

Hall County Legitimation and/or Custody, Parenting Time or Visitation

Basic Instructions

Use these forms at your own risk

In no event will the Court Administrator, Clerk of Court, Family Law Information Center (FLIC) staff or anyone distributing or contributing to the development of these forms or instructions be liable for any damages resulting from the use of this packet. These forms may not be appropriate for your particular case. In addition, due to the changing nature of the law, the information in these instructions and forms may be outdated. You should review any statutes (laws) or rules mentioned in this packet to make sure the forms are current. Ask the advice of a lawyer to protect your legal rights. State law, O.C.G.A. § 15-19-51, prohibits court personnel (including staff attorneys or law clerks, calendar clerks, clerk's office staff and sheriff's department staff) from giving legal advice or answering legal questions.

****Mandatory electronic filing effective October 1, 2022****

Visit www.nejc.org/familylaw for more information.

Want detailed instructions for these forms?

Go to www.nejc.org/familylaw for the legitimation *Detailed Instructions* (PDF) or see FLIC for a hard copy.

What services are available?

The Family Law Information Center (FLIC) offers limited help to residents of Hall or Dawson County or people who are eligible to file in Hall or Dawson County (specific types of cases). Free attorney consultations are also available for people who qualify.

Website/Forms:	www.nejc.org/familylaw
Hours:	8 - 5, Monday through Friday (<i>closed</i> Friday 11:30 AM - 12:30 PM)
Location:	Hall County Courthouse, 3 rd floor (1 st office on the right)
Phone:	770 531-2463
Email:	nejcflic@hallcounty.org
Appointments:	Complete the enclosed <i>Appointment Request Form</i> and deliver it to FLIC by email or in person

Will this packet work for you?

This packet is for someone filing an unrepresented petition for legitimation and/or custody, parenting time or visitation in **Hall County**.

This packet will NOT work if any of the following statements are true (get the help of a lawyer to see if the forms can be modified for your situation):

- The child is in the physical custody/care or guardianship of someone other than you or the mother.
- The mother was married to another man when she became pregnant or had the child(ren).
- Another man has legitimated the child or appears on the child's birth certificate.
- Another man claims to be the child's legal or biological father.

Filling out legal paperwork is extremely complicated. If you fill the forms out incorrectly or leave them incomplete, it can put your rights and your case at risk. **Read the detailed instructions** on the FLIC website (www.nejc.org/familylaw) before filling out the forms. Or ask for a hard copy at FLIC.

This packet does not cover every legal issue that may come up in a legitimation. There may be better ways to handle your case than using these forms. There are often more issues than you realize.

Even if you have an agreement with the other party, to protect your legal rights, speak with an attorney experienced in domestic relations (family) law before signing or filing any documents.

The instructions for this packet are no substitute for the advice and help of a lawyer.

You may *especially* need to hire an attorney to represent you if:

- The case is contested OR an attorney represents the other party.
- The mother was married to another man when she became pregnant or had the children.
- Someone else has temporary custody or guardianship of the children.
- There is a pending juvenile court case involving the children.
- There are family violence issues involved in the case.
- You have doubts about whether you are the biological father.
- You want an arrangement for custody/parenting time that does not fit these forms.
- You do not understand how to complete the *Child Support Worksheet*.
- You do not understand how to complete the *Parenting Plan*.
- You are unable to locate the other party or children.
- You think you will have a hard time getting financial information from the other party.

General Information about Legitimation

How does a father legitimate his child born out of wedlock?

In the State of Georgia, other than through marriage to the mother, a father may establish a legal connection to his biological child and render his relationship with the child legitimate by:

- (1) Filing a petition for legitimation in Superior Court (by hiring a lawyer or representing himself) OR
- (2) **For births between July 1, 2005 and June 30, 2016**, by signing a voluntary acknowledgment of legitimation with the mother on the “Paternity Acknowledgment” form at the time of the child’s birth (at the hospital) or at the vital records office. HOWEVER:
 - a. The birth certificate itself does not show whether the parents signed the voluntary acknowledgment of legitimation portion of the Paternity Acknowledgment (PA) form. You can request a certified copy of the *Paternity Acknowledgment* form for a fee from the Georgia State Office of Vital Records in Atlanta. See FLIC for instructions on how to get a copy of the PA form or call Vital Records at (404) 679-4702 for more information.
 - b. Some circumstances may make a voluntary acknowledgment of legitimation ineffective (e.g., if it was rescinded by either party) and additional restrictions apply for the use of the PA form after July 1, 2008. For example, after July 1, 2008, parents could not use the form to legitimate the child if the child was more than one year of age.
 - c. **Administrative legitimation is no longer an option for births on or after July 1, 2016.**

What is the effect of legitimation?

Legitimation establishes a legal connection between the father and child – the biological father becomes the “legal father”. This connection means the father and child can inherit from one another, the father can be granted custody and/or parenting time/visitation rights, the father can be named on the child’s birth records (if he is not already named as the father), and either the father or mother may be ordered to pay child support, among other legal implications.

How does the father establish custody and/or parenting time or visitation rights?

Legitimation alone does not automatically give the father custody and/or parenting time, but the forms included with this packet allow the father to ask for those things.

Where should the petition be filed?

- O.C.G.A. § 19-7-22 (b) provides: “The biological father of a child born out of wedlock may render his relationship with the child legitimate by petitioning the superior court of the county of the residence of the child's mother or other party having legal custody or guardianship of the child; provided, however, that if the mother or other party having legal custody or guardianship of the child resides outside this state or cannot, after due diligence, be found within this state, the petition may be filed in the county of the biological father's residence or the county of the child's residence. If a petition for the adoption of the child is pending, the biological father shall file the petition for legitimation in the county in which the adoption petition is filed.” **NOTE: this packet does not cover situations where there may be a pending juvenile court case** (speak to a lawyer if there is an active juvenile court matter involving the child).
- Additional laws apply if you are including a request for custody and/or parenting time/visitation as part of your case. There are some circumstances where the Court can decide the legitimation, but may not be able to decide issues of custody and/or parenting time/visitation because of jurisdictional issues.
- The mother can also expressly agree in writing to the case being filed in the father's county of residence (using the *Acknowledgment of Service and Consent to Personal Jurisdiction and Venue* form included in this packet).

Basic Steps

Your case may require different or additional steps.

- ☐ Make an appointment with FLIC. It is best to schedule an appointment with FLIC *before* filing to make sure you have your documents in order and to avoid delay. FLIC help is free.
- ☐ Go to www.nejc.org/familylaw for detailed packet instructions or ask for a hard copy from FLIC. Carefully read the instructions at least once before filling out the forms.
- ☐ Complete the forms in this packet but don't *sign* your forms before your FLIC appointment. You can have them notarized at FLIC free of charge. If you show up for your appointment without filling out your forms, you will be asked to reschedule.
- ☐ Complete a *Child Support Worksheet* at <https://csconlinecalc.georgiacourts.gov/>. Contact FLIC if you need an appointment for help with this form. Limited legal consultations are available for people who qualify. The worksheet is not included with this packet and it is required in all child custody cases (very limited exceptions), even when you have an agreement.
- ☐ Register for PeachCourt at www.peachcourt.com. E-filing is mandatory as of October 1, 2022.
- ☐ Come to your FLIC appointment with: 1) your paperwork, 2) your court fees (if you plan to file that day), 3) valid photo ID for notarizing and 4) a USB drive, if possible. FLIC can scan your documents for e-filing if you bring a USB drive. At FLIC you will receive a detailed checklist and instructions for requesting a court date.
- ☐ Electronically file your paperwork using PeachCourt and arrange for sheriff's service (if service is required in your case). FLIC has detailed e-filing instructions to guide you, whether you e-file from your home PC or at the courthouse. The Clerk's office has a free PeachCourt public access terminal (PAT). Filing and service fees still apply.
- ☐ **IMPORTANT: Regularly check your PeachCourt notifications and email** that you provided in your forms (look in "junk") for any documents that may be e-filed by the Respondent or Court.
- ☐ If mediation is required in your case (usually because you do not have a signed *Settlement Agreement*), use the *Mediation Referral Form* to schedule your mediation and attend mediation. If you do not complete this step, your hearing will be postponed.
- ☐ If the case is contested (you do not have an agreement with the other party) and the court will be addressing child support, complete the *Domestic Relations Financial Affidavit* and serve a copy on the other party. There are rules about when it has to be served (see *Detailed Instructions*).
- ☐ Complete a parenting seminar (required with limited exception). Approved courses: www.nejc.org/familylaw/page/forms-and-links. Your case will be postponed if you delay.
- ☐ Make sure the sheriff's office serves the other party with the legitimization papers. Have your case number ready and check with the Clerk of Courts (770) 503-3217 or sheriff's office to confirm.
- ☐ Prepare for and attend your hearing.
- ☐ File your *Final Order* with the *General Civil and Domestic Relations Case Disposition Information Form*.

Forms to Start your Case

Your case may require different or additional forms.

- ☐ *Petition for Legitimation and/or Custody, Parenting Time or Visitation*
- ☐ *Parenting Plan*
- ☐ *Child Support Worksheet* (prepared online and printed)
- ☐ *Verification*
- ☐ *Domestic Relations Standing Order and Certificate of Service or Inclusion*
- ☐ *General Civil and Domestic Relations Case Filing Information Form*
- ☐ *Proposed Rule Nisi* (to request a court date)

If the sheriff is serving the other party, you may need additional, special forms (see FLIC).

If the other party has acknowledged service in writing (signed and notarized):

- ☐ *Acknowledgment of Service*

If you are serving the other party by publication:

- ☐ *Affidavit of Diligent Search*
- ☐ *Order of Publication* (see FLIC)
- ☐ *Notice of Publication* (see FLIC)

AND, if you have an agreement with the other party:

- ☐ *Settlement Agreement* (with any exhibits)
- ☐ *Parenting Plan*
- ☐ *Child Support Addendum*
- ☐ *Child Support Worksheet* (prepared online and printed)

Additional Forms for Contested Cases

- ☐ *Domestic Relations Financial Affidavit and Certificate of Service*
- ☐ *Mediation Referral Form*

Filing and service fees

Call FLIC or the Clerk of Court at (770) 503-3217 for current filing and service fees. If you are serving the Respondent by publication (because her location is unknown), there is also a publication fee charged by the newspaper.

There may be additional fees (mediation and parenting class fees), depending on your case.

Poverty Affidavit: If you have very little income and feel you cannot afford to pay the filing and service fees, you can ask the Court to waive the fees. See FLIC for more information.