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NEW TIME LIMIT FOR ESTABLISHING FATHER/CHILD RELATIONSHIP FOR INHERITANCE PURPOSES

May 15, 2017

On May 4, 2017, the Governor signed into law an amendment to the Tennessee statute which, up to now, established the parent and child relationship for intestate succession (where there is no will) in Tennessee. T.C.A. § 31-2-105 originally established that a father/child relationship (for inheritance) is created (i) between an adopted child and the adopting parent; (ii) if the child is born out of wedlock but the natural parents participated in a marriage ceremony before or after the birth of the child (even if it was void); or (iii) if the child is born out of wedlock but paternity is established by “clear and convincing proof”. The statute prohibited the parent from inheriting from the child through intestate succession until child support arrearages, with interest, had been paid in full to the appropriate parent.

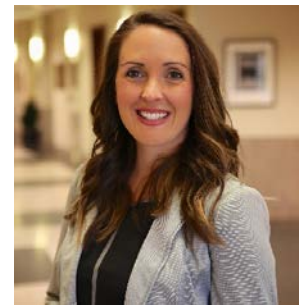
The Legislature’s 2017 revision expands the application of the statute to inheritance under wills and trusts (not just intestate succession), and addresses the time frame within which a claim of paternity must be “asserted”. Where the prior version of the statute only required that a relationship between the child of a deceased father be established by “clear and convincing proof,” the statute now provides a limited time frame for establishing such relationship. Paternity must be “asserted” within the earlier of: (1) the period prescribed for creditors to file a claim against the estate, which is generally four months after the first published notice to creditors,¹ or (2) one year after the father’s death.

The effect of this revision is to put a new statute of limitations on any inheritance claim by a child of a deceased father, borne out of wedlock, to “assert” their claim and to provide clear and convincing proof of paternity within the earlier of four months after the published notice to creditors, or within one year after father’s death.

This publication is a service to our clients and friends. It is designed to give only general information on the topic actually covered and is not intended to be a comprehensive summary of recent developments in the law, to treat exhaustively the subjects covered, to provide legal advice, or to render a legal opinion.



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¹ TCA §30-2-306