

**Georgia Commission on Child Support
Administrative Legitimation Subcommittee
Minutes of Meeting: July 25, 2014**

Present in person:

Judge Velma Tilley, Chair
Judge Michael Key
Shirley Champa, ADA Rockdale
Vic Hill, Family Law Attorney
Judge Amanda Baxter
Stephen Harris, DCSS general counsel
Megan Miller, Atlanta Legal Aid
Michelle Jordan, Atlanta Legal Aid
Ryan Bradley, DCSS policy specialist
Erica Thornton, DCSS, policy and paternity unit
Judge Kristen Miller
Katie Connell, Family Law Attorney
Patricia Buonodono, Staff attorney
Elaine Johnson, Staff
Bruce Shaw, Staff

Present via teleconference:

Judge Louisa Abbot
Sidney Barrett, Department of Public Health
Michael Coombs, DCSS, policy and paternity unit
Judge John Simpson

The meeting began at 12:31 p.m.

I. Welcome and Introductions

Judge Tilley welcomed and thanked everyone for participating as well as brought the subcommittee's attention to a recent case that highlights some of the problems with administrative legitimation. *In Re Estate of James Andrew Hawkins* (Ga. Ct. App. 2014) has a special concurrence that enumerates the many opportunities for fraud and collusion with the administrative legitimation process as well as stating it's in direct contravention with judicial legitimation.

II. Review of Minutes of 6/17/14 Meeting

Katie Connell moved to approve the minutes from the June 17, 2014 meeting. Judge Key seconded the motion. The motion carried unanimously.

III. Old Business

A. LC296073 (Legislative Counsel Draft)

Pat Buonodono began the discussion by stating that in § 19-7-21.1(b)(2) access to the signed administrative legitimation papers should be provided upon request to the child involved as well, especially once they become an adult. Judge Abbot concurred.

Judge Tilley thanked Vital Records for having provided the documents to her court for the past years and opened the floor for comments and concerns from the representatives of Division of Child Services (DCSS) and Vital Statistics. Sid Barrett of the Department of Public Health, which oversees Vital Records suggested that the statute could be broadened to allow the children themselves access to the forms as well as government agencies that are responsible for child support enforcement. Stephen Harris of DCSS agreed that access to the forms could possibly be useful to the agency.

Judge Key inquired as to why judicial legitimation was a matter of public record but administrative legitimation was so closely guarded. Sid Barrett explained that it was result of the patchwork statutes that govern vital statistics and one in particular that is commonly interpreted to mean Vital Statistics can't distribute documents without statutory authorization. Judge Key asked if the statute couldn't just provide that administrative legitimation documents be made available to the same extent that judicial legitimations are available but it was revealed that too much confidential information is contained on the forms.

Jill Travis stated that a practical problem could arise in determining who is responsible for copying the documents at the time of signing. Katie Connell stated the goal was to allow Vital Statistics to distribute the administrative legitimation documents more broadly and that the onus of copying the documents upon signing can remain unspecified as it has been.

Judge Key inquired if a signed form that is not filed in Vital Records was valid. Sid Barrett replied that he felt it was but if it was not filed with Vital Records then it would be hard for it to have any legal effect. Judge Key proposed that filing requirements for these forms be included in the draft legislation since the main purpose of the form is to establish legal rights.

Stephen Harris pointed out that a lot of what was being discussed is already provided for in 45 CFR § 303.5 in regards to child support enforcement programs which could be drawn upon for language. Pat Buonodono stated that many of the issues are likely addressed in O.C.G.A. § 31-10 which regards Vital Statistics.

Jill Travis asked if there were any specific parties that should be barred from being able to retrieve the documents from Vital Statistics as well as if there was a specific timeframe for filing requirements. Sid Barrett added for a point of reference that there is no reason documents should not be received within 30 days of signing.

Judge Tilley opened the meeting for comments about any other issues regarding the draft legislation as it is written. Pat Buonodono commented that on lines 68 and 69 of the draft that addresses the criminal penalty for making a false statement and that it also need to align with O.C.G.A. § 31-10-31.

Shirley Champa stated that DCSS does universal testing regardless if they have administratively legitimated a child and wanted to make certain nothing in the revised statute would prohibit that. The

committee opened for discussion on the matter and it was agreed that nothing would prohibit universal genetic testing for agencies.

Judge Tilley referred to Judge Boggs' special concurrence in *In Re Estate of James Andrew Hawkins* (Ga. Ct. App. 2014) in that "in a particular case it may be laudable and even heroic for a man known not to be the father to accept the responsibilities of parenthood, this should not occur without some judicial oversight." Katie Connell added that the draft bill equally prevents a mother from signing the forms if she knows the signee is not the father.

Pat Buonodono suggested another change to the draft legislation to include a provision on line 154 to read "Prior to or upon the birth of a child" so that administrative legitimation paperwork could be received and reviewed at some point before child birth. This provision would hopefully encourage hospitals to give the forms out earlier and whenever an appropriate time arises. Jill Travis added that the committee could reach out to a lobbyist for the Georgia Hospital Association to see if there was a way to streamline the process, make it work more efficiently and possibly avoid any objection.

Judge Miller suggested that the Office of State Administrative Hearings (OSAH) handle legitimation petitions that do not involve custody and visitation as OSAH would be able to handle them more efficiently. Judge Tilley expressed an interest to add such a provision but to address this in the next legislative session so as not to complicate the current with any unforeseen hurdles.

Judge Baxter asked the committee if anyone had any comments on the privacy issue brought forth by Jill Travis previously, noting that one group who may have concerns regarding access to the forms is those lobbying for domestic violence issues. Pat Buonodono offered to discuss the issue with director for the Georgia Commission on Family Violence to see if there would be any issues from his group. Sid Barrett stated that making the document fully public would be a treasure trove for identity thieves. Ryan Bradley stated that a partner may not be presently abusive but could become so later and access to this form would guarantee availability of social security numbers to the abuser. Judge Tilley pointed out that these concerns are minimized by the fact that both parties have had access and knowledge to this information already due to their lives being entangled by parenthood and having previously signed the forms and having received copies. Jill Travis suggested that access be limited to signers, adult children, courts and governmental agencies. Katie Connell added that the point of administrative legitimation is to streamline the legitimation process to allow a child to be legitimated when all parties agree and to avoid excessive superior court actions and to limit access to the forms, which are signed voluntarily by parents would negate that point by forcing a parent to legitimate a child for a second time through the judicial process if they are seeking something such as parenting time and find that they need to prove legitimation.

Judge Key questioned the committee as to why the access to administrative legitimation forms should be any different than that of a birth certificate. Stephen Harris and Erica Thornton brought the committees attention to O.C.G.A. § 31-10-26(1) which gives access to certified copies to:

- (A) The person whose record of birth is registered;*
- (B) Either parent, guardian, or temporary guardian of the person whose record of birth or death is registered;*
- (C) The living legal spouse or next of kin or the legal representative or the person who in good faith has applied and produced a record of such application to become the legal representative of the person whose record of birth or death is registered;*
- (D) The court of competent jurisdiction upon its order or subpoena; or*
- (E) Any governmental agency, state or federal, provided that such certificate shall be needed for official purposes.*

Katie Connell moved to adopt the birth certificate language modified for administrative legitimation in the next draft legislation. Vic Hill seconded the motion, the motion carried unanimously.

Judge Tilley opened the meeting for any other concerns. Jill Travis inquired if there were any consequences to the added provision of a filing requirement and time limit of 30 days. The committee agreed that the parties could either sign another form within the first year of a child's life and have it timely file or proceed through the judicial route. Judge Key stated that there could be pushback from the hospital lobby due to an additional liability imposed on them by the new filing requirement. Judge Key also stated that the language needed to be crafted so that if the form was executed on the 364th day since a child's birth that it wouldn't have to be filed that day but rather 30 days from execution.

Judge Tilley reverted back to the penalty referred to in line 69 of the draft legislation and replaced Code Section 16-10-20 with Code Section 31-10-31 which has a higher penalty limits.

B. Proposed statutory revisions from Judge Tilley

No vote was taken to approve the draft legislation due to the changes discussed.

IV. New Business

A. Suggestions from CWLS attorneys

Pat Buonodono listed suggestions brought to her by Child Welfare Law Specialist (CWLS) attorneys.

1. Fathers who have signed administrative legitimation forms remain on the putative father's registry although they are now the known father. CWLS attorneys would prefer either the father taken off the registry or designated as a legitimated father on the registry.
2. Removing administrative legitimation altogether.

B. Who do we ask to carry this bill?

Sid Barrett suggested Representative Mary Margaret Oliver would be a good starting point given her interest in the subject matter. Judge Key directed staff of the commission to work with legislators who are involved with the commission to identify those most appropriate to carry the legislation. Jill Travis raised a point of order that she is currently under directive from Representative Barr to work with the commission.

C. Next steps?

Judge Key stated he would like the committee to review the two recent cases that have been critical of administrative legitimation to make sure the grievances have been addressed. Judge Key also inquired of Judge Abbot if the draft legislation needed to be approved by the Statute Review Committee before being brought to the full commission for approval. Judge Abbot replied that it does.

Judge Key introduced a topic for discussion in future meetings. In O.C.G.A. § 15-11-2(43) a legal father is defined as:

- (A) Has legally adopted a child;*
- (B) Was married to the biological mother of a child at the time such child was conceived or was born, unless paternity was disproved by a final order pursuant to Article 3 of Chapter 7 of Title 19;*
- (C) Married the legal mother of a child after such child was born and recognized such child as his own, unless paternity was disproved by a final order pursuant to Article 3 of Chapter 7 of Title 19;*
- (D) Has been determined to be the father of a child by a final paternity order pursuant to Article 3 of Chapter 7 of Title 19;*
- (E) Has legitimated a child by a final order pursuant to Code Section 19-7-22; or*
- (F) Has legitimated a child pursuant to Code Section 19-7-21.1.*

Under the juvenile code this would now give the father in any paternity order legal father status which would be in contravention with other code sections especially because a paternity action can be brought without legitimation. Jill Travis stated that this portion of the code section was simply brought forward from previous versions. Suggestions made to fix this issue are to remove (D) altogether, add “biological” in front of father in that subsection or to specify a means of legitimation in that subsection but it is ultimately left for further discussion in a future meeting.

V. Schedule Next Meeting

The next meeting will be held on August 19th, 2014 at 12:00 p.m.