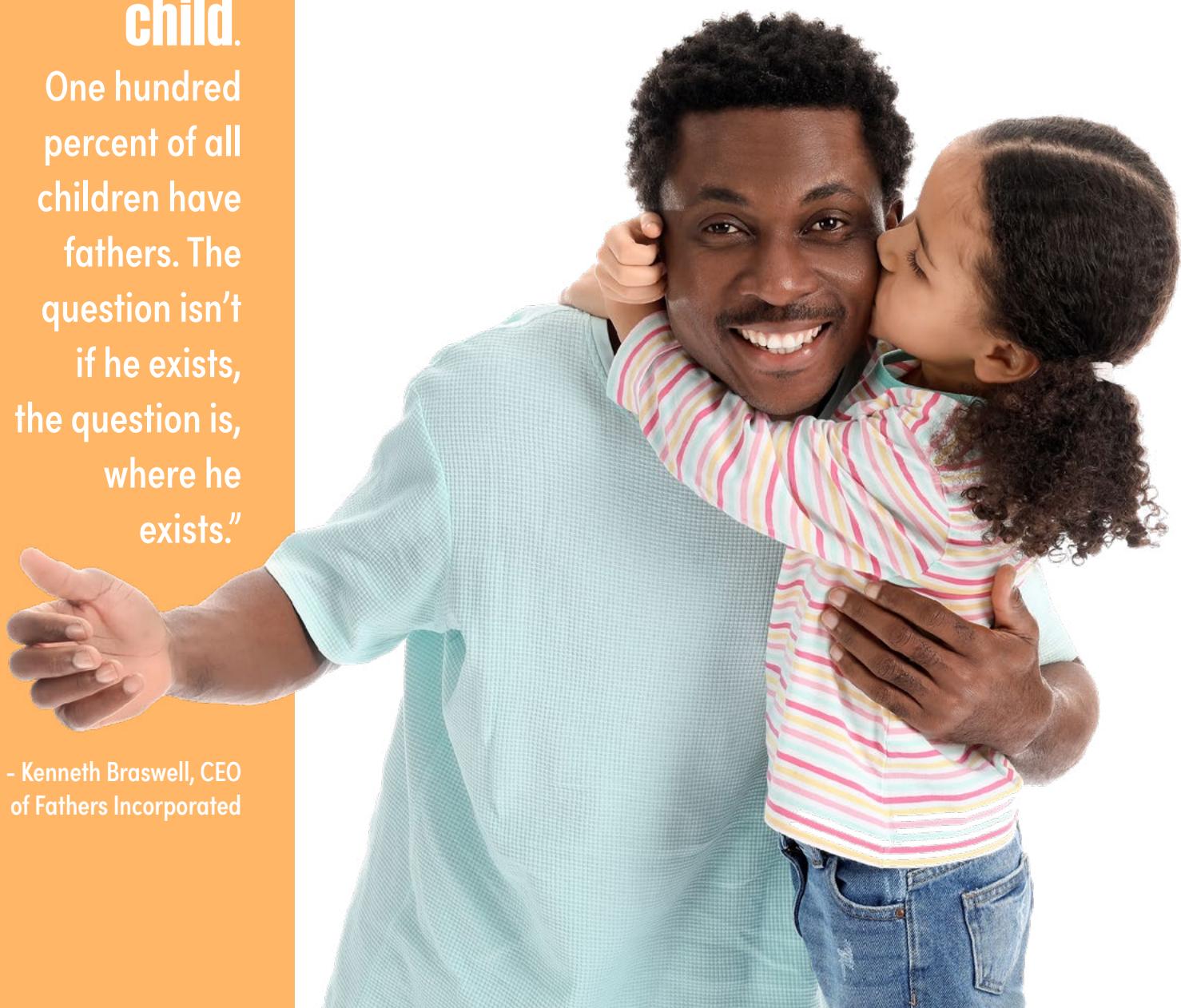


# Georgia State Legitimation, Father Engagement AND YOUTH ACADEMIC OUTCOMES

**“There is  
no such  
thing as a  
fatherless  
child.**

One hundred percent of all children have fathers. The question isn't if he exists, the question is, where he exists.”

- Kenneth Braswell, CEO  
of Fathers Incorporated



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# Introduction

Traditional research suggests that fatherlessness and, therefore, lack of presence in the home is largely the result of couples not marrying – perhaps indicating a distance in relationship. However, decreasing marriage rates or the increase of divorce among couples may have little to do with the disunity of Black men and women but the results of policies that disincentivize marriage and creates a dependence on public assistance and child support. Such dependence has resulted in a predominant family structure – particularly in the Black community – where fathers live separately from their children and mothers tend to head most households.

Physical separation, however, is not synonymous with lack of father involvement or “fatherlessness.” Therefore,

**“FATHERLESSNESS”  
MUST BE BETTER UNDERSTOOD.**

Dr. Waldo Johnson (2018), an expert in fatherhood work, says “you cannot assume that a father’s absence means non-involvement. Simply because a father does not live in the household does not necessarily mean that he does not have any involvement” or that he does not want to be involved. Co-residence creates opportunities for engagement, but men can live in the home and still be disengaged while those who live outside of the home can be very involved. Fatherlessness, then, is not defined by living arrangement but true father absence.<sup>1</sup> In fact, fatherhood expert Kenneth Braswell, CEO of Fathers Incorporated, suggests, “There is no such thing as a fatherless child. One hundred percent of all children have fathers. The question isn’t if he exists, the question is, where he exists.”

Understanding fatherhood with this in mind provides a paradigm shift and helps us to better understand potential consequences (i.e. father engagement, youth educational outcomes, etc.) of fatherhood absence. Policymakers, researchers, and practitioners must revisit and revise policies so that they incentivize positive relationships between mothers, fathers and youth. Policies like welfare and child support should not create disengagement but, rather, opportunity for parents’ significant and sustained parental success-despite marital status. Finally, these policies should assist in bolstering fathers’ relationship with their children so that youth are healthy physically, socially and academically.

Let us examine one such policy in detail – legitimation. Imagine as a father you attempt to obtain your child’s academic records only to discover that you do not have permission to do so, despite a paternity test that should suggest otherwise. What if your child has cancer? You have supported her for the past 10 years through child support, but you cannot assist in making any medical decisions until you legally prove you are the father in a process separate from the administrative procedure of establishing paternity. Your name is on the birth certificate, and you took a paternity test, but you still have no legal rights to your child because he or she has not been legitimated. These hypotheticals seem far-fetched but are examples of what could happen among fathers in the state of Georgia due to a legitimation law. Married parents automatically share rights and responsibilities that give them equal say in what happens to their children. This is not true, for non-married parents and is particularly harsh for non-married/non-custodial fathers.

<sup>1</sup> Richardson, Saeed. 2019. “Breaking Myths about Black Fatherhood.” The Chicago Reporter

# LEGITIMATION

is a law that determines the legal status of non-married fathers in relationship to his child.

When children are legitimized fathers have the right and authority to make decisions in support of their well-being. In all states but Georgia, legitimation for non-married fathers is determined at the time of paternity. In the state of Georgia, legitimation and paternity are treated as two separate administrative and legal actions.

As of the end of 2020, **558,742** children in the state of Georgia have been born without a legal father since 2010.



<sup>2</sup> Data Source: Analysis of 1990-2019 Natality MicroData files from Centers for Disease Control and Prevention, National Center for Health Statistics.

When paternity is established, unmarried fathers are expected to pay child support and are responsible to provide medical and financial support. Paternity does not automatically determine legitimation. Legitimation is a separate process whereby non-married fathers must take legal action to establish fathers' legal rights pertaining to decisions related to their children including but not limited to: medical decisions, and school choices. Legitimation must be determined for each child. It is not a guaranteed process. Each case has to be reviewed and considered by a judge. Fathers must seek legitimation for each child when not born of the same mother or paternity is not established, when multiple children are born of the same mother.

The intention of legitimation historically was to address inheritance. Children who are legitimized are able to receive inheritance from their father. It has evolved over time, however, to be another policy that is a barrier to fatherhood engagement in a way that may negatively impact the relationship between fathers and their children. Understanding the negative interaction of policies geared toward mandating father engagement (i.e. child support) and/or the impact of these policies on parent/child relationships is an overlooked imperative when examining youth academic outcomes.



There are a number of policies that have been created that potentially decrease father engagement with their families. Despite these seemingly well-intentioned policies, the results have sometimes left low-income non-custodial Black fathers and their families in far worse shape than pre-policy. For example, research suggests that black, low-income, noncustodial fathers face heightened barriers with child support enforcement, despite their contributions to their families<sup>3</sup>. According to the Urban Institute (2006), Research suggests that child support enforcement can negatively impact low-income black fathers in the following ways:<sup>4</sup>

1. **child support orders may be set at rates low-income fathers can't pay**
2. **child support enforcement methods can wreak havoc on fathers' employment and ability to save money**
3. **failure to pay child support can lead to incarceration**
4. **Debt and incarceration hinder black fathers and cause harm to their children<sup>5</sup>**

Although this policy was intended to bring financial assistance to the families of non-custodial fathers, it often serves as a means of keeping low-income fathers locked in poverty and away from their children or sometimes worse.

## THE CASE OF WALTER SCOTT...

should be an example of the deleterious consequences that can come from the current iteration of our child support policy. **Scott was the father of four who was killed by police in South Carolina. According to accounts given by his family, he was likely running from an arrest warrant because of an unpaid child support order.<sup>6</sup> He reportedly owed \$6,800 in child support payments and had been jailed previously for failure to pay. The thought of re-arrest might have impacted his decision to attempt to flee police when pulled over in his vehicle. That choice proved fatal. The policy, then, had the very opposite impact on his ability to provide financial assistance for his family and now, as a result of his unfortunate death, he no longer has that opportunity.**



<sup>3</sup> J Child Poverty. 2013 Jan 1; 19(1): 45–61

<sup>4</sup> Robbins, N. L., Waller, M. R., Nepomnyaschy, L., & Miller, D. P. (2022). "Child support debt and the well-being of disadvantaged fathers of color." *Journal of Marriage and the Family*.

<sup>5</sup> <https://www.urban.org/urban-wire/child-support-enforcement-can-hurt-black-low-income-noncustodial-fathers-and-their-kids>

<sup>6</sup> <https://www.urban.org/urban-wire/child-support-enforcement-can-hurt-black-low-income-noncustodial-fathers-and-their-kids>

Other economic policies that arguably impair low-income Black families and, specifically reduced the role of the black father, are welfare policies. Welfare policies began in the 1930's and expanded some in the 1960's. However, it was under Johnson's Great Society, which began in 1964, when benefits became substantially more generous and came under greater control of the federal government, that the role of the Black father was minimized<sup>7</sup>. Paul Peterson of Harvard wrote this about welfare policies "some programs actively discouraged marriage," because "welfare assistance went to mothers so long as no male was boarding in the household... Marriage to an employed male, even one earning the minimum wage, placed at risk a mother's economic well-being."<sup>8</sup> Welfare workers could randomly check in homes to see if the mother was accurately reporting her family status. The negative impact this set of policies has had on low-income Black families cannot be understated.

Today, more than  
**70%**



of Black children are born

**out of wedlock**

and largely reside with their mother

Among other consequences, non-custodial fathers must deal with how to provide financial care for their children and how best to develop a relationship with them that will positively impact their emotional, social and academic well-being.

<sup>7</sup> <https://ifstudies.org/blog/family-breakdown-and-americas-welfare-system>

<sup>8</sup> Krumholtz, William. 2019. "Family Breakdown and America's Welfare System." Institute of Family Studies.

<https://ifstudies.org/blog/family-breakdown-and-americas-welfare-system>



Research related to state legitimation is limited, in part, due to the fact that the number of states requiring legitimation is small. To date, Georgia is the only state that requires a two-part legal and administrative process for non-married fathers to gain legal rights to their children. Furthermore, the legitimation process must be repeated for each individual child. This means that dads may go through legitimation multiple times within one relationship. One could

argue that like many other family policies, the intention of state legitimation was positive. It was created so youth would be able to legally inherit financial wealth from their father and/or to contribute financially to their fathers. Despite any positive intentions, there are several unintended negative consequences of legitimation that plague fathers who are required to financially support children but have no legal rights to them.

## Uninformed Fathers

One immediate issue with legitimation is related to whether or not fathers are educated on the process of legitimation. Many fathers do not understand that legitimation and paternity are two different processes. Once paternity is established, fathers are informed about related financial responsibility (i.e. medical, educational, etc.). Legitimation policy, however, determines that fathers still do not have legal rights until they go through the legitimation process. For example, fathers whose paternity has been established, are expected to pay for the medical bills of their children but if not legitimized, do not have the right to make medical decisions. As might be imagined, policies that mandate father payments without immediate father privilege could cause negativity within familial relationships. Moreover, fathers who are uninformed about the legitimation process may not know how to obtain it.

There are organizations, like Fathers Incorporated, that are including programs geared toward teaching fathers about legitimation. Fathers Incorporated (FI) is a

national, non-profit organization working to build stronger families and communities through the promotion of Responsible Fatherhood. Through their “Fatherhood is Brotherhood” program, FI teaches fathers about the legitimation process and offers free legitimation services to fathers who need them. Programs like these are incredibly important, not only for fathers, but to assist fathers in making informed decisions and, thereby, fostering father/child relationships.



## Legitimation Process VS Paternity Process



## Legitimation and Child Support

There is a potentially negative compound effect when fathers must deal with both legitimation and child support enforcement. Nationwide, the child support program serves one-fifth of all U.S. children and one third of all U.S. children in poor families—totaling 14.7 million children.<sup>9</sup> For families with child support orders, child support is one of the largest sources of income.<sup>10</sup> Despite the importance of child support, as noted, there are a number of challenges fathers may face when it is enforced. It can impact fathers' employment, an accumulation of debt, the inability to save and/or in incarceration.<sup>11</sup> An exacerbating factor is being a father who has child support requirements (and all that it entails) yet has to go through an additional process to gain the legal rights to positively impact his children.

Research on state legitimation in Georgia does support a direct relationship among custody, parenting time (visitation) and child support. For example, in her dissertation entitled,

“The Effect of a State Legitimation Process on Child Support Payments and Father-Child” Dr. Chalonda Smith found that fathers who had joint custody and engaged in parenting time with their children are more likely to pay child support while those fathers with no custody and no parenting time are least likely to pay child support. In other words,

**Fathers who have the opportunity and legal right to PARTICIPATE in the lives of their children are MORE LIKELY to pay court ordered child support.**

It follows, then, that fathers whose children are not legitimized and who do not have legal rights to their children are less likely to pay child support.

<sup>9</sup> <https://www.ncsl.org/research/human-services/how-child-support-affects-low-income-fathers.aspx>

<sup>10</sup> KHaney, Lynn. 2018. “Incarcerated Fatherhood: The Entanglements of Child Support Debt and Mass Imprisonment” American Journal of Sociology. The University of Chicago Press.

<sup>11</sup> <https://www.ncsl.org/research/human-services/child-support-and-incarceration.aspx>

## Little Return on Investment

A final challenge related to legitimation is the fact that government and other funders continually pour dollars into responsible fatherhood programs in the state of GA but do not necessarily impact the heart of the issue—lack of legal rights for them. Spending money to build capacity for fathers is important but if dads have no legal rights, that may impede their ability and/or their desire to engage with their families. Fathers Incorporated currently facilitates a program funded by The Office of Family Assistance called the Father's Incorporated (FI) Gentle Warriors Academy (GWA). This program is designed to help adult fathers ages 18 and older incorporate practices and behaviors for managing the responsibilities of being parents/co-parents and partners through responsible parenting, healthy marriage/relationships, and economic stability activities. The program boasts success in enrolling, engaging and graduating young dads. The challenge, however, is though fatherhood capacity is built within this program, fathers who do not have legal rights to their children might

not feel as invested as those fathers who have legal rights do. Moreover, the program includes activities and resources from a number of social agencies that could provide assistance to dads. Program evaluations, however, suggest that the number one need expressed by fathers is not child support or how to obtain a better job – it is understanding and pursuing legitimation.

**FATHERS**  
**overwhelmingly**  
**want to know how to obtain**  
**THE LEGAL RIGHTS**  
**to their children**

## Youth Academic Outcomes

How do policies like legitimation impact youth academic outcomes? Research shows that parental involvement in their children's learning positively affects the child's academic performance (Fan and Chen, 2001) in both primary and secondary schools (Feinstein and Symons, 1999), leading to higher academic achievement, greater cognitive competence, greater problem-solving skills, greater school enjoyment, better school attendance and fewer

behavioral problems at school (Melhuish, Sylva, Sammons et al., 2001). As noted, however, fathers who do not have legal access to academic decisions may not feel the need to be engaged with their children in other ways. Furthermore, fathers who are battling legitimation and other policies may have strained relationships with the mothers of their children. This, in turn, may be a barrier to positive engagement and positive youth academic outcomes.

## Conclusion

In conclusion, there are a number of policies related to fathers that need revision in an effort to indirectly impact father engagement and, ultimately, youth academic outcomes. Research on child support and welfare expansion notes the negative impact both sets of policies have on low-income (often Black) fathers and their families.<sup>12</sup> Discouraging marriage and making fatherhood difficult for non-custodial fathers are among the unintended consequences of these policies. Similarly, the state legitimation policy in Georgia has equally negative consequences. Low-

income, non-custodial fathers may find it difficult to gain information or the necessary assistance to become legitimized. Mitigating factors related to child support and/or the relationship with the child's mother may discourage or impede legitimation. All of these things combined may create negative father/child engagement and we know low parental engagement may negatively impact youth academic achievement. It's also important to note that if something were to happen to the mother, neither the father nor his side of the family can be involved in custody decisions.



## Recommendations/Call to Action

- Recommendation 1:** Establish legitimation at the same time paternity is determined. Fathers who take a paternity test and are deemed the father of his child should also receive all of the legal rights afforded the mother.
- Recommendation 2:** Allow fathers with established paternity to request custody and/or parenting time (visitation).
- Recommendation 3:** Fathers should receive automatic custody in the event of loss of life of the other parent, and,
- Recommendation 4:** The State of Georgia should identify funding resources for local nonprofits (fatherhood and parenting programs, legal assistance programs, etc.) to establish methods of assistance in alleviating legal costs and administrative fees of legitimation. And if the law is to remain, there should be educational/awareness campaigns.

<sup>12</sup> Krumholz, William. 2019. "Family Breakdown and America's Welfare System." Institute for Family Studies.



## Resources

***Black Families Five Decades After the Moynihan Report***

<https://www.youtube.com/watch?v=W5FTwPvIYS4>

***National African American Child and Family Research Center (NAACFRC)***

<https://twitter.com/naacfrc>

***The Blueprint: Reimagining the Narrative of the Modern Black Father***

<https://www.fathersincorporated.com/wp-content/uploads/2020/09/The-BluePrint-Report-ONLINE.pdf>

***The Moynihan Institute for Fatherhood Research and Policy***

<https://fathersincorporated.com/moynihan-institute/>

***The Moynihan Report Revisited***

<https://www.fathersincorporated.com/wp-content/uploads/2020/09/Moynihan-Report-UI.pdf>



### **DR. WILBON BIO**

Dr. Matisa Wilbon is an Associate Research Scientist at Fathers Incorporated (FI) and one of the founding board members of FI's Moynihan Institute. Dr. Wilbon is also an Adjunct Professor of Sociology and a Diversity, Equity and Inclusion consultant where she assists non-profits and colleges & universities in DEI strategic planning, training and organizational change. She received her Masters and Ph.D. degrees in sociology from the Ohio State University.

### **MOYNIHAN INSTITUTE BIO**

The Moynihan Institute for Fatherhood Research and Policy provides descriptive and explanatory research and policy positions on issues that impact Black families from the perspective of fathers. MIFRP also utilizes the historical work of Moynihan as a base to research and introduce policy that will positively impact Black families, with the father as the focal point within the family.

*This is part of a 3-part series of briefs supported by redefinED atlanta to highlight the intersection of Responsible Fatherhood, Social Justice and Education.*





**GEORGIA STATE LEGITIMATION, FATHER ENGAGEMENT AND YOUTH ACADEMIC OUTCOMES**