

LEGITIMATION

PACKET

The forms and instructions in this packet are to be used by the father of a child born out of wedlock to legitimate the child. They cannot be used by the Mother or any person other than the Father.

It is advisable to have an attorney when filling legal papers to be sure that your rights are protected and that all the procedures are correctly followed. **Courthouse personnel are prohibited by state law O.C.G.A. § 15-19-51 from giving legal advice.** Different situations may require special procedures and courthouse personnel cannot advise you on how to proceed or what forms may be necessary in specific situations.

QUESTIONS AND ANSWERS ABOUT LEGITIMATION

WHAT IS LEGITIMATION?

Legitimation is a legal action that an unmarried father of a child can use to receive the same legal rights to his children as a married father. Legitimation can be done three ways in the state of Georgia:

1. The parents marry each other;
2. Both parents sign a voluntary acknowledgement of legitimation;
3. The father files a court action for legitimation

WHO MAY FILE FOR LEGITIMATION?

Only the father of a child may file a petition seeking to legitimate his child.

WHAT IS THE LEGAL EFFECT OF A LEGITIMATION?

An order of legitimation creates a father and child relationship legally between the father and his child. An order of legitimation establishes that the child has full rights to inherit from the father. The order of legitimation also provides for the legal father to be listed on the child's birth certificate and for the child to have the father's last name.

The petition for legitimation may also include requests for visitation, parenting time, or custody. If these requests are made the court may order these requests in addition to legitimation based on the best interests of the child. If the court grants an order for legitimation only, an action for visitation and/or custody must be filed later.

If you are already listed on the child's birth certificate as the father, but you and the child's mother were not married to each other *and* you have not signed a voluntary acknowledgement of legitimation; you must still file a petition with the court to legitimate your child. **An order of legitimation is the only way that the father of a child born out of wedlock can be recognized as the legal father of a child and has the right to request custody and/or visitation.**

WHERE SHOULD THE PETITION BE FILED?

The Petition for Legitimation may be filed in the county of residence of the child's mother or in the county where another person has legal custody or guardianship of the child; or if there is an adoption pending, in the county where the adoption was filed. If the mother of the child or other person(s) having legal custody or guardianship of the child resides outside the state or cannot be found within the state, the petition may be filed in the county where the father resides.

HOW MUCH DOES IT COST TO FILE FOR LEGITIMATION?

There are basic filing fees for petitions that are scheduled by the **DeKalb County Superior Court Clerk's office**; therefore it is best to contact that office to ask about the cost to file for Legitimation. The number to their office is **404-371-2836**.

WHAT IS SERVICE?

“**Service**” is an official way to give notice to the mother, and **other people*** involved with your case, that you have filed your case and that they have the opportunity to then file a response with the court. If an individual or respondent in this case has not signed an acknowledgment of service, it may be necessary to have the individual served. If so, there are additional fees for service that are required by the sheriff or a private process server. You may check with the clerk's office also for more information regarding costs for service. Please note that Sheriff's Service is only provided within DeKalb County.

If your case involves persons who cannot be located for service you must seek another means of service called publication. There is an additional fee for publication the cost for publication can be requested from the Superior Court Clerk's office. Publication can be a difficult process. Please contact the **DeKalb County Family Law Information Center** and schedule an appointment to speak with an attorney for assistance. The telephone number is **404-687-3990**.

WHAT CAN I DO IF I DON'T HAVE THE MONEY TO PAY THESE FEES?

If you do not have the money to pay your filing fees and sheriff's fees, then you may ask the Court to consider waiving the fees. To do so you must file an **Affidavit of Poverty and the Order on the Affidavit of Poverty**. Both of these documents are available from the website or they may be obtained from the Family Law Information Center free of charge.

Make sure to complete the financial affidavit included with the legitimation packet as accurately and completely as possible. It will be considered when a decision is made regarding the Order on the Affidavit of Poverty. Other supporting documents may be required as well to support the hardship status. You will be informed by the judge's staff as to whether the affidavit is approved and the fees for filing waived.

***Others requiring service:** in addition to the mother, other person listed as father on birth certificate or legal guardian

PARENTING SEMINAR

In cases in which the care, custody or support of a child under the age of 18 years of age is involved, all parties are required to successfully complete an educational seminar. Registration is required. You may register online at <https://www.dekalbsuperiorcourt.com/parenting-seminar/> or you may call 404-371-4953 for more information.

HOW LONG WILL ALL OF THIS TAKE?

The length of time depends on the facts of your case. If the other person involved in the case must be served by publication, then the hearing cannot take place until after the publication is finished (60 days).

If the mother or another person must be served by the sheriff with the Petition to Legitimate the other persons or respondent(s) in the case are given 30 days to respond or file an answer with the court. After the 30 days you may file a request for a final hearing with the court. The case manager of the judge where your case was assigned will arrange for your hearing by placing the case on a calendar; you will be contacted so make sure that your address and telephone number is correctly filed with your documents.

DEFINITIONS

LEGITIMATION:	A legal action brought by a Father to establish his legal rights concerning his child who was “born out of wedlock”.
LEGAL FATHER:	A Father who has legitimated his child; a Father who was married to the Mother of the child at the time of its’ birth; a Father who married the Mother after the child was born and then executed an affidavit of paternity stating or acknowledging that the child is his child.
BIOLOGICAL FATHER:	The birth father of a child.
PETITION:	A form filed with a court that requests that a Judge do something for you.
PATERNITY:	A legal action brought by either a Father, Mother, or another interested party to establish that a father is the biological father of a child, and therefore has a duty to support the child he has fathered.
PETITIONER:	The person who files the petition with the Court, may in some cases be listed as “Plaintiff.”
RESPONDENT:	The person who the petition is being filed against; the person who should respond to the petition; may in some cases be listed as the “Defendant.”
SURNAME:	Last name.

Legitimation Packet

Within this packet are the following forms needed to file for the father to petition the court for Legitimation. Please follow the instructions for each *itemized* section of the forms. Please contact the DeKalb County Family Law Information Center and schedule an appointment to speak with an attorney to address any additional questions or concerns. The appointment may be scheduled online at www.dekalbsuperiorcourt.com or you may call to schedule by phone at 404-687-3990.

If the parents of the child(ren) agree, the following documents must be filed to **initiate and finalize the case**:

- a) Petition for Legitimation
- b) Summons
- c) Domestic Relations Financial Affidavit (*completed by each parent*)
- d) Child Support Worksheet & Schedules
(<https://csconlinecalc.georgiacourts.gov/frontend/web/index.php>)
(*completed by both parties together*) *
- e) Standing Order Governing All Domestic Cases
- f) General Civil and Domestic Relations Case Filing Information Form (*Obtain from Clerk's Office*)
- g) Mother's Consent to Legitimation
- h) Acknowledgement of Service
- i) Child Support Addendum
- j) Parenting Plan Agreement
- k) Request for Final Hearing

If the parents of the child(ren) do not agree, the following documents must be filed by **Plaintiff/Petitioner to initiate the case**. (*Other documents may be filed by the Respondent in response, including the Respondent/Defendant's proposed Child Support Worksheet and Parenting Plan*).

- a) Petition for Legitimation
- b) Summons
- c) General Civil and Domestic Relations Case Filing Information Form (*Obtain from Clerk's Office*)
- d) Standing Order Governing All Domestic Cases
- e) Sheriff's Entry of Service (*Obtain from Clerk's Office*)
(If you do not know where the Respondent lives or works, you may be able to serve them by publication. This requires showing the court you have a good-faith effort to locate them and getting the judge's permission to serve them by publication. *We strongly recommend you consult with an attorney, either at FLIC or elsewhere before seeking Service by Publication*).
- f) Domestic Relations Financial Affidavit

- g) Child Support Worksheet & Schedules
(<https://csconlinecalc.georgiacourts.gov/frontend/web/index.php>)
- h) Child Support Addendum
- i) Parenting Plan Proposal
- j) Rule Nisi

***Note:** The child support worksheets and schedules must be completed online at the referenced website. If you need assistance, you may receive help at the Family Law Information Center between the hours of 9:00 a.m. and 3:30 p.m.