



BIBLE LAW  
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# A GUIDE TO LEGITIMATIONS IN GEORGIA

Presented By

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For informational purposes, for clients of Bible Law Firm

# Legitimation Guide



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# Legitimation Guide



I recognize that the formatting and presentation of this booklet might not meet the polished standards one might expect from a professional publisher. Please understand that I am not a book publisher by trade or even that good at formatting a document. My primary goal in creating this booklet is straightforward: **to deliver crucial information to those who need it most.**

I'm keenly aware of the limitations inherent in conveying complex legal information during a phone conference or an initial office consultation. These formats, while valuable, can sometimes fall short in providing the comprehensive understanding that our clients seek. This booklet is intended to serve as a supportive resource for you following our initial consultation. It is designed to supplement, not replace, the personalized legal guidance I provide.

Please accept my apologies for any formatting irregularities you may encounter within these pages. Rest assured, the essence of this guide is to offer you clarity and assistance on your journey, rather than to showcase formatting expertise. Thank you for your understanding and for trusting me to assist you in this important legal process. With that said let me introduce myself...

I am Attorney Shawn Bible, and it is my privilege to provide you with an overview of this essential legal process designed to establish paternal rights for fathers and their children born out of wedlock. With over two decades of legal experience, I have dedicated a significant portion of my career to helping clients navigate the complexities of family law, ensuring that fathers can obtain legal recognition as the biological parents of their children.

I would like to tell you a little bit about myself. I attended the University of Georgia graduating in 1999 and then attended Georgia State Law School. After graduating from law school in 2003, I began my career working for the State of Georgia, where I gained experience in various aspects of legal and judicial processes working for the Georgia Public Defender Standards Council. For several years I served as a Special Assistant Attorney General (SAGG) for the Georgia Department of Health and Human Services. In this role, I was deeply involved in cases that directly impacted families and children, providing me with a profound understanding of the legal challenges and emotional dynamics involved in family law.

I had the honor of acting as the Solicitor in the Catoosa County Probate Court and the Ringgold Municipal Court from 2008 to 2015. I also provided legal services to the Catoosa Magistrate Court and the City of Fort Oglethorpe. These experiences honed my skills in litigation and deepened my comprehension of Georgia's legal system.

In 2009, I opened my own law office. Since then, my practice has focused on providing personalized and compassionate legal services in Family Law cases and a few other select matters.

This booklet is designed to guide you through the intricacies of filing for legitimation in the state of Georgia. It is my hope that by sharing my knowledge and experience, you will find clarity and support in your journey to secure your legal relationship with your child. However, this booklet is not a substitute for an attorney. If you are ready to take legal action consult an attorney.

## First a warning to unwed fathers

### **The Importance of Timely Action in Legitimation Cases. don't wait too long to take action**

In the state of Georgia, merely being listed on a child's birth certificate is not sufficient to establish legal rights as a father. This distinction is critical in understanding the legal framework surrounding paternity and legitimation in Georgia. While being named on the birth certificate might indeed recognize a man as the biological father, it does not, by itself, grant legal paternal rights. This includes rights to custody, visitation, or decision-making regarding the child's upbringing.

In the context of Georgia law, the process of legitimation is the legal mechanism by which a father establishes a legal relationship with his child, granting him rights to custody, visitation, and decision-making, as well as conferring upon the child certain legal rights and benefits. It is crucial for fathers seeking to legitimate their children to act promptly for several reasons, not least of which is the potential for significant legal and emotional consequences stemming from delay.

One primary concern is the legal principle that a prolonged delay in seeking legitimation can be interpreted by the courts as a lack of interest or commitment to the child's welfare. Georgia courts have discretion in legitimation cases to consider the timing of the petition in relation to the child's age and the nature of the father's relationship with the child up to that point. A court might infer from a delayed legitimation effort that the father has not been actively involved in the child's life or is not committed to assuming the responsibilities that come with legal recognition. This perception could negatively impact the father's case, potentially leading to a denial of the petition for legitimation.

Moreover, there exists a legal hazard in Georgia where another individual could establish a legally recognized relationship with the child through adoption or by being designated a de facto custodian in certain circumstances. If a step-parent, grandparent, or another party files for and is granted adoption or custodianship, it could preclude the biological father from being able to legitimate the child or significantly complicate the process. The law tends to favor the stability and permanency of the child's living situation, and if another individual has been providing care in a stable environment for a significant period, the court may determine it is in the child's best interest to maintain that arrangement, irrespective of the biological father's intentions.

Furthermore, Georgia law stipulates that certain legal actions, such as a petition for child support or an adoption filed by the mother or stepparent, could trigger a timeline within which a father must seek legitimation. Failure to act within prescribed deadlines can result in the loss of the opportunity to establish a legal relationship with the child, including the rights to custody and visitation.

In summary, timely action in seeking legitimation is critical. Delays can be interpreted by the courts as a lack of commitment to the child, potentially impacting the father's legal rights. Additionally, the risk of other parties establishing legal relationships with the child, thereby precluding legitimation, underscores the necessity of acting without undue delay. Fathers desiring to establish legal ties with their children should be diligent in initiating the legitimation process early to safeguard their rights and fulfill their responsibilities toward their children.

Now lets look at the timeline of a legitimation case and then we can explore the law and frequently asked questions.

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## THE TIMELINE OF A LEGITIMATION CASE

Below is a timeline of the typical legitimation case in the Lookout Mountain Judicial Circuit (Catoosa, Walker, Dade, and Chattooga Counties). However, every case is different and your case may not progress exactly according to the timeline outlined below. Most of the timeline would be applicable in any legitimation case in the State of Georgia, although local court rules can vary in each judicial circuit of the State.

**FILING FOR LEGITIMATION** - Every contested Legitimation case begins in the same manner. One party files a Petition for Legitimation and serves the other party. A Legitimation case is filed with the Clerk's office in the county where the case will be heard. The filing party must pay a filing fee, which is currently approximately \$250. The cost to serve the other party is usually around \$50 but can increase based on the difficulty of service and whether a private process server is utilized instead of the Sheriff's Office.

**PERSONAL SERVICE** - Like any civil case, a Legitimation case must be served upon the other party. This is typically achieved by employing a private process server or by having the County Sheriff serve the other party with the Petition for Legitimation. An Entry of Service, indicating that the other party has received the documents and signed an acknowledgment of receipt, will be filed with the Court. If an Ex Parte Order has been issued, the Temporary Hearing date will be set in that Order. The other party generally has 30 days from the date of service to file an Answer with the Court.

**OVERVIEW OF TEMPORARY HEARING** - The first court appearance, the Temporary Hearing, addresses immediate concerns. Any ruling or agreement reached at this hearing is temporary. Typical issues addressed include temporary custody and visitation arrangements for children, temporary financial support, and possibly temporary legal recognition of parental rights. Limitations exist for Temporary Hearings, such as a restriction on the number of witnesses and a two-hour duration limit without the Judge's prior approval. Each county in this Judicial Circuit schedules two "Circuit Court" days per month to hear Family Law cases.

**WHAT WILL THE FIRST COURT DATE BE LIKE AND WHERE WILL IT BE HELD?** As mentioned, your first court date is the Temporary Hearing, conducted during "Circuit Days" held twice a month in each county of the Circuit. For instance, Circuit Days in Catoosa County generally occur every other Wednesday at 9:00 AM. It's important to be in court and seated by 8:45 AM. Many cases are on the calendar for Circuit Days, and the Judge decides the order in which they are heard. Without judicial assignments in this Judicial Circuit, the judge for your case is unknown until the court date. Except for adoptions, all cases are public.

**WHAT HAPPENS AT THE TEMPORARY HEARING?** - Many cases are settled by agreement between the parties either before or on the day of the Temporary Hearing. If an agreement is reached, the attorneys will announce this in front of the Judge. One attorney then drafts the order for the other attorney's approval before it's sent to the judge for signature. If no agreement is reached prior to court, you will not receive a copy of the Order that day. If the case is not settled by agreement, a hearing in front of the Judge will decide all issues.

**EVIDENCE, WITNESSES, AND AFFIDAVITS AT TEMPORARY HEARINGS** - The Temporary Hearing is limited to two hours unless the Judge orders otherwise. Parties may call only two witnesses, including themselves. Due to these restrictions, parties may submit written affidavits instead of live testimony. These affidavits must be notarized and provided to the opposing party at least 24 hours before the hearing.

**DISCOVERY** - Discovery is the process by which parties in a Legitimation action, or any civil action, can obtain information and documents from the other party. It typically includes Interrogatories, Requests to Produce documents, Requests to Admit, and depositions. Discovery may start after the Temporary Hearing and continue until the Final Hearing. Its primary purpose is to prepare for trial by preventing one party from concealing information from the other party, thereby enabling the court to make a fair ruling.

**MEDIATION** – Mediation is required in all cases unless waived by the Court. Usually conducted after a Temporary Hearing but before the Final Hearing, formal mediation involves the parties and their attorneys attempting to resolve the case with the help of a neutral mediator. Costs for mediation are shared by the parties, typically around \$100 to \$150 per hour for each party. If an agreement is reached, it is documented in a legally binding mediation agreement.

**FINAL HEARING** - If the case is not resolved by agreement, a Final Hearing will be held. This may be before a judge, like a Temporary Hearing, or in some cases, a jury trial on some issues may be conducted.

## OVERVIEW OF THE LAW: THE BASICS

Legitimation in Georgia is a legal process specifically designed to establish the paternal rights of a father to his child if the child was born out of wedlock. This process is crucial for a father seeking to obtain legal recognition as the biological parent of his child, which includes the right to custody or visitation, and the responsibility for child support. Unlike a divorce proceeding, which involve the dissolution of marriage and the subsequent determination of parental rights and responsibilities for children born within that marriage, legitimation is necessary for a father to be legally recognized as a parent when the parents were never married.

In Georgia, legitimation enables a father to be listed on the child's birth certificate and to have a legal relationship with his child. **In Georgia, his process is the only way a father can establish legal rights to his child if he is not married to the child's mother at the time of the child's birth.** It is important to note that legitimation is distinct from establishing paternity, which merely acknowledges the biological connection between a father and his child without granting any legal rights.

The legitimation process involves filing a petition with the court, and it may also require consent from the mother or a legal action to establish those parental rights. Once legitimation is granted, the father can pursue custody or visitation rights, and the child gains rights to inheritance from the father and eligibility for benefits, such as health insurance coverage and Social Security benefits.

## DOES THERE HAVE TO BE A DNA TESTS

In Georgia, during the legitimation process, a DNA test may be required to establish the biological connection between the father and the child if the father's paternity is in question. This typically occurs in situations where the mother contests the father's claim of paternity or if the court has reasonable doubts regarding the biological relationship between the child and the father seeking legitimation. The requirement for a DNA test arises from the need to ensure that the legal rights and responsibilities being established through legitimation are appropriately attributed to the biological father of the child.

If a DNA test is ordered by the court, the process involves collecting and analyzing genetic samples from the father, the child, and sometimes the mother to determine the likelihood of the father's biological paternity. A positive result, indicating a high probability of paternity, supports the father's petition for legitimation by confirming the biological link to the child. Conversely, if the DNA test results do not support the claimed paternity, the petition for legitimation may be denied, as the legal process is contingent upon the establishment of a biological connection to the child.

It's important to note that while establishing paternity is a prerequisite for legitimation, the two are distinct legal processes. Paternity establishes the biological relationship, whereas legitimation is the subsequent legal step required in Georgia for a father to obtain rights to custody, visitation, and the responsibility for child support, along with enabling the child to gain inheritance rights and eligibility for benefits from the father.

## **PART ONE – CUSTODY, PARENTING PLANS AND VISITATION**

### **WHAT IS A PARENTING PLAN?**

A Parenting Plan in Georgia law is a comprehensive document required by the court in cases involving child custody and visitation. It may be separate document or be incorporated into a Court Order or Settlement Agreement. Its primary purpose is to outline in detail how the child or children will be raised and cared for by their parents following a divorce or separation. This includes specifying the living arrangements, visitation schedules, healthcare decisions, education plans, and how the parents will communicate about the child's welfare. The plan serves to ensure that the child's best interests are the forefront of parental decisions and legal determinations. Georgia law mandates that a Parenting Plan must be submitted to the court for approval in all cases where custody or visitation is contested, providing a structured framework for co-parenting that safeguards the child's developmental and emotional needs.

### **Joint Legal Custody and Primary Physical Custody: Understanding Georgia Law**

In the context of family law in Georgia, "Joint Legal Custody" refers to a custody arrangement where both parents share the rights and responsibilities for making major decisions regarding their child's welfare. These decisions may include, but are not limited to, education, healthcare, religious upbringing, and extracurricular activities. Joint legal custody necessitates that parents collaborate and communicate effectively to ensure that decisions made are in the best interests of the child. It is important to note that joint legal custody does not imply equal physical custody or time spent with the child; rather, it emphasizes shared decision-making authority.

When one parent is designated as the "Primary Physical Custodian," it means that the child resides primarily with that parent, who is responsible for the day-to-day care and decision-making related to the child's needs. While the child may spend time with both parents, the primary physical custodian provides the child's main residence. The other parent typically has specified visitation rights, which may vary widely depending on the specific circumstances of the case and what the court deems to be in the best interest of the child.

This distinction between joint legal custody and primary physical custody allows for both parents to be actively involved in their child's life and decision-making processes, while also providing the child with a stable and consistent home environment. The courts in Georgia strive to balance the interests of the child with the parental rights, encouraging arrangements that support the child's development and well-being.

### **I HAVE JOINT LEGAL CUSTODY BUT THE MOTHER HAS PRIMARY PHYSICAL CUSTODY. WHAT DOES THAT MEAN?**

When a father is granted joint legal custody but does not have primary physical custody of his child, he retains significant rights and responsibilities regarding the upbringing and welfare of the child. Joint legal custody means that both parents share the decision-making power over important aspects of the child's life. These areas commonly include education, health care, religious training, and extracurricular activities. It is important for both parents to communicate and collaborate on these decisions, aiming to reach agreements that serve the best interests of the child.

For instance, if the child requires medical treatment or is considering undergoing a surgical procedure, the father has the right to be involved in the decision-making process. He should be informed about the medical options available, contribute to the discussion, and have a say in the final decision regarding the treatment plan. Similarly, when decisions about the child's education arise, such as choosing a school, deciding on participation in special education programs, or considering tutoring services, the father has an equal right to participate in those discussions and decisions.

Furthermore, joint legal custody allows the father to have access to his child's records and information. This includes medical records, school reports, and any other documentation concerning the child's welfare and progress. The father is entitled to attend school meetings, doctor's appointments, and any other engagements that pertain to the child's development and well-being.

Illustrative examples include:

- A situation where the child is diagnosed with a learning disability and the parents must decide whether to enroll the child in special education classes. As a joint legal custodian, the father has the right to be fully involved in evaluating the options, discussing with educators, and making the ultimate decision that will best support the child's educational needs.
- If the child is being considered for a major medical procedure, such as orthodontic surgery or treatment for a chronic condition, the father is entitled to participate in discussions about the potential benefits and risks of the procedure, explore alternatives, and have a say in whether to proceed with the treatment.
- Decisions about the child's religious upbringing, such as which faith to follow or the extent of religious involvement and activities, require the input and agreement of both parents. The father has the right to express his views and ensure they are considered in the final arrangement.

In all these scenarios, the essence of joint legal custody is the shared responsibility and right to make critical decisions that impact the child's life and future. It underscores the importance of both parents' roles in providing guidance, support, and care for their child, regardless of the physical custodial arrangement.

## **A WARNING ON JOINT LEGAL CUSTODY**

In my two decades of legal practice, I have encountered countless fathers facing challenges in enforcing their rights outside of the courtroom. Despite legal provisions granting them significant decision-making roles in their children's lives, the reality on the ground can often be different. Fathers may encounter resistance from various quarters, including the other parent, educational institutions, and healthcare providers. This resistance can manifest in difficulties accessing their child's records, participating in school meetings, or being involved in medical decisions.

It is a significant concern, and one that my team and I strive to address through diligent legal support. However, it's important to acknowledge that these challenges persist, and fathers seeking to exercise their rights may face pushback. Over my career, I've observed a gradual shift towards more equitable treatment of fathers in these matters, reflecting a growing recognition of their vital role in their children's lives. Yet, there remains a considerable distance to cover in ensuring fathers can effectively exercise their rights outside the courtroom without undue obstruction.

This issue underscores the importance of legal guidance and advocacy in navigating the complexities of family law, especially for fathers determined to play an active role in their children's upbringing. My commitment to my clients includes not only representing them in legal proceedings but also empowering them to advocate for their rights and their children's best interests in all areas of life.

## **OK THEN IN WHAT CASES CAN I GET PRIMARY CUSTODY?**

While the law in Georgia, as in all jurisdictions, does not expressly favor mothers over fathers in matters of child custody, it is often observed that mothers may have a perceived advantage in obtaining primary custody in legitimation cases. This perception does not stem from an explicit legal bias but rather from traditional caregiving roles and the circumstances surrounding the child's care up until the point of legal action.



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In practice, courts strive to make custody determinations based on the best interests of the child, considering various factors such as the child's relationship with each parent, the stability of each home environment, and the ability of each parent to meet the child's needs. Despite the gender-neutral stance of the law, the outcome of these considerations often leads to mothers being awarded primary custody more frequently, especially if they have been the child's primary caregiver up to that point.

However, there are several scenarios where a father might successfully obtain primary custody over the mother in a legitimation case, including but not limited to:

1. **\*\*Stability and Safety of the Child's Living Environment:\*\*** If the father can demonstrate that he provides a more stable and safe living environment for the child compared to the mother, the court may decide in favor of the father. Examples include situations where the mother's residence is unstable, dirty, unsafe or lacks adequate living conditions.

2. **\*\*Mother's Unfitness:\*\*** A father may be granted primary custody if there is evidence that the mother is unfit due to issues such as substance abuse, mental health problems, or a history of neglect or abuse. Courts will consider such factors seriously as they directly impact the child's well-being.

3. **\*\*Established Primary Caregiver:\*\*** If the father has been the primary caregiver of the child for a significant period, especially if the mother has been absent or minimally involved in the child's life, the court may recognize the father's role as critical to the child's stability and grant him primary custody.

4. **\*\*Child's Preference:\*\*** In cases involving older children, the court may take the child's preference into account if it can be demonstrated that the child has a stronger bond or preference for living with the father. This is usually considered alongside other factors to ascertain the child's best interests. In the state of Georgia, the law provides a specific framework that allows children of certain ages to have a say in their living arrangements following a separation of their parents. This legal provision recognizes the importance of considering the preferences of children when determining custody arrangements, with distinct guidelines for children aged 11 to 13 and those who are 14 and older.

For children between the ages of 11 and 13, Georgia law allows them to express a preference regarding which parent they wish to live with. While the court considers the child's preference, it is not bound to follow it. The judge will take into account the child's wishes as one of many factors in determining what is in the best interest of the child. This means that while a child's preference is important, it is not the sole determinant of custody decisions. The court will also evaluate other critical factors such as the stability of each parent's home, the parents' ability to meet the child's needs, and the overall impact on the child's welfare and development.

For children aged 14 and older, Georgia law grants them a more significant say in their living arrangements. A child who is 14 years or older has the right to choose which parent they want to live with. This choice is given considerable weight by the court, and unless the parent chosen is deemed unfit or the court finds that the living arrangement with the chosen parent is not in the child's best interest, the court will typically honor the child's decision. It is a presumption in favor of the child's selection, recognizing the capacity of children at this age to make informed decisions about their living situations.

5. **\*\*Willingness to Facilitate a Relationship with the Other Parent:\*\*** If the court finds that the mother is unwilling or unable to facilitate a healthy relationship between the child and the father, and the father is better equipped to support a relationship with the mother, this can weigh in favor of granting the father primary custody.

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It is essential for fathers seeking primary custody to provide compelling evidence to support their case, focusing on the best interests of the child and demonstrating their ability to provide a stable, nurturing, and safe environment. The courts' paramount consideration is always the welfare and best interests of the child, irrespective of the parent's gender.

## ADVICE ON CO-PARENTING OR WHAT THE COURT EXPECTS YOU TO AND INTERACT WITH THE OTHER PARENT

Co-parenting is a collaborative and respectful approach where separated or divorced parents work together to raise their child. It involves open communication, mutual decision-making, and shared responsibilities, ensuring the child's needs and well-being are prioritized. By maintaining a positive and supportive relationship, parents can provide a stable and loving environment, despite living in separate households. Also, it is what the Court expects you to do.

### Examples of Good Co-Parenting:

1. **Effective Communication**: Parents maintain open, respectful, and direct communication channels regarding their child's needs, schedules, and important decisions. They use tools like co-parenting apps to share updates, school reports, and medical information.
2. **Flexibility**: Parents exhibit flexibility in scheduling, understanding that unforeseen circumstances, such as illness or family events, may necessitate adjustments to the visitation plan. They accommodate each other's requests for changes when possible, prioritizing the child's best interests.
3. **Unified Parenting Decisions**: Despite their differences, parents agree on key parenting issues, including disciplinary approaches, educational choices, and health matters, providing a consistent upbringing for their child.

4. **Supporting Each Other's Relationship with the Child**: Each parent encourages and facilitates the child's relationship with the other parent, speaking positively about them and ensuring the child feels loved and wanted by both parents.

### Examples of Bad Co-Parenting:

1. **Using the Child as a Messenger**: Parents communicate through the child, putting them in the middle of adult issues, which can lead to feelings of anxiety and torn loyalty.
2. **Undermining the Other Parent**: One parent criticizes or undermines the other parent's decisions and authority in front of the child, leading to confusion and conflict in the child's relationship with both parents.
3. **Inflexibility and Control**: A parent refuses to adjust the visitation schedule for special occasions or emergencies, using the custody agreement rigidly to control or punish the other parent.
4. **Excluding the Other Parent**: A parent makes significant decisions about the child's life without consulting the other parent or excludes them from important events and milestones, damaging the co-parenting relationship and the child's well-being.

### Advice for Demonstrating a Commitment to Co-Parenting:

1. **Prioritize Communication**: Make a concerted effort to communicate openly and constructively with the other parent. Utilize co-parenting apps or email to document exchanges and maintain a business-like tone in communications.
2. **Encourage the Child's Relationship with the Other Parent**: Actively support your child's relationship with the other parent. Share positive stories, remind the child of the other parent's love, and facilitate regular contact.

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3. **Seek Mediation When Needed**: If disagreements arise, consider mediation to resolve issues rather than letting conflicts escalate. This demonstrates a willingness to work together for the child's sake.

4. **Be Flexible and Compromise**: Show a willingness to compromise and be flexible with scheduling and parenting decisions. This flexibility demonstrates a commitment to the child's needs over personal convenience or winning against the other parent.

5. **Attend Co-Parenting Workshops or Counseling**: Participating in co-parenting workshops or counseling can improve communication skills, demonstrate a commitment to co-parenting, and provide strategies for resolving conflicts amicably.

By embodying the principles of good co-parenting and avoiding the pitfalls of bad co-parenting, you can demonstrate to the court, the other parent, and most importantly, your child, that you are committed to facilitating a positive and supportive co-parenting relationship.

## Practical aspects of visitation and FAQ on visitation

All parenting plans in Georgia law incorporate a detailed visitation schedule as a fundamental component, ensuring that the child or children involved maintain a consistent and meaningful relationship with both parents. The schedule covers regular daily living arrangements, weekends, school holidays, public holidays, and special occasions like birthdays and vacations, ensuring both parents share in the joys and responsibilities of raising their child. It's designed to minimize conflicts and misunderstandings by setting clear expectations for both parents, thereby safeguarding the child's best interests and promoting a positive co-parenting environment.

A typical visitation schedule for a noncustodial parent in Georgia, where the parents live close to each other, might include the following provisions:

1. **Weekends**: The noncustodial parent shall have visitation with the child every other weekend, from Friday at 6:00 PM until Sunday at 6:00 PM.

2. **Midweek Visitation**: One weekday evening per week, typically Wednesday, from 5:00 PM until 8:00 PM. This allows the noncustodial parent regular, brief contact with the child during the school week, facilitating involvement in the child's daily life and activities.

3. **Holidays**: The holiday schedule alternates annually to ensure that both parents have the opportunity to spend significant holidays with the child. For example, the noncustodial parent may have the child for Thanksgiving in odd years and Christmas in even years, with the specific times from 9:00 AM the day before the holiday until 7:00 PM on the holiday itself. Other holidays such as Easter, Memorial Day, Labor Day, and the child's birthday should be equally divided and alternated between the parents.

4. **Spring Break and Fall Break**: Each parent is entitled to spend one half of the school's spring break and fall break with the child. The division of these breaks should alternate each year between the parents.

5. **Summer Vacation**: The noncustodial parent shall have an extended period of visitation during the summer vacation, typically two to four consecutive weeks, to be agreed upon by the parents by May 1st of each year. This allows for vacation plans and quality time without interrupting the school schedule.

6. **Special Occasions**: Both parents are encouraged to agree on visitation for special occasions like the child's extracurricular activities, family reunions, and significant milestones to ensure the child's best interests are prioritized.

7. **Transportation**: Responsibility for the child's transportation to and from visitation shall be shared between the parents. The parent beginning their visitation period is responsible for picking up the child, and the parent ending their visitation period is responsible for returning the child.

8. **Right of First Refusal**: Should the custodial parent require child care for a period longer than a few hours, they must first offer the noncustodial parent the opportunity to care for the child before arranging for alternative child care.

This visitation schedule is designed to maintain a strong relationship between the child and the noncustodial parent, emphasizing regular and significant contact. It is subject to modification based on the child's needs, parents' work schedules, and any special circumstances that may arise.

## PART TWO – CHILD SUPPORT AND DIVISION OF EXPENSES

### WILL I HAVE TO PAY CHILD SUPPORT?

The simple answer is child support must be addressed. My office does everything it can to ensure clients are treated fairly when it comes to child support. However, at the end of the day, the court will set child support based on the Georgia Child Support Guidelines. Generally speaking, the only way you will not be required to pay child support is if you obtain primary physical custody (the child is with you the majority of the time). Even then the court will still have to examine each party's financial responsibilities based on their income and other factors. The below is an overview of child support law and how the court determines child support.

In Georgia, the determination of child support in a legitimation case follows a process aimed at ensuring the financial well-being of the child involved. The court employs a specific set of guidelines to calculate child support, taking into consideration the income and financial obligations of both parents. This calculation is designed to meet the essential needs of the child, including housing, food, education, and healthcare.

The process begins with each parent completing a detailed financial affidavit, disclosing their monthly income and expenses. The court then references the Georgia Child Support Obligation Table to ascertain the basic child support obligation based on the combined income of both parents and the number of children.

The Georgia Child Support Obligation Table, which is pivotal in determining child support in legitimation cases, has been made accessible as an online worksheet. This innovative tool allows parents and legal professionals to accurately calculate child support payments by inputting specific financial information. The online worksheet simplifies the process by automatically adjusting for various factors such as income levels, number of children, and additional expenses like healthcare and education. This digital approach ensures that calculations are in alignment with Georgia's child support guidelines, providing a transparent and efficient method for determining financial responsibilities. It is designed to be user-friendly, allowing for an intuitive navigation through the steps required to ascertain the appropriate child support obligation.

This online worksheet is available through the official website of the Georgia Child Support Commission. It not only facilitates the calculation process but also offers resources and guidance to help understand the legal obligations related to child support in Georgia. By utilizing this online tool, parties involved in legitimation cases can gain insights into their potential financial commitments, thereby promoting informed decision-making throughout the legitimation process.

Adjustments to this basic obligation may be made based on several factors, such as the cost of health insurance for the child, educational expenses, and any special needs the child may have. Additionally, the court considers the custodial arrangement established in the legitimation process. For instance, if one parent is granted primary physical custody, the non-custodial parent is typically required to pay child support. However, in cases of joint physical custody, where the child spends a significant amount of time with both parents, the child support obligation may be adjusted accordingly.

It is crucial for parents to understand that child support is a legal obligation enforced by the court. Failure to comply with child support orders can result in legal penalties, including but not limited to, wage garnishment, contempt of court charges, and the suspension of driving privileges.

The goal of the child support determination process in Georgia's legitimation cases is to ensure that children benefit from the financial support of both parents, irrespective of the parents' marital status at the time of the child's birth. This approach aligns with the overarching principle that parents bear a mutual responsibility for the financial care of their children, aiming to safeguard the child's best interests in every legitimation case.

## **Deviations from the Child Support Guidelines in Georgia: Health Insurance, Work-Related Daycare, and Parenting Time**

In Georgia, while the child support obligation is primarily determined using the Georgia Child Support Obligation Table, there are circumstances under which the court may deviate from these guidelines. These deviations are made to ensure that the child support order reflects the best interests of the child, considering the specific needs and circumstances of each family. Notably, deviations may occur in areas such as health insurance, work-related daycare expenses, and parenting time.

It's important to note that any deviations from the standard child support guidelines require a written finding by the court that applying the guidelines would be unjust or inappropriate in a particular case. The court must consider the best interests of the child in conjunction with the circumstances of each parent. These deviations ensure that the child support order is equitable, reflecting the unique needs of the child and the financial capabilities of the parents.

**Health Insurance:** The court will consider the cost of health insurance for the child when determining child support obligations. If one parent is providing health insurance for the child, the cost of this insurance is factored into the child support calculation. The court will deviate from the standard guideline amount to account for this expense, ensuring that the child has adequate health coverage without placing an undue financial burden on the providing parent.

**Work-Related Daycare:** Work-related daycare expenses are another area where deviations from the standard child support guidelines may occur. If one or both parents incur daycare expenses due to employment, job search, or education aimed at improving employment skills, these costs can be added to the basic child support obligation. This deviation recognizes the necessity of childcare in allowing parents to work or improve their employment prospects, ultimately benefiting the child's financial stability.

In Georgia, work-related daycare expenses can significantly impact the calculation of child support, often leading to a higher obligation due to the added costs of childcare. Recognizing the variability and potential decrease in these expenses as a child ages, Georgia law does provide for circumstances where daycare costs may be handled outside of the standard child support worksheet. This approach is particularly advantageous for managing the dynamic nature of daycare expenses without necessitating frequent legal adjustments to the child support order.

Typically, work-related daycare costs are included in the basic child support obligation, reflecting the necessity for childcare that allows a parent to maintain employment. However, the law acknowledges that as children grow older, the cost of daycare may reduce as they enter public school or no longer require full-time daycare services. To address this, the court has the discretion to order that work-related daycare expenses be paid directly to the caregiving parent or to the daycare provider, separate from the calculated child support payment on the worksheet. This method is employed to ensure that child support amounts more accurately reflect the actual costs incurred for childcare over time.

By handling daycare costs outside the standard worksheet, parties can avoid the administrative burden of returning to court for modifications to the child support order as daycare needs and associated costs diminish. This arrangement requires clear documentation and agreement between the parties, often facilitated by legal counsel, to ensure that all daycare expenses are accounted for and appropriately adjusted as the child's needs change.

**Parenting Time:** Georgia law acknowledges that the amount of time a child spends with each parent can impact the financial expenses related to raising the child. Therefore, the court may consider significant variations in parenting time when calculating child support. If the non-custodial parent spends more time with the child than the standard visitation schedule, the court may reduce the child support obligation to reflect the increased costs incurred by the non-custodial parent during extended parenting time. Conversely, if the non-custodial parent has less parenting time, resulting in higher costs for the custodial parent, the court may adjust the child support obligation accordingly.

**Legal Update on parenting time - Beginning in 2026,** Georgia's child support guidelines will undergo a significant change with respect to how parenting time is considered in the calculation of child support obligations. This adjustment is designed to more accurately reflect the financial implications of the actual time each parent spends with their child or children.

Under the new guidelines, the court will have enhanced flexibility to adjust child support amounts based on a more detailed analysis of parenting time. Specifically, the guidelines will introduce a tiered approach to parenting time adjustments, which will allow for child support obligations to be more closely aligned with the proportion of time the child spends with each parent. This means that if a non-custodial parent has the child for a greater number of overnights or days than is typical under standard visitation schedules, the child support obligation may be reduced to account for the direct financial contributions made during these periods.

Conversely, if the non-custodial parent spends significantly less time than what is considered standard, the guidelines may result in an increase in the child support obligation to acknowledge the greater financial burden shouldered by the custodial parent. This nuanced approach aims to ensure that child support orders are fair and equitable, taking into consideration the true dynamics of parenting time and its financial impact on both parents.

The 2026 update to the child support guidelines emphasizes the state's commitment to ensuring that child support orders are reflective of the realities of shared parenting. It acknowledges the importance of both parents' contributions to the well-being of their child, not only in financial terms but also in terms of time and care. This change is expected to encourage more collaborative and flexible co-parenting arrangements, with the ultimate goal of serving the best interests of the child.

Local judges are already anticipating the 2026 changes to the child support guidelines, particularly with respect to how parenting time factors into the calculation of child support obligations. In some cases, judges are proactively utilizing parenting time deviation calculators from other states to adjust the child support worksheet in anticipation of these changes, even before their official implementation in 2026.

## WHEN DO I START PAYING CHLD SUPPORT

Child support will be addressed at the Temporary Hearing. However, it is important to understand that court orders, including those related to child support, are often not signed by the judge until days or sometimes weeks after the court date. If you are ordered to pay child support, it is prudent to start setting aside funds immediately, even if the exact amount has not yet been determined. Typically, child support obligations will revert back to the date of the court hearing. This means that the order will often include a "nunc pro tunc" date, which in Latin means "now for then." This legal principle allows the order to take effect from an earlier date, usually the date of the Temporary Hearing, thereby ensuring that child support covers the period from the hearing date until the order is officially entered by the court.

In accordance with local practice, after the judge verbally rules on a case, one of the attorneys is instructed to prepare a rough draft of the court order. This draft is then subject to review and approval by the opposing attorney before it is submitted to the judge for final signature. This process, from the initial drafting to the final approval and submission to the judge, may take several days or weeks. This procedure ensures both parties have the opportunity to review the court's decision and agree on the language of the order, reflecting the judge's ruling accurately in the written document. This collaborative and iterative review process is designed to minimize disputes over the interpretation of the judge's verbal ruling and to facilitate a more efficient and agreeable resolution to the case.

## **A WARNING: KEEP UP WITH YOUR PAYMENTS!!**

Keeping meticulous records of child support payments and retaining proof of such payments are critical practices for any parent involved in a child support arrangement. This diligence serves several vital purposes, both practical and legal, in managing one's child support obligations effectively.

It is the sole responsibility of the parent obligated to pay child support to meticulously document and keep track of all payments made. This proactive approach is crucial, as it is not the responsibility of the government, the court, or the receiving parent to maintain records of your payments. Ensuring that you have a comprehensive record of the dates, amounts, and methods of each payment can serve as invaluable evidence in the event of any disputes or misunderstandings regarding child support.

Firstly, maintaining accurate records and proof of payment safeguards a paying parent against potential disputes or claims of non-payment by the other parent. In the event of a disagreement, having a detailed log of payments, including dates, amounts, and methods of payment, along with receipts, bank statements, or any other documentary evidence, can quickly resolve disputes and demonstrate compliance with the child support order.

Secondly, in cases where the issue of child support non-payment escalates to a contempt proceeding, the burden of proof often shifts to the paying parent to demonstrate that they have fulfilled their child support obligations. In contempt proceedings, the court seeks to enforce compliance with its orders, including child support. If a receiving parent alleges non-payment and files for contempt, the paying parent must then provide clear, convincing evidence of their payments to avoid potential penalties, which can include fines, attorney fees, and even incarceration.

The ability to present well-organized and comprehensive records of child support payments is not only a defense against contempt charges but also a proactive measure that supports the paying parent's credibility and reliability in the eyes of the court. It underscores the parent's commitment to fulfilling their financial responsibility towards their child's welfare.

## **Child Support Payment Methods and the Use of Income Deduction Orders**

In Georgia, child support payments can be made through various methods, ensuring flexibility and convenience for both parents. Common methods include direct payments between parents, electronic transfers, and payments made through the Georgia Family Support Registry. Each method has its advantages, catering to the differing needs of families navigating the child support process.

Direct payments between parents are often utilized in situations where there is a high degree of trust and cooperation. This informal arrangement allows for a straightforward exchange of support without the involvement of third-party agencies. However, it is crucial for the paying parent to keep meticulous records of each payment to prevent any disputes over non-payment or underpayment.

Electronic transfers, including bank transfers or online payment services, offer a reliable and traceable method for making child support payments. These digital options provide both parents with clear records of transactions, thereby minimizing the potential for disputes and enhancing accountability.

The Georgia Family Support Registry is another avenue through which child support payments can be made. This state-run agency acts as an intermediary, collecting payments from the paying parent and distributing them to the receiving parent. Utilizing the Family Support Registry ensures that all payments are officially documented, providing an extra layer of security and record-keeping for both parties.

## **Income Deduction Orders in Child Support Cases**

An Income Deduction Order (IDO) is a legal document that mandates the automatic deduction of child support payments from the paying parent's income. This order is forwarded to the employer of the paying parent, who is then responsible for withholding the designated amount from the employee's paycheck and directing it to the appropriate agency or recipient.

The primary reason for requesting an Income Deduction Order is to ensure consistent and timely child support payments. By automating the payment process, the risk of missed or late payments is significantly reduced, providing financial stability for the child and peace of mind for the receiving parent. IDOs are particularly beneficial in cases where there has been a history of irregular or delayed payments, offering a structured solution that safeguards the child's financial interests.

However, not all child support cases involve Income Deduction Orders. In situations where both parents agree on a reliable payment method and there is a history of timely payments, an IDO may not be necessary. Furthermore, some parents may prefer the flexibility of direct payments or electronic transfers, which can be more immediately adjusted in response to changing financial circumstances. The decision to request an Income Deduction Order ultimately depends on the specific needs and dynamics of each case, with the child's well-being as the paramount consideration.

In summary, while an Income Deduction Order provides a highly effective mechanism for ensuring regular child support payments, it is not universally applied in all cases. The choice of payment method, including whether to utilize an IDO, should be tailored to the unique circumstances of each family, always with the aim of promoting the best interests of the child.

## **Division of medical bills and insurance**

The division of medical bills and expenses for the child is another crucial aspect of family law in Georgia. Generally, the non-custodial parent may be required to contribute to significant healthcare expenses incurred on behalf of the child, including but not limited to, health insurance premiums, unreimbursed medical expenses, and costs associated with childbirth. These expenses are typically divided between the parents in proportion to their income, as determined during the child support calculation process. The court's primary concern in dividing these costs is to ensure that the child's health and welfare needs are adequately met, while also considering the financial capabilities of each parent.

## **Maintaining Accurate Records of Medical Expenses**

One crucial aspect of managing your case effectively involves keeping meticulous records of all medical expenses related to your child. This includes any medical bills you pay out-of-pocket or those you request the other party to cover. Accurate documentation is vital for several reasons:

1. **Ensuring Reimbursement:** Properly documented expenses can serve as a basis for seeking reimbursement from the other party if such arrangements have been agreed upon or ordered by the court.
2. **Evidence in Court:** Should disputes arise regarding the contribution to medical expenses, detailed records of bills and payments can provide clear evidence to support your position.



3. **Financial Planning:** Knowing the extent of medical expenses can aid in budgeting and financial planning, especially when negotiating support or reimbursement terms.

To this end, it is recommended to save all receipts, insurance statements, and correspondence related to your child's medical care. Additionally, maintaining a log or spreadsheet summarizing these expenses can be particularly helpful for tracking purposes and for presenting a clear and organized overview of financial contributions towards your child's healthcare needs.

## **I HAVE LEGITIMATED MY CHILDREN SO CAN CLAIM THEM ON MY TAXES?**

In Georgia, as in all states, the question of which parent is entitled to claim a child as a dependent on federal income taxes is ultimately determined by Internal Revenue Service (IRS) rules, not by state courts. While local courts may include provisions related to claiming the child in their custody or support orders, these state-level decisions do not supersede the authority of the IRS.

The IRS criteria for determining which parent can claim a child as a dependent focus primarily on where the child has lived for the greater part of the year (the "custodial parent") and the financial support provided. In many cases, the custodial parent, defined as the parent with whom the child spends the majority of nights during the year, is typically entitled to claim the child on their taxes.

However, there are scenarios where the non-custodial parent may claim the child as a dependent. This can occur if the custodial parent signs a Release/Revocation of Release of Claim to Exemption for Child by Custodial Parent, allowing the non-custodial parent to claim the exemption. This form is a tool used to implement the terms of divorce decrees or separation agreements regarding tax exemptions.

For example, in a typical scenario where the mother has primary physical custody and the father pays child support, the mother is generally the parent eligible to claim the child on her taxes. Nonetheless, if both parents agree that the father should claim the child (perhaps for tax planning purposes or as part of their financial agreement), they can arrange for the mother to sign a form to facilitate this.

Another scenario involves alternating the tax exemption between parents. Some parents choose to alternate years in which they claim the child on their taxes. This arrangement is often explicitly detailed in the divorce decree or custody agreement.

It's important for clients to understand that despite any state court order regarding the right to claim a child on taxes, compliance with IRS rules is paramount. Parents must adhere to the specific IRS guidelines and ensure that any agreement made in state court can be supported by the appropriate IRS forms and documentation. This ensures that both parents remain in compliance with federal tax laws, avoiding potential disputes or audits by the IRS.

In this area, our office advises you to consult an accountant or tax professional to ensure compliance with IRS rules and to strategically plan for the most beneficial tax treatment. Tax laws can be complex and subject to frequent changes, making it crucial to seek specialized guidance. An accountant or tax professional can provide up-to-date advice on how to navigate the IRS guidelines effectively, particularly in scenarios involving the right to claim a child as a dependent. This professional guidance is essential to avoid potential disputes or audits by the IRS and to ensure that any agreement made in state court regarding tax exemptions aligns with federal tax laws. Their expertise can also offer strategic insights into optimizing your tax situation, potentially leading to significant financial benefits.

## PART THREE – AFTER THE FINAL ORDER

In Georgia, after a final order regarding custody or child support has been issued, parties may seek modifications to these orders under specific circumstances. The law recognizes that life situations change, which may necessitate adjustments to custody arrangements or child support obligations to serve the child's best interests and ensure fairness among parties.

### Modifying Custody Orders and Child Support after a Final Order

#### Modification of Custody Orders

To modify a custody order, the party seeking the change must demonstrate a substantial change in circumstances that affects the welfare or interests of the child. This substantial change could involve relocation, a significant alteration in a parent's lifestyle, or changes in the child's needs. The paramount consideration for the court in evaluating a petition for modification is the best interests of the child.

Georgia law imposes a two-year waiting period for filing a petition for modification of custody following the entry of a final custody order, except in circumstances where the child's welfare is at risk. This limitation aims to provide stability in the child's life and prevent frequent, disruptive changes. However, if there is evidence that the child is in a situation that may harm their physical health or significantly impair their emotional development, the court may consider a modification request before the two-year period elapses.

#### Modification of Child Support

Similar to custody modifications, child support orders can also be modified if there is a substantial change in either parent's financial circumstances or the needs of the child. Changes that may warrant a modification include a significant increase or decrease in a parent's income, changes in custody arrangements, or extraordinary expenses for the child's healthcare or education.

There is no statutory waiting period for seeking a modification of child support; however, it is generally advisable to wait until there is a clear and significant change in circumstances to warrant the court's consideration for modification. The party seeking the modification must file a petition with the court that issued the original order, providing evidence of the change in circumstances.

### Legal Limits on Filing Modification Actions

While the law allows for modification of custody and child support orders, there are legal limits designed to prevent abuse of the system and ensure stability for the child. These include:

1. **\*\*Two-Year Waiting Period for Custody Modifications\*\***: Except in cases where the child's welfare is at immediate risk, there is generally a two-year waiting period to file for a modification of the custody order.
2. **\*\*Requirement of a Substantial Change in Circumstances\*\***: Both custody and child support modifications require a demonstrable substantial change in circumstances that affects the child's welfare or the fairness of the support obligations.
3. **\*\*Best Interests of the Child\*\***: In custody modification cases, the court's primary concern is the best interests of the child. Any proposed change must enhance or protect the child's wellbeing.
4. **\*\*Proof of Change in Financial Circumstances for Support Modification\*\***: For child support modifications, the petitioner must provide clear evidence of a significant change in financial circumstances that justifies an adjustment in support levels.

Parties considering a modification to custody or child support orders should consult with a legal professional to understand the specific requirements and limitations. Proper legal guidance ensures that any petition for modification is filed correctly and with adequate supporting evidence to address the court's concerns effectively. Sometimes filing a modification can make a bad situation worse so you have to think carefully before filing.

## PART FOUR: CONCLUSION

As we conclude this guide, I hope you have found the information provided to be both insightful and empowering. Navigating the path to legitimation can be complex, but it is a profoundly important step in affirming your bond with your child and securing your rights as a parent. My team and I at Bible Law Firm are dedicated to guiding fathers through this process with the respect, understanding, and diligence it deserves. Should you have any questions or require assistance with your legitimation case, please do not hesitate to reach out to us. Your relationship with your child is invaluable, and we are here to support you in protecting and nurturing that bond.

***PLEASE NOTE:** This booklet is intended to serve as an informational guide only and is not a substitute for individual legal advice. While every effort has been made to ensure the accuracy and comprehensiveness of the information provided herein, the complexities and nuances of family law in Georgia mean that individual circumstances may require specific legal counsel. As such, this guide should not be used as a substitute for advice from a qualified legal professional. If you have questions or require assistance with your case, you are strongly encouraged to consult with us or another attorney who can provide you with personalized advice based on the unique facts of your situation.*