

The House Committee on Rules offers the following substitute to SB 64:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 15-11-2, Title 19, and Chapter 10 of Title 31 of the Official Code
2 of Georgia Annotated, relating to definitions for the Juvenile Code, domestic relations, and
3 vital records, respectively, so as to repeal voluntary acknowledgments of legitimation; to
4 provide for conforming cross-references relating to the elimination of administrative
5 legitimation; to provide for and revise definitions; to clarify provisions relating to judicial
6 petitions for legitimation; to provide for witnesses to the signing of acknowledgments of
7 paternity; to provide for access to signed acknowledgments of paternity and voluntary
8 acknowledgments of legitimation; to change provisions relating to hospital programs for
9 establishing paternity; to provide for a savings clause; to amend Title 15 of the Official Code
10 of Georgia Annotated, relating to courts, so as to change provisions relating to when a judge,
11 judicial officer, grand juror, or trial juror may be disqualified from presiding or serving, as
12 applicable, due to being related by consanguinity or affinity to a party; to provide for related
13 matters; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **PART I**
16 **SECTION 1-1.**

17 Code Section 15-11-2 of the Official Code of Georgia Annotated, relating to definitions for
18 the Juvenile Code, is amended by revising paragraph (43) as follows:

19 "(43) 'Legal father' means a male who has not surrendered or had terminated his rights
20 to a child and who:

21 (A) Has legally adopted a such child;

22 (B) Was married to the biological mother of a such child at the time such child was
23 ~~conceived or was born~~ or within the usual period of gestation, unless paternity was
24 disproved by a final order pursuant to Article 3 of Chapter 7 of Title 19;

- 25 (C) Married the legal mother of a such child after such child was born and recognized
 26 such child as his own, unless paternity was disproved by a final order pursuant to
 27 Article 3 of Chapter 7 of Title 19; or
 28 ~~(D) Has been determined to be the father of a child by a final paternity order pursuant~~
 29 ~~to Article 3 of Chapter 7 of Title 19;~~
 30 ~~(E)~~(D) Has legitimated a such child by a final order pursuant to Code Section 19-7-22;
 31 or
 32 ~~(F) Has legitimated a child pursuant to Code Section 19-7-21.1."~~

33 **SECTION 1-2.**

34 Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is
 35 amended by repealing in its entirety Code Section 19-7-21.1, relating to acknowledgment of
 36 legitimation.

37 **SECTION 1-3.**

38 Said title is further amended by revising Code Section 19-7-22, relating to the petition for
 39 legitimation of a child, requirements therefor, the effect of such, claims for custody or
 40 visitation, and third-party actions for legitimation, as follows:

41 "19-7-22.

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

43 (1) 'Biological father' means the male who impregnated the biological mother resulting
 44 in the birth of a child.

45 (2) 'Legal father' means a male who has not surrendered or had terminated his rights to
 46 a child and who:

47 (A) Has legally adopted such child;

48 (B) Was married to the biological mother of such child at the time such child was born
 49 or within the usual period of gestation, unless paternity was disproved by a final order
 50 pursuant to Article 3 of this chapter;

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

54 (D) Has legitimated such child pursuant to this Code section.

55 ~~(a)~~(b) The biological A father of a child born out of wedlock may render his relationship
 56 with the child legitimate by petitioning the superior court of the county of the residence of
 57 the child's mother or other party having legal custody or guardianship of the child;
 58 provided, however, that if the mother or other party having legal custody or guardianship
 59 of the child resides outside ~~the~~ this state or cannot, after due diligence, be found within ~~the~~

60 this state, the petition may be filed in the county of the biological father's residence or the
 61 county of the child's residence. If a petition for the adoption of the child is pending, the
 62 biological father shall file the petition for legitimation in the county in which the adoption
 63 petition is filed.

64 ~~(b)~~(c) A legitimation ~~The~~ petition shall set forth the name, age, and sex of the child, the
 65 name of the mother, and, if the biological father desires the name of the child to be
 66 changed, the new name. If the mother is alive, she shall be named as a party and shall be
 67 served and provided an opportunity to be heard as in other civil actions under Chapter 11
 68 of Title 9, the 'Georgia Civil Practice Act.' If there is a legal father who is not the
 69 biological father, he shall be named as a party by the petitioner and shall be served and
 70 provided an opportunity to be heard as in other civil actions under Chapter 11 of Title 9,
 71 the 'Georgia Civil Practice Act.'

72 ~~(c)~~(d) Upon the presentation and filing of ~~the~~ a legitimation petition, and after a hearing
 73 for which notice was provided to all interested parties, the court may pass issue an order
 74 declaring the biological father's relationship with the child to be legitimate, ~~and that the~~
 75 provided that such order is in the best interests of the child. If such order is issued, the
 76 biological father and child shall be capable of inheriting from each other in the same
 77 manner as if born in lawful wedlock ~~and specifying.~~ Such order shall specify the name by
 78 which the child shall be known.

79 ~~(d)~~(e) A legitimation petition may be filed, pursuant to Code Section 15-11-11, in the
 80 juvenile court of the county in which a dependency proceeding regarding the child is
 81 pending; provided, however, that if either parent has demanded a jury trial as to child
 82 support, that issue of the case shall be transferred to superior court for a jury trial. Such
 83 petition shall contain the same information and require the same service and opportunity
 84 to be heard as set forth in subsection (c) of this Code section. After a hearing, the juvenile
 85 court may issue the same orders as set forth in subsection (d) of this Code section.

86 ~~(e)~~(f) A superior ~~Except as provided by subsection (f) of this Code section, the court shall,~~
 87 ~~upon notice to the mother further establish such duty as the father may have to support the~~
 88 ~~child, considering the facts and circumstances of the mother's obligation of support and the~~
 89 ~~needs of the child~~ after notice and hearing, enter an order establishing the obligation to
 90 support a child as provided under Code Section 19-6-15.

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

94 ~~(f.1)~~(g) A ~~The~~ petition for legitimation petition may also include claims for visitation,
 95 parenting time, or custody. If such claims are raised in the legitimation action, the court
 96 may order, in addition to legitimation, visitation, parenting time, or custody based on the

97 best interests of the child standard. In a case involving allegations of family violence, the
 98 provisions of paragraph (4) of subsection (a) of Code Section 19-9-3 shall also apply.

99 ~~(g)(1)(h)~~ In any petition to establish paternity pursuant to paragraph (4) of subsection (a)
 100 of Code Section 19-7-43, the alleged biological father's response may assert a third-party
 101 action for the legitimation of the child born out of wedlock if the alleged biological father
 102 is, in fact, the biological father. Upon the determination of paternity or if a voluntary
 103 acknowledgment of paternity has been made and has not been rescinded pursuant to Code
 104 Section 19-7-46.1, the court or trier of fact as a matter of law and pursuant to the provisions
 105 of Code Section 19-7-51 may enter an order or decree legitimating a child born out of
 106 wedlock, provided that such is in the best ~~interest~~ interests of the child. In determining the
 107 best interests of the child, the court should insure that the petitioning alleged biological
 108 father is, in fact, the biological father and may order the mother, the alleged father, and the
 109 child to submit to genetic testing in accordance with Code Section 19-7-45. Whenever a
 110 petition to establish the paternity of a child is brought by the Department of Human
 111 Services, issues of name change, visitation, and custody shall not be determined by the
 112 court until such time as a separate petition is filed by one of the parents or by the legal
 113 guardian of the child, in accordance with Code Section 19-11-8; if the petition to establish
 114 paternity is brought by a party other than the Department of Human Services or if the
 115 alleged biological father seeks legitimation, the court may determine issues of name
 116 change, visitation, and custody in accordance with subsections ~~(b) and (f.1)~~ (c) and (g) of
 117 this Code section. Custody of the child shall remain in the mother unless or until a court
 118 order is entered addressing the issue of custody.

119 ~~(2) In any voluntary acknowledgment of paternity which has been made and has not been~~
 120 ~~rescinded pursuant to Code Section 19-7-46.1, when both the mother and father freely~~
 121 ~~agree and consent, the child may be legitimated by the inclusion of a statement indicating~~
 122 ~~a voluntary acknowledgment of legitimation."~~

123 SECTION 1-4.

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

126 "19-7-25.

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

130

SECTION 1-5.

131 Said title is further amended by revising Code Section 19-7-27, relating to hospital program
 132 for establishing paternity, as follows:

133 "19-7-27.

134 (a) Except in the event of a medical emergency, prior to ~~Upon~~ the birth of a child to an
 135 unmarried woman in a public or private hospital, the hospital that provides perinatal labor
 136 and delivery services shall:

137 ~~(1) Provide the child's mother and alleged father if he is present at the hospital the~~
 138 ~~opportunity to acknowledge paternity consistent with the requirements of Code Section~~
 139 ~~19-7-46.1; and~~

140 ~~(2) Provide~~ provide to the mother and alleged father:

141 ~~(A)(1)~~ (1) Written materials about administratively establishing paternity ~~establishment~~;

142 ~~(B)(2)~~ (2) The forms necessary to voluntarily acknowledge paternity;

143 ~~(C)(3)~~ (3) A written description of the rights and responsibilities of voluntarily
 144 acknowledging paternity, the differences between paternity and legitimation, and the duty
 145 to support a child upon acknowledgment of paternity; and

146 ~~(D)(4)~~ (4) The opportunity, prior to discharge from the hospital, to speak with staff, either
 147 by telephone or in person, who are trained to clarify information and answer questions
 148 about administratively establishing paternity ~~establishment~~ and the availability of judicial
 149 determinations of paternity.

150 (b) Providing the written materials describing rights and responsibilities shall not
 151 constitute the unlawful practice of law.

152 (c) After the birth of a child to an unmarried woman in a public or private hospital, the
 153 hospital that provides labor and delivery services shall:

154 (1) Provide the child's mother and alleged father if he is present at the hospital the
 155 opportunity to execute a voluntary acknowledgment of paternity consistent with the
 156 requirements of Code Section 19-7-46.1;

157 (2) File the signed voluntary acknowledgment of paternity with the State Office of Vital
 158 Records within 30 days of its execution; and

159 (3) Provide to the child's mother and alleged father copies of the signed voluntary
 160 acknowledgment of paternity."

161

SECTION 1-6.

162 Said title is further amended by revising subsection (d) of Code Section 19-7-43, relating to
 163 petition to establish paternity and genetic testing, as follows:

164 "(d) In any case in which the paternity of a child or children has not been established, ~~any~~
 165 ~~party may make a motion for the court to~~ the court, either on its own motion or on the

166 motion of any party, may order the mother, the alleged father, and the child or children to
 167 submit to genetic tests as specified in Code Section 19-7-45. Such motion, if made by a
 168 party, shall be supported by a sworn statement ~~(1)~~ alleging paternity and setting forth facts
 169 establishing a reasonable possibility of the requisite sexual contact between the parties; or
 170 ~~(2)~~ denying paternity and setting forth facts establishing a reasonable possibility of the
 171 nonexistence of sexual contact between the parties. Appropriate orders shall be issued in
 172 ~~accordance with the provisions of this article~~ by the court. The court shall grant ~~the a~~
 173 party's motion unless it finds ~~good cause as defined by the federal Social Security Act or~~
 174 ~~if other~~ a good excuse for noncooperation is established."

175 **SECTION 1-7.**

176 Said title is further amended by revising Code Section 19-7-46.1, relating to name or social
 177 security number on birth certificate or other record as evidence of paternity and signed
 178 voluntary acknowledgment of paternity, as follows:

179 "19-7-46.1.

180 (a) The appearance of the name or social security account number of the father, entered
 181 with his written consent, on the certificate of birth or a certified copy of such certificate or
 182 records on which the name of the alleged father was entered with his written consent from
 183 the vital records department of another state or the registration of the father, entered with
 184 his written consent, in the putative father registry of this state, pursuant to subsection (d)
 185 of Code Section 19-11-9, shall constitute a prima-facie case of establishment of paternity
 186 and the burden of proof shall shift to the putative father to rebut such in a proceeding for
 187 the determination of paternity.

188 (b) When both the mother and father have signed a voluntary acknowledgment of paternity
 189 in the presence of a notary public or other witness swearing or affirming the statements
 190 contained in the acknowledgment are true and such acknowledgment is filed with the State
 191 Office of Vital Records within 30 days of its execution and ~~the acknowledgment~~ is
 192 recorded in the putative father registry established by subsection (d) of Code Section
 193 19-11-9, the acknowledgment shall constitute a legal determination of paternity, subject
 194 to the right of any signatory to rescind the acknowledgment prior to the date of the support
 195 order, any other order adjudicating paternity, or 60 days from the signing of the agreement,
 196 whichever is earlier. Recording such information in the putative father registry shall
 197 constitute a legal determination of paternity for purposes of establishing a future order for
 198 support, ~~visitation privileges,~~ and other matters under Code Section 19-7-51.
 199 Acknowledgment of paternity shall establish the biological father, as such term is defined
 200 in Code Section 19-7-22, but shall not constitute a legal determination of legitimation
 201 pursuant to Code Section ~~19-7-21.1~~ or 19-7-22.

202 (c) After the 60 day rescission period specified in subsection (b) of this Code section, the
 203 signed voluntary acknowledgment of paternity may be challenged in court only on the basis
 204 of fraud, duress, or material mistake of fact, with the burden of proof on the person
 205 challenging the acknowledgment. The legal responsibilities of any signatory, including
 206 child support obligations, arising from the acknowledgment may not be suspended during
 207 the challenge, except for good cause shown.

208 (d) A copy of a signed voluntary acknowledgment of paternity shall be provided to any
 209 signatory upon request.

210 (e)(1) As used in this subsection, the term:

211 (A) 'Child-placing agency' means an agency licensed as such pursuant to Chapter 5 of
 212 Title 49.

213 (B) 'Legal custodian' shall have the same meaning as set forth in Code Section 15-11-2.

214 (C) 'Local custodian' shall have the same meaning as set forth in Code Section 31-10-1.

215 (D) 'State registrar' shall have the same meaning as set forth in Code Section 31-10-1.

216 (2) The state registrar or local custodian, upon receipt of a written application, shall issue
 217 a certified copy of voluntary acknowledgment of paternity in the state registrar's or local
 218 custodian's custody to:

219 (A) The person who signed such acknowledgment and his or her guardian or temporary
 220 guardian;

221 (B) The person whose paternity was acknowledged, if he or she is at least 18 years of
 222 age;

223 (C) The guardian, temporary guardian, or legal custodian of the person whose paternity
 224 was acknowledged;

225 (D) The living legal spouse or next of kin, the legal representative, or the person who
 226 in good faith has applied and produced a record of such application to become the legal
 227 representative of the person whose paternity is registered;

228 (E) A court of competent jurisdiction upon its order or subpoena;

229 (F) Any governmental agency, state or federal, provided that such certificate shall be
 230 needed for official purposes;

231 (G) A member in good standing of the State Bar of Georgia, provided that such
 232 certificate shall be needed for purposes of legal investigation on behalf of a client; and

233 (H) A child-placing agency, provided that such certificate shall be needed for official
 234 purposes."

235 SECTION 1-8.

236 Said title is further amended by revising Code Section 19-7-51, relating to order of support,
 237 visitation privileges, and other provisions, as follows:

238 "19-7-51.

239 The decree or order establishing paternity may contain any other provisions concerning the
 240 duty to support the child by periodic or lump sum payments, ~~visitation privileges with the~~
 241 ~~child as provided in Code Section 19-6-15~~, or any other matter in the best ~~interest~~ interests
 242 of the child."

243 **SECTION 1-9.**

244 Said title is further amended by revising paragraph (6) of Code Section 19-8-1, relating to
 245 definitions relating to adoption, as follows:

246 "(6) 'Legal father' means a male who has not surrendered or had terminated his rights to
 247 a child and who:

248 (A) Has legally adopted a such child;

249 (B) Was married to the biological mother of ~~that~~ such child at the time ~~that~~ such child
 250 ~~was conceived or was born~~ or within the usual period of gestation, unless ~~such~~ paternity
 251 was disproved by a final order pursuant to Article 3 of Chapter 7 of this title;

252 (C) Married the legal mother of ~~the~~ such child after ~~the~~ such child was born and
 253 recognized ~~the~~ such child as his own, unless ~~such~~ paternity was disproved by a final
 254 order pursuant to Article 3 of Chapter 7 of this title; or

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

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

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

259 **SECTION 1-10.**

260 Said title is further amended by revising subparagraph (e)(3)(D) of Code Section 19-8-4,
 261 relating to when surrender or termination of parental or guardian's rights is required, as
 262 follows:

263 "(D) The pre-birth surrender shall not be valid for use by a legal father as defined under
 264 paragraph (6) of Code Section 19-8-1 or for any man who has executed ~~either a~~
 265 ~~voluntary acknowledgment of legitimation pursuant to the provisions of paragraph (2)~~
 266 ~~of subsection (g) of Code Section 19-7-22 or a voluntary acknowledgment of paternity~~
 267 pursuant to the provisions of Code Section 19-7-46.1."

268 **SECTION 1-11.**

269 Said title is further amended by revising subparagraph (e)(3)(D) of Code Section 19-8-5,
 270 relating to surrender or termination of parental or guardian's rights when child to be adopted
 271 by a third party, as follows:

- 305 (1) A petition to legitimate the child pursuant to Code Section 19-7-22 ~~or an~~
 306 ~~acknowledgment of legitimation pursuant to Code Section 19-7-21.1; and~~
 307 (2) Notice of the filing of the petition to legitimate ~~or acknowledgment of legitimation~~
 308 with the court in which the action under this Code section, if any, is pending and to the
 309 person who provided such notice to such biological father."

310 SECTION 1-15.

311 Chapter 10 of Title 31 of the Official Code of Georgia Annotated, relating to vital records,
 312 is amended by revising subsections (a) and (d) of Code Section 31-10-25, relating to
 313 disclosure of information contained in vital records, as follows:

314 "(a) To protect the integrity of vital records, to ensure their proper use, and to ensure the
 315 efficient and proper administration of the system of vital records, it shall be unlawful for
 316 any person to permit inspection of, or to disclose information contained in vital records or
 317 to copy or issue a copy of all or part of any such record except as authorized by this
 318 chapter, Code Section 19-7-46.1, and ~~by~~ regulation or by order of a court of competent
 319 jurisdiction. Regulations adopted under this Code section shall provide for adequate
 320 standards of security and confidentiality of vital records. The provisions of this subsection
 321 shall not apply to court records or indexes of marriage licenses, divorces, and annulments
 322 of marriages filed as provided by law."

323 "(d) Information in vital records indicating that a birth occurred out of wedlock shall not
 324 be disclosed except as ~~provided by regulation or upon the~~ authorized by this chapter, Code
 325 Section 19-7-46.1, and regulation or by order of a court of competent jurisdiction."

326 SECTION 1-16.

327 Said chapter is further amended by revising subsection (a) of Code Section 31-10-26, relating
 328 to certified copies of vital records, issuance, and use for statistical purposes, as follows:

329 "(a) In accordance with Code Section 31-10-25 and the regulations adopted pursuant
 330 thereto:

331 (1) The state registrar or local custodian, ~~of vital records appointed by the state registrar~~
 332 ~~to issue certified copies~~ upon receipt of a written application, shall issue:

333 (A) A a certified copy of a vital record in that registrar's or custodian's custody or
 334 abstract thereof to any applicant having a direct and tangible interest in the vital record;
 335 ~~except that certified;~~

336 (B) Certified copies of voluntary acknowledgments of paternity as provided in
 337 subsection (e) of Code Section 19-7-46.1;

338 (C) Certified copies of voluntary acknowledgments of legitimation executed on or
 339 before June 30, 2015, to the same individuals and entities specified in subsection (e) of
 340 Code Section 19-7-46.1; and

341 (D) Certified copies of certificates shall only be issued to:

342 ~~(A)~~(i) The person whose record of birth is registered;

343 ~~(B)~~(ii) Either parent, guardian, or temporary guardian of the person whose record of
 344 birth or death is registered;

345 ~~(C)~~(iii) The living legal spouse or next of kin, ~~or~~ the legal representative, or the
 346 person who in good faith has applied and produced a record of such application to
 347 become the legal representative of the person whose record of birth or death is
 348 registered;

349 ~~(D)~~(iv) A The court of competent jurisdiction upon its order or subpoena; or

350 ~~(E)~~(v) Any governmental agency, state or federal, provided that such certificate shall
 351 be needed for official purposes; and

352 (2) Each certified copy issued shall show the date of registration and duplicates issued
 353 from records marked 'delayed' or 'amended' shall be similarly marked and show the
 354 effective date. The documentary evidence used to establish a delayed certificate of birth
 355 shall be shown on all duplicates issued. All forms and procedures used in the issuance
 356 of certified copies of vital records in this state shall be provided or approved by the state
 357 registrar."

358 **SECTION 1-17.**

359 This part of this Act shall not be construed to affect a voluntary acknowledgment of
 360 legitimation that was valid under the former provisions of Code Section 19-7-21.1, nor any
 361 of the rights or responsibilities flowing therefrom, if it was executed on or before June 30,
 362 2015.

363 **PART II**

364 **SECTION 2-1.**

365 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising
 366 paragraph (2) of subsection (a) of Code Section 15-1-8, relating to when a judge or judicial
 367 officer is disqualified, as follows:

368 "(2) Preside, act, or serve in any case or matter when such judge is related by
 369 consanguinity or affinity within the ~~sixth~~ third degree as computed according to the civil
 370 law to any party interested in the result of the case or matter; or"

371 **SECTION 2-2.**

372 Said title is further amended by revising Code Section 15-12-70, relating to disqualification
373 for relationship to interested party, as follows:

374 "15-12-70.

375 All grand jurors in the courts of this state shall be disqualified to act or serve in any case
376 or matter when such jurors are related by consanguinity or affinity to any party interested
377 in the result of the case or matter within the ~~sixth~~ third degree as computed according to
378 the civil law. Relationship more remote shall not be a disqualification."

379 **SECTION 2-3.**

380 Said title is further amended by revising subsection (a) of Code Section 15-12-135, relating
381 to disqualification for relationship to interested party, as follows:

382 "(a) All trial jurors in the courts of this state shall be disqualified to act or serve in any case
383 or matter when such jurors are related by consanguinity or affinity to any party interested
384 in the result of the case or matter within the ~~sixth~~ third degree as computed according to
385 the civil law. Relationship more remote shall not be a disqualification."

386 **PART III**

387 **SECTION 3-1.**

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