to parent
2 and child relationship generally, so as to legitimize a child whose parent has established
3 paternity; to provide for a father to legitimate his child by establishing paternity; to limit the
4 issues in a paternity action; to provide for custody of a child during the pendency of a
5 paternity petition; to establish a father's duty to legitimate his child; to provide for related
6 matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 7 of Title 19 of the Official Code of Georgia Annotated, relating to parent and child
10 relationship generally, is amended by adding a new subsection (d) to Code Section 19-7-20,
11 relating to what children are legitimate, disproving legitimacy, and legitimation by marriage
12 of parents and recognition of child, to read as follows:

13 "(d) A child whose parent has established paternity pursuant to Code Section 19-7-22 is
14 legitimate."

15 **SECTION 2.**

16 Said chapter is further amended by striking Code Section 19-7-22, relating to petition for
17 legitimation of child, notice to mother, court order, effect, and intervention by father, and
18 inserting in its place the following:

19 "19-7-22.

20 (a) A father of a child born out of wedlock may render the same legitimate by ~~petitioning~~
21 ~~the superior court of the county of his residence, the county of residence of the child, or,~~
22 ~~if a petition for the adoption of the child is pending, the county in which the adoption~~
23 ~~petition is filed for legitimation of the child~~ establishing paternity pursuant to Article 3 of
24 this chapter.

1 (b) ~~The petition shall set forth the name, age, and sex of the child, the name of the mother,~~
2 ~~and, if the father desires the name of the child to be changed, the new name. If the mother~~
3 ~~is alive, she shall have notice of the petition for legitimation. Whenever a parent files a~~
4 ~~petition to establish paternity, only the issue of paternity may be addressed by the court.~~
5 ~~All other issues, including name change, custody, and visitation, shall be determined in a~~
6 ~~subsequent action.~~

7 (c) ~~Upon the presentation and filing of the petition, the court may pass an order declaring~~
8 ~~The order establishing paternity of a child shall have the effect of making the child to be~~
9 ~~legitimate and to be capable of inheriting from the father in the same manner as if the child~~
10 ~~had been born in lawful wedlock and specifying the name by which the child shall be~~
11 ~~known.~~

12 (d) ~~A legitimation petition may be filed, pursuant to paragraph (2) of subsection (e) of~~
13 ~~Code Section 15-11-28, in the juvenile court of the county in which a deprivation~~
14 ~~proceeding regarding the child is pending.~~

15 (e) ~~Except as provided by subsection (f) of this Code section, the court shall upon notice~~
16 ~~to the mother further establish such duty as the father may have to support the child,~~
17 ~~considering the facts and circumstances of the mother's obligation of support and the needs~~
18 ~~of the child.~~

19 (f) ~~After a petition for legitimation is granted, if a demand for a jury trial as to support has~~
20 ~~been properly filed by either parent, then the case shall be transferred to superior court for~~
21 ~~such jury trial.~~

22 (g) ~~Consistent with the purpose of subsection (a) of this Code section, whenever the~~
23 ~~Department of Human Resources petitions the superior court or other authorized trier of~~
24 ~~fact to establish paternity, the father may intervene to petition for the legitimation of the~~
25 ~~child born out of wedlock if the mother of the child consents to the filing of such~~
26 ~~legitimation petition. Upon the determination of paternity or if a voluntary~~
27 ~~acknowledgment of paternity has been made and has not been rescinded pursuant to Code~~
28 ~~Section 19-7-46.1, the court or trier of fact as a matter of law and pursuant to the provisions~~
29 ~~of Code Section 19-7-51 may enter an order or decree legitimating a child born out of~~
30 ~~wedlock, provided that such is in the best interest of the child At such time as the IV-D~~
31 ~~agency petitions the superior court to establish paternity, issues of name change, custody,~~
32 ~~and visitation shall not be considered by the court. Issues of name change, visitation, and~~
33 ~~custody shall not custody, and visitation may only be determined by the court ~~until~~ at such~~
34 ~~time as a separate petition is filed by one of the parents or by the legal guardian of the~~
35 ~~child. Such petition shall not include the IV-D agency as a party. Custody of the child shall~~
36 ~~remain in the mother with the custodian at the time of the filing of the petition until a court~~
37 ~~order is entered addressing the issue of custody."~~

SECTION 3.

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2 Said chapter is further amended by striking subsection (a) of Code Section 19-7-49, relating
3 to decree, jury instructions on test results, and costs, and inserting in its place the following:
4 "(a) On a finding that the alleged father is the father of the child, the court shall issue an
5 order designating the alleged father as the father of the child. The sole effect of the order
6 shall be to establish the duty of the father to support the child and to legitimate the child
7 pursuant to Code Section 19-7-22."

SECTION 4.

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9 All laws and parts of laws in conflict with this Act are repealed.