

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 1062
HOUSE BILL 905

AN ACT TO PROVIDE FOR INHERITANCE BY ILLEGITIMATE CHILDREN BY,
THROUGH AND FROM THEIR FATHERS WHERE PATERNITY HAS BEEN
ESTABLISHED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 29-19 is hereby amended by designating the existing provisions thereof as subsection (a) and by adding thereto new subsections (b) and (c) to read as follows:

"(b) For purposes of intestate succession, an illegitimate child shall be entitled to take by, through and from:

- (1) Any person who has been judicially determined to be the father of such child pursuant to the provisions of G.S. 49-14 through 49-16;
- (2) Any person who has acknowledged himself during his own lifetime to be the father of such child in a written instrument executed or acknowledged before a certifying officer named in G.S. 52-6(c) and filed during his own lifetime in the office of the clerk of superior court of the county where either he or the child resides.

Notwithstanding the above provisions, no person shall be entitled to take hereunder unless he has given written notice of the basis of his claim to the personal representative of the putative father within six months after the date of the first publication or posting of the general notice to creditors. However, when the personal representative of a deceased putative father is a party to an action brought pursuant to G.S. 49-14 through 49-16 and such action provides the basis for a claim hereunder, this relationship to the action shall be sufficient notice.

(c) Any person described under subdivision (b)(1) or (2) above and his lineal and collateral kin shall be entitled to inherit by, through and from the illegitimate child.

(d) Any person who acknowledges himself to be the father of an illegitimate child in his duly probated last will shall be deemed to have intended that such child be treated as expressly provided for in said will or, in the absence of any express provision, the same as a legitimate child."

Sec. 2. G.S. 31-5.5 is hereby rewritten to read as follows:

"**§ 31-5.5. After-born or after-adopted child; illegitimate child; effect on will.** — (a) A will shall not be revoked by the subsequent birth of a child to the testator, or by the subsequent adoption of a child by the testator, or by the subsequent entitlement of an after-born illegitimate child to take as an heir of the testator pursuant to the provisions of G.S. 29-19(b), but any after-born, after-adopted or entitled after-born illegitimate child shall have the right to share in the testator's estate to the same extent he would have shared if the testator had died intestate unless:

- (1) The testator made some provision in the will for the child, whether adequate or not, or
- (2) It is apparent from the will itself that the testator intentionally did not make specific provision therein for the child.

(b) The provisions of G.S. 28-153 through G.S. 28-158 shall be construed as being applicable to after-adopted children and to after-born children, whether legitimate or entitled illegitimate.

(c) The terms 'after-born', 'after-adopted' and 'entitled after-born' as used in this section refer to children born, adopted or entitled subsequent to the execution of the will."

Sec. 3. G.S. 49-14 is hereby rewritten to read as follows:

"§ 49-14. Civil action to establish paternity. — (a) The paternity of a child born out of wedlock may be established by civil action. Such establishment of paternity shall not have the effect of legitimation.

(b) Proof of paternity pursuant to this section shall be beyond a reasonable doubt.

(c) Such action shall be commenced within one of the following periods:

(1) Three years next after the birth of the child; or

(2) Three years next after the date of the last payment by the putative father for the support of the child, whether such last payment was made within three years of the birth of such child or thereafter.

Provided, that no such action shall be commenced nor judgment entered after the death of the putative father."

Sec. 4. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 5. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1974.