

**STATE OF TENNESSEE  
OFFICE OF THE ATTORNEY GENERAL**

August 14, 2014

Opinion No. 14-75

Surname Entered on Birth Certificate

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**QUESTION**

Does Tenn. Code Ann. § 68-3-305(a) permit the married natural parents of a child to select as the child's surname on his or her birth certificate a combination of part of the surname of the child's natural father and part of the surname (or maiden surname) of the child's mother?

**OPINION**

No.

**ANALYSIS**

Tenn. Code Ann. § 68-3-305(a)(1) provides:

(a)(1) If the mother was married at the time of either conception or birth, or anytime between conception and birth, to the natural father of the child, the name of the natural father shall be entered on the certificate and the surname of the child shall be entered on the certificate as one of the following:

- (A) The surname of the natural father; or
- (B) The surname of the natural father in combination with either the mother's surname or the mother's maiden surname.

Subdivision (a)(1) thus requires inclusion of the father's surname on the child's birth certificate. The child's surname may include only the mother's surname or maiden surname (or a combination of those two surnames), but only upon mutual agreement of both parents. Tenn. Code Ann. § 68-3-305(a)(2).

Based on its plain language, Tenn. Code Ann. § 68-3-305(a) does not permit the surname of the child to be listed on a birth certificate using only a portion of the father's surname and a portion of the mother's surname (or maiden surname). *See Carson Creek Vacation Resorts, Inc. v. Tenn. Dep't of Revenue*, 865 S.W.2d 1, 2 (Tenn. 1993) (the meaning of an unambiguous statute is determined from the statute's plain

language). For example, if the father's surname were "Johnson" and the mother's surname were "McAllister," the child's surname could be "Johnson" or "Johnson-McAllister" or "McAllister-Johnson," or "McAllister" by mutual agreement of both parents. But it could not be "Johnister" or "McAllinson." The statute allows for use of the father's surname "in combination with" the mother's surname, but a hybrid surname such as "Johnister" would include neither parent's surname.

Parents can also change their child's surname within the first year after birth by submitting a sworn statement to the Office of Vital Records. Tenn. Code Ann. § 68-3-305(a)(4) provides:

If, within the first year after the child's date of birth, both the mother and the father sign and submit a sworn statement to the office of vital records that both parents wish to change the child's surname, then the office of vital records shall amend the child's birth certificate in accordance with the parents' request to change the child's surname, if the chosen surname is either:

- (A) The surname of the natural father;
- (B) The surname of the mother;
- (C) The mother's maiden surname; or
- (D) Any combination of the surnames listed in subdivisions (a)(4)(A)-(C).

This subdivision affords the same surname options as § 68-3-305(a)(1) and (2). But any combination must still be "of the *surnames* listed" (emphasis added). Subdivision (a)(4), therefore, does not permit the surname of the child to be changed to a hybrid surname.

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