

House Bill 1343

By: Representatives Barrett of the 24th, Reese of the 140th, Burns of the 159th, Hugley of the 141st, Gunter of the 8th, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Titles 15 and 19 of the Official Code of Georgia Annotated, relating to the courts
2 and domestic relations, respectively, so as to revise the definition of legal father; to provide
3 for legitimation through petitioning the Department of Human Services provided genetic
4 testing establishes paternity; to provide for exceptions; to provide for recording of such
5 legitimations with the clerk of superior court; to provide for rules, regulations, procedures,
6 and all applicable forms as may be necessary by the Department of Human Services; to
7 amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to require
8 that licensed general hospitals and birthing centers make available a petition for legitimation
9 education video to parents or guardians of newborn infants; to provide that a putative father
10 may indicate on a certificate of birth that he has submitted to genetic testing to establish
11 paternity of a child born out of wedlock; to amend Title 53 of the Official Code of Georgia
12 Annotated, relating to wills, trusts, and administration of estates, so as to provide for
13 inheritance by legitimation in certain circumstances; to provide a short title; to provide for
14 related matters; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

17 This Act shall be known and may be cited as the "Georgia's Responsible Fathers Act."

18 **SECTION 2.**

19 Title 15 of the Official Code of Georgia Annotated, relating to the courts, is amended by
20 revising paragraph (43) of Code Section 15-11-2, relating to definitions, as follows:

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

23 (A) Has legally adopted such child;

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

27 (C) Married the legal mother of such child after such child was born and recognized
28 such child as his own, unless paternity was disproved by a final order pursuant to
29 Article 3 of Chapter 7 of Title 19; ~~or~~

30 (D) Has legitimated such child by a final order pursuant to Code Section 19-7-22 or
31 19-7-22.1; or

32 (E) Has been determined to be the father of such child by a final paternity order
33 pursuant to Article 3 of Chapter 7 of Title 19."

34 **SECTION 3.**

35 Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is
36 amended by revising paragraph (2) of subsection (a) of Code Section 19-7-22, relating to
37 petition for legitimation of child, requirement that mother be named as a party, court order,
38 effect, claims for custody or visitation, and third-party action for legitimation in response to
39 petition to establish paternity, as follows:

- 66 (D) Has legitimated such child pursuant to this Code section or Code Section 19-7-22.
67 (b)(1) Within six months of a child's birth, the biological father of a child born out of
68 wedlock may:
- 69 (A) Submit to genetic testing as provided for in Code Section 19-7-45 to establish
70 paternity;
71 (B) Indicate on the certificate of birth of such child that genetic testing has been
72 initiated; and
- 73 (C) Petition the Department of Human Services for an order or decree legitimating
74 such child upon a determination of paternity that shall be issued by the Department of
75 Human Services within two months.
- 76 (2) The Department of Human Services may use the application for child support
77 services for purposes of evaluating the petition under this Code section.
- 78 (3) The petition shall be made on forms provided by the Department of Human Services.
- 79 (c) Upon the presentation and filing of a legitimation petition as provided for in
80 subsection (b) of this Code section, the legitimation petition shall be granted, if, at the time
81 of the petition, the Department of Human Services determines by clear and convincing
82 evidence that:
- 83 (1) The petitioner has no prior criminal convictions for family violence or offenses
84 provided for in Chapter 13 of this title or Chapter 6 of Title 16; and
85 (2) The petitioner is not subject to a protective order for family violence or offenses
86 provided for in Chapter 13 of this title or Chapter 6 of Title 16.
- 87 (d) The legitimation petition provided for in subsection (b) of this Code section shall not
88 be granted if the Department of Human Services determines by clear and convincing
89 evidence that:
- 90 (1) The biological father caused his child to be conceived as a result of having
91 nonconsensual sexual intercourse with the mother of his child or when the mother is less

92 than 14 years of age, or an offense which consists of the same or similar elements under
93 federal law or the laws of another state or territory of the United States; or
94 (2) There is a legal father who is not the biological father.
95 (e) Upon the granting of the legitimation petition provided for in subsection (b) of this
96 Code section, the Department of Human Services shall memorialize its determination in
97 a written order and file a verified copy of the order and granted legitimation petition with
98 the clerk of superior court of the county of the residence of the child's mother or other party
99 having legal custody or guardianship of such child, and the clerk shall record the
100 legitimation petition in a book maintained for such purposes.
101 (f) If a legitimation petition is granted under this Code section, the biological father and
102 child shall be capable of inheriting from each other in the same manner as if such child
103 were born in lawful wedlock. The biological father may seek judicial determinations for
104 matters involving the name of the child or claims for visitation, parenting time, or custody
105 involving the child; provided, however, that nothing in this Code section shall be construed
106 to affect, or be a contingency for, determinations on the visitation between a child and his
107 or her biological father.
108 (g) The Department of Human Services shall establish rules, regulations, procedures, and
109 all applicable forms as may be necessary for the execution of its functions under this Code
110 section."

111 **SECTION 5.**

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

114 "19-7-25.

115 Only the mother of a child born out of wedlock is entitled to custody of the child, unless
116 the father legitimates the child as provided in Code Section 19-7-22 or 19-7-22.1.

117 Otherwise, the mother may exercise all parental power over the child."

118 **SECTION 6.**

119 Said title is further amended by revising paragraph (11) of Code Section 19-8-1, relating to
120 definitions, as follows:

121 "(11) 'Legal father' means a male who has not surrendered or had terminated his rights
122 to a child and who:

123 (A) Has legally adopted such child;

124 (B) Was married to the biological mother of such child at the time such child was born
125 or within the usual period of gestation, unless paternity was disproved by a final order
126 of a court of competent jurisdiction;

127 (C) Married a the legal mother of such child after such child was born and recognized
128 such child as his own, unless paternity was disproved by a final order of a court of
129 competent jurisdiction; or

130 (D) Has legitimated such child by a final order pursuant to Code Section 19-7-22 or
131 19-7-22.1."

132 **SECTION 7.**

133 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding
134 a new Code section to read as follows:

135 "31-7-23.2.

136 (a) As used in this Code section, the term 'petition for legitimation education' means
137 education intended to assist paternal involvement in the legitimation process to establish
138 visitation and custody pursuant to Code Section 19-7-22.

139 (b)(1) Prior to discharge, a licensed general hospital or birthing center shall make
140 available to each newborn infant's parent or guardian a video presentation on petition for
141 legitimation education to be viewed onsite.

142 (2) Such hospital or birthing center shall provide such parent or guardian with a petition
143 for legitimation education pamphlet to be developed by the Department of Human
144 Services.

145 (c) The department shall promulgate rules and regulations necessary to implement the
146 provisions of this Code section."

147 **SECTION 8.**

148 Said title is further amended by revising paragraph (2) of subsection (e) of Code Section
149 31-10-9, relating to registration of births, as follows:

150 "(2) If the mother is not married at either the time of conception or at the time of birth,
151 the name of the putative father shall not be entered on the birth certificate without the
152 written consent of the mother and the person to be named as father; provided, however,
153 that the putative father may indicate on the birth certificate that he has submitted to
154 genetic testing to establish paternity;"

155 **SECTION 9.**

156 Title 53 of the Official Code of Georgia Annotated, relating to wills, trusts, and
157 administration of estates, is amended revising division (2)(A)(i) of Code Section 53-2-3,
158 relating to inheritance by children born out of wedlock, as follows:

159 "(i) A court of competent jurisdiction has entered an order declaring the child to be
160 legitimate, under the authority of Code Section 19-7-22, 19-7-22.1, or such other
161 authority as may be provided by law;"

162 **SECTION 10.**

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