

House Bill 639

By: Representatives Martin of the 47<sup>th</sup> and Willard of the 44<sup>th</sup>

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 1 of Chapter 2 of Title 53 of the Official Code of Georgia Annotated, the  
2 Revised Probate Code of 1998, relating to general provisions relative to descent and  
3 distribution, so as to repeal a provision prohibiting the father and other paternal kin from  
4 inheriting from or through a child born out of wedlock if the father failed or refused to treat  
5 the child openly as his own or to provide support for the child; to provide for such  
6 inheritance if the father, during the child's lifetime, has signed the child's birth certificate or  
7 has executed a signed, sworn statement attesting to the relationship; to amend Chapter 3 of  
8 Title 53 of the Official Code of Georgia Annotated, the Revised Probate Code of 1998,  
9 relating to year's support, so as to provide for acknowledgment of service of certain citations;  
10 to provide that a provision divesting taxes and tax liens against real property set apart for  
11 year's support applies to estates of decedents who died on or after January 1, 1998; to  
12 provide for divesting taxes and tax liens accrued in the years before the decedent died for  
13 estates of decedents who died before January 1, 1998; to amend Article 5 of Chapter 4 of  
14 Title 53 of the Official Code of Georgia Annotated, the Revised Probate Code of 1998,  
15 relating to revocation and repudiation of wills, so as to provide for inheritance when a will  
16 is revoked by operation of law; to amend Code Section 53-5-22 of the Official Code of  
17 Georgia Annotated, relating to notice of petition for probate in solemn form, so as to change  
18 provisions relating to such notice; to amend Chapter 7 of Title 53 of the Official Code of  
19 Georgia Annotated, the Revised Probate Code of 1998, relating to administration of estates  
20 generally, so as to provide for service upon creditors whose claims have not been paid in full  
21 due to insolvency of the estate of a citation relating to a petition for discharge of a personal  
22 representative; to provide for notice of the settlement of the personal representative's  
23 accounts to persons who claim to be creditors whose claims the personal representative  
24 disputes or cannot pay in full; to provide that such settlement shall be conclusive on such  
25 persons who receive notice; to amend Chapter 11 of Title 53 of the Official Code of Georgia  
26 Annotated, the Revised Probate Code of 1998, relating to proceedings in probate court, so  
27 as to remove certain provisions relating to service on unknown persons by publication; to  
28 amend Article 1 of Chapter 4 of Title 53 of the Official Code of Georgia Annotated, the

1 Pre-1998 Probate Code, relating to general provisions relative to descent and distribution, so  
 2 as to repeal a provision prohibiting the father and other paternal kin from inheriting from or  
 3 through a child born out of wedlock if the father failed or refused to treat the child openly as  
 4 his own or to provide support for the child; to provide for such inheritance if the father,  
 5 during the child's lifetime, has signed the child's birth certificate or has executed a signed,  
 6 sworn statement attesting to the relationship; to provide for related matters; to repeal  
 7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 1 of Chapter 2 of Title 53 of the Official Code of Georgia Annotated, the Revised  
 11 Probate Code of 1998, relating to general provisions relative to descent and distribution, is  
 12 amended in Code Section 53-2-4, relating to inheritance from children born out of wedlock,  
 13 by striking subsection (b) in its entirety and inserting in lieu thereof the following:

14 "(b)(~~†~~) The father of a child born out of wedlock, the other children of the father, and other  
 15 paternal kin may inherit from and through the child born out of wedlock in the same  
 16 manner as if the child were legitimate if:

17 ~~(A)~~(1) A court of competent jurisdiction has entered an order declaring the child to be  
 18 legitimate under the authority of Code Section 19-7-22 or such other authority as may be  
 19 provided by law;

20 ~~(B)~~(2) A court of competent jurisdiction has otherwise entered a court order establishing  
 21 paternity;

22 ~~(C)~~(3) The father has, during the lifetime of the child, executed a sworn statement signed  
 23 by ~~him~~ the father attesting to the parent-child relationship;

24 ~~(D)~~(4) The father has, during the lifetime of the child, signed the birth certificate of the  
 25 child; or

26 ~~(E)~~(5) The presumption of paternity described in division (2)(B)(ii) of Code Section  
 27 53-2-3 has been established and has not been rebutted by clear and convincing evidence.

28 ~~(2) Paragraph (1) of this subsection notwithstanding, neither the father nor any child of~~  
 29 ~~the father nor any other paternal kin shall inherit from or through a child born out of~~  
 30 ~~wedlock if it shall be established by a preponderance of evidence that the father failed or~~  
 31 ~~refused openly to treat the child as his own or failed or refused to provide support for the~~  
 32 ~~child."~~





1 personal representative and upon all the heirs or beneficiaries and all remaining persons  
 2 who claim to be creditors who receive notice of the hearing. The court may, in the court's  
 3 discretion, give the personal representative additional time to settle the estate."

#### 4 SECTION 8.

5 Chapter 11 of Title 53 of the Official Code of Georgia Annotated, the Revised Probate Code  
 6 of 1998, relating to proceedings in probate court, is amended by striking in its entirety Code  
 7 Section 53-11-4, relating to service where the person or the person's residence is unknown  
 8 or where the person resides outside the state, and inserting in lieu thereof the following:

9 "53-11-4.

10 (a) Except as otherwise prescribed by law or directed by the probate judge pursuant to  
 11 Code Section 53-11-5, the provisions of this Code section shall apply in cases when a  
 12 person to be served has a known current residence address outside this state, ~~is unknown,~~  
 13 ~~or is known but~~ whose current residence address is unknown.

14 (b) Unless all such persons have known current residence addresses, the probate court shall  
 15 order service to be perfected by publication of the citation in the newspaper in which  
 16 sheriff's advertisements are published in the county in which the petition is made. The  
 17 citation shall be published once a week for four weeks prior to the date on which objections  
 18 must be filed. The records of the court shall show the persons notified and the character  
 19 of the notice given. The published citation shall be directed to the person to be served ~~if~~  
 20 ~~known, and, if all persons are not known, then to all and singular the parties in interest.~~

21 (c) If the current residence address of such a person is known, service shall be made by  
 22 mailing by certified or registered mail or statutory overnight delivery, return receipt  
 23 requested, a copy of the petition and the citation.

24 (d) When service by publication is ordered pursuant to this Code section, compliance with  
 25 the provisions of this Code section relating to a person to be notified ~~who is unknown or~~  
 26 ~~who is known but~~ whose current residence address is unknown shall be equivalent to  
 27 personal service of a copy of the petition and citation when the fact appears in the records  
 28 of the court showing the persons notified and the character of the notice given. ~~In the case~~  
 29 ~~of an unknown person, it shall be sufficient if the records of the court show published~~  
 30 ~~notice directed to all and singular the parties in interest and compliance with this Code~~  
 31 ~~section.~~ In the case of a known person whose current residence address is unknown, that  
 32 person's name shall appear in the records of the court, and such records shall show as to  
 33 that person compliance with this Code section. In any case in which service by publication  
 34 is granted, one order for publication shall be sufficient and the published citation shall be  
 35 directed as provided in subsection (b) of this Code section."

