

Thailand Civil and Commercial Code

Title II

Parent and Child

Chapter I

Parentage Law Code

Section 1536. A child born of a mother during the period of a lawful marriage or within three hundred and ten days after the termination of the marriage is presumed to be the legitimate child of the husband or former husband, as the case may be.

The provisions of paragraph one shall apply to a child born of a woman before the marriage has been announced void by the final judgment of the Court, or within three hundred and ten days as from the date of such final judgment.

Section 1537. If the mother re-married and gives birth to a child within three hundred and ten days counting from the day of termination of the prior marriage, the child shall be presumed to be the legitimate child of the new husband, and no presumption under Section 1536 declaring that the child is the legitimate child of the former husband shall apply; provided that there is a judgment ordering that the child is not the legitimate child of the new husband.

Section 1538. In case where the father or mother entered the marriage against Section 1452, a child born during such marriage shall be presumed to be the legitimate child of the husband who has the latest marriage entered into the Marriage Register.

In case where the mother entered the marriage against Section 1452, the presumption in Section 1536 shall apply; provided that there is a final judgment ordered that the child is not the legitimate child of the husband who has the latest marriage entered into the Marriage Register.

The provisions of paragraph one shall apply to the child born within three hundred and ten days from the date of the final judgment ordering void the marriages made against Section 1452.

Section 1539. In case where the child is presumed to be the legitimate child of the husband or the prior husband under Section 1536, Section 1537 or Section 1537 or Section 1537 or

Section 1538, the husband or the prior husband may repudiate the child by entering an action in Court against the child and the mother jointly, and providing that he did not cohabit with the mother of the child during the period of conception, that is to say, the period extending from one hundred and eighty days prior to the birth of the child, or that he could not have been the father of the child on other grounds of impossibility.

The action may be brought against only the child if at the time of entering the action the mother of the child is deceased. Where the child is deceased irrespective of whether the mother is alive or not, the Court may be requested to declare that the child is not his legitimate child. In case where the mother of the child or the heir of the child is still alive, the Court shall send a copy of the request to the said person and may, if it thinks proper, send also a copy of the request to the Public Prosecutor for consideration of initiating the case on behalf of the child.

Section 1540. (Repealed)

Section 1541. An action for repudiation of a child cannot be entered by the husband or the prior husband if it appears that the latter allows the birth of the child entered in the Birth Register as his legitimate child or arranges or agrees to have it entered in the Birth Register.

Section 1542. An action for repudiation of a child shall be entered by the man who is the husband or the prior husband within one year after the birth of the child. In any case no such action can be entered later than ten years after the birth of the child.

In case where there is a judgment ordering that the child is not the legitimate child of the new husband under Section 1537 or of the prior husband under Section 1538, if the husband or the prior husband and is presumed by Section 1536 to be the father of the child, he shall enter the action within one year from the date that the final judgment became known to him.

Section 1543. In case where the man who is or used to be the husband who has entered an action for repudiation of the child, died before the case became final, an individual who has the right of inheritance together with the child or an individual whose right of inheritance would be deprived on account of the birth of the child, may file a motion to substitute himself or may be summoned to substitute for the deceased.

Section 1544. An action for repudiation of a child can be entered by an individual who has the right of inheritance together with the child or by an individual whose right of inheritance would be deprived on account of the birth of the child in the following cases:

(1) the man who is the husband or former husband died before the expiration of the period within which the action could have been entered by him;

(2) the child was born after the death of the husband or the former husband. The action for repudiation of the child under (1) must be entered within six months from the death of the man who is or ever was the husband becoming known to that person. In any case no such action can be entered later than ten years after the birth of the child.

The provisions of Section 1539 shall apply to the entering of an action for repudiation of the child, *mutatis mutandis*.

Section 1545. A child may request the Public Prosecutor to enter an action under Section 1536 for repudiation to be the legitimate child of the husband of his or her mother if it becomes known to the child that he or she is not an inherited child of the husband of the mother.

In entering the action under paragraph one, if it becomes known to the child before he or she becomes *sui juris* that he or she is not the legitimate child of the husband of his or her mother, no action can be entered by the Public Prosecutor after one year as from the date of his or her becoming *sui juris*. If it becomes known to the child after his or her becoming *sui juris*, no action can be entered by the Public Prosecutor after than one year since the date when the facts came to his or her knowledge.

Section 1546. A child born of a woman who is not married to a man is decided to be the legitimate child of such woman.

Section 1547. A child born to parents who are not married to each other is legitimate by the subsequent marriage of the parents, or by the registration made through application by the father, or by an order of the Court.

Section 1548. When legitimation is applied for by the father, the child and the mother must give approval to the applicant.

In case where the child and the mother do not appear before the Registrar for giving the approval, the Registrar shall notify the child and the mother of the father's application for registration. If the child or the mother raises no objection or does not give the approval within sixty days after the receipt of the notification by the child or mother, it is presumed that the child or the mother does not give approval. The period of time shall be extended to one hundred and eighty days in case where the child or the mother has been outside Thailand.

In case where the child or the mother raises an objection that the applicant is not the father, or does not give approval, or is unable to give approval, the registration for legitimation must be effected by an order of the Court.

After the Court has pronounced an order effecting the registration of the legitimation and the order has been produced to the registrar for registration, the Registrar shall effect the registration.

Section 1549. When the Registrar has alerted the child and mother of the application of legitimation under Section 1548, notwithstanding whether the child and the mother will object to the application under Section 1548 or not, the child or the mother may, within a period of no more than ninety days after the notification was received by the child or mother, notify the Registrar to create a record that the applicant is not a suitable person for exercising in part or whole the parental power.

Although the registration of legitimation under Section 1548 had been made, if there has been a notification of the child and the mother under paragraph one, the child's father will not be able to exercise in part or whole such parental power as had been notified by the child or mother until the Court issues an order effecting the child's father to exercise in part or whole the parental power, or a period of ninety days has elapsed since the Registrar was notified by the child or mother of the unsuitability of the party of the applicant for registration of legitimation to exercise in part or in whole the parental power and that no request has been submitted to the Court by the child or the mother for an order effecting the applicant for registration of legitimation to be the person unsuitable for exercising a part or whole of the parental power.

In case the Court pronounces an order that the applicant for registration of legitimation is not the suitable person for exercising in part or whole the parental power, the Court may decide

in the same case that whoever will exercise in part or whole the parental power or be the guardian.

Section 1550. (Repealed)

Section 1551. In case where there is an objection to the applicant for registration of legitimation on account of not being the child's father, if the applicant for registration of legitimation has brought an action to the Court for an order effecting him to be the child's father, the child or the mother may apply to the Court in the same case for an order effecting that the applicant for registration of legitimation is not a suitable person for exercising in part or whole the parental power, even if he is the real father of the child. In such a case the provisions of paragraph three of Section 1559 shall apply *mutatis mutandis*.

Section 1552. In case the child has no mother or his or her mother has been relieved in part or whole of her parental power and the other person has been appointed by the Court to be guardian in part or whole before the registration of legitimation, the father who causes the registration of legitimation to be entered may, if he thinks that for the benefit of the child he should be the person exercising the parental power in part or whole, apply to the Court for an order effecting the deprivation of a part or the whole of guardianship from the guardian and deeming the father to be the person exercising the parental power. If the father may, in the opinion of the Court, exercise the parental power to cause more happiness and interest in the child's life, the Court may issue an order effecting the deprivation in part or whole of the guardianship from the guardian and allow the father to be the person exercising parental power.

Section 1553. (Repealed)

Section 1554. Any interested person may, within three months from the date when he or she became aware of the registration of legitimation, apply to the Court for cancellation of the registration on the ground that the person who insisted the legitimation be registered is not the father of the child; in any case no such action may be entered after the ten years from the date of registration.

Section 1555. An action for legitimation may be entered only in the following cases:

1. Where a rape occurred, or an abduction or illegal confinement of the mother during the time when conception could have occurred;
2. Where elopement or seduction of the mother occurred during the period when conception could have occurred;
3. Where there is a document emanating from the father and acknowledging the child as his own
4. If in the Birth Register it appears that the child is a son or daughter of the man who notified of the birth, or such notification was made with consent of the man;
5. Where open cohabitation of the mother and father has occurred during the period when conception could have occurred
6. Where the father had sexual intercourse with the mother during the period when conception could have occurred, and there exist grounds to believe that he or she is not the child of another man;
7. Where there has existed a continuous common repute of being a legitimate child.

The status ensuing from continuous common repute of being a legitimate child is proved by means of facts showing the relationship of father and child, as evidenced by the child's connection with the family to which he claims to belong, such as the fact that the father has provided for the child's education or maintenance, or that he has allowed the child to use his family name or other facts.

In any case, if the man is deemed unable to be a father, the case shall be dismissed.

Section 1556. The action for legitimation may be brought by the legal representative of the child if the child is a minor and has not yet completed his fifteenth year of age. In case there is no existing legal representative or the legal representative can not conduct his duties, a close relative or the Public Prosecutor may apply to the Court to appoint a representative *ad litem* to bring the action on behalf of the child.

After the child's fifteenth year is complete, the child must bring the action him or herself and does not need to receive consent of the legal representative.

After reaching the age of *sui juris*, the action must be entered within one year from the day of becoming *sui juris*.

In such situation as the child is deceased during the time frame that he has the right to bring

an action for legitimation, his descendant may enter an action for legitimation. Should the descendant know the ground of the action for legitimation before the death of the child, the action would have to be entered by the former within one year from the child's death. Should the ground of the action for legitimation become known to the descendant after the death of the child, the action would have to be entered within one year from the day the said ground came to his attention; provided, however, that it cannot be entered after ten years have passed since the death of the child.

The provisions of paragraph one and paragraph two shall apply to the action of legitimation entered by the minor descendant *mutatis mutandis*.

Section 1557. Legitimation under Section 1547 shall take effect:

1. From the marriage date in case of subsequent marriage of the parents
2. From the registration date in case where the registration of legitimation is made by the father;
3. From the day of final judgment in case of legitimation pronounced by the Court, provided that it may not be created to the prejudice of the rights of third persons acting in good faith, unless it has been registered according to the order.

Section 1558. In regards to the action for legitimation of the deceased having been entered within the correct period for claim of inheritance, if the Court deems the child to be legitimate he is entitled to inheritance as statutory heir.

In case where the estate has been divided the provisions of this Code concerning undue enrichment shall apply *mutatis mutandis*.

Section 1559. The registration of legitimation cannot be cancelled, once it has been made.

Section 1560. The child born during marriage is considered to be legitimate, even though the marriage has been thereafter cancelled.