

ADOPTED

Senator Unterman of the 45th offered the following amendment:

Amend the House Committee on Rules substitute to SB 88 by inserting after "definitions;" on line 4 of page 1 the following: to amend Titles 15 and 19 the Official Code of Georgia Annotated, relating to courts and domestic relations, respectively, so as to clarify methods of legitimation of a child and to correct cross-references; By redesignating Sections 4 and 5 as Sections 11 and 12, respectively, and inserting after line 34 of page 10 the following:

SECTION 4.

Title 19 the Official Code of Georgia Annotated, relating to domestic relations, is amended by adding a new Code section to read as follows:

"19-7-21.1.

(a) As used in this Code section, the term:

(1) 'Acknowledgment of legitimation' means a written statement contained in a voluntary acknowledgment of paternity form indicating that a mother and father of a child born out of wedlock have freely agreed and consented that the child may be legitimated.

(2) 'Legal father' means a male who:

(A) Has legally adopted a child;

(B) Was married to the biological mother of that child at the time the child was conceived or was born, unless such paternity was disproved by a final order pursuant to Article 3 of this chapter;

(C) Married the legal mother of the child after the child was born and recognized the child as his own, unless such paternity was disproved by a final order pursuant to Article 3 of this chapter;

(D) Has been determined to be the father by a final paternity order pursuant to Article 3 of this chapter;

(E) Has legitimated the child by a final order pursuant to Code Section 19-7-22; or

(F) Has legitimated a child pursuant to this Code section

and who has not surrendered or had terminated his rights to the child.

(b) Prior to the child's first birthday, a father of a child born out of wedlock may render his relationship with the child legitimate when both the mother and father have freely agreed, consented, and signed a voluntary acknowledgment of paternity and an acknowledgment of legitimation which have been made and have not been rescinded pursuant to Code Section 19-7-46.1. The State Office of Vital Records shall provide

1 notice, in writing, of the alternatives to, legal consequences of, and the rights and
2 responsibilities of signing a voluntary acknowledgment of legitimation.

3 (c) Voluntary acknowledgment of legitimation shall not be recognized if:

4 (1) The mother was married to another man when the child was born;

5 (2) The mother was married to another man at any time within the usual period of
6 gestation;

7 (3) There is another legal father;

8 (4) The mother has voluntarily and in writing surrendered all of her parental rights
9 pursuant to the provisions of subsection (a) of any of Code Section 19-8-4, 19-8-5,
10 19-8-6, or 19-8-7 and has not withdrawn her surrender as permitted by the provisions of
11 subsection (b) of Code Section 19-8-9 or the mother's parental rights have been
12 judicially terminated by a court of competent jurisdiction or an action to terminate such
13 rights has been initiated and is pending;

14 (5) The mother has signed a voluntary acknowledgment of legitimation with another
15 man; or

16 (6) The child is one year of age or older.

17 (d) If any of the circumstances described in subsection (c) of this Code section exists, the
18 provisions of Code Section 19-7-22 shall be the only method of legitimation.

19 (e) Voluntary acknowledgment of legitimation shall not authorize the father to receive
20 custody or visitation until there is a judicial determination of custody or visitation.

21 (f) It shall be unlawful to make a false statement on a voluntary acknowledgment of
22 legitimation, and the making of a false statement shall be punishable as an act of false
23 statements and writings under Code Section 16-10-20.

24 (g) Where a voluntary acknowledgment of paternity is timely rescinded and includes a
25 voluntary acknowledgment of legitimation, the legitimation shall also be deemed
26 rescinded."

27 SECTION 5.

28 Said title is further amended by revising Code Section 19-7-25, relating to in whom parental
29 power over child born out of wedlock lies, as follows:

30 "19-7-25.

31 Only the mother of a child born out of wedlock is entitled to ~~his~~ custody of the child,
32 unless the father legitimates ~~him~~ the child as provided in Code Section 19-7-21.1 or
33 19-7-22 . Otherwise, the mother may exercise all parental power over the child."

34 SECTION 6.

35 Said title is further amended in Code Section 19-7-46.1, relating to voluntary
36 acknowledgments of paternity and other evidence of paternity, by revising subsection (b) as
37 follows:

“(b) When both the mother and father have signed a voluntary acknowledgment of paternity and the acknowledgment is recorded in the putative father registry established by subsection (d) of Code Section 19-11-9, the acknowledgment shall constitute a legal determination of paternity, subject to the right of any signatory to rescind the acknowledgment prior to the date of the support order, any other order adjudicating paternity, or 60 days from the signing of the agreement, whichever is earlier. Recording such information in the putative father registry shall constitute a legal determination of paternity for purposes of establishing a future order for support, visitation privileges, and other matters under Code Section 19-7-51. Acknowledgment of paternity shall not constitute a legal determination of legitimation pursuant to Code Section 19-7-21.1 or 19-7-22.”

SECTION 7.

Said title is further amended in Code Section 19-8-1, relating to definitions, by revising in their entirety subparagraphs (D) and (E) of paragraph (6) as follows:

"(D) Has legitimated the child by a final order pursuant to Code Section 19-7-22; or

(E) Has legitimated the child pursuant to Code Section 19-7-21.1"

SECTION 8.

Said title is further amended in Code Section 19-8-12, relating to notice of adoption proceedings to the biological father and procedure related thereto, by revising paragraphs (1) and (2) of subsection (e) as follows:

"(1) A petition to legitimate the child pursuant to Code Section 19-7-22 or an acknowledgment of legitimation pursuant to Code Section 19-7-21.1; and

(2) Notice of the filing of the petition to legitimate or acknowledgment of legitimation with the court in which the action under this Code section, if any, is pending and to the person who provided such notice to such biological father."

SECTION 9.

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended in Code Section 15-11-2, relating to definitions, by revising in their entirety subparagraphs (D) and (E) of paragraph (10.1) as follows:

"(D) Has legitimated the child by a final order pursuant to Code Section 19-7-22; or

(E) Has legitimated the child pursuant to Code Section 19-7-21.1"

SECTION 10.

Said title is further amended in Code Section 15-11-96, relating to the summons for a petition to terminate parental rights and the rights of biological fathers, by revising paragraphs (1) and (2) of subsection (h) as follows:

"(1) A petition to legitimate the child pursuant to Code Section 19-7-22 or an acknowledgment of legitimation pursuant to Code Section 19-7-21.1; and

- 1 (2) Notice of the filing of the petition to legitimate or acknowledgment of legitimation
2 with the court in which the action under this Code section is pending."