

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

HOUSE BILL 578
RATIFIED BILL

AN ACT TO REMOVE THE STATUTORY LANGUAGE IN REGARDS TO LEGITIMATION THAT IS IN CONFLICT WITH THE NORTH CAROLINA COURT OF APPEALS DECISION IN JONES V. MCDOWELL (1981).

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 49-12.1 reads as rewritten:

"§ 49-12.1. Legitimation when mother married.

...

(c) The parties may enter a consent order with the approval of the clerk of superior court. The order entered by the clerk shall find the facts and declare the proper person the father of the child and may change the surname of the ~~child.~~ child after determination that the change is in the best interests of the child.

...

(e) A certified copy of the order of legitimation under this section shall be sent by the clerk of superior court under his official seal to the State Registrar of Vital Statistics who shall make a new birth certificate bearing the full name of the father of the child and, if ordered by the ~~clerk,~~ clerk after determination that the change is in the best interests of the child, changing the surname of the child."

SECTION 2. G.S. 49-13 reads as rewritten:

"§ 49-13. New birth certificate on legitimation.

A certified copy of the order of legitimation when issued under the provisions of G.S. 49-10 shall be sent by the clerk of the superior court under his official seal to the State Registrar of Vital Statistics who shall then make the new birth certificate bearing the full name of the ~~father, and change the surname of the child so that it will be the same as the surname of the father.~~ father. The surname of the child shall remain the same except if the mother and father agree and request that the child's surname be changed under G.S. 130A-118 or the court orders a change in surname after determination that the change is in the best interests of the child.

When a child is legitimated under the provisions of G.S. 49-12, the State Registrar of Vital Statistics shall make a new birth certificate bearing the full name of the father upon presentation of a certified copy of the certificate of marriage of the father and ~~mother and change the surname of the child so that it will be the same as the surname of the father.~~ mother. The surname of the child shall remain the same except if the mother and father agree and request the child's surname be changed under G.S. 130A-118."

SECTION 3. G.S. 130A-118 reads as rewritten:

"§ 130A-118. Amendment of birth and death certificates.

...

(c) A new birth certificate issued under subsection (b) may reflect a change in surname when:

...

(2) A child is legitimated under G.S. 49-10 or G.S. 49-12.1 and the parents agree and request that the child's surname be changed, or the court orders a change



in surname after determination that the change is in the best interests of the child.

...."

SECTION 4. This act is effective when it becomes law and applies to birth certificates issued on or after that date.

In the General Assembly read three times and ratified this the 17th day of June, 2019.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

Roy Cooper
Governor

Approved _____m. this _____ day of _____, 2019