

## INFORMATION AND CHECKLISTS FOR LEGITIMATING YOUR CHILD

**WHO MAY USE THESE FORMS?** A biological father of a child born out of wedlock can use these forms to file a petition for legitimation in Georgia. The father can seek custody or visitation at the same time. These forms cannot be used by the mother or any person other than the biological father.

### YOU MAY NEED AN ATTORNEY IF:

- The Respondent/mother will not agree to the legitimation;
- The Respondent/mother has a lawyer;
- The child(ren) is/are in foster care or DFCS is involved;
- The Respondent/mother or the children live in another state;
- You have a situation that does not exactly fit these forms;
- You cannot find the Respondent/ mother to serve with your papers;
- Your child's mother was married to someone else at the time your child was conceived or born;
- Another man's name is listed as the father on the child's birth certificate; or
- The Respondent/mother will not give you documents and information that you need.

**Even if the Respondent/mother is cooperating with you, you should talk to a lawyer before you sign any settlement papers or file anything in court.** There are often more issues involved in a court case than you think. Lawyers are trained to find legal issues that you might overlook. You do not have the training that lawyers have to anticipate and avoid pitfalls. Legitimation can be a complicated process. If documents are not completed properly, or if you do not understand the legal rules of procedure and evidence, your case could be delayed or dismissed. If you do not understand the law and court procedures, you may lose your case.

**Please read the forms and instructions carefully. Fill out the forms completely. If you need the answer to a legal issue, you need to either research the issue at a law library or get advice from an attorney. State law, O.C.G.A. 15-19-51 prohibits court personnel (including staff attorneys, law librarians, law clerks, calendar clerks, clerk's office staff, and sheriff's department staff) from giving legal advice. Many court-based self-help centers and law libraries provide free family law classes to help you understand your situation better.**

**If you cannot afford an attorney, call the State Bar of Georgia's Pro Bono Resource Center at 404-527-8762.**

### CHECKLIST OF FORMS YOU NEED TO START YOUR LEGITIMATION:

Use the checklist provided below to make sure you have all of the required forms. As you complete each form or document, check off the blank beside that form. When all forms are completed, you are ready to file. All of these forms (or links to the forms) are available on the Dougherty County Law Library's website, at <http://www.albany.ga.us/lawlibrary>. Click "legal forms," then "family law," then "paternity and legitimation."

**Terms to Know:** Petitioner means the father who is filing the *Petition*. Respondent means the mother (or relative with custody) who is responding to the *Petition*.

For an **uncontested**\* legitimation, you must file **all** of the following documents:

\*Uncontested means that the Respondent will sign a *Consent to Legitimation*. You and the Respondent agree on all issues: legitimation, visitation, custody and child support. Your agreement will be in writing and signed by both of you in front of a notary public.

- \_\_\_ a. Domestic Relations Case Filing Information Form
- \_\_\_ b. Petition for Legitimation
- \_\_\_ c. Verification (a sworn statement that you are told the truth when you filled out your forms)
- \_\_\_ d. Consent to Legitimation (original signed by Respondent and notary public)
- \_\_\_ e. Acknowledgment of Service
- \_\_\_ f. Domestic Relations Financial Affidavit
- \_\_\_ g. Child Support Worksheet and Schedules
- \_\_\_ h. Permanent Parenting Plan
- \_\_\_ i. Proof that you are the father:
  - 1. A certified court order of Paternity; or
  - 2. Positive DNA test results from a laboratory whose tests are admissible in court

For a **contested**\* legitimation, you must file all of the following documents:

\*Contested means that the Respondent will not sign a *Consent to Legitimation*.

- \_\_\_ a. Domestic Relations Case Filing Information Form
- \_\_\_ b. Petition for Legitimation
- \_\_\_ c. Verification
- \_\_\_ d. Service of Process Documents (*use only one type of service, either 1 or 2.*)
  - 1. Certificate of Service and Sheriff's Entry of Service
  - 2. Service by Publication paperwork:
    - i. Affidavit of Diligent Search
    - ii. Order for Service by Publication (signed by Judge or Clerk of Court)
    - iii. Notice of Publication

- iv. Affidavit of Publication (from the newspaper staff)
- \_\_\_ e. Domestic Relations Financial Affidavit
- \_\_\_ f. Child support Worksheets and Schedules
- \_\_\_ g. Permanent Parenting Plan
- \_\_\_ h. Rule Nisi (if you want a hearing on temporary issues)
- \_\_\_ i. Proof that you are the father
  - a. A certified court order of Paternity; or
  - b. Positive DNA test results from a laboratory whose tests are admissible in court; or
  - c. Ask the court to help you get proof that you are the father:
    - i. Father's Affidavit (if you seek custody and you do not already have a court order of paternity); and
    - ii. Motion for genetic testing; and
    - iii. Order for genetic testing.

**CHECKLIST OF FORMS YOU NEED AT THE FINAL HEARING TO FINISH YOUR LEGITIMATION:**

- \_\_\_ a. Final Order of Legitimation
- \_\_\_ b. Permanent Parenting Plan Order
- \_\_\_ c. Domestic Relations Final Disposition Information Form
- \_\_\_ d. Proof of Income (such as tax returns, paycheck stubs, W-2 forms)
- \_\_\_ e. Child Support Addendum
- \_\_\_ f. Income Deduction Order
- \_\_\_ g. Income Withholding Order (IWO)—**NEVER FILE THIS FORM WITH THE CLERK! IT CONTAINS INFORMATION THAT ALLOWS AN IDENTITY THIEF TO STEAL YOUR IDENTITY.**