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WILLS, TRUSTS, AND ADMINISTRATION OF ESTATES

Year's Support: Define the Term "Child" for Purposes of Year's Support

CODE SECTION: O.C.G.A. § 53-5-1.1 (new)
BILL NUMBER: SB 172
ACT NUMBER: 508
SUMMARY: The Act defines the terms "child" and "children," for the purposes of analyzing eligibility for year's support, to mean any child entitled to inherit if his or her parent dies intestate. The Act thus includes illegitimate children as those who have a right to year's support, making the definition of "child" with respect to year's support consistent with that of the Georgia intestacy law.
EFFECTIVE DATE: July 1, 1993

History

Because the terms, "child" and "children," were not previously defined for purposes of entitlement to year's support, the law remained vague as to whether illegitimate children had a right to such support.¹ Additional impetus for introduction of the bill was found in the latest edition of *Redfearn Wills and Administration in Georgia*, where Professor Sarajane Love of the University of Georgia School of Law suggested that the problem could be ameliorated by defining the terms as they are defined in the intestacy statute.²

SB 172

The Act amends the Georgia statute on wills that deals with determining entitlement to a year's support, Code section 53-3-1,³ by adding section 53-5-1.1.⁴ This section specifically defines "child" or "children," with respect to determining entitlement to year's support, to mean "any child who is entitled to inherit if his or her parent dies

1. Telephone Interview with Sen. Stephen Farrow, Senate District No. 54 (Apr. 7, 1993) [hereinafter Farrow Interview]. Sen. Farrow was the sponsor of SB 172 and had encountered this issue in his law practice. *Id.*

2. SARAJANE LOVE, *REDFEARN WILLS AND ADMINISTRATION IN GEORGIA*, § 324, 6-7 (5th ed. 1988).

3. 1979 Ga. Laws 1325 (formerly found at O.C.G.A. § 53-5-1 (Supp. 1991)).

4. O.C.G.A. § 53-5-1.1 (Supp. 1993).

intestate.”⁵ The Act thus provides consistency in the law, following the direction in which the law is generally moving, to broaden rights of illegitimate children.⁶

During discussion of the bill in the House Judiciary Committee, concern was expressed that the intestacy statute itself was too broad in its establishment of illegitimate children’s rights.⁷ Sponsors urged the concerned legislators to address the reach of the intestacy statute separately, but to proceed with approval of this bill in order to provide clarity and consistency in the law.⁸ There were no changes made to the bill, and it was passed by both houses as originally introduced.⁹

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5. *Id.*

6. Farrow Interview, *supra* note 1.

7. *Id.*

8. *Id.*

9. SB 172, as passed, 1993 Ga. Gen. Assem.