

INSTRUCTIONS FOR FILING A PETITION FOR LEGITIMATION AND CUSTODY/VISITATION

GENERAL COMMENTS

This is the form packet for a biological father of a child born out of wedlock to file on his own a Petition for Legitimation in the Alcovy Judicial Circuit and, if he so desires, to also seek visitation or custody in the same petition. This form packet cannot be used by the mother or any person other than the biological father.

Please read these instructions and each form very carefully. Missing or misreading a word could cause you to make serious errors in your case, placing your rights and the direction of your legitimation case in jeopardy.

INTRODUCTION

In the State of Georgia, one way that a biological father can establish legal rights to a child born out of wedlock is to file a Petition for Legitimation in the Superior Court. There are two options available to you for filing a legitimation case: (1) you can hire an attorney who will prepare your paperwork and represent you in court, or (2) you can use the forms included in this packet and represent yourself in court. After a court grants your divorce and issues a *Final Order of Legitimation*, you will have legal rights to your child.

It is advisable to speak with an attorney before filing any action with the court. This legitimation action is no exception to that rule. There are often more issues involved in legitimation than you might realize if you fail to get legal advice. However, you may want to review the forms and instructions in this packet before you talk to an attorney, so that you will be able to make the best use of your time with the attorney.

Legitimation can be a very complicated process. If documents are not completed, signed, notarized and filed as required by law, the legitimation pleadings are not in compliance with the law, a judge cannot grant your request for legitimation, and may dismiss your case.

If you want a court to grant your legitimation, **you must follow the law and you must complete each and every paragraph that applies to your case (but not any paragraphs that do not apply to your case).**

STATE LAW, **OCGA § 15-19-51** PROHIBITS COURT PERSONNEL (INCLUDING STAFF ATTORNEYS OR LAW CLERKS, CALENDAR CLERKS, CLERK'S OFFICE STAFF, AND SHERIFF'S DEPARTMENT STAFF) FROM GIVING LEGAL ADVICE OR ANSWERING LEGAL QUESTIONS.

YOU MAY ESPECIALLY NEED AN ATTORNEY IF:

- The case is contested OR an attorney represents the Respondent.
- There has been family violence between you, your children or the Respondent.
- You want an arrangement for custody or visitation that does not exactly fit these forms.
- You are unable to locate the Respondent to have her served with this action.
- Your child's mother was married at the time your child was conceived or born.
- Another man's name is listed as the father on the child's birth certificate.

Whether your case is contested or uncontested, you should speak with an attorney before signing a settlement agreement or filing any other documents with the Court.

FORMS YOU WILL NEED TO START A LEGITIMATION:

All of these forms are included in this packet except the *Summons* and *Sheriff's Entry of Service*. You can get the *Summons* and *Sheriff's Entry of Service* from the Superior Court Clerk's office of the county where you will be filing your case.

- a) *Pro Se Affidavit*
- b) *Affidavit of Plaintiff*
- c) *Verification*
- d) *Domestic Relations Case Filing Information Form*
- e) *Petition for Legitimation*
- f) *Summons*
- g) *Domestic Relations Financial Affidavit*
- h) *Sheriff's Entry of Service* (3-part carbon form)
 - OR Acknowledgment of Service**
 - OR** Publication paperwork, as follows:
 - i. *Affidavit of Diligent Search*
 - ii. *Notice of Publication*
 - iii. *Order of Publication, Return of Service, Order Perfecting Service*
- i) *Affidavit of Poverty* and *Order on Affidavit of Poverty* (only if you are indigent and cannot afford to pay the filing & service fees — see list of fees enclosed with this packet)

FORMS YOU WILL NEED AT THE FINAL HEARING TO FINISH YOUR LEGITIMATION:

- a) *Parenting Plan* (if visitation will be exercised - signed by both parties)
- b) *Child Support Worksheet* (found at <https://csc.georgiacourts.gov>)
- c) *Child Support Addendum* (signed by both parties)
- d) *Order of Legitimation*