

STATE OF TENNESSEE

OFFICE OF THE
ATTORNEY GENERAL
PO BOX 20207
NASHVILLE, TENNESSEE 37202

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Opinion No. 10-91

Jurisdiction Over Parentage Actions in Shelby County

QUESTIONS

1. Do Shelby County Circuit and Chancery Courts have jurisdiction over parentage actions brought under Tennessee Code Annotated, Title 36, Chapter 2?

2. Notwithstanding the provisions of Tenn. Code Ann. § 36-2-307(a)(1), do Shelby County Circuit and Chancery Courts have jurisdiction under Tenn. Code Ann. § 37-1-104(f) over proceedings to establish the paternity of children born out of lawful wedlock and to determine any custody, visitation, support, education or other issues regarding the care and control of children born out of wedlock?

OPINIONS

1. No. As provided in Tenn. Code Ann. § 36-2-307(a)(1), in a county that has a population between 825,000 and 830,000 according to the 1990 or subsequent federal census, only the juvenile court shall have jurisdiction of an action brought under Chapter 2, Title 36. As Shelby County fell within this population bracket according to the 1990 federal census, the Shelby County Circuit and Chancery Courts do not have jurisdiction over such actions.

2. No. Proceedings to establish the paternity of children born out of lawful wedlock and to determine any custody, visitation, support, education or other issues regarding the care and control of children born out of wedlock are parentage actions brought under Title 36, Chapter 2. Shelby County Circuit and Chancery Courts are not granted jurisdiction over such actions under Tenn. Code Ann. § 37-1-104(f).

ANALYSIS

1. In general, subject matter jurisdiction concerns the authority of a particular court to hear a particular controversy. *Meighan v. United States Sprint Comm. Co.*, 924 S.W.2d 632, 639 (Tenn. 1996). A court's subject matter jurisdiction "relates to the nature of the cause of action and the relief sought and is conferred by the sovereign authority which organizes the court." *Landers v. Jones*, 872 S.W.2d 674, 675 (Tenn. 1994) (citations omitted). For parentage actions

filed under Tenn. Code Ann. §§ 36-2-301, *et seq.*, subject matter jurisdiction is conferred on the appropriate juvenile, circuit, or chancery court, except in counties with populations between 825,000 and 830,000 according to the 1990 or subsequent federal census:

The juvenile court or any trial court with general jurisdiction shall have jurisdiction of an action brought under this chapter; provided, that, in any county having a population not less than eight hundred twenty-five thousand (825,000) nor more than eight hundred thirty thousand (830,000), according to the 1990 federal census or any subsequent federal census, only the juvenile court shall have jurisdiction of an action brought under this chapter.

Tenn. Code Ann. § 36-2-307(a)(1).

Circuit and chancery courts are courts of general jurisdiction. Tenn. Code Ann. §§ 16-10-101 and 16-11-102; *Stambaugh v. Price*, 532 S.W.2d 929, 932 (Tenn. 1976). Shelby County, however, had a population between 825,000 and 830,000 according to the 1990 federal census. Thus, under the provisions of Tenn. Code Ann. § 36-2-307(a)(1), the Shelby County Circuit and Chancery Courts do not have jurisdiction over parentage actions filed under Tenn. Code Ann. §§ 36-2-301, *et seq.*¹

2. Your second question asks whether Shelby County Circuit and Chancery Courts are conferred jurisdiction over parentage actions under Tenn. Code Ann. § 37-1-104(f), notwithstanding the provisions of Tenn. Code Ann. § 36-2-307(a)(1). This later statute also grants jurisdiction to juvenile courts over parentage proceedings concurrent with circuit and chancery courts:

Notwithstanding any provision of law to the contrary, the juvenile court has concurrent jurisdiction with the circuit and chancery court of any proceedings to establish paternity of children born out of lawful wedlock and to determine any custody, visitation, support, education or other issues regarding the care and control of children born out of wedlock. The court further has the power to enforce its orders. Nothing in this subsection (f) shall be construed as vesting the circuit and chancery courts with jurisdiction over matters that are in the exclusive jurisdiction of the juvenile court under § 37-1-103.

Tenn. Code Ann. § 37-1-104(f).

In construing a statute, the primary goal of the courts is to give effect to the purpose of the legislature without exceeding its intended scope. *Hayes v. Gibson County*, 288 S.W.3d 334, 337

¹ As this legislation creates an exception, through population brackets, to jurisdiction over parentage actions, it triggers scrutiny under Article XI, Section 8 of the Tennessee Constitution. The courts have consistently held that a legislatively-created classification within a statute will be upheld as long as there is any possible reason to justify the classification. *Stalcup v. City of Gatlinburg*, 577 S.W.2d 439, 442 (Tenn. 1978). It is our opinion that a legitimate justification can be envisioned for the different treatment of parentage actions in counties with large populations.

(Tenn. 2009). When a statute is unambiguous, a court will construe its meaning from the natural and ordinary meaning of the words chosen. *State v. Flemming*, 19 S.W.3d 195, 197 (Tenn. 2000). On the other hand, when a statute is ambiguous in that it is subject to varied interpretations producing contrary results, a court will construe its meaning by examining “the broader statutory scheme, the history of the legislation, or other sources.” *State v. Sherman*, 266 S.W.3d 395, 401 (Tenn. 2008).

As a general rule, statutes on the same subject should be construed together harmoniously, so they do not conflict. *In re Akins*, 87 S.W.3d 488, 493 (Tenn. 2002) (citation omitted). When construing facially conflicting statutes, a court will give effect to the legislative intent “without unduly restricting or expanding a statute’s intended coverage.” *State v. Turner*, 193 S.W.3d 522, 526 (Tenn. 2006) (citation omitted). There is a presumption that the legislature is aware of other statutes relating to the same subject matter. *Shorts v. Bartholomew*, 278 S.W.3d 268, 277 (Tenn. 2009). Accordingly, unless the newer statute expressly repeals or amends the old one, “the new provision is presumed to be in accord with the same policy embodied in the prior statutes.” *Id.* Repeals by implication are disfavored in Tennessee and will be recognized “only when no fair and reasonable construction will permit the statutes to stand together.” *Cronin v. Howe*, 906 S.W.2d 910, 912 (Tenn. 1995). A court will hold a later statute to have repealed an earlier statute by implication only when the conflict between the statutes is irreconcilable. *Id.* See also *Hayes v. Gibson County*, 288 S.W.3d at 338.

In construing Tenn. Code Ann. §§ 37-1-104(f) and 36-2-307(a)(1) together, it is possible to have a fair and reasonable construction that permits both of these statutes to stand together. Both of these statutes provide juvenile courts with concurrent jurisdiction with circuit and chancery courts over proceedings to establish paternity of children born out of wedlock. In looking at the natural and ordinary meaning of the language used in § 37-1-104(f), there is no indication of legislative intent to either confer or remove jurisdiction over parentage actions from circuit and chancery courts. Rather, this section addresses only the jurisdiction of juvenile courts. Thus, it is our opinion that the specific exception in Tenn. Code Ann. § 36-2-307(a), depriving circuit and chancery courts in Shelby County of jurisdiction over parentage actions brought under Chapter 2, Title 36, is not irreconcilable with the later enactment of Tenn. Code Ann. § 37-1-104(f) and was not repealed by implication.

ROBERT E. COOPER, JR.
Attorney General and Reporter

BARRY TURNER
Deputy Attorney General

DIANNE STAMEY DYCUS
Deputy Attorney General

Requested by:

Honorable Jim Kyle
State Senator
309 War Memorial Building
Nashville, TN 37243-0028