

**Georgia Commission on Child Support
Administrative Legitimation Subcommittee
Minutes of Meeting: June 17, 2014**

Present in person:

Judge Velma Tilley, Chair
Judge Michael Key
Katie Connell
Judge John Simpson
Alexander King
Jill Travis, Legislative Counsel
Anne Kirkhope
Stephen Harris, DCSS
Erica Thornton, DCSS
Ryan Bradley, DCSS
Judge Lisa Rambo
Deborah Johnson
Patricia Buonodono, staff attorney
Elaine Johnson, staff
Bruce Shaw, staff

Present via teleconference:

Shirley Champa, DCSS
Rochelle Adkins, DCSS
Michael Coombs, DCSS
Representative Timothy Barr

The meeting began at 1:31 p.m.

- I. Welcome and Introductions
- II. Review of Minutes of 8/16/2013

Judge Tilley opened the floor for questions or comments regarding the 8/16/2013 minutes and there were none. Judge Key moved to approve the minutes, seconded by Judge Simpson. The motion carried unanimously.

- III. Old Business
 - A. Reminder of previous discussions

Patricia Buonodono went over the issues surrounding administrative legitimation. She stated that the signees of the administrative legitimation forms often don't know exactly what it is they have signed, often don't recall signing it and don't have access to the filed form after signing it. While the goal of this subcommittee is to ultimately make changes to statutes dealing with legitimation, the Division of Child Support Services (DCSS) has made it clear in the previous meeting that they do not want their current

process to change except to perhaps make it easier or at least easier to understand for all involved. Patricia Buonodono also stated that she has not yet reached out to the State Office of Vital Records to get one of their representatives to the meeting table for input will do so immediately following this meeting. Also, it is her aim to recruit a father's advocate to the table.

Judge Tilley added an example of a situation that has come before her court with some frequency to demonstrate the lack of understanding surrounding legitimation: there are signees who sign the form while being aware that they are not the biological father because it seems like the right thing to do, but they are unaware that by doing so they are committing perjury, a felony.

Patricia Buonodono stated that a presentation was made at the Family Law Institute by Dan Bloom that outlined the problem of the emotional state of signees immediately following the birth of a baby and that a possible solution is to give parents the forms before the birth so that they may be reviewed in a time of calm. A worry expressed by Patricia Buonodono is that there is no one at the hospitals adequately explaining the forms as they are signed and she hopes there are actions this subcommittee could take to remedy the situation.

Judge Simpson stated he would like the committee to consider the idea of genetic testing at birth to establish paternity and to require mothers to name the father. According to Judge Simpson, Connecticut tried this strategy. Initially both the mother and child lost public benefits if a father wasn't named, which proved to be problematic in the appellate courts, but once the penalty was amended to solely the mother losing benefits opposition seems to have quieted. Connecticut also had an opt-out mechanism for mothers with reason to not name the father such as domestic violence. Judge Simpson also brought forth a concern that with the increasing number of children born out of wedlock, there is a corresponding increase in the chance that these children could then become unknowingly involved with a close relative if there is no established father. Judge Simpson suggested that if a presumed father was proved to be the father through genetic testing, then he would then pay the test fee but in cases where the presumed father is proven not to be so, then the state would have enough interest in the matter to pay for the test.

Deborah Johnson added comment that requiring a mother to file a court action to avoid having to name a father would be an undue burden on victims of domestic violence and could possibly endanger these victims in certain scenarios. She went on to state that the number one issue that hinders child support enforcement is locating the obligor and not paternity acknowledgement, stating that she believes the benefit of mandatory genetic testing to the state would be minimal.

Judge Tilley cleared the discussion of genetic testing, stating that the idea would never fly politically. Her objective as chair of this committee is to amend the statutes to give the biological father a means of obtaining legal father status and curbing the instances of nonbiological fathers gaining the same status. Judge Key asked if the statute doesn't already do what was described and deter others from wrongly legitimating children with criminal sanctions. Judge Tilley stated that she has a case going through appeals at the moment where she took the position that the statute intends for only biological fathers to legitimate and is waiting to see how the Court of Appeals decides.

Judge Key inquired of Deborah Johnson that, assuming the percentage of indigent population that would be exposed to domestic violence is significant, albeit not a majority, how did she feel about the identification of fathers by DNA testing at birth. Deborah Johnson responded by saying she doesn't have the statistics for mothers involved in domestic violence but for mothers who are not victims of family

violence she sees two problems: 1)The current statute influences people to sign these forms immediately after child birth, which is a time of significant emotional turmoil; and 2) A mother feels an enormous amount of pressure to name a father even if she is uncertain who that might be.

Judge Simpson stated that the committee should not classify a particular gender as violent and that studies have been made that show that fathers want to be a part of their children's lives as well but often the mother and father's relationship breaks, therefore making it important to give fathers legal status to ensure their parental rights and to stay involved in the child's life. Judge Simpson would like to see some experimentation done in a county such as Carroll County, which has only one public hospital where children are born, in which DCSS could implement specific changes and possibly measure the results.

Patricia Buonodono inquired if it would be more helpful if there was more substance attached to the legal father status such as partial custody or visitation rather than requiring a separate legal action. Judge Simpson concurred and that it would also help eliminate a built in gender bias in the system. Deborah Johnson feels that the best way to increase the participation in the lives of children by fathers is to improve court access for these fathers.

Erica Thornton of DCSS stated that Vital Records trains birth clerks and the registrar's office on how to present these forms and they explain the forms to parents and attempt to determine if the signee is being dishonest. Michael Coombs, of DCSS's Paternity unit, confirmed this and stated that he is open to changes if necessary. Michael Coombs brought forth another issue as being the increasing number of children born inside wedlock with a biological father who is not the husband, pointing out that the only accurate way to acknowledge paternity would be with prenatal DNA testing. Judge Tilley stated that the Governor already ruled out prenatal testing indicating the committee should not pursue it.

During this discussion Representative Barr authorized Jill Travis to work with this committee as legislative counsel.

B. Discussion of scope of Subcommittee's work

The scope of this committee is to address any issues that arise from the application of O.C.G.A. § 19-7-21.1 and any statutes that are closely related and affect administrative legitimation such as O.C.G.A. § 19-7-22 and § 19-7-27, especially as to giving legal father status to anyone other than the biological father and thereby terminating the rights of the actual biological father as well as the timing of presenting the form almost immediately upon birth.

IV. New Business

A. Review of Proposed Statutory Revisions drafted by Judge Tilley

1. Discussion of draft

Judge Tilley drafted revisions for O.C.G.A. § 19-7-21.1 and § 19-7-22. The revisions assertively and precisely define a father as being biological. Also added is § 19-7-21.1(h) which would provide access to the forms by parents from vital records and § 19-7-21.1(i) which enables the forms to be vacated from vital records if they are entered in error. In § 19-7-22(b) there is a provision requiring a legal father who

is not the biological father to be served and named as a party in a case, and in § 19-7-22(c), notice and a hearing would be required for the court to pass an order of legitimation (see addendum).

Erica Thornton reminded the committee that if these changes were signed into law that the forms would need to be changed as well.

Judge Simpson stated that the delegitimation aspect could have negative consequences to children if a father is delegitimated due to a clerical error performed when the paper was filled out in the hospital.

Jill Travis added that some language will need to be tweaked and that § 19-7-22 has been amended in the last legislative session with house bill 242 that will take effect on July 1, 2014.

Deborah Johnson stated that in section (h) of the draft the committee should consider adding that the child should have access to the legitimation forms from vital records as should any guardian to the child.

Judge Key moved to adopt Judge Tilley's draft as a discussion draft, Katie Connell seconded the motion. The motion carried unanimously.

2. Discussion of who we ask to carry the bill
3. Next steps?

B. Other New Business

For the purpose of clarity this committee consists of Judge Tilley as chair, Judge Key, Judge Abbot, Katie Connell, Shirley Champa, Judge Simpson and Dan Bloom. Erica Thornton will reach out to Deborah Adams who is the director of Vital Records to see if she would like to participate in future meetings.

V. Schedule New Meeting

The next meeting will be scheduled within 4-6 weeks of this meeting after some direction is given by Judge Abbot as chair of the Georgia Commission on Child Support.