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HOUSE BILL 219
Committee Substitute Favorable 5/9/13
Senate Judiciary II Committee Substitute Adopted 6/10/13

Short Title: Update References/Child Born Out of Wedlock.

(Public)

Sponsors:

Referred to:

March 6, 2013

A BILL TO BE ENTITLED

AN ACT TO MODERNIZE THE WAYS CHILDREN BORN OUT OF WEDLOCK ARE REFERENCED IN THE GENERAL STATUTES BY REMOVING REFERENCES TO "ILLEGITIMATE" WHEN USED IN CONNECTION WITH AN INDIVIDUAL AND TO "BASTARDY", TO ALLOW A CHILD BORN OUT OF WEDLOCK TO INHERIT FROM A PERSON WHO DIED PRIOR TO OR WITHIN ONE YEAR AFTER THE BIRTH OF THAT CHILD IF PATERNITY CAN BE ESTABLISHED BY DNA TESTING, AND TO MAKE OTHER TECHNICAL CORRECTIONS TO THE STATUTES BEING AMENDED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 6-21(10) reads as rewritten:

"§ 6-21. **Costs allowed either party or apportioned in discretion of court.**

Costs in the following matters shall be taxed against either party, or apportioned among the parties, in the discretion of the court:

...

(10) In proceedings under Article 3 of Chapter 49 of the General Statutes regarding illegitimate children under Article 3, Chapter 49 of the General Statutes, born out of wedlock.

...."

SECTION 2. G.S. 8-57(b) reads as rewritten:

"(b) The spouse of the defendant shall be competent but not compellable to testify for the State against the defendant in any criminal action or grand jury proceedings, except that the spouse of the defendant shall be both competent and compellable to so testify:

...

(5) In a prosecution of one spouse for any other criminal offense against the minor child of either spouse, including any child of either spouse who is illegitimate born out of wedlock or adopted or a foster child of either spouse child."

SECTION 3. G.S. 14-325.1 reads as rewritten:

"§ 14-325.1. **When offense of failure to support child deemed committed in State.**

The offense of willful neglect or refusal of a parent to support and maintain a child, and the offense of willful neglect or refusal to support and maintain one's illegitimate child, child born out of wedlock, shall be deemed to have been committed in the State of North Carolina this State whenever the child is living in North Carolina this State at the time of such the willful neglect or refusal to support and maintain such the child."



1 SECTION 4. The catch line of G.S. 15-155.2 reads as rewritten:

2 "**§ 15-155.2. District attorney to take action on report of ~~aid to dependent child [Work~~**
3 **~~First Family Assistance] or illegitimate [out of wedlock] birth.~~Work First**
4 **Family Assistance and children born out of wedlock.**"

5 SECTION 5. G.S. 15-155.3 reads as rewritten:

6 "**§ 15-155.3. Disclosure of information by district attorney or agent.**

7 No such district attorney, assistant district attorney, or any attorney-at-law especially
8 appointed to assist ~~said the~~ district attorney, or any agent or employee of ~~such the~~ district
9 attorney's office shall disclose any information, record, report, case history or any
10 memorandum or document or any information contained therein, which may relate to or be
11 connected with the mother or father of any ~~illegitimate child, or any illegitimate child, child~~
12 born out of wedlock, or any child born out of wedlock, unless in the opinion of ~~such the~~ district
13 attorney it is necessary or is required in the prosecution and performance of ~~such the~~ district
14 attorney's duties as set forth in the provisions of this Article."

15 SECTION 6. G.S. 29-12 reads as rewritten:

16 "**§ 29-12. Escheats.**

17 If there is no person entitled to take under G.S. 29-14 or G.S. 29-15, or if in case of an
18 ~~illegitimate intestate, intestate born out of wedlock~~, there is no one entitled to take under
19 G.S. 29-21 or ~~G.S. 29-22~~ G.S. 29-22, the net estate shall escheat as provided in G.S. 116B-2."

20 SECTION 7. G.S. 29-18 reads as rewritten:

21 "**§ 29-18. Succession by, through and from legitimated children.**

22 A child born ~~an illegitimate out of wedlock~~ who ~~shall have~~ has been legitimated in
23 accordance with G.S. 49-10 or 49-12 or in accordance with the applicable law of any other
24 jurisdiction, and the heirs of ~~such the~~ child, are entitled by succession to property by, through
25 and from the child's father and mother and their heirs the same as if born in lawful wedlock;
26 and if the child dies intestate, the child's property shall descend and be distributed as if the child
27 had been born in lawful wedlock."

28 SECTION 8. The title of Article 6 of Chapter 29 of the General Statutes reads as
29 rewritten:

30 "Article 6.

31 ~~Illegitimate Children~~ Children Born Out of Wedlock."

32 SECTION 9. G.S. 29-19 reads as rewritten:

33 "**§ 29-19. Succession by, through and from ~~illegitimate children~~children born out of**
34 **wedlock.**

35 (a) For purposes of intestate succession, ~~an illegitimate a child~~ born out of wedlock
36 shall be treated as if that child were the legitimate child of the child's mother, so that the child
37 and the child's lineal descendants are entitled to take by, through and from the child's mother
38 and the child's other maternal kindred, both descendants and collaterals, and they are entitled to
39 take from the child.

40 (b) For purposes of intestate succession, ~~an illegitimate a child~~ born out of wedlock
41 shall be entitled to take by, through and from:

42 (1) Any person who has been finally adjudged to be the father of ~~such the~~ child
43 pursuant to the provisions of G.S. 49-1 through 49-9 or the provisions of
44 G.S. 49-14 through 49-16;

45 (2) Any person who has acknowledged himself during his own lifetime and the
46 child's lifetime to be the father of ~~such the~~ child in a written instrument
47 executed or acknowledged before a certifying officer named in
48 G.S. 52-10(b) and filed during his own lifetime and the child's lifetime in the
49 office of the clerk of superior court of the county where either he or the child
50 resides.

1 (3) A person who died prior to or within one year after the birth of the child and
2 who can be established to have been the father of the child by DNA testing.

3 Notwithstanding the above provisions, no person shall be entitled to take hereunder unless
4 the person has given written notice of the basis of the person's claim to the personal
5 representative of the putative father within six months after the date of the first publication or
6 posting of the general notice to creditors.

7 (c) Any person described under subdivision ~~(b)(1) or (2) above~~ (b)(1), (2), or (3) of this
8 section and the person's lineal and collateral kin shall be entitled to inherit by, through and from
9 the ~~illegitimate~~ child.

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

14 **SECTION 10.** G.S. 29-20 reads as rewritten:

15 "**§ 29-20. Descent and distribution upon intestacy of ~~illegitimate children~~ children born**
16 **out of wedlock.**

17 All the estate of a person ~~dying illegitimate and~~ who was born out of wedlock and dies
18 intestate shall descend and be distributed, subject to the payment of costs of administration and
19 other lawful claims against the estate, and subject to the payment of State inheritance or estate
20 taxes, as provided in this Article."

21 **SECTION 11.** G.S. 29-21 reads as rewritten:

22 "**§ 29-21. Share of surviving spouse.**

23 The share of the surviving spouse of ~~an illegitimate~~ intestate ~~an~~ intestate born out of
24 wedlock shall be the same as provided in G.S. 29-14 for the surviving spouse of a legitimate
25 person. In determining whether the ~~illegitimate~~ intestate is survived by one or more parents as
26 provided in G.S. 29-14(3), any person identified as the father under G.S. 29-19(b)(1) or (b)(2)
27 shall be regarded as a parent."

28 **SECTION 12.** G.S. 29-22 reads as rewritten:

29 "**§ 29-22. Shares of others than the surviving spouse.**

30 Those persons surviving ~~the illegitimate~~ intestate, ~~an~~ intestate born out of wedlock, other
31 than the surviving spouse, shall take that share of the net estate provided in G.S. 29-15. In
32 determining whether the ~~illegitimate~~ intestate is survived by one or more parents or their
33 collateral kindred as provided in G.S. 29-15, any person identified as the father under
34 G.S. 29-19(b)(1) or (b)(2) shall be regarded as a parent."

35 **SECTION 13.** G.S. 30-17 reads as rewritten:

36 "**§ 30-17. When children entitled to an allowance.**

37 Whenever any parent dies survived by any child under the age of 18 years, including an
38 adopted child or a child with whom the widow may be pregnant at the death of her husband, or
39 a child who is less than 22 years of age and is a full-time student in any educational institution,
40 or a child under 21 years of age who has been declared mentally incompetent, or a child under
41 21 years of age who is totally disabled, or any other person under the age of 18 years residing
42 with the deceased parent at the time of death to whom the deceased parent or the surviving
43 parent stood in loco parentis, every such child shall be entitled to receive an allowance of five
44 thousand dollars (\$5,000) for the child's support for the year next ensuing the death of the
45 parent. The allowance shall be in addition to the child's share of the deceased parent's estate and
46 shall be exempt from any lien by judgment or execution against the property of the deceased
47 parent. The personal representative of the deceased parent shall, within one year after the
48 parent's death, assign to every such child the allowance herein provided for; but if there is no
49 personal representative or if the personal representative fails or refuses to act within 10 days
50 after written application by a guardian or next friend on behalf of the child, the allowance may
51 be assigned by a magistrate or clerk of court upon application.

1 If the child resides with the surviving spouse of the deceased parent at the time the
2 allowance is paid, the allowance shall be paid to the surviving spouse for the benefit of the
3 child. If the child resides with its surviving parent who is other than the surviving spouse of the
4 deceased parent, the allowance shall be paid to the surviving parent for the use and benefit of
5 the child. The payment shall be made regardless of whether the deceased died testate or
6 intestate or whether the surviving spouse petitioned for an elective share under Article 1A of
7 Chapter 30 of the General Statutes. Provided, however, the allowance shall not be available to
8 ~~an illegitimate child of a deceased father, a deceased father's child born out of wedlock,~~ unless
9 the deceased father has recognized the paternity of the ~~illegitimate child~~ by deed, will, or other
10 ~~paper writing, paper-writing,~~ or unless the deceased father died prior to or within one year after
11 ~~the birth of the child and is established to have been the father of the child by DNA testing.~~ If
12 the child does not reside with a surviving spouse or a surviving parent when the allowance is
13 paid, the allowance shall be paid to the child's general guardian, if any, and if none, to the clerk
14 of the superior court who shall receive and disburse the allowance for the benefit of the child."

15 **SECTION 14.** G.S. 31-5.5 reads as rewritten:

16 "**§ 31-5.5. After-born or after-adopted child; ~~illegitimate child;~~ children born out of**
17 **wedlock; effect on will.**

18 (a) A will shall not be revoked by the subsequent birth of a child to the testator, or by
19 the subsequent adoption of a child by the testator, or by the subsequent entitlement of an
20 after-born ~~illegitimate child born out of wedlock~~ to take as an heir of the testator pursuant to the
21 provisions of G.S. 29-19(b), but any after-born, after-adopted or entitled after-born ~~illegitimate~~
22 child born out of wedlock shall have the right to share in the testator's estate to the same extent
23 the after-born, after-adopted, or entitled after-born ~~illegitimate child born out of wedlock~~ would
24 have shared if the testator had died intestate unless:

- 25 (1) The testator made some provision in the will for the child, whether adequate
26 or not;
- 27 (2) It is apparent from the will itself that the testator intentionally did not make
28 specific provision therein for the child;
- 29 (3) The testator had children living when the will was executed, and none of the
30 testator's children actually take under the will;
- 31 (4) The surviving spouse receives all of the estate under the will; or
- 32 (5) The testator made provision for the child that takes effect upon the death of
33 the testator, whether adequate or not.

34 (b) The provisions of G.S. 28A-22-2 shall be construed as being applicable to
35 after-adopted children and to after-born children, whether legitimate or entitled
36 ~~illegitimate children born out of wedlock.~~

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

39 **SECTION 15.** The title of Chapter 49 of the General Statutes reads as rewritten:

40 **"Chapter 49.**

41 **Bastardy-Children Born Out of Wedlock."**

42 **SECTION 16.** The title of Article 1 of Chapter 49 of the General Statutes reads as
43 rewritten:

44 "Article 1.

45 Support of ~~Illegitimate Children.~~Children Born Out of Wedlock."

46 **SECTION 17.** G.S. 49-2 reads as rewritten:

47 "**§ 49-2. Nonsupport of ~~illegitimate child~~ born out of wedlock by parents made**
48 **misdemeanor.**

49 Any parent who willfully neglects or who refuses to provide adequate support and maintain
50 his or her ~~illegitimate child born out of wedlock~~ shall be guilty of a Class 2 misdemeanor. A
51 child within the meaning of this Article shall be any person less than 18 years of age and any

1 person whom either parent might be required under the laws of North Carolina to support and
2 maintain if ~~such-the~~ child were the legitimate child of ~~such-the~~ parent."

3 **SECTION 18.** G.S. 49-4 reads as rewritten:

4 **"§ 49-4. When prosecution may be commenced.**

5 The prosecution of the reputed father of ~~an illegitimate-a~~ child born out of wedlock may be
6 instituted under this Chapter within any of the following periods, and not thereafter:

- 7 (1) Three years next after the birth of the child; or
- 8 (2) Where the paternity of the child has been judicially determined within three
9 years next after its birth, at any time before the child attains the age of 18
10 years; or
- 11 (3) Where the reputed father has acknowledged paternity of the child by
12 payments for the support thereof within three years next after the birth of
13 ~~such-the~~ child, three years from the date of the last payment whether ~~such~~
14 the last payment was made within three years of the birth of ~~such-the~~ child or
15 thereafter: Provided, the action is instituted before the child attains the age of
16 18 years.

17 The prosecution of the mother of ~~an illegitimate-a~~ child born out of wedlock may be
18 instituted under this Chapter at any time before the child attains the age of 18 years."

19 **SECTION 19.** G.S. 49-6 reads as rewritten:

20 **"§ 49-6. Mother not excused on ground of self-incrimination; not subject to penalty.**

21 No mother of ~~an illegitimate-a~~ child born out of wedlock shall be excused, on the ground
22 that it may tend to incriminate her or subject her to a penalty or a forfeiture, from attending and
23 testifying, in obedience to a subpoena of any court, in any suit or proceeding based upon or
24 growing out of the provisions of this Article, but no such mother shall be prosecuted or
25 subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing as to
26 which, in obedience to a subpoena and under oath, she may so testify."

27 **SECTION 20.** G.S. 49-7 reads as rewritten:

28 **"§ 49-7. Issues and orders.**

29 The court before which the matter may be brought shall determine whether or not the
30 defendant is a parent of the child on whose behalf the proceeding is instituted. After this matter
31 has been determined in the affirmative, the court shall proceed to determine the issue as to
32 whether or not the defendant has neglected or refused to provide adequate support and maintain
33 the child who is the subject of the proceeding. After this matter ~~shall have been~~ has been
34 determined in the affirmative, the court shall fix by order, subject to modification or increase
35 from time to time, a specific sum of money necessary for the support and maintenance of the
36 child, subject to the limitations of G.S. 50-13.10. The amount of child support shall be
37 determined as provided in G.S. 50-13.4(c). The order fixing the sum shall require the defendant
38 to pay it either as a lump sum or in periodic payments as the circumstances of the case may
39 appear to the court. The social security number, if known, of the minor child's parents shall be
40 placed in the record of the proceeding. Compliance by the defendant with any or all of the
41 further provisions of this Article or the order or orders of the court requiring additional acts to
42 be performed by the defendant shall not be construed to relieve the defendant of his or her
43 responsibility to pay the sum fixed or any modification or increase thereof.

44 The court before whom the matter may be brought, on motion of the State or the defendant,
45 shall order that the alleged-parent defendant, the known natural parent, and the child submit to
46 any blood tests and comparisons which have been developed and adapted for purposes of
47 establishing or disproving parentage and which are reasonably accessible to the alleged-parent
48 defendant, the known natural parent, and the child. The results of those blood tests and
49 comparisons, including the statistical likelihood of the alleged parent's parentage, if available,
50 shall be admitted in evidence when offered by a duly qualified, licensed practicing physician,
51 duly qualified immunologist, duly qualified geneticist or other duly qualified person. The

1 evidentiary effect of those blood tests and comparisons and the manner in which the expenses
2 therefor are to be taxed as costs shall be as prescribed in G.S. 8-50.1. In addition, if a jury tries
3 the issue of parentage, they shall be instructed as set out in G.S. 8-50.1. From a finding on the
4 issue of parentage against the alleged-parent defendant, the alleged-parent defendant has the
5 same right of appeal as though he or she had been found guilty of the crime of willful failure to
6 support ~~an illegitimate child,~~ a child born out of wedlock."

7 **SECTION 21.** The title of Article 2 of Chapter 49 of the General Statutes reads as
8 rewritten:

9 "Article 2.

10 Legitimation of ~~Illegitimate Children,~~ Children Born Out of Wedlock."

11 **SECTION 22.** The title of Article 3 of Chapter 49 of the General Statutes reads as
12 rewritten:

13 "Article 3.

14 Civil Actions Regarding ~~Illegitimate Children,~~ Children Born Out of Wedlock."

15 **SECTION 23.** G.S. 49-15 reads as rewritten:

16 "**§ 49-15. Custody and support of ~~illegitimate~~ children born out of wedlock when**
17 **paternity established.**

18 Upon and after the establishment of paternity pursuant to G.S. 49-14 of ~~an illegitimate~~ a
19 child pursuant to G.S. 49-14, born out of wedlock, the rights, duties, and obligations of the
20 mother and the father so established, with regard to support and custody of the child, shall be
21 the same, and may be determined and enforced in the same manner, as if the child were the
22 legitimate child of ~~such~~ the father and mother. When paternity has been established, the father
23 becomes responsible for medical expenses incident to the pregnancy and the birth of the child."

24 **SECTION 24.** G.S. 50-11(b) reads as rewritten:

25 "(b) No judgment of divorce shall ~~render illegitimate~~ cause any child in ~~esse,~~ esse or
26 begotten of the body of the wife during ~~coverture,~~ coverture to be treated as a child born out of

27 wedlock."

28 **SECTION 25.** G.S. 97-2 reads as rewritten:

29 "**§ 97-2. Definitions.**

30 When used in this Article, unless the context otherwise requires:

31 ...

- 32 (2) Employee. – The term "employee" means every person engaged in an
33 employment under any appointment or contract of hire or apprenticeship,
34 express or implied, oral or written, including aliens, and also minors,
35 whether lawfully or unlawfully employed, but excluding persons whose
36 employment is both casual and not in the course of the trade, business,
37 profession, or occupation of his employer, and as relating to those so
38 employed by the State, the term "employee" shall include all officers and
39 employees of the State, including such as are elected by the people, or by the
40 General Assembly, or appointed by the Governor to serve on a per diem,
41 part-time or fee basis, either with or without the confirmation of the Senate;
42 as relating to municipal corporations and political subdivisions of the State,
43 the term "employee" shall include all officers and employees thereof,
44 including such as are elected by the people. The term "employee" shall
45 include members of the North Carolina National Guard while on State active
46 duty under orders of the Governor and members of the North Carolina State
47 Defense Militia while on State active duty under orders of the Governor. The
48 term "employee" shall include deputy sheriffs and all persons acting in the
49 capacity of deputy sheriffs, whether appointed by the sheriff or by the
50 governing body of the county and whether serving on a fee basis or on a
51 salary basis, or whether deputy sheriffs serving upon a full-time basis or a

1 part-time basis, and including deputy sheriffs appointed to serve in an
2 emergency, but as to those so appointed, only during the continuation of the
3 emergency. The sheriff shall furnish to the board of county commissioners a
4 complete list of all deputy sheriffs named or appointed by him immediately
5 after their appointment and notify the board of commissioners of any
6 changes made therein promptly after such changes are made. Any reference
7 to an employee who has been injured shall, when the employee is dead,
8 include also his legal representative, dependents, and other persons to whom
9 compensation may be payable: Provided, further, that any employee, as
10 herein defined, of a municipality, county, or of the State of North Carolina,
11 while engaged in the discharge of his official duty outside the jurisdictional
12 or territorial limits of the municipality, county, or the State of North Carolina
13 and while acting pursuant to authorization or instruction from any superior
14 officer, shall have the same rights under this Article as if such duty or
15 activity were performed within the territorial boundary limits of his
16 employer.

17 Every executive officer elected or appointed and empowered in
18 accordance with the charter and bylaws of a corporation shall be considered
19 as an employee of such corporation under this Article.

20 Any such executive officer of a corporation may, notwithstanding any
21 other provision of this Article, be exempt from the coverage of the
22 corporation's insurance contract by such corporation's specifically excluding
23 such executive officer in such contract of insurance, and the exclusion to
24 remove such executive officer from the coverage shall continue for the
25 period such contract of insurance is in effect, and during such period such
26 executive officers thus exempted from the coverage of the insurance contract
27 shall not be employees of such corporation under this Article.

28 All county agricultural extension service employees who do not receive
29 official federal appointments as employees of the United States Department
30 of Agriculture and who are field faculty members with professional rank as
31 designated in the memorandum of understanding between the North
32 Carolina Agricultural Extension Service, North Carolina State University, A
33 & T State University, and the boards of county commissioners shall be
34 deemed to be employees of the State of North Carolina. All other county
35 agricultural extension service employees paid from State or county funds
36 shall be deemed to be employees of the county board of commissioners in
37 the county in which the employee is employed for purposes of workers'
38 compensation.

39 The term "employee" shall also include members of the Civil Air Patrol
40 currently certified pursuant to ~~G.S. 143B-491(a)~~
41 ~~[G.S. 143B-1031(a)]~~ G.S. 143B-1031(a) when performing duties in the
42 course and scope of a State-approved mission pursuant to ~~Article 11 of~~
43 ~~Chapter 143B [Subpart C of Part 5 of Article 13 of Chapter 143B]~~ Subpart C
44 of Part 5 of Article 13 of Chapter 143B of the General Statutes.

45 "Employee" shall not include any person performing voluntary service as
46 a ski patrolman who receives no compensation for such services other than
47 meals or lodging or the use of ski tow or ski lift facilities or any combination
48 thereof.

49 Any sole proprietor or partner of a business or any member of a limited
50 liability company may elect to be included as an employee under the
51 workers' compensation coverage of such business if he is actively engaged in

1 the operation of the business and if the insurer is notified of his election to
2 be so included. Any such sole proprietor or partner or member of a limited
3 liability company shall, upon such election, be entitled to employee benefits
4 and be subject to employee responsibilities prescribed in this Article.

5 "Employee" shall include an authorized pickup firefighter of the Division
6 of Forest Resources of the Department of Agriculture and Consumer
7 Services when that individual is engaged in emergency fire suppression
8 activities for the Division of Forest Resources. As used in this section,
9 "authorized pickup firefighter" means an individual who has completed
10 required fire suppression training as a wildland firefighter and who is
11 available as needed by the Division of Forest Resources for emergency fire
12 suppression activities, including immediate dispatch to wildfires and standby
13 for initial attack on fires during periods of high fire danger.

14 It shall be a rebuttable presumption that the term "employee" shall not
15 include any person performing services in the sale of newspapers or
16 magazines to ultimate consumers under an arrangement whereby the
17 newspapers or magazines are to be sold by that person at a fixed price and
18 the person's compensation is based on the retention of the excess of the fixed
19 price over the amount at which the newspapers or magazines are charged to
20 the person.

21 ...
22 (5)

23 Average Weekly Wages. – "Average weekly wages" shall mean the earnings
24 of the injured employee in the employment in which he was working at the
25 time of the injury during the period of 52 weeks immediately preceding the
26 date of the injury, including the subsistence allowance paid to veteran
27 trainees by the United States government, provided the amount of said
28 allowance shall be reported monthly by said trainee to his employer, divided
29 by 52; but if the injured employee lost more than seven consecutive calendar
30 days at one or more times during such period, although not in the same
31 week, then the earnings for the remainder of such 52 weeks shall be divided
32 by the number of weeks remaining after the time so lost has been deducted.
33 Where the employment prior to the injury extended over a period of fewer
34 than 52 weeks, the method of dividing the earnings during that period by the
35 number of weeks and parts thereof during which the employee earned wages
36 shall be followed; provided, results fair and just to both parties will be
37 thereby obtained. Where, by reason of a shortness of time during which the
38 employee has been in the employment of his employer or the casual nature
39 or terms of his employment, it is impractical to compute the average weekly
40 wages as above defined, regard shall be had to the average weekly amount
41 which during the 52 weeks previous to the injury was being earned by a
42 person of the same grade and character employed in the same class of
43 employment in the same locality or community.

44 But where for exceptional reasons the foregoing would be unfair, either
45 to the employer or employee, such other method of computing average
46 weekly wages may be resorted to as will most nearly approximate the
47 amount which the injured employee would be earning were it not for the
48 injury.

49 Wherever allowances of any character made to an employee in lieu of
50 wages are specified part of the wage contract, they shall be deemed a part of
his earnings.

1 Where a minor employee, under the age of 18 years, sustains a
 2 permanent disability or dies leaving dependents surviving, the compensation
 3 payable for permanent disability or death shall be calculated, first, upon the
 4 average weekly wage paid to adult employees employed by the same
 5 employer at the time of the accident in a similar or like class of work which
 6 the injured minor employee would probably have been promoted to if not
 7 injured, or, second, upon a wage sufficient to yield the maximum weekly
 8 compensation benefit. Compensation for temporary total disability or for the
 9 death of a minor without dependents shall be computed upon the average
 10 weekly wage at the time of the accident, unless the total disability extends
 11 more than 52 weeks, and then the compensation may be increased in
 12 proportion to his expected earnings.

13 In case of disabling injury or death to a volunteer fireman; member of an
 14 organized rescue squad; an authorized pickup firefighter, as defined in
 15 subdivision (2) of this section, when that individual is engaged in emergency
 16 fire suppression activities for the Division of Forest Resources; a duly
 17 appointed and sworn member of an auxiliary police department organized
 18 pursuant to G.S. 160A-282; or senior members of the State Civil Air Patrol
 19 functioning under ~~Article 11 of Chapter 143B [Subpart C of Part 5 of Article~~
 20 ~~13 of Chapter 143B]~~ Subpart C of Part 5 of Article 13 of Chapter 143B of
 21 the General Statutes, under compensable circumstances, compensation
 22 payable shall be calculated upon the average weekly wage the volunteer
 23 fireman, member of an organized rescue squad, authorized pickup firefighter
 24 of the Division of Forest Resources, when that individual is engaged in
 25 emergency fire suppression activities for the Division of Forest Resources,
 26 member of an auxiliary police department, or senior member of the State
 27 Civil Air Patrol was earning in the employment wherein he principally
 28 earned his livelihood as of the date of injury. Provided, however, that the
 29 minimum compensation payable to a volunteer fireman, member of an
 30 organized rescue squad, an authorized pickup firefighter of the Division of
 31 Forest Resources of the Department of Agriculture and Consumer Services,
 32 when that individual is engaged in emergency fire suppression activities for
 33 the Division of Forest Resources, a sworn member of an auxiliary police
 34 department organized pursuant to G.S. 160A-282, or senior members of the
 35 State Civil Air Patrol shall be sixty-six and two-thirds percent (66 2/3%) of
 36 the maximum weekly benefit established in G.S. 97-29.

37 ...

38 (12) Child, Grandchild, Brother, Sister. – The term "child" shall include a
 39 posthumous child, a child legally adopted prior to the injury of the
 40 employee, and a stepchild or acknowledged ~~illegitimate~~ child born out of
 41 wedlock dependent upon the deceased, but does not include married children
 42 unless wholly dependent upon him. "Grandchild" means a ~~child as above~~
 43 ~~defined of a child as above defined.~~ child, as defined in this subdivision, of a
 44 child, as defined in this subdivision. "Brother" and "sister" include
 45 stepbrothers and stepsisters, half brothers and half sisters, and brothers and
 46 sisters by adoption, but does not include married brothers nor married sisters
 47 unless wholly dependent on the employee. "Child," "grandchild," "brother,"
 48 and "sister" include only persons who at the time of the death of the
 49 deceased employee are under 18 years of age.

50"

51 **SECTION 26.** G.S. 130A-119 reads as rewritten:

1 "§ 130A-119. Clerk of Court to furnish State Registrar with facts as to paternity of
2 illegitimate children born out of wedlock when judicially determined.

3 Upon the entry of a judgment determining the paternity of ~~an illegitimate child, a child born~~
4 out of wedlock, the clerk of court of the county in which the judgment is entered shall notify
5 the State Registrar in writing of the name of the person against whom the judgment has been
6 entered, together with the other facts disclosed by the record as may assist in identifying the
7 record of the birth of the child as it appears in the office of the State Registrar. If the judgment
8 is modified or vacated, that fact shall be reported by the clerk to the State Registrar in the same
9 manner. Upon receipt of the notification, the State Registrar shall record the information upon
10 the birth certificate of the ~~illegitimate child.~~"

11 **SECTION 27.** G.S. 143-166.2(a) and (c) read as rewritten:

12 "(a) The term "dependent child" shall mean any unmarried child of the deceased officer,
13 fireman, rescue squad worker or senior member of the Civil Air Patrol whether natural,
14 adopted, posthumously born or whether ~~an illegitimate a child~~ born out of wedlock as entitled
15 to inherit under the Intestate Succession Act, who is under 18 years of age and dependent upon
16 and receiving his chief support from said officer or fireman or rescue squad worker or senior
17 member of the Civil Air Patrol at the time of his death; provided, however, that if a dependent
18 child is entitled to receive benefits at the time of the officer's or fireman's or rescue squad
19 worker's or senior Civil Air Patrol member's death as hereinafter provided, he shall continue to
20 be eligible to receive such benefits regardless of his age thereafter; and further provided that
21 any child over 18 years of age who is physically or mentally incapable of earning a living and
22 any child over 18 years of age who was enrolled as a full-time student at the time of the
23 officer's, the fireman's, the rescue squad worker's or the senior Civil Air Patrol member's death
24 shall so long as he remains a full-time student as defined in the Social Security Act be regarded
25 as a dependent child and eligible to receive benefits under the provisions of this Article.

26 ...

27 (c) The term "killed in the line of duty" shall apply to any law-enforcement officer,
28 fireman, rescue squad worker who is killed or dies as a result of bodily injuries sustained or of
29 extreme exercise or extreme activity experienced in the course and scope of his official duties
30 while in the discharge of his official duty or duties. When applied to a senior member of the
31 Civil Air Patrol as defined in this Article, "killed in the line of duty" shall mean any such senior
32 member of the North Carolina Wing-Civil Air Patrol who is killed or dies as a result of bodily
33 injuries sustained or of extreme exercise or extreme activity experienced in the course and
34 scope of his official duties while engaged in a State requested and approved mission pursuant
35 to ~~Article 11 of Chapter 143B [Article 13 of Chapter 143B]~~ Article 13 of Chapter 143B of the
36 General Statutes. For purposes of this Article, when a law enforcement officer, fireman, rescue
37 squad worker, or senior Civil Air Patrol member dies as the direct and proximate result of a
38 myocardial infarction suffered while on duty or within 24 hours after participating in a training
39 exercise or responding to an emergency situation, the law enforcement officer, fireman, rescue
40 squad worker, or senior Civil Air Patrol member is presumed to have been killed in the line of
41 duty."

42 **SECTION 28.** This act is effective when it becomes law, and Sections 9 and 13 of
43 this act apply to estates of persons dying on or after that date.