

1 **Chapter 48.**

2 **Adoptions.**

3 Article 1.

4 General Provisions.

5 **§ 48-1-100. Legislative findings and intent; construction of Chapter.**

6 (a) The General Assembly finds that it is in the public interest to establish a clear
7 judicial process for adoptions, to promote the integrity and finality of adoptions, to encourage
8 prompt, conclusive disposition of adoption proceedings, and to structure services to adopted
9 children, biological parents, and adoptive parents that will provide for the needs and protect the
10 interests of all parties to an adoption, particularly adopted minors.

11 (b) With special regard for the adoption of minors, the General Assembly declares as a
12 matter of legislative policy that:

13 (1) The primary purpose of this Chapter is to advance the welfare of minors by
14 (i) protecting minors from unnecessary separation from their original
15 parents, (ii) facilitating the adoption of minors in need of adoptive placement
16 by persons who can give them love, care, security, and support, (iii)
17 protecting minors from placement with adoptive parents unfit to have
18 responsibility for their care and rearing, and (iv) assuring the finality of the
19 adoption; and

20 (2) Secondary purposes of this Chapter are (i) to protect biological parents from
21 ill-advised decisions to relinquish a child or consent to the child's adoption,
22 (ii) to protect adoptive parents from assuming responsibility for a child about
23 whose heredity or mental or physical condition they know nothing, (iii) to
24 protect the privacy of the parties to the adoption, and (iv) to discourage
25 unlawful trafficking in minors and other unlawful placement activities.

26 (c) In construing this Chapter, the needs, interests, and rights of minor adoptees are
27 primary. Any conflict between the interests of a minor adoptee and those of an adult shall be
28 resolved in favor of the minor.

29 (d) This Chapter shall be liberally construed and applied to promote its underlying
30 purposes and policies. (1949, c. 300; 1983, c. 454, ss. 1, 6; 1995, c. 457, s. 2.)

31
32 **§ 48-1-101. Definitions.**

33 In this Chapter, the following definitions apply:

34 (1) "Adoptee" means an individual who is adopted, is placed for adoption, or is
35 the subject of a petition for adoption properly filed with the court.

36 (2) "Adoption" means the creation by law of the relationship of parent and child
37 between two individuals.

38 (3) "Adult" means an individual who has attained 18 years of age, or if under the
39 age of 18, is either married or has been emancipated under the applicable
40 State law.

41 (3a) "Adoption facilitator" means an individual or a nonprofit entity that assists
42 biological parents in locating and evaluating prospective adoptive parents
43 without charge.

44 (4) "Agency" means a public or private association, corporation, institution, or
45 other person or entity that is licensed or otherwise authorized by the law of
46 the jurisdiction where it operates to place minors for adoption. "Agency"
47 also means a county department of social services in this State.

48 (4a) "Agency identified adoption" means a placement where an agency has
49 agreed to place the minor with a prospective adoptive parent selected by the
50 parent or guardian.

51 (5) "Child" means a son or daughter, whether by birth or adoption.

- 1 (5a) "Confidential intermediary" means an agency that may act as a third party to
2 facilitate the sharing of information authorized by G.S. 48-9-104.
- 3 (5b) "Criminal history" means a county, State, or federal conviction of a felony
4 by a court of competent jurisdiction or a pending felony indictment of a
5 crime for child abuse or neglect, spousal abuse, a crime against a child,
6 including child pornography, or for a crime involving violence, including
7 rape, sexual assault, or homicide, other than physical assault or battery; a
8 county, State, or federal conviction of a felony by a court of competent
9 jurisdiction or a pending felony indictment for physical assault, battery, or a
10 drug-related offense, if the offense was committed within the past five years;
11 or similar crimes under federal law or under the laws of other states.
- 12 (6) "Department" means the North Carolina Department of Health and Human
13 Services.
- 14 (7) "Division" means the Division of Social Services of the Department.
- 15 (8) "Guardian" means an individual, other than a parent, appointed by a clerk of
16 court in North Carolina to exercise all of the powers conferred by G.S.
17 35A-1241, including a standby guardian appointed under Article 21 of
18 Chapter 35A of the General Statutes whose authority has actually
19 commenced; and also means an individual, other than a parent, appointed in
20 another jurisdiction according to the law of that jurisdiction who has the
21 power to consent to adoption under the law of that jurisdiction.
- 22 (9) "Legal custody" of an individual means the general right to exercise
23 continuing care of and control over the individual as authorized by law, with
24 or without a court order, and:
- 25 a. Includes the right and the duty to protect, care for, educate, and
26 discipline the individual;
- 27 b. Includes the right and the duty to provide the individual with food,
28 shelter, clothing, and medical care; and
- 29 c. May include the right to have physical custody of the individual.
- 30 (9a) Repealed by Session Laws 2010-116, s. 1, effective October 1, 2010.
- 31 (10) "Minor" means an individual under 18 years of age who is not an adult.
- 32 (11) "Party" means a petitioner, adoptee, or any person whose consent to an
33 adoption is necessary under this Chapter but has not been obtained.
- 34 (12) "Physical custody" means the physical care of and control over an
35 individual.
- 36 (13) "Placement" means transfer of physical custody of a minor to the selected
37 prospective adoptive parent. Placement may be either:
- 38 a. Direct placement by a parent or the guardian of the minor; or
39 b. Placement by an agency.
- 40 (14) "Preplacement assessment" means a document, whether prepared before or
41 after placement, that contains the information required by G.S. 48-3-303 and
42 any rules adopted by the Social Services Commission.
- 43 (15) "Relinquishment" means the voluntary surrender of a minor to an agency for
44 the purpose of adoption.
- 45 (16) "Report to the court" means a document prepared in accordance with G.S.
46 48-2-501, et seq.
- 47 (17) "State" means a state as defined in G.S. 12-3(11).
- 48 (18) "Stepparent" means an individual who is the spouse of a parent of a child,
49 but who is not a legal parent of the child. (1949, c. 300; 1953, c. 880; 1957,
50 c. 778, s. 1; 1961, c. 241; 1969, c. 982; 1971, c. 157, ss. 1, 2; c. 1231, s. 1;
51 1973, c. 476, s. 138; 1975, c. 321, s. 2; 1977, c. 879, s. 1; 1981, c. 924, s. 1;

1 1985, c. 758, s. 4; 1995, c. 457, s. 2; 1997-215, s. 11(e); 1997-443, s.
2 11A.118(a); 1998-229, s. 12; 2001-150, s. 1; 2007-262, s. 2; 2007-276, s. 7;
3 2010-116, s. 1.)
4

5 **§ 48-1-102. Parent includes adoptive parent.**

6 As used in this Article, the term "parent" includes one who has become a parent by
7 adoption. (1949, c. 300; 1953, c. 880; 1957, c. 778, s. 1; 1961, c. 241; 1969, c. 982; 1971, c.
8 157, ss. 1, 2; c. 1231, s. 1; 1973, c. 476, s. 138; 1975, c. 321, s. 2; 1977, c. 879, s. 1; 1981, c.
9 924, s. 1; 1985, c. 758, s. 4; 1995, c. 457, s. 2.)
10

11 **§ 48-1-103. Who may adopt.**

12 Any adult may adopt another individual as provided in this Chapter, but spouses may not
13 adopt each other. (1949, c. 300; 1963, c. 699; 1967, c. 619, ss. 1-3; c. 693; c. 880, s. 3; 1969, c.
14 21, ss. 3-6; 1971, c. 395; c. 1231, s. 1; 1973, c. 849, s. 3; c. 1354, ss. 1-4; 1975, c. 91; 1979, c.
15 107, s. 6; 1981, c. 657; 1983, c. 454, s. 6; 1989, c. 208; c. 727, s. 219(4); 1993, c. 553, s. 14;
16 1995, c. 457, s. 2.)
17

18 **§ 48-1-104. Who may be adopted.**

19 Any individual may be adopted as provided in this Chapter. (1949, c. 300; 1957, c. 778, s.
20 2; 1967, c. 880, ss. 2, 3; 1969, c. 21, ss. 3-6; 1971, c. 1231, s. 1; 1973, c. 849, s. 3; 1975, c. 91;
21 1981, c. 657; 1987, c. 716, s. 1; 1989, c. 208; c. 727, s. 219(4); 1993, c. 539, s. 410; c. 553, s.
22 14; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 457, s. 2.)
23

24 **§ 48-1-105. Name of adoptee after adoption.**

25 When a decree of adoption becomes final, the name of the adoptee shall become the name
26 designated in the decree. (1949, c. 300; 1951, c. 730, ss. 1-4; 1955, c. 951, s. 1; 1967, c. 880, s.
27 3; c. 1042, ss. 1-3; 1969, c. 21, s. 2-6; c. 977; 1971, c. 1231, s. 1; 1973, c. 476, s. 128; c. 849,
28 ss. 1-3; 1975, c. 91; 1981, c. 657; 1983, c. 454, s. 6; 1989, c. 208; c. 727, s. 219(3), (4); 1993, c.
29 553, s. 14; 1995, c. 457, s. 2.)
30

31 **§ 48-1-106. Legal effect of decree of adoption.**

32 (a) A decree of adoption effects a complete substitution of families for all legal
33 purposes after the entry of the decree.

34 (b) A decree of adoption establishes the relationship of parent and child between each
35 petitioner and the individual being adopted. From the date of the signing of the decree, the
36 adoptee is entitled to inherit real and personal property by, through, and from the adoptive
37 parents in accordance with the statutes on intestate succession and has the same legal status,
38 including all legal rights and obligations of any kind whatsoever, as a child born the legitimate
39 child of the adoptive parents.

40 (c) A decree of adoption severs the relationship of parent and child between the
41 individual adopted and that individual's biological or previous adoptive parents. After the entry
42 of a decree of adoption, the former parents are relieved of all legal duties and obligations due
43 from them to the adoptee, except that a former parent's duty to make past-due payments for
44 child support is not terminated, and the former parents are divested of all rights with respect to
45 the adoptee.

46 (d) Notwithstanding any other provision of this section, neither an adoption by a
47 stepparent nor a readoption pursuant to G.S. 48-6-102 has any effect on the relationship
48 between the child and the parent who is the stepparent's spouse.

49 (e) In any deed, grant, will, or other written instrument executed before October 1,
50 1985, the words "child", "grandchild", "heir", "issue", "descendant", or an equivalent, or any
51 other word of like import, shall be held to include any adopted person after the entry of the

1 decree of adoption, unless a contrary intention plainly appears from the terms of the instrument,
2 whether the instrument was executed before or after the entry of the decree of adoption. The
3 use of the phrase "hereafter born" or similar language in any such instrument to establish a
4 class of persons shall not by itself be sufficient to exclude adoptees from inclusion in the class.
5 In any deed, grant, will, or other written instrument executed on or after October 1, 1985, any
6 reference to a natural person shall include any adopted person after the entry of the decree of
7 adoption unless the instrument explicitly states that adopted persons are excluded, whether the
8 instrument was executed before or after the entry of the decree of adoption.

9 (f) Nothing in this Chapter deprives a biological grandparent of any visitation rights
10 with an adopted minor available under G.S. 50-13.2(b1), 50-13.2A, and 50-13.5(j). (1949, c.
11 300; 1953, c. 824; 1955, c. 813, s. 5; 1957, c. 778, s. 5; 1963, c. 967; 1967, c. 619, s. 5; c. 880,
12 s. 3; 1969, c. 21, ss. 3-6; c. 911, s. 6; 1971, c. 1093, s. 13; c. 1231, s. 1; 1973, c. 849, s. 3; c.
13 1354, s. 5; 1975, c. 91; 1981, c. 657; 1983, c. 30; c. 454, ss. 2, 6; 1985, c. 67, ss. 1-4; c. 575, s.
14 1; 1989, c. 208; c. 727, s. 219(4); 1993, c. 553, s. 14; 1995, c. 457, s. 2.)
15

16 **§ 48-1-107. Other rights of adoptee.**

17 A decree of adoption does not divest any vested property interest owned by the adoptee
18 immediately prior to the decree of adoption including any public assistance benefit or child
19 support payment due on or before the date of the decree. An adoption divests any property
20 interest, entitlement, or other interest contingent on an ongoing family relationship with the
21 adoptee's former family. (1949, c. 300; 1953, c. 824; 1955, c. 813, s. 5; 1963, c. 967; 1967, c.
22 619, s. 5; c. 880, s. 3; 1969, c. 21, ss. 3-6; 1971, c. 1231, s. 1; 1973, c. 849, s. 3; 1975, c. 91;
23 1981, c. 657; 1983, c. 454, s. 6; 1985, c. 67, ss. 1-4; c. 575, s. 1; 1989, c. 208; c. 727, s. 219(4);
24 1993, c. 553, s. 14; 1995, c. 457, s. 2.)
25

26 **§ 48-1-108. Adoptees subject to Indian Child Welfare Act.**

27 If the individual is an Indian child as defined in the Indian Child Welfare Act, 25 U.S.C. §
28 1901, et seq., then the provisions of that act shall control the individual's adoption. (1995, c.
29 457, s. 2.)
30

31 **§ 48-1-109. Which agencies may prepare assessments and reports to the court.**

32 (a) Except as authorized in subsections (b) and (c) of this section, only a county
33 department of social services in this State or an agency licensed by the Department may
34 prepare preplacement assessments pursuant to Article 3 of this Chapter or reports to the court
35 pursuant to Article 2 of this Chapter.

36 (b) A preplacement assessment prepared in another state may be used in this State only
37 if:

- 38 (1) The prospective adoptive parent resided in the state where it was prepared;
- 39 and
- 40 (2) The person or entity that prepared it was authorized by the law of that state
41 to gather the necessary information.

42 An assessment prepared in another state that does not meet the requirements of this section and
43 G.S. 48-3-303(c) through (h) must be updated by a county department of social services in this
44 State, an agency licensed by the Department, or a person or entity authorized to gather the
45 necessary information pursuant to the laws of the state where the prospective adoptive parent
46 resides before being used in this State.

47 (c) An order for a report to the court must be sent to a county department of social
48 services in this State, an agency licensed by the Department, or a person or entity authorized to
49 prepare home assessments for the purpose of adoption proceedings under the laws of the
50 petitioner's state of residence. If the petitioner moves to a different state before the agency
51 completes the report, the agency shall request a report pursuant to the Interstate Compact on the

1 Placement of Children under Article 38 of Chapter 7B of the General Statutes from a person or
2 entity authorized to prepare home assessments for the purpose of adoption proceedings under
3 the laws of the petitioner's new state residence. (1949, c. 300; 1961, c. 186; 1969, c. 982; 1973,
4 c. 476, s. 138; 1983, c. 454, s. 5; 1991, c. 335, s. 2; 1995, c. 457, s. 2; 1998-202, s. 13(h);
5 2009-185, s. 1.)