

1 §§ 48-1 through 48-38: Repealed by Session Laws 1995, c. 457, s. 1.
2

3 **Chapter 48.**

4 **Adoptions.**

5 Article 1.

6 General Provisions.

7 **§ 48-1-100. Legislative findings and intent; construction of Chapter.**

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

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

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

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

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

31 (d) This Chapter shall be liberally construed and applied to promote its underlying
32 purposes and policies. (1949, c. 300; 1983, c. 454, ss. 1, 6; 1995, c. 457, s. 2.)
33

34 **§ 48-1-101. Definitions.**

35 In this Chapter, the following definitions apply:

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

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

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

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

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

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

1 (18) "Stepparent" means an individual who is the spouse of a parent of a child,
2 but who is not a legal parent of the child. (1949, c. 300; 1953, c. 880; 1957,
3 c. 778, s. 1; 1961, c. 241; 1969, c. 982; 1971, c. 157, ss. 1, 2; c. 1231, s. 1;
4 1973, c. 476, s. 138; 1975, c. 321, s. 2; 1977, c. 879, s. 1; 1981, c. 924, s. 1;
5 1985, c. 758, s. 4; 1995, c. 457, s. 2; 1997-215, s. 11(e); 1997-443, s.
6 11A.118(a); 1998-229, s. 12; 2001-150, s. 1; 2007-262, s. 2; 2007-276, s. 7;
7 2010-116, s. 1.)
8

9 **§ 48-1-102. Parent includes adoptive parent.**

10 As used in this Article, the term "parent" includes one who has become a parent by
11 adoption. (1949, c. 300; 1953, c. 880; 1957, c. 778, s. 1; 1961, c. 241; 1969, c. 982; 1971, c.
12 157, ss. 1, 2; c. 1231, s. 1; 1973, c. 476, s. 138; 1975, c. 321, s. 2; 1977, c. 879, s. 1; 1981, c.
13 924, s. 1; 1985, c. 758, s. 4; 1995, c. 457, s. 2.)
14

15 **§ 48-1-103. Who may adopt.**

16 Any adult may adopt another individual as provided in this Chapter, but spouses may not
17 adopt each other. (1949, c. 300; 1963, c. 699; 1967, c. 619, ss. 1-3; c. 693; c. 880, s. 3; 1969, c.
18 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.
19 107, s. 6; 1981, c. 657; 1983, c. 454, s. 6; 1989, c. 208; c. 727, s. 219(4); 1993, c. 553, s. 14;
20 1995, c. 457, s. 2.)
21

22 **§ 48-1-104. Who may be adopted.**

23 Any individual may be adopted as provided in this Chapter. (1949, c. 300; 1957, c. 778, s.
24 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;
25 1981, c. 657; 1987, c. 716, s. 1; 1989, c. 208; c. 727, s. 219(4); 1993, c. 539, s. 410; c. 553, s.
26 14; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 457, s. 2.)
27

28 **§ 48-1-105. Name of adoptee after adoption.**

29 When a decree of adoption becomes final, the name of the adoptee shall become the name
30 designated in the decree. (1949, c. 300; 1951, c. 730, ss. 1-4; 1955, c. 951, s. 1; 1967, c. 880, s.
31 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,
32 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.
33 553, s. 14; 1995, c. 457, s. 2.)
34

35 **§ 48-1-106. Legal effect of decree of adoption.**

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

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

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

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

4 (e) In any deed, grant, will, or other written instrument executed before October 1,
5 1985, the words "child", "grandchild", "heir", "issue", "descendant", or an equivalent, or any
6 other word of like import, shall be held to include any adopted person after the entry of the
7 decree of adoption, unless a contrary intention plainly appears from the terms of the instrument,
8 whether the instrument was executed before or after the entry of the decree of adoption. The
9 use of the phrase "hereafter born" or similar language in any such instrument to establish a
10 class of persons shall not by itself be sufficient to exclude adoptees from inclusion in the class.
11 In any deed, grant, will, or other written instrument executed on or after October 1, 1985, any
12 reference to a natural person shall include any adopted person after the entry of the decree of
13 adoption unless the instrument explicitly states that adopted persons are excluded, whether the
14 instrument was executed before or after the entry of the decree of adoption.

15 (f) Nothing in this Chapter deprives a biological grandparent of any visitation rights
16 with an adopted minor available under G.S. 50-13.2(b1), 50-13.2A, and 50-13.5(j). (1949, c.
17 300; 1953, c. 824; 1955, c. 813, s. 5; 1957, c. 778, s. 5; 1963, c. 967; 1967, c. 619, s. 5; c. 880,
18 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.
19 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.
20 1; 1989, c. 208; c. 727, s. 219(4); 1993, c. 553, s. 14; 1995, c. 457, s. 2.)

21 22 **§ 48-1-107. Other rights of adoptee.**

23 A decree of adoption does not divest any vested property interest owned by the adoptee
24 immediately prior to the decree of adoption including any public assistance benefit or child
25 support payment due on or before the date of the decree. An adoption divests any property
26 interest, entitlement, or other interest contingent on an ongoing family relationship with the
27 adoptee's former family. (1949, c. 300; 1953, c. 824; 1955, c. 813, s. 5; 1963, c. 967; 1967, c.
28 619, 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;
29 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);
30 1993, c. 553, s. 14; 1995, c. 457, s. 2.)

31 32 **§ 48-1-108. Adoptees subject to Indian Child Welfare Act.**

33 If the individual is an Indian child as defined in the Indian Child Welfare Act, 25 U.S.C. §
34 1901, et seq., then the provisions of that act shall control the individual's adoption. (1995, c.
35 457, s. 2.)

36 37 **§ 48-1-109. Which agencies may prepare assessments and reports to the court.**

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

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

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

48 An assessment prepared in another state that does not meet the requirements of this section and
49 G.S. 48-3-303(c) through (h) must be updated by a county department of social services in this
50 State, an agency licensed by the Department, or a person or entity authorized to gather the

1 necessary information pursuant to the laws of the state where the prospective adoptive parent
2 resides before being used in this State.

3 (c) An order for a report to the court must be sent to a county department of social
4 services in this State, an agency licensed by the Department, or a person or entity authorized to
5 prepare home assessments for the purpose of adoption proceedings under the laws of the
6 petitioner's state of residence. If the petitioner moves to a different state before the agency
7 completes the report, the agency shall request a report pursuant to the Interstate Compact on the
8 Placement of Children under Article 38 of Chapter 7B of the General Statutes from a person or
9 entity authorized to prepare home assessments for the purpose of adoption proceedings under
10 the laws of the petitioner's new state residence. (1949, c. 300; 1961, c. 186; 1969, c. 982; 1973,
11 c. 476, s. 138; 1983, c. 454, s. 5; 1991, c. 335, s. 2; 1995, c. 457, s. 2; 1998-202, s. 13(h);
12 2009-185, s. 1.)

13 Article 2.

14 General Adoption Procedure.

15 Part 1. Jurisdiction and Venue.

16 § 48-2-100. Jurisdiction.

17 (a) Adoption shall be by a special proceeding before the clerk of superior court.

18 (b) Except as provided in subsection (c) of this section, jurisdiction over adoption
19 proceedings commenced under this Chapter exists if, at the commencement of the proceeding:

- 20 (1) The adoptee has lived in this State for at least the six consecutive months
21 immediately preceding the filing of the petition or from birth;
- 22 (2) The prospective adoptive parent has lived in or been domiciled in this State
23 for at least the six consecutive months immediately preceding the filing of
24 the petition; or
- 25 (3) An agency licensed by this State or a county department of social services in
26 this State has legal custody of the adoptee.

27 (c) The courts of this State shall not exercise jurisdiction under this Chapter if at the
28 time the petition for adoption is filed, a court of any other state is exercising jurisdiction
29 substantially in conformity with the Uniform Child-Custody Jurisdiction and Enforcement Act,
30 Article 2 of Chapter 50A of the General Statutes. However, this subsection shall not apply if
31 within 60 days after the date the petition for adoption is filed, the court of the other state
32 dismisses its proceeding or releases its exclusive, continuing jurisdiction. (1949, c. 300; 1963,
33 c. 699; 1967, c. 619, ss. 1-3; c. 693; c. 880, s. 3; 1969, c. 21, ss. 3-6; 1971, c. 233, s. 1; c. 395;
34 c. 1231, s. 1; 1973, c. 849, s. 3; c. 1354, ss. 1-4; 1975, c. 91; 1979, c. 107, s. 6; 1981, c. 657;
35 1983, c. 454, s. 6; 1989, c. 208; c. 727, s. 219(4); 1993, c. 553, s. 14; 1995, c. 88, ss. 3, 4; c.
36 457, s. 2; 1999-223, s. 8; 2007-151, s. 2.)

37 § 48-2-101. Venue.

38 A petition for adoption may be filed with the clerk of the superior court in the county in
39 which:

- 40 (1) A petitioner lives, or is domiciled, at the time of filing;
- 41 (2) The adoptee lives; or
- 42 (3) An office of the agency that placed the adoptee is located. (1949, c. 300;
43 1967, c. 880, s. 3; 1969, c. 21, ss. 3-6; 1971, c. 233, s. 1; c. 1231, s. 1; 1973,
44 c. 849, s. 3; 1975, c. 91; 1981, c. 657; 1989, c. 208; c. 727, s. 219(4); 1993,
45 c. 553, s. 14; 1995, c. 88, s. 4; c. 457, s. 2.)

46 § 48-2-102. Transfer, stay, or dismissal.

1 (a) If the court, on its own motion or on motion of a party, finds in the interest of justice
2 that the matter should be heard in another county where venue lies under G.S. 48-2-101, the
3 court may transfer, stay, or dismiss the proceeding.

4 (b) If an adoptee is also the subject of a pending proceeding under Chapter 7B of the
5 General Statutes, then the district court having jurisdiction under Chapter 7B shall retain
6 jurisdiction until the final order of adoption is entered. The district court may waive jurisdiction
7 for good cause. (1949, c. 300; 1971, c. 233, s. 1; 1995, c. 88, s. 4; c. 457, s. 2; 1998-202, s.
8 13(i).)

9
10 Part 2. General Procedural Provisions.

11 **§ 48-2-201. Appointment of attorney or guardian ad litem.**

12 (a) The court may appoint an attorney to represent a parent or alleged parent who is
13 unknown or whose whereabouts are unknown and who has not responded to notice of the
14 adoption proceeding as provided in Part 4 of this Article.

15 (b) The court on its own motion may appoint an attorney or a guardian ad litem to
16 represent the interests of the adoptee in a contested proceeding brought under this Chapter.
17 (1995, c. 457, s. 2.)

18
19 **§ 48-2-202. No right to jury.**

20 All proceedings under this Chapter must be heard by the court without a jury. (1995, c. 457,
21 s. 2.)

22
23 **§ 48-2-203. Confidentiality of proceedings under Chapter.**

24 A judicial hearing in any proceeding pursuant to this Chapter shall be held in closed court.
25 (1995, c. 457, s. 2.)

26
27 **§ 48-2-204. Death of a joint petitioner pending final decree.**

28 When spouses have petitioned jointly to adopt and one spouse dies before entry of a final
29 decree, the adoption may nevertheless proceed in the names of both spouses. The name of the
30 deceased spouse shall be entered as one of the adoptive parents on the new birth certificate
31 prepared pursuant to Article 9 of this Chapter, and for purposes of inheritance, testate or
32 intestate, the adoptee shall be treated as a child of the deceased. (1949, c. 300; 1995, c. 457, s.
33 2.)

34
35 **§ 48-2-205. Recognition of adoption decrees from other jurisdictions.**

36 A final adoption decree issued by any other state must be recognized in this State. Where a
37 minor child has been previously adopted in a foreign country by a petitioner or petitioners
38 seeking to readopt the child under the laws of North Carolina, the adoption order entered in the
39 foreign country may be accepted in lieu of the consent of the biological parent or parents or the
40 guardian of the child to the readoption. A man and a woman who adopted a minor child in a
41 foreign country while married to one another must readopt jointly, regardless of whether they
42 have since divorced. If either does not join in the petition, he or she must be joined as a
43 necessary party as provided in G.S. 1A-1, Rule 19. (1975, c. 262; 1983, c. 454, s. 6; 1995, c.
44 457, s. 2; 2009-185, s. 2.2.)

45
46 **§ 48-2-206. Prebirth determination of right to consent.**

47 (a) At any time after six months from the date of conception as reasonably determined
48 by a physician, the biological mother, agency, or adoptive parents chosen by the biological
49 mother may file a special proceeding with the clerk requesting the court to determine whether
50 consent of the biological father is required. The biological father shall be served with notice of

1 the intent of the biological mother to place the child for adoption, allowing the biological father
2 15 days after service to assert a claim that his consent is required.

3 (b) The notice required under subsection (a) of this section shall contain the special
4 proceeding case caption and file number and shall be substantially similar to the following
5 language:

6 "[Name of the biological mother], the biological mother, is expected to give birth to a child
7 on or about [birth due date]. You have been identified as the biological father. It is the intention
8 of the biological mother to place the child for adoption. It is her belief that your consent to the
9 adoption is not required. If you believe your consent to the adoption of this child is required
10 pursuant to G.S. 48-3-601, you must notify the court in writing no later than 15 days from the
11 date you received this notice that you believe your consent is required. A copy of your notice to
12 the court must also be sent to the person or agency that sent you this notice. If you fail to notify
13 the court within 15 days that you believe your consent is required, the court will rule that your
14 consent is not required."

15 (c) If the biological father fails to respond within the time required, the court shall enter
16 an order that the biological father's consent is not required for the adoption. A biological father
17 who fails to respond within the time required under this section is not entitled to notice under
18 G.S. 48-2-401(c) of an adoption petition filed within three months of the birth of the minor or
19 to participate in the adoption proceeding.

20 (d) If the biological father notifies the court within 15 days of his receipt of the notice
21 required by subsection (a) of this section that he believes his consent to the adoption is
22 required, on motion of the petitioner, the court shall hold a hearing to determine whether the
23 consent of the biological father is required. Promptly on receipt of the petitioner's motion, the
24 court shall set a date for the hearing no earlier than 60 days nor later than 70 days after the
25 biological father received the notice required by subsection (a) of this section and shall notify
26 the petitioner and the biological father of the date, time, and place of the hearing. The notice of
27 hearing to the biological father shall include a statement substantially similar to the following:

28 "To the biological father named above: You have told the court that you believe your
29 consent is necessary for the adoption of the child described in the notice sent to you earlier.
30 This hearing is being held to decide whether your consent is in fact necessary. Before the date
31 of the hearing, you must have taken steps under G.S. 48-3-601 to establish that your consent is
32 necessary or this court will decide that your consent is not necessary and the child can be
33 adopted without it."

34 During the hearing, the court may take such evidence as necessary and enter an order
35 determining whether or not the consent of the biological father is necessary. If the court
36 determines that the consent of the biological father is not required, that individual is not entitled
37 to receive notice under G.S. 48-2-401(c) of an adoption petition filed within three months of
38 the birth of the minor or to participate in the adoption proceeding.

39 (e) The manner of service under this section shall be the same as set forth in G.S.
40 48-2-402.

41 (f) The jurisdiction provisions of Article 6A of Chapter 1 of the General Statutes and
42 the venue provisions of Article 7 of Chapter 1 of the General Statutes rather than the provisions
43 of Part 1 of this Article apply to proceedings under this section.

44 (g) Computation of periods of time provided for in this section shall be calculated as set
45 forth in G.S. 1A-1, Rule 6.

46 (h) Transfer under G.S. 1-301.2 and appeal under G.S. 1-279.1 shall be as for an
47 adoption proceeding.

48 (i) A determination by the court under this section that the consent of the biological
49 father is not required shall only apply to an adoption petition filed within three months of the
50 birth of the minor. (1997-215, s. 14; 2002-159, s. 11; 2005-166, s. 1.)

1 **§ 48-2-207. Necessity of consent post-petition.**

2 (a) If any individual described in G.S. 48-2-401(c)(3) is served with notice of the filing
3 of the petition in accordance with G.S. 48-2-402 and fails to respond within the time specified
4 in the notice, the court, upon motion by the petitioner, shall enter an order under G.S.
5 48-3-603(a)(7) that the individual's consent is not required for the adoption.

6 (b) The court shall hold a hearing to take evidence and determine whether an
7 individual's consent to an adoption is required if any of the following:

8 (1) Any individual described in G.S. 48-2-401(c)(3) who has been served with
9 notice of the filing of the petition in accordance with G.S. 48-2-402 notifies
10 the court within the time specified in the notice that he believes his consent
11 to the adoption is required.

12 (2) Any individual who has not been served with the notice of the filing of the
13 petition intervenes in the adoption proceeding alleging that his or her
14 consent to the adoption is required.

15 (c) If the court determines that the consent of any individual is required, the adoption
16 cannot proceed until such individual's consent is obtained or such individual's parental rights
17 are terminated. If the individual whose consent is required did not have physical custody of the
18 minor immediately prior to the placement of the minor with the prospective adoptive parents, a
19 finding that such individual's consent is required does not entitle such individual to physical
20 custody of the minor.

21 (d) If the court determines that the consent of any individual described in G.S.
22 48-2-401(c)(3) is not required, such individual shall not be entitled to receive notice of, or to
23 participate in, further proceedings in the adoption. (2005-166, s. 2.)
24

25 **Part 3. Petition for Adoption.**

26 **§ 48-2-301. Petition for adoption; who may file.**

27 (a) A prospective adoptive parent may file a petition for adoption pursuant to Article 3
28 of this Chapter only if a minor has been placed with the prospective adoptive parent pursuant to
29 Part 2 of Article 3 of this Chapter unless the requirement of placement is waived by the court
30 for cause.

31 (b) Except as authorized by Articles 4 and 6 of this Chapter, the spouse of a petitioner
32 must join in the petition, unless the spouse has been declared incompetent or unless this
33 requirement is otherwise waived by the court for cause.

34 (c) If the individual who files the petition is unmarried, no other individual may join in
35 the petition, except that a man and a woman who jointly adopted a minor child in a foreign
36 country while married to one another must readopt jointly as provided in G.S. 48-2-205. (1949,
37 c. 300; 1963, c. 699; 1967, c. 619, ss. 1-3; c. 693; c. 880, s. 3; 1969, c. 21, ss. 3-6; 1971, c. 395;
38 c. 1231, s. 1; 1973, c. 849, s. 3; c. 1354, ss. 1-4; 1975, c. 91; 1979, c. 107, s. 6; 1981, c. 657;
39 1983, c. 454, s. 6; 1989, c. 208; c. 727, s. 219(4); 1993, c. 553, s. 14; 1995, c. 88, s. 3; c. 457, s.
40 2; 2009-185, s. 2.1.)
41

42 **§ 48-2-302. Time for filing petition.**

43 (a) Except for petitions filed pursuant to Articles 4 and 6 of this Chapter, a petition for
44 adoption must be filed no later than 30 days after a minor is placed with the petitioner or this
45 State acquires jurisdiction to hear the petition, whichever is later, unless the court extends the
46 time for filing.

47 (b) If a petition is not filed in accordance with subsection (a) of this section, any person
48 may notify the county department of social services for appropriate action.

49 (c) A petition for adoption may be filed concurrently with a petition to terminate
50 parental rights. (1949, c. 300; 1957, c. 90; c. 778, s. 3; 1971, c. 1185, s. 17; 1975, c. 321, s. 1;
51 1977, c. 879, s. 2; 1979, c. 107, s. 7; 1985, c. 758, ss. 5-9; 1987, c. 371, s. 1; 1995, c. 457, s. 2.)

1
2 **§ 48-2-303. Caption of petition for adoption.**

3 The caption of the petition shall be substantially as follows:

4 STATE OF NORTH CAROLINA
5 IN THE DISTRICT COURT
6 _____ COUNTY
7 BEFORE THE CLERK

8
9 *(Full name of petitioning father)
10 and

11 _____
12 *(Full name of petitioning mother)
13 and

14 FOR THE ADOPTION OF
15 _____

16 |
17 | PETITION FOR ADOPTION
18 |
19 |

16 *(Full name by which the adoptee is to be known if the adoption is granted). (1949, c. 300;
17 1961, c. 186; 1969, c. 982; 1973, c. 476, s. 138; 1995, c. 88, s. 5; c. 457, s. 2; 1997-215, s.
18 9(d).)

19
20 **§ 48-2-304. Petition for adoption; content.**

21 (a) The original petition for adoption must be signed and verified by each petitioner,
22 and the original and two exact or conformed copies shall be filed with the clerk of court. The
23 petition shall state:

- 24 (1) Each petitioner's full name, current address, place of domicile if different
25 from current address, and whether each petitioner has resided or been
26 domiciled in this State for the six months immediately preceding the filing of
27 the petition;
- 28 (2) The marital status and gender of each petitioner;
- 29 (3) The sex and, if known, the date and state or country of birth of the adoptee;
- 30 (4) The full name by which the adoptee is to be known if the petition is granted;
- 31 (5) That the petitioner desires and agrees to adopt and treat the adoptee as the
32 petitioner's lawful child; and
- 33 (6) A description and estimate of the value of any property of the adoptee.

34 (b) Any petition to adopt a minor shall also state:

- 35 (1) The length of time the adoptee has been in the physical custody of the
36 petitioner.
- 37 (2) If the adoptee is not in the physical custody of the petitioner, the reason why
38 the petitioner does not have physical custody and the date and manner in
39 which the petitioner intends to acquire custody.
- 40 (3) That the petitioner has the resources, including those available under a
41 subsidy for an adoptee with special needs, to provide for the care and
42 support of the adoptee.
- 43 (4) Any information required by the Uniform Child-Custody Jurisdiction and
44 Enforcement Act, Article 2 of Chapter 50A of the General Statutes, which is
45 known to the petitioner.
- 46 (5) That any required assessment has been completed or updated within the 18
47 months before the placement.
- 48 (6) That all necessary consents, relinquishments, or terminations of parental
49 rights have been obtained and will be filed as additional documents with the
50 petition; or that the necessary consents, relinquishments, and terminations of
51 parental rights that have been obtained will be filed as additional documents

1 with the petition, along with the document listing the names of any other
2 individuals whose consent, relinquishment, or termination of rights may be
3 necessary but has not been obtained.

4 (c) A petition to adopt a minor under Article 3 of this Chapter shall also state all of the
5 following:

- 6 (1) A description of the source of placement and the date of placement of the
7 adoptee with the petitioner.
8 (2) That the provisions of the Interstate Compact on the Placement of Children,
9 Article 38 of Chapter 7B of the General Statutes, were followed if the
10 adoptee was brought into this State from another state for purposes of
11 adoption, or that a statement is attached describing the circumstances of any
12 noncompliance.

13 (d) A petition to adopt a minor under Article 4 of this Chapter shall also state:

- 14 (1) The date of the petitioner's marriage, the name of the petitioner's spouse, and
15 whether the spouse is deceased or has been adjudicated incompetent;
16 (2) The length of time the petitioner's spouse or the petitioner has had legal
17 custody of the adoptee and the circumstances under which custody was
18 acquired; and
19 (3) That the adoptee has resided primarily with the petitioner or with the
20 petitioner and the petitioner's spouse during the six months immediately
21 preceding the filing of the petition.

22 (e) Any petition to adopt an adult shall also state:

- 23 (1) The name, age, and last known address of any child of the prospective
24 adoptive parent, including a child previously adopted by the prospective
25 adoptive parent or the adoptive parent's spouse, and the date and place of the
26 adoption; and
27 (2) The name, age, and last known address of any living parent, spouse, or child
28 of the adoptee.

29 (f) The Department may promulgate a standard adoption petition. (1949, c. 300; 1961,
30 c. 186; 1969, c. 982; 1973, c. 476, s. 138; 1995, c. 88, s. 5; c. 457, s. 2; 1998-202, s. 13(k);
31 1999-223, s. 9; 2001-150, s. 2; 2005-166, s. 3.)
32

33 **§ 48-2-305. Petition for adoption; additional documents.**

34 At the time the petition is filed, the petitioner shall file or cause to be filed the following
35 documents:

- 36 (1) Any required affidavit of parentage executed under G.S. 48-3-206.
37 (2) Any required consent or relinquishment that has been executed.
38 (3) A certified copy of any court order terminating the rights and duties of a
39 parent or a guardian of the adoptee.
40 (4) A certified copy of any court order or pleading in a pending proceeding
41 concerning custody of or visitation with the adoptee.
42 (5) A copy of any required preplacement assessment certified by the agency that
43 prepared it and any certificate of service required by G.S. 48-3-307 or an
44 affidavit from the petitioner stating why the assessment is not available.
45 (6) A copy of any document containing the information required under G.S.
46 48-3-205 concerning the health, social, educational, and genetic history of
47 the adoptee and the adoptee's original family which the petitioner received
48 before the placement or at any later time, certified by the person who
49 prepared it, or if this document is not available, an affidavit stating the
50 reason why it is not available.

- 1 (7) Any signed copy of the form required by the Interstate Compact on the
2 Placement of Children, Article 38 of Chapter 7B of the General Statutes,
3 authorizing a minor to come into this State, or any statement required by
4 G.S. 48-2-304(c) describing the circumstances of any noncompliance.
- 5 (8) A writing that states the name of any individual whose consent is or may be
6 required, but who has not executed a consent or a relinquishment or whose
7 parental rights have not been legally terminated, and any fact or
8 circumstance that may excuse the lack of consent or relinquishment.
- 9 (9) In an adoption pursuant to Article 4 of this Chapter, a copy of any agreement
10 to release past-due child support payments.
- 11 (10) Any consent to an agency by a placing parent and adopting parents to release
12 identifying information under G.S. 48-9-109.

13 The petitioner may also file any other document necessary or helpful to the court's
14 determination. (1949, c. 300; 1953, c. 906; 1961, c. 186; 1969, c. 911, s. 7; c. 982; 1975, c. 702,
15 ss. 1-3; 1977, c. 879, s. 5; 1985, c. 758, ss. 10, 11; 1995, c. 457, s. 2; 1997-215, s. 1; 1998-202,
16 s. 13(m); 2001-150, s. 3; 2005-166, s. 4.)
17

18 **§ 48-2-306. Omission of required information.**

19 (a) Before entry of a decree of adoption, the court may require or allow the filing of any
20 additional information required by this Chapter.

21 (b) After entry of a decree of adoption, omission of any information required by G.S.
22 48-2-304 and G.S. 48-2-305 does not invalidate the decree. (1995, c. 457, s. 2.)
23

24 Part 4. Notice of Pendency of Proceedings.

25 **§ 48-2-401. Notice by petitioner.**

26 (a) No later than 30 days after a petition for adoption is filed pursuant to Part 3 of this
27 Article, the petitioner shall serve notice of the filing on the persons required to receive notice
28 under subsections (b), (c), and (d) of this section.

29 (b) In all adoptions, the petitioner shall serve notice of the filing on each of the
30 following:

- 31 (1) Any individual whose consent to the adoption is required but has not been
32 obtained, has been revoked in accord with this Chapter, or has become void
33 as provided in this Chapter.
- 34 (2) The spouse of the petitioner if that spouse is required to join in the petition
35 and petitioner is requesting that the joinder requirement be waived, provided
36 the court for cause may waive this notice requirement.
- 37 (3) Any individual who has executed a consent or relinquishment, but who the
38 petitioner has actually been informed has filed an action to set it aside for
39 fraud or duress.
- 40 (4) Any other person designated by the court who can provide information
41 relevant to the proposed adoption.

42 (c) In the adoption of a minor, the petitioner shall also serve notice of the filing on each
43 of the following:

- 44 (1) A minor whose consent is dispensed with under G.S. 48-3-603(b)(2).
- 45 (2) Any agency that placed the adoptee.
- 46 (3) A man who to the actual knowledge of the petitioner claims to be or is
47 named as the biological or possible biological father of the minor, and any
48 biological or possible biological fathers who are unknown or whose
49 whereabouts are unknown, but notice need not be served upon a man who
50 has executed a consent, a relinquishment, or a notarized statement denying
51 paternity or disclaiming any interest in the minor, a man whose parental

1 rights have been legally terminated or who has been judicially determined
2 not to be the minor's parent, or, provided the petition is filed within three
3 months of the birth of the minor, a man whose consent to the adoption has
4 been determined not to be required under G.S. 48-2-206.

5 (4) Any individual who the petitioner has been actually informed has legal or
6 physical custody of the minor or who has a right of visitation or
7 communication with the minor under an existing court order issued by a
8 court in this State or another state.

9 (d) In the adoption of an adult, the petitioner shall also serve notice of the filing on any
10 adult children of the prospective adoptive parent and any parent, spouse, or adult child of the
11 adoptee who are listed in the petition to adopt; provided the court for cause may waive the
12 requirement of notice to a parent of an adult adoptee.

13 (e) Only those persons identified in subsections (b), (c), and (d) of this section are
14 entitled to notice of the proceeding.

15 (f) A notice required under this section must state that the person served must file a
16 response to the petition within 30 days after service in order to participate in and to receive
17 further notice of the proceeding, including notice of the time and place of any hearing.

18 (g) Issuance of a summons is not required to commence an adoption proceeding under
19 this Chapter. (1949, c. 300; 1957, c. 778, s. 5; 1969, c. 911, s. 6; 1971, c. 1093, s. 13; 1973, c.
20 1354, s. 5; 1983, c. 30; c. 454, ss. 2, 6; 1995, c. 457, s. 2; 1997-215, s. 2; 2001-208, s. 12;
21 2001-487, s. 101; 2005-166, s. 5; 2009-185, s. 3.)

22 23 **§ 48-2-402. Manner of service.**

24 (a) Service of the notice required under G.S. 48-2-401 must be made as provided by
25 G.S. 1A-1, Rule 4, for service of process.

26 (b) In the event that the identity of a biological or possible biological parent cannot be
27 ascertained and notice is required, the parent or possible parent shall be served by publication
28 pursuant to G.S. 1A-1, Rule 4 (j1). The time for response shall be the time provided in the rule.
29 The words "In re Doe" may be substituted for the title of the action in the notice as long as the
30 notice contains the correct docket number. The notice shall be directed to "the unknown father
31 [or mother] of" the adoptee, and the adoptee shall be described by sex, date of birth, and place
32 of birth. The notice shall contain any information known to the petitioner that would allow an
33 unknown parent or possible parent to identify himself or herself as the individual being
34 addressed, such as the approximate date and place of conception, any name by which the other
35 biological parent was known to the unknown parent or possible parent, and any fact about the
36 unknown parent or possible parent known to or believed by the other biological parent. The
37 notice shall also state that any parental rights the unknown parent or possible parent may have
38 will be terminated upon entry of the order of adoption.

39 (c) In an agency placement under Article 3 of this Chapter, the agency or other proper
40 person shall file a petition to terminate the parental rights of an unknown parent or possible
41 parent instead of serving notice under subsection (b) of this section, and the court shall stay any
42 adoption proceeding already filed, except that nothing in this subsection shall require that the
43 agency or other proper person file a petition to terminate the parental rights of any known or
44 possible parent who has been served notice as provided under G.S. 1A-1, Rule 4(j)(1) of the
45 Rules of Civil Procedure. (1949, c. 300; 1957, c. 778, s. 5; 1969, c. 911, s. 6; 1971, c. 1093, s.
46 13; 1973, c. 1354, s. 5; 1983, c. 30; c. 454, ss. 2, 6; 1995, c. 457, s. 2; 2001-150, s. 4.)

47 48 **§ 48-2-403. Notice of proceedings by clerk.**

49 No later than five days after a petition is filed, the clerk of the court shall mail or otherwise
50 deliver notice of the adoption proceeding to any agency that has undertaken but not yet

1 completed a preplacement assessment and any agency ordered to make a report to the court
2 pursuant to Part 5 of this Article. (1995, c. 457, s. 2; 1997-215, s. 3.)

3
4 **§ 48-2-404. Notice of proceedings by court to alleged father.**

5 If, at any time in the proceeding, it appears to the court that there is an alleged father of a
6 minor adoptee as described in G.S. 48-2-401(c)(3) who has not been given notice, the court
7 shall require notice of the proceeding to be given to him pursuant to G.S. 48-2-402. (1995, c.
8 457, s. 2.)

9
10 **§ 48-2-405. Rights of persons entitled to notice.**

11 Except as provided in G.S. 48-2-206(c), 48-2-206(d), and 48-2-207(d), a person entitled to
12 notice whose consent is not required may appear and present evidence only as to whether the
13 adoption is in the best interest of the adoptee. (1995, c. 457, s. 2; 2005-166, s. 6.)

14
15 **§ 48-2-406. Waiver of notice; effect.**

16 (a) If notice is required under this Part, it may be waived in open court by the person
17 entitled to receive it or by an agent authorized by that person; it may also be waived at any time
18 in a writing signed by the person entitled to receive the notice.

19 (b) A person who has executed a consent or relinquishment or otherwise waived notice
20 is not a necessary party and, except as provided in subsection (c) of this section, is not entitled
21 to appear in any subsequent proceeding related to the petition.

22 (c) A parent who has executed a consent or relinquishment may appear in the adoption
23 proceeding for the limited purpose of moving to set aside the consent or relinquishment on the
24 grounds that it was obtained by fraud or duress. (1949, c. 300; 1957, c. 778, s. 5; 1969, c. 911,
25 s. 6; 1971, c. 1093, s. 13; 1973, c. 1354, s. 5; 1983, c. 30; c. 454, ss. 2, 6; 1995, c. 457, s. 2.)

26
27 **§ 48-2-407. Filing proof of service.**

28 Proof of service of notice on each person entitled to receive notice under this Part, or a
29 certified copy of each waiver of notice, must be filed with the court before the hearing on the
30 adoption begins. (1995, c. 457, s. 2.)

31
32 Part 5. Report to the Court.

33 **§ 48-2-501. Report to the court during proceeding for adoption of a minor.**

34 (a) Whenever a petition for adoption of a minor is filed, the court shall order a report to
35 the court made to assist the court to determine if the proposed adoption of the minor by the
36 petitioner is in the minor's best interest.

37 (b) Consistent with G.S. 48-1-109, the court shall order the report to be prepared:

38 (1) By the agency that placed the minor;

39 (2) By the agency that made the preplacement assessment pursuant to Part 3 of
40 Article 3 of this Chapter; or

41 (3) By another agency.

42 (c) The court shall provide the individual who prepares the report with copies of:

43 (1) The petition to adopt; and

44 (2) The documents filed with it.

45 (d) The following exceptions apply in this section:

46 (1) In any stepparent adoption under Article 4 of this Chapter in which the
47 minor has lived with the stepparent for at least the two consecutive years
48 immediately preceding the filing of the petition, the court may order a report.
49 However, the court is not required to order a report unless the minor's
50 consent is to be waived, the minor has revoked a consent, or both of the
51 minor's parents are dead.

- 1 (2) In any adoption of a minor by the minor's grandparent in which the minor
2 has lived with the grandparent for at least the two consecutive years
3 immediately preceding the filing of the petition, the court may order a report.
4 However, the court is not required to order a report unless the minor's
5 consent is to be waived, the minor has revoked a consent, or the minor is
6 eligible for adoption assistance pursuant to G.S. 108A-49. (1949, c. 300;
7 1961, c. 186; 1969, c. 982; 1973, c. 476, s. 138; 1983, c. 454, s. 5; 1991, c.
8 335, s. 2; 1995, c. 457, s. 2; 1997-215, s. 12(a); 2009-185, s. 4.)
9

10 **§ 48-2-502. Preparation and content of report.**

11 (a) In preparing a report to the court, the agency shall conduct a personal interview with
12 each petitioner in the petitioner's residence and at least one additional interview with each
13 petitioner and the adoptee, and shall observe the relationship between the adoptee and the
14 petitioner or petitioners.

15 (b) The report must be in writing and contain:

- 16 (1) An account of the petitioner's marital or family status, physical and mental
17 health, home environment, property, income, and financial obligations; if
18 there has been a preplacement assessment, the account may be limited to any
19 changes since the filing of the preplacement assessment;
20 (2) All reasonably available nonidentifying information concerning the physical,
21 mental, and emotional condition of the adoptee required by G.S. 48-3-205
22 which is not already included in the document prepared under that section;
23 (3) Copies of any court order, judgment, decree, or pending legal proceeding
24 affecting the adoptee, the petitioner, or any child of the petitioner relevant to
25 the welfare of the adoptee;
26 (4) A list of the expenses, fees, or other charges incurred, paid, or to be paid in
27 connection with the adoption that can reasonably be ascertained by the
28 agency;
29 (5) Any fact or circumstance known to the agency that raises a specific concern
30 about whether the proposed adoption is contrary to the best interest of the
31 adoptee because it poses a significant risk of harm to the well-being of the
32 adoptee;
33 (6) A finding by the agency concerning the suitability of the petitioner and the
34 petitioner's home for the adoptee;
35 (7) A recommendation concerning the granting of the petition; and
36 (8) Such other information as may be required by rules adopted pursuant to
37 subsection (c) of this section.

38 In an agency adoption, the report shall be written in such a way as to exclude all information
39 that could reasonably be expected to lead directly to the identity of the adoptee at birth or any
40 former parent or family member of the adoptee, and any copies of documents included pursuant
41 to subdivision (3) of this subsection shall be redacted to exclude this information.

42 (c) The Social Services Commission may adopt rules to implement the provisions of
43 this section. (1949, c. 300; 1961, c. 186; 1969, c. 982; 1973, c. 476, s. 138; 1983, c. 454, s. 5;
44 1991, c. 335, s. 2; 1995, c. 457, s. 2; 1997-215, s. 4.)
45

46 **§ 48-2-503. Timing and filing of report.**

47 (a) The agency shall complete a written report and file it with the court within 60 days
48 after the mailing or delivery of the order under G.S. 48-2-501 unless the court extends the time
49 for filing. The agency shall have three additional days to complete and file the report if the
50 order was mailed.

1 (b) If the agency identifies a specific concern about the suitability of the petitioner or
2 the petitioner's home for the adoptee, the agency must file an interim report immediately, which
3 must contain an account of the specific concern. The agency shall indicate in the final report
4 whether its concerns have been satisfied and in what manner.

5 (b1) When an agency identifies a specific concern in a final report and the court extends
6 the time for a final hearing or disposition to allow resolution of these concerns, the agency shall
7 file a supplemental report indicating whether its concerns have been satisfied and in what
8 manner.

9 (c) The agency shall give the petitioner a copy of each report filed with the court, and
10 the agency shall retain a copy. (1949, c. 300; 1961, c. 186; 1969, c. 982; 1973, c. 476, s. 138;
11 1983, c. 454, s. 5; 1991, c. 335, s. 2; 1995, c. 457, s. 2; 1997-215, s. 5(a)-(c).)
12

13 **§ 48-2-504. Fee for report.**

14 (a) An agency that prepares a report to the court may charge the petitioner a reasonable
15 fee for preparing and writing the report. No fee may be charged except pursuant to a written fee
16 agreement which must be signed by the parties to be charged prior to the beginning of the
17 preparation. The fee agreement may not be based on the outcome of the report or the adoption
18 proceeding.

19 (b) A fee for a report is subject to review by the court pursuant to G.S. 48-2-602 and
20 G.S. 48-2-603.

21 (c) The Department shall set the maximum fees, based on ability to pay and other
22 factors, which may be charged by county departments of social services. The Department shall
23 require waiver of fees for those unable to pay. Fees collected under this section shall be applied
24 to the costs of preparing and writing reports and shall be used by the county department of
25 social services to supplement and not to supplant appropriated funds. (1995, c. 457, s. 2.)
26

27 Part 6. Dispositional Hearing; Decree of Adoption.

28 **§ 48-2-601. Hearing on, or disposition of, adoption petition; transfer of adoption
29 proceeding; timing.**

30 (a) If it appears to the court that a petition to adopt a minor is not contested, the court
31 may dispose of the petition without a formal hearing.

32 (a1) If an issue of fact, an equitable defense, or a request for equitable relief is raised
33 before the clerk, the clerk shall transfer the proceeding to the district court under G.S. 1-301.2.

34 (b) No later than 90 days after a petition for adoption has been filed, the court shall set a
35 date and time for hearing or disposing of the petition.

36 (c) The hearing or disposition must take place no later than six months after the petition
37 is filed, but the court for cause may extend the time for the hearing or disposition. (1949, c.
38 300; 1953, c. 571; 1959, cc. 340, 561; 1961, cc. 186, 384; 1967, c. 19; c. 619, s. 4; 1969, c. 982;
39 1973, c. 1354, s. 6; 1989 (Reg. Sess., 1990), c. 977, s. 1; 1995, c. 457, s. 2; 1997-215, s. 10(a);
40 2002-159, s. 12.)
41

42 **§ 48-2-602. Disclosure of fees and charges.**

43 At least 10 days before the date of the hearing or disposition, each petitioner shall file with
44 the court an affidavit accounting for any payment or disbursement of money or anything of
45 value made or agreed to be made by or on behalf of each petitioner in connection with the
46 adoption, or pursuant to Article 10, including the amount of each payment or disbursement
47 made or to be made and the name and address of each recipient. The court in its discretion may
48 request a more specific statement of any fees, charges, or payments made or to be made by any
49 petitioner in connection with the adoption. (1995, c. 457, s. 2.)
50

51 **§ 48-2-603. Hearing on, or disposition of, petition to adopt a minor.**

1 (a) At the hearing on, or disposition of, a petition to adopt a minor, the court shall grant
2 the petition upon finding by a preponderance of the evidence that the adoption will serve the
3 best interest of the adoptee, and upon finding the following:

- 4 (1) At least 90 days have elapsed since the filing of the petition for adoption,
5 unless the court for cause waives this requirement.
- 6 (2) The adoptee has been in the physical custody of the petitioner for at least 90
7 days, unless the court for cause waives this requirement.
- 8 (3) Notice of the filing of the petition has been served on any person entitled to
9 receive notice under Part 4 of this Article.
- 10 (4) Each necessary consent, relinquishment, waiver, or judicial order
11 terminating parental rights, has been obtained and filed with the court and
12 the time for revocation has expired.
- 13 (5) Any assessment required by this Chapter has been filed with and considered
14 by the court.
- 15 (6) If applicable, the requirements of the Interstate Compact on the Placement of
16 Children, Article 38 of Chapter 7B of the General Statutes, have been met.
- 17 (7) Any motion to dismiss the proceeding has been denied.
- 18 (8) Each petitioner is a suitable adoptive parent.
- 19 (9) Any accounting and affidavit required under G.S. 48-2-602 has been
20 reviewed by the court, and the court has denied, modified, or ordered
21 reimbursement of any payment or disbursement that violates Article 10 or is
22 unreasonable when compared with the expenses customarily incurred in
23 connection with an adoption.
- 24 (10) The petitioner has received information about the adoptee and the adoptee's
25 biological family if required by G.S. 48-3-205.
- 26 (10a) Any certificate of service required by G.S. 48-3-307 has been filed.
- 27 (11) There has been substantial compliance with the provisions of this Chapter.

28 (b) If the Court finds a violation of this Chapter pursuant to Article 10 or of the
29 Interstate Compact on the Placement of Children, Article 38 of Chapter 7B of the General
30 Statutes, but determines that in every other respect there has been substantial compliance with
31 the provisions of this Chapter, and the adoption will serve the best interest of the adoptee, the
32 court shall:

- 33 (1) Grant the petition to adopt; and
- 34 (2) Impose the sanctions provided by this Chapter against any individual or
35 entity who has committed a prohibited act or report the violations to the
36 appropriate legal authorities.

37 (c) The court on its own motion may continue the hearing for further evidence. (1949,
38 c. 300; 1953, c. 571; 1959, cc. 340, 561; 1961, cc. 186, 384; 1967, c. 19; c. 619, s. 4; 1969, c.
39 982; 1973, c. 476, s. 138; c. 1354, s. 6; 1989 (Reg. Sess., 1990), c. 977, s. 1; 1995, c. 457, s. 2;
40 1998-202, s. 13(1); 2001-150, s. 5.)

41
42 **§ 48-2-604. Denying petition to adopt a minor.**

43 (a) If at any time between the filing of a petition to adopt a minor and the issuance of
44 the final order completing the adoption it appears to the court that the minor should not be
45 adopted by the petitioners or the petition should be dismissed for some other reason, the court
46 may dismiss the proceeding.

47 (b) The court, before entering an order to dismiss the proceeding, shall give at least five
48 days' notice of the motion to dismiss to the parties, to the agency that made the report to the
49 court, and to the Department of Health and Human Services. The parties and agency entitled to
50 notice under this subsection, and the Department, shall be entitled to a hearing on the issue of
51 dismissing the proceeding.

1 (c) If the court denies the petition, the custody of the minor shall revert to any agency
2 or person having custody immediately before the filing of the petition. If the placement of the
3 minor was a direct placement under Article 3 of this Chapter, the court shall notify the director
4 of social services of the county in which the petition was filed of the dismissal, and the director
5 of social services shall be responsible for taking appropriate action for the protection of the
6 minor. (1949, c. 300; 1961, c. 186; 1969, c. 982; 1973, c. 476, s. 138; 1983, c. 454, s. 6.; 1995,
7 c. 457, s. 2; 1997-215, s. 6(a); 1997-443, s. 11A.118(b).)

8
9 **§ 48-2-605. Hearing on petition to adopt an adult.**

10 (a) At the hearing on a petition to adopt an adult, the prospective adoptive parent and
11 the adoptee shall both appear in person, unless the court waives this requirement for cause, in
12 which event an appearance may be made for either or both of them by an attorney authorized in
13 writing to make the appearance.

14 (b) At the hearing, the court shall grant the petition for adoption upon finding by a
15 preponderance of the evidence all of the following:

- 16 (1) At least 30 days have elapsed since the filing of the petition for adoption, but
17 the court for cause may waive this requirement;
- 18 (2) Notice of the petition has been served on any person entitled to receive
19 notice under Part 4 of this Article;
- 20 (3) Each necessary consent, waiver, document, or judicial order has been
21 obtained and filed with the court;
- 22 (4) The adoption is entered into freely and without duress or undue influence for
23 the purpose of creating the relation of parent and child between each
24 petitioner and the adoptee, and each petitioner and the adoptee understand
25 the consequences of the adoption; and
- 26 (5) There has been substantial compliance with the provisions of this Chapter.
27 (1967, c. 880, s. 3; 1969, c. 21, ss. 3-6; 1971, c. 1231, s. 1; 1973, c. 849, s. 3;
28 1975, c. 91; 1981, c. 657; 1989, c. 208; c. 727, s. 219(4); 1993, c. 553, s. 14;
29 1995, c. 457, s. 2.)

30
31 **§ 48-2-606. Decree of adoption.**

32 (a) A decree of adoption must state at least:

- 33 (1) The name and gender of each petitioner for adoption;
- 34 (2) Whether the petitioner is married, a stepparent, or single;
- 35 (3) The name by which the adoptee is to be known;
- 36 (4) Information to be incorporated in a new standard certificate of birth to be
37 issued by the State Registrar;
- 38 (5) The adoptee's date and place of birth, if known, or as determined under
39 subsection (b) of this section in the case of an adoptee born outside the
40 United States;
- 41 (6) The effect of the decree of adoption as set forth in G.S. 48-1-106; and
- 42 (7) That the adoption is in the best interest of the adoptee.

43 (b) In stating the date and place of birth of an adoptee born outside the United States,
44 the court shall:

- 45 (1) Enter the date and place of birth as stated in the certificate of birth from the
46 country of origin, the United States Department of State's report of birth
47 abroad, or the documents of the United States Immigration and
48 Naturalization Service;
- 49 (2) If the exact place of birth is unknown, enter the information that is known,
50 including the country of origin; and

1 (3) If the exact date of birth is unknown, determine and enter a date of birth
2 based upon medical evidence by affidavit or testimony as to the probable
3 chronological age of the adoptee and other evidence the court finds
4 appropriate to consider.

5 (c) A decree of adoption must not contain the name of a former parent of the adoptee.
6 (1949, c. 300; 1973, c. 476, s. 138.; 1983, c. 454, s. 6; 1995, c. 457, s. 2.)
7

8 **§ 48-2-607. Appeals.**

9 (a) Except as provided in subsections (b) and (c) of this section, after the final order of
10 adoption is entered, no party to an adoption proceeding nor anyone claiming under such a party
11 may question the validity of the adoption because of any defect or irregularity, jurisdictional or
12 otherwise, in the proceeding, but shall be fully bound by the order. No adoption may be
13 attacked either directly or collaterally because of any procedural or other defect by anyone who
14 was not a party to the adoption. The failure on the part of the court or an agency to perform
15 duties or acts within the time required by the provisions of this Chapter shall not affect the
16 validity of any adoption proceeding.

17 (b) A party to an adoption proceeding may appeal a final decree of adoption entered by
18 a clerk of superior court to district court by giving notice of appeal as provided in G.S. 1-301.2.
19 A party to an adoption proceeding may appeal a judgment or order entered by a judge of
20 district court by giving notice of appeal as provided in G.S. 1-279.1.

21 (c) A parent or guardian whose consent or relinquishment was obtained by fraud or
22 duress may, within six months of the time the fraud or duress is or ought reasonably to have
23 been discovered, move to have the decree of adoption set aside and the consent declared void.
24 A parent or guardian whose consent was necessary under this Chapter but was not obtained
25 may, within six months of the time the omission is or ought reasonably to have been
26 discovered, move to have the decree of adoption set aside. Any action for damages against an
27 adoptee or the adoptive parents for fraud or duress in obtaining a consent must be brought
28 within six months of the time the fraud or duress is or ought reasonably to have been
29 discovered. (1949, c. 300; 1961, c. 186; 1969, c. 982; 1983, c. 454, s. 6; 1995, c. 457, s. 2;
30 1999-216, s. 11.1.)
31

32 Article 3.

33 Adoption of Minors.

34 Part 1. General Provisions.

35 **§ 48-3-100. Application of Article.**

36 This Article shall apply to the adoption of minors by adults who are not their stepparents.
37 (1995, c. 457, s. 2.)
38

39 Part 2. Placement of Minors for Adoption.

40 **§ 48-3-201. Who may place minors for adoption.**

41 (a) Only the following may place the minor for adoption:

42 (1) An agency,

43 (2) A guardian,

44 (3) Both parents acting jointly, if

45 a. Both parents are married to each other and living together, or

46 b. One parent has legal custody of a minor and the other has physical
47 custody but neither has both, or

48 (4) A parent with legal and physical custody of a minor, except as provided in
49 subdivision (3) of this subsection.

50 (b) A parent, guardian, or agency that places a minor directly for adoption shall execute
51 a consent to the minor's adoption pursuant to Part 6 of this Article.

1 (c) A parent or guardian of a minor who wants an agency to place the minor for
2 adoption must execute a relinquishment to the agency pursuant to Part 7 of this Article before
3 the agency can place the minor.

4 (d) An agency having legal and physical custody of a minor may place the minor for
5 adoption at any time after a relinquishment is executed by anyone as permitted by G.S.
6 48-3-701. The agency may place the minor for adoption even if other consents are required
7 before an adoption can be granted, unless an individual whose consent is required notifies the
8 agency in writing of the individual's objections before the placement. The agency shall act
9 promptly after accepting a relinquishment to obtain all other necessary consents,
10 relinquishments, or terminations of any guardian's authority pursuant to Chapter 35A of the
11 General Statutes or parental rights pursuant to Article 11 of Chapter 7B of the General Statutes.
12 (1995, c. 457, s. 2; 1997-215, s. 11(b); 1998-202, s. 13(j).)
13

14 **§ 48-3-202. Direct placement for adoption.**

15 (a) In a direct placement, a parent or guardian must personally select a prospective
16 adoptive parent, but a parent or guardian may obtain assistance from another person or entity,
17 or an adoption facilitator, in locating or evaluating a prospective adoptive parent, subject to the
18 limitations of Article 10 of this Chapter.

19 (b) Information about a prospective adoptive parent shall be provided to a parent or
20 guardian by the prospective adoptive parent, the prospective adoptive parent's attorney, or a
21 person or entity assisting the parent or guardian. Except as otherwise provided in this
22 subsection, this information shall include the preplacement assessment prepared pursuant to
23 Part 3 of this Article, and may include additional information requested by the parent or
24 guardian. The agency preparing the preplacement assessment may redact from the
25 preplacement assessment provided to a placing parent or guardian detailed information
26 reflecting the prospective adoptive parent's financial account balances and detailed information
27 about the prospective adoptive parent's extended family members, including surnames, names
28 of employers, names of schools attended, social security numbers, telephone numbers and
29 addresses, and other similarly detailed information about extended family members obtained
30 under G.S. 48-3-303. (1995, c. 457, s. 2; 2001-150, s. 6.)
31

32 **§ 48-3-203. Agency placement adoption.**

33 (a) An agency may acquire legal and physical custody of a minor for purposes of
34 adoptive placement only by means of a relinquishment pursuant to Part 7 of this Article or by a
35 court order terminating the rights and duties of a parent or guardian of the minor.

36 (b) An agency shall give any individual, upon request, a written statement of the
37 services it provides, its procedure for selecting a prospective adoptive parent for a minor,
38 including the role of the minor's parent or guardian in the selection process, and the procedure
39 for an agency identified adoption and the disclosures permitted under G.S. 48-9-109. This
40 statement shall include a schedule of any fee or expenses charged or required to be paid by the
41 agency and a summary of the provisions of this Chapter that pertain to the requirements and
42 consequences of a relinquishment and to the selection of a prospective adoptive parent.

43 (c) An agency may notify the parent when a placement has occurred and when an
44 adoption decree is issued.

45 (d) An agency may place a minor for adoption only with an individual for whom a
46 favorable preplacement assessment has been prepared. Placement shall be made as follows:

47 (1) If the agency has agreed to place the minor with the prospective adoptive
48 parent selected by the parent or guardian, the minor shall be placed with the
49 individual selected by the parent or guardian.

50 (2) If the agency has not agreed to place the minor with the prospective adoptive
51 parent selected by the parent or guardian, the minor shall be placed with the

1 prospective adoptive parent selected by the agency on the basis of the
2 preplacement assessment. The selection may not be delegated, but may be
3 based on criteria requested by a parent who relinquishes the child to the
4 agency.

5 (d1) A minor who is in the custody or placement responsibility of a county department of
6 social services shall not be placed with a selected prospective adoptive parent prior to the
7 completion of an investigation of the individual's criminal history pursuant to G.S. 48-3-309 or
8 G.S. 131D-10.3A and, based on the criminal history, a determination as to the individual's
9 fitness to have responsibility for the safety and well-being of children.

10 (e) In addition to the authority granted in G.S. 131D-10.5, the Social Services
11 Commission may adopt rules for placements by agencies consistent with the purposes of this
12 Chapter.

13 (f) An agency may release identifying information as provided in G.S. 48-9-104. (1949,
14 c. 300; 1953, c. 906; 1961, c. 186; 1969, c. 911, s. 7; c. 982; 1975, c. 702, ss. 1-3; 1977, c. 879,
15 s. 5; 1985, c. 758, ss. 10, 11; 1995, c. 457, s. 2; 1998-229, s. 13; 2001-150, s. 7.)
16

17 **§ 48-3-204. Recruitment of adoptive parents.**

18 (a) The Social Services Commission may adopt rules requiring agencies to adopt and
19 follow appropriate recruitment plans for prospective adoptive parents.

20 (b) The Division may maintain a statewide photo-listing service for all agencies within
21 this State as a means of recruiting adoptive parents for minors who have been legally freed for
22 adoption.

23 (c) Agencies and the Division shall cooperate with similar agencies in other states, and
24 with national adoption exchanges in an effort to recruit suitable adoptive parents. (1995, c. 457,
25 s. 2.)
26

27 **§ 48-3-205. Disclosure of background information.**

28 (a) Notwithstanding any other provision of law, before placing a minor for adoption, an
29 individual or agency placing the minor, or the individual's agent, must compile and provide to
30 the prospective adoptive parent a written document containing the following information:

- 31 (1) The date of the birth of the minor and the minor's weight at birth and any
32 other reasonably available nonidentifying information about the minor that is
33 relevant to the adoption decision or to the minor's development and
34 well-being;
- 35 (2) Age of the biological parents in years at the time of the minor's birth;
- 36 (3) Heritage of the biological parents, which shall consist of nationality, ethnic
37 background, and race;
- 38 (4) Education of the biological parents, which shall be the number of years of
39 school completed by the biological parents at the time of the minor's birth;
40 and
- 41 (5) General physical appearance of the biological parents.

42 In addition, the written document must also include all reasonably available nonidentifying
43 information about the health of the minor, the biological parents, and other members of the
44 biological parents' families that is relevant to the adoption decision or to the minor's health and
45 development. This health-related information shall include each such individual's present state
46 of physical and mental health, health and genetic histories, and information concerning any
47 history of emotional, physical, sexual, or substance abuse. This health-related information shall
48 also include an account of the prenatal and postnatal care received by the minor. The
49 information described in this subsection, if known, shall, upon written request of the minor, be
50 made available to the minor upon the minor reaching age 18 or upon the minor's marriage or
51 emancipation.

1 (b) Information provided under this section, or any information directly or indirectly
2 derived from such information, may not be used against the provider or against an individual
3 described in subsection (a) of this section who is the subject of the information in any criminal
4 action or any civil action for damages. In addition, information provided under this section may
5 not be admitted in evidence against the provider or against an individual described in
6 subsection (a) of this section who is the subject of the information in any other action or
7 proceeding.

8 (c) The agency placing the minor shall receive and preserve any additional
9 health-related information obtained after the preparation of the document described in
10 subsection (a) of this section.

11 (d) The Division shall develop and make available forms designed to collect the
12 information described in subsection (a) of this section. (1949, c. 300; 1957, c. 778, s. 7; 1961, c.
13 186; 1969, c. 982; 1973, c. 476, s. 138; 1979, c. 739, ss. 1, 2; 1981, c. 924, ss. 2, 3; 1983, c.
14 454, s. 6; 1993, c. 539, s. 411; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 457, s. 2.)
15

16 **§ 48-3-206. Affidavit of parentage.**

17 (a) To assist the court in determining that a direct placement was valid and all necessary
18 consents have been obtained, the parent or guardian who placed the minor shall execute an
19 affidavit setting out names, last known addresses, and marital status of the minor's parents or
20 possible parents. If the placing parent or guardian is unavailable to execute the affidavit, the
21 affidavit may be prepared by a knowledgeable individual who shall sign the affidavit and
22 indicate the source of the individual's knowledge.

23 (b) In an agency placement, the agency shall obtain from at least one individual who
24 relinquishes a minor to the agency an affidavit setting out the information required in
25 subsection (a) of this section. This affidavit is not necessary when the agency acquires legal and
26 physical custody of a minor for purposes of adoptive placement by a court order terminating
27 the parental rights of a parent or guardian. (1949, c. 300; 1977, c. 879, s. 6; 1983, c. 454, s. 6;
28 1995, c. 457, s. 2; 2001-208, s. 14; 2001-487, s. 101.)
29

30 **§ 48-3-207. Interstate placements.**

31 An interstate placement of a minor for purposes of adoption shall comply with the Interstate
32 Compact on the Placement of Children, Article 38 of Chapter 7B of the General Statutes.
33 (1995, c. 457, s. 2; 1998-202, s. 13(n).)
34

35 **Part 3. Preplacement Assessment.**

36 **§ 48-3-301. Preplacement assessment required.**

37 (a) Except as provided in subsection (b) of this section, placement of a minor may
38 occur only if a written preplacement assessment:

- 39 (1) Has been completed or updated within the 18 months immediately preceding
40 the placement; and
41 (2) Contains a finding that the individual who is the subject of the assessment is
42 suitable to be an adoptive parent, either in general or for a specific minor.

43 (b) A preplacement assessment is not required when a parent or guardian places a minor
44 directly with a grandparent, sibling, first cousin, aunt, uncle, great-aunt, great-uncle, or
45 great-grandparent of the minor.

46 (c) If a direct placement is made in violation of this section:

- 47 (1) The prospective adoptive parent shall request any preplacement assessment
48 already commenced to be expedited, and if none has been commenced, shall
49 obtain a preplacement assessment from an agency as authorized by G.S.
50 48-1-109; in either case, the assessment shall include the fact and date of
51 placement;

- 1 (2) The court may not enter a decree of adoption until both a favorable
2 preplacement assessment and a report to the court have been completed and
3 filed, and the court may not order a report to the court for at least 30 days
4 after the preplacement assessment has been completed; and
- 5 (3) If the person who placed the minor executes a consent before receiving a
6 copy of the preplacement assessment, G.S. 48-3-608 shall determine the
7 time within which that person may revoke. (1949, c. 300; 1957, c. 778, s. 2;
8 1967, c. 880, s. 2; 1987, c. 716, s. 1; 1993, c. 539, s. 410; 1994, Ex. Sess., c.
9 24, s. 14(c); 1995, c. 457, s. 2; 1997-215, s. 19(a).)

10
11 **§ 48-3-302. Request for preplacement assessment.**

12 (a) An individual seeking to adopt may request a preplacement assessment at any time
13 by an agency authorized by G.S. 48-1-109 to prepare preplacement assessments.

14 (b) An individual requesting a preplacement assessment need not have located a
15 prospective adoptee when the request is made.

16 (c) An individual may have more than one preplacement assessment or may request that
17 an assessment, once initiated, not be completed.

18 (d) If an individual is seeking to adopt a minor from a particular agency, the agency
19 may require the individual to be assessed by its own employee, even if the individual has
20 already had a favorable preplacement assessment completed by another agency.

21 (e) If an individual requesting a preplacement assessment has identified a prospective
22 adoptive child and has otherwise been unable to obtain a preplacement assessment, the county
23 department of social services must, upon request, prepare or contract for the preparation of the
24 preplacement assessment. As used in this subsection, "unable to obtain a preplacement
25 assessment" includes the inability to obtain a preplacement assessment at the fee the county
26 department of social services is permitted to charge the individual. Except as provided in this
27 subsection, no agency is required to conduct a preplacement assessment unless it agrees to do
28 so. (1949, c. 300; 1957, c. 778, s. 2; 1967, c. 880, s. 2; 1987, c. 716, s. 1; 1993, c. 539, s. 410;
29 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 457, s. 2; 1997-215, s. 15.)

30
31 **§ 48-3-303. Content and timing of preplacement assessment.**

32 (a) A preplacement assessment shall be completed within 90 days after a request has
33 been accepted.

34 (b) The preplacement assessment must be based on at least one personal interview with
35 each individual being assessed in the individual's residence and any report received pursuant to
36 subsection (c) of this section.

37 (c) The preplacement assessment shall, after a reasonable investigation, report on the
38 following about the individual being assessed:

- 39 (1) Age and date of birth, nationality, race, or ethnicity, and any religious
40 preference;
- 41 (2) Marital and family status and history, including the presence of any children
42 born to or adopted by the individual and any other children in the household;
- 43 (3) Physical and mental health, including any addiction to alcohol or drugs;
- 44 (4) Educational and employment history and any special skills;
- 45 (5) Property and income, and current financial information provided by the
46 individual;
- 47 (6) Reason for wanting to adopt;
- 48 (7) Any previous request for an assessment or involvement in an adoptive
49 placement and the outcome of the assessment or placement;
- 50 (8) Whether the individual has ever been a respondent in a domestic violence
51 proceeding or a proceeding concerning a minor who was allegedly abused,

1 dependent, neglected, abandoned, or delinquent, and the outcome of the
2 proceeding;

3 (9) Whether the individual has ever been convicted of a crime other than a
4 minor traffic violation;

5 (10) Whether the individual has located a parent interested in placing a child with
6 the individual for adoption and a brief, nonidentifying description of the
7 parent and the child; and

8 (11) Any other fact or circumstance that may be relevant to a determination of the
9 individual's suitability to be an adoptive parent, including the quality of the
10 environment in the home and the functioning of any children in the
11 household.

12 (12) The agency preparing the preplacement assessment may redact from the
13 preplacement assessment provided to a placing parent or guardian detailed
14 information reflecting the prospective adoptive parent's financial account
15 balances and detailed information about the prospective adoptive parent's
16 extended family members, including surnames, names of employers, names
17 of schools attended, social security numbers, telephone numbers and
18 addresses, and other similarly detailed information about extended family
19 members obtained under subsections (b) and (c) of this section.

20 When any of the above is not reasonably available, the preplacement assessment shall state
21 why it is unavailable.

22 (d) The agency shall conduct an investigation for any criminal record as permitted by
23 law. If a prospective adoptive parent is seeking to adopt a minor who is in the custody or
24 placement responsibility of a county department of social services, a county department of
25 social services shall have the prospective adoptive parent's criminal history and the criminal
26 histories of all individuals 18 years of age or older who reside in the prospective adoptive home
27 investigated pursuant to G.S. 48-3-309, and in accordance with G.S. 48-3-309(b), make a
28 determination as to the prospective adoptive parent's fitness to have responsibility for the safety
29 and well-being of children and as to whether other individuals required to be checked are fit for
30 an adoptive child to reside with them in the home.

31 (e) In the preplacement assessment, the agency shall review the information obtained
32 pursuant to subsections (b), (c), and (d) of this section and evaluate the individual's strengths
33 and weaknesses to be an adoptive parent. The agency shall then determine whether the
34 individual is suitable to be an adoptive parent.

35 (f) If the agency determines that the individual is suitable to be an adoptive parent, the
36 preplacement assessment shall include specific factors which support that determination.

37 (g) If the agency determines that the individual is not suitable to be an adoptive parent,
38 the replacement assessment shall state the specific concerns which support that determination.
39 A specific concern is one that reasonably indicates that placement of any minor, or a particular
40 minor, in the home of the individual would pose a significant risk of harm to the well-being of
41 the minor.

42 (h) In addition to the information and finding required by subsections (c) through (g) of
43 this section, the preplacement assessment must contain a list of the sources of information on
44 which it is based.

45 (i) The Social Services Commission shall have authority to establish by rule additional
46 standards for preplacement assessments. (1995, c. 457, s. 2; 1998-229, s. 14; 2001-150, s. 8;
47 2005-114, s. 2; 2007-276, s. 8.)

48
49 **§ 48-3-304. Fees for preplacement assessment.**

50 (a) An agency that prepares a preplacement assessment may charge a reasonable fee for
51 doing so, even if the individual being assessed requests that it not be completed. No fee may be

1 charged except pursuant to a written agreement which must be signed by the individual to be
2 charged prior to the beginning of the assessment. The fee agreement may not be based on the
3 outcome of the assessment or any adoption.

4 (b) An assessment fee is subject to review by the court pursuant to G.S. 48-2-602 and
5 G.S. 48-2-603 if the person who is assessed files a petition to adopt.

6 (c) The Department shall set the maximum fees, based on the individual's ability to pay
7 and other factors, which may be charged by county departments of social services. The
8 Department shall require waiver of fees for those unable to pay. Fees collected under this
9 section shall be applied to the costs of preparing preplacement assessments and shall be used by
10 the county department of social services to supplement and not to supplant appropriated funds.
11 (1995, c. 457, s. 2.)
12

13 **§ 48-3-305. Agency disposition of preplacement assessments.**

14 (a) The agency shall give a copy of any completed or incomplete preplacement
15 assessment to the individual who was the subject of the assessment. If the assessment contains
16 a finding that an individual is not suitable to be an adoptive parent, the agency shall
17 contemporaneously file the original with the Division.

18 (b) The agency shall retain a copy of a completed or incomplete preplacement
19 assessment for at least five years. (1995, c. 457, s. 2.)
20

21 **§ 48-3-306. Favorable preplacement assessments.**

22 An individual who receives a preplacement assessment containing a finding that the
23 individual is suitable to be an adoptive parent shall provide a copy of the assessment to any
24 person or agency considering the placement of a minor with the individual for adoption and
25 shall also attach a copy of the assessment to any petition to adopt. (1995, c. 457, s. 2.)
26

27 **§ 48-3-307. Assessments completed after placement.**

28 (a) If a placement occurs before a preplacement assessment is completed, the
29 prospective adoptive parent shall deliver a copy of the assessment when completed, whether
30 favorable or unfavorable, to the parent or guardian who placed the minor. A prospective
31 adoptive parent, who cannot after the exercise of due diligence personally locate the parent or
32 guardian who placed the minor, may deposit a copy of the preplacement assessment in the
33 United States mail, return receipt requested, addressed to the address of the parent or guardian
34 given in the consent, and the date of receipt by the parent or guardian for purposes of G.S.
35 48-3-608 shall be deemed to be the date of delivery or last attempted delivery.

36 (b) If a petition for adoption is filed before the preplacement assessment is completed,
37 the prospective adoptive parent shall attach to the petition an affidavit explaining why the
38 assessment has not been completed and, upon completion of the assessment, shall file it with
39 the court in which the petition is pending.

40 (c) A prospective adoptive parent shall file or cause to be filed a certificate indicating
41 that the prospective adoptive parent has delivered a copy of the assessment to the parent or
42 guardian who placed the minor for adoption. (1995, c. 457, s. 2; 2001-150, s. 9.)
43

44 **§ 48-3-308. Response to unfavorable preplacement assessment.**

45 (a) Each agency shall have a procedure for allowing an individual who has received an
46 unfavorable preplacement assessment to have the assessment reviewed by the agency. In
47 addition to the authority in G.S. 131D-10.5, the Social Services Commission shall have
48 authority to adopt rules implementing this section.

49 (b) An individual who receives an unfavorable preplacement assessment may, after
50 exhausting the agency's procedures for internal review, prepare and file a written response with

1 the Division and the agency. The Division shall attach the response to the unfavorable
2 assessment.

3 (c) The Division shall acknowledge receipt of the response but shall have no authority
4 to take any action with respect to the response.

5 (d) If an unfavorable preplacement assessment is completed and filed with the Division
6 and a minor has been placed with a prospective adoptive parent who is the subject of the
7 unfavorable assessment, the Division shall notify the county department of social services,
8 which shall take appropriate action.

9 (e) An unfavorable preplacement assessment and any response filed with the Division
10 under this section shall not be public records as set forth in Chapter 132 of the General Statutes.
11 (1995, c. 457, s. 2.)
12

13 **§ 48-3-309. Mandatory preplacement criminal checks of prospective adoptive parents**
14 **seeking to adopt a minor who is in the custody or placement responsibility of a**
15 **county department of social services and mandatory preplacement criminal**
16 **checks of all individuals 18 years of age or older who reside in the prospective**
17 **adoptive home.**

18 (a) The Department shall ensure that the criminal histories of all prospective adoptive
19 parents seeking to adopt a minor who is in the custody or placement responsibility of a county
20 department of social services and the criminal histories of all individuals 18 years of age or
21 older who reside in the prospective adoptive home are checked prior to placement and, based
22 on the criminal history, a determination is made as to the prospective adoptive parent's fitness
23 to have responsibility for the safety and well-being of children and whether other individuals
24 required to be checked are fit for an adoptive child to reside with them in the home. The
25 Department shall ensure that all individuals required to be checked are checked prior to
26 placement for county, state, and federal criminal histories.

27 (b) A county department of social services shall issue an unfavorable preplacement
28 assessment to a prospective adoptive parent if an individual required to submit to a criminal
29 history check pursuant to subsection (a) of this section has a criminal history. A county
30 department of social services shall issue an unfavorable preplacement assessment to a
31 prospective adoptive parent if the county department of social services determines, pursuant to
32 G.S. 48-3-303(e), that, based on other criminal convictions, whether felony or misdemeanor,
33 the prospective adoptive parent is unfit to have responsibility for the safety and well-being of
34 children or other individuals required to be checked are unfit for an adoptive child to reside
35 with them in the home.

36 (c) The Department of Justice shall provide to the Department of Health and Human
37 Services the criminal history of any individual required to be checked under subsection (a) of
38 this section as requested by the Department and obtained from the State and National
39 Repositories of Criminal Histories. The Department shall provide to the Department of Justice,
40 along with the request, the fingerprints of any individual to be checked, any additional
41 information required by the Department of Justice, and a form consenting to the check of the
42 criminal record and to the use of fingerprints and other identifying information required by the
43 State or National Repositories signed by the individual to be checked. The fingerprints of any
44 individual to be checked shall be forwarded to the State Bureau of Investigation for a search of
45 the State's criminal history record file, and the State Bureau of Investigation shall forward a set
46 of fingerprints to the Federal Bureau of Investigation for a national criminal history record
47 check.

48 (d) At the time of the request for a preplacement assessment or at a subsequent time
49 prior to placement, any individual whose criminal history is to be checked shall be furnished
50 with a statement substantially similar to the following:
51

"NOTICE

1 MANDATORY CRIMINAL HISTORY CHECK: NORTH CAROLINA LAW
2 REQUIRES THAT A CRIMINAL HISTORY CHECK BE CONDUCTED PRIOR TO
3 PLACEMENT ON PROSPECTIVE ADOPTIVE PARENTS SEEKING TO ADOPT A
4 MINOR WHO IS IN THE CUSTODY OR PLACEMENT RESPONSIBILITY OF A
5 COUNTY DEPARTMENT OF SOCIAL SERVICES AND ON ALL PERSONS 18
6 YEARS OF AGE OR OLDER WHO RESIDE IN THE PROSPECTIVE ADOPTIVE
7 HOME.

8 "Criminal history" means a county, State, or federal conviction of a felony by a court of
9 competent jurisdiction or a pending felony indictment of a crime for child abuse or
10 neglect, spousal abuse, a crime against a child, including child pornography, or for a
11 crime involving violence, including rape, sexual assault, or homicide, other than
12 physical assault or battery; a county, State, or federal conviction of a felony by a court
13 of competent jurisdiction or a pending felony indictment for physical assault, battery, or
14 a drug-related offense, if the offense was committed within the past five years; or
15 similar crimes under federal law or under the laws of other states. Your fingerprints will
16 be used to check the criminal history records of the State Bureau of Investigation (SBI)
17 and the Federal Bureau of Investigation (FBI).

18 If it is determined, based on your criminal history, that you are unfit to have
19 responsibility for the safety and well being of children or have an adoptive child reside
20 with you, you shall have the opportunity to complete, or challenge the accuracy of, the
21 information contained in the SBI or FBI identification records.

22 If the prospective adoptive parent is denied a favorable preplacement assessment by a
23 county department of social services as a result of a criminal history check as required
24 under G.S. 48-3-309(a), the prospective adoptive parent may request a review of the
25 assessment pursuant to G.S. 48-3-308(a).

26 Any person who intentionally falsifies any information required to be furnished to
27 conduct the criminal history is guilty of a Class 2 misdemeanor."

28 Refusal to consent to a criminal history check by any individual required to be checked
29 under G.S. 48-3-309(a) is grounds for the issuance by a county department of social services of
30 an unfavorable preplacement assessment. Any person who intentionally falsifies any
31 information required to be furnished to conduct the criminal history is guilty of a Class 2
32 misdemeanor.

33 (e) The Department shall notify the prospective adoptive parent's supervising county
34 department of social services of the results of the criminal history check. In accordance with the
35 federal and State law regulating the dissemination of the contents of the criminal history file,
36 the Department shall not release or disclose any portion of an individual's criminal history to
37 the prospective adoptive parent or any other individual required to be checked. The
38 Department, however, shall ensure that the prospective adoptive parent or any other individual
39 required to be checked is notified of the individual's right to review the criminal history
40 information, the procedure for completing or challenging the accuracy of the criminal history,
41 and the prospective adoptive parent's right to contest the preplacement assessment of the county
42 department of social services.

43 A prospective adoptive parent who disagrees with the preplacement assessment of the
44 county department of social services may request a review of the assessment pursuant to G.S.
45 48-3-308(a).

46 (f) All the information that the Department receives through the checking of the
47 criminal history is privileged information and is not a public record but is for the exclusive use
48 of the Department and those persons authorized under this section to receive the information.
49 The Department may destroy the information after it is used for the purposes authorized by this
50 section after one calendar year.

1 (g) There is no liability for negligence on the part of a State or local agency, or the
2 employees of a State or local agency, arising from any action taken or omission by any of them
3 in carrying out the provisions of this section. The immunity established by this subsection shall
4 not extend to gross negligence, wanton conduct, or intentional wrongdoing that would
5 otherwise be actionable. The immunity established by this subsection shall be deemed to have
6 been waived to the extent of indemnification by insurance, indemnification under Article 31A
7 of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under
8 the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes.

9 (h) The Department of Justice shall perform the State and national criminal history
10 checks on prospective adoptive parents seeking to adopt a minor in the custody or placement
11 responsibility of a county department of social services and all individuals 18 years of age or
12 older who reside in the prospective adoptive home and shall charge the Department of Health
13 and Human Services a reasonable fee only for conducting the checks of the national criminal
14 history records authorized by this section. The Division of Social Services, Department of
15 Health and Human Services, shall bear the costs of implementing this section. (1998-229, s. 15;
16 2005-114, s. 1; 2007-276, ss. 9, 10.)
17

18 Part 4. Transfer of Physical Custody of Minor by Health Care Facility or Attending
19 Practitioner for Purposes of Adoption.

20 **§ 48-3-401. "Health care facility" and "attending practitioner" defined.**

21 As used in this Article:

- 22 (1) "Health care facility" includes a hospital and maternity home; and
23 (2) "Attending practitioner" includes a physician, licensed nurse, or other
24 licensed professional provider of health care who assists in a birth. (1995, c.
25 457, s. 2.)
26

27 **§ 48-3-402. Authorization required to transfer physical custody.**

28 (a) A health care facility or attending practitioner who has physical custody may release
29 a minor for the purpose of adoption to a prospective adoptive parent or agency not legally
30 entitled to the custody of the minor if, in the presence of an employee of the health care facility
31 or the attending practitioner:

- 32 (1) A parent, guardian, or other person or entity having legal custody of the
33 minor signs an authorization of the transfer of physical custody; and
34 (2) The authorization states that the release is for the purpose of adoption.

35 (b) The health care facility or attending practitioner shall retain the authorization
36 described in subsection (a) of this section for at least one year. (1995, c. 457, s. 2.)
37

38 Part 5. Custody of Minors Pending Final Decree of Adoption.

39 **§ 48-3-501. Petitioner entitled to custody in direct placement adoptions.**

40 Unless the court orders otherwise, when a parent or guardian places the adoptee directly
41 with the petitioner, the petitioner acquires that parent's or guardian's right to legal and
42 continuing physical custody of the adoptee and becomes a person responsible for the care and
43 support of the adoptee, after the earliest of:

- 44 (1) The execution of consent by the parent or guardian who placed the adoptee;
45 (2) The filing of a petition for adoption by the petitioner; or
46 (3) The execution of a document by a parent or guardian having legal and
47 physical custody of a minor temporarily transferring custody to the
48 petitioner, pending the execution of a consent. (1949, c. 300; 1995, c. 457, s.
49 2.)
50

51 **§ 48-3-502. Agency entitled to custody in placement by agency.**

1 (a) Unless the court orders otherwise, during a proceeding for adoption in which an
2 agency places the adoptee with the petitioner:

3 (1) The agency retains legal but not physical custody of the adoptee until the
4 adoption decree becomes final; but

5 (2) The agency may delegate to the petitioner responsibility for the care and
6 support of the adoptee.

7 (b) Before a decree of adoption becomes final, the agency may for cause petition the
8 court to dismiss the adoption proceeding and to restore full legal and physical custody of the
9 minor to the agency; and the court may grant the petition on finding that it is in the best interest
10 of the minor. (1995, c. 457, s. 2.)

11
12 Part 6. Consent to Adoption.

13 **§ 48-3-601. Persons whose consent to adoption is required.**

14 Unless consent is not required under G.S. 48-3-603, a petition to adopt a minor may be
15 granted only if consent to the adoption has been executed by:

16 (1) The minor to be adopted if 12 or more years of age;

17 (2) In a direct placement, by:

18 a. The mother of the minor;

19 b. Any man who may or may not be the biological father of the minor
20 but who:

21 1. Is or was married to the mother of the minor if the minor was
22 born during the marriage or within 280 days after the
23 marriage is terminated or the parties have separated pursuant
24 to a written separation agreement or an order of separation
25 entered under Chapters 50 or 50B of the General Statutes or a
26 similar order of separation entered by a court in another
27 jurisdiction;

28 2. Attempted to marry the mother of the minor before the
29 minor's birth, by a marriage solemnized in apparent
30 compliance with law, although the attempted marriage is or
31 could be declared invalid, and the minor is born during the
32 attempted marriage, or within 280 days after the attempted
33 marriage is terminated by annulment, declaration of
34 invalidity, divorce, or, in the absence of a judicial proceeding,
35 by the cessation of cohabitation;

36 3. Before the filing of the petition, has legitimated the minor
37 under the law of any state;

38 4. Before the earlier of the filing of the petition or the date of a
39 hearing under G.S. 48-2-206, has acknowledged his paternity
40 of the minor and

41 I. Is obligated to support the minor under written
42 agreement or by court order;

43 II. Has provided, in accordance with his financial means,
44 reasonable and consistent payments for the support of
45 the biological mother during or after the term of
46 pregnancy, or the support of the minor, or both, which
47 may include the payment of medical expenses, living
48 expenses, or other tangible means of support, and has
49 regularly visited or communicated, or attempted to
50 visit or communicate with the biological mother

during or after the term of pregnancy, or with the minor, or with both; or

III. After the minor's birth but before the minor's placement for adoption or the mother's relinquishment, has married or attempted to marry the mother of the minor by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid; or

5. Before the filing of the petition, has received the minor into his home and openly held out the minor as his biological child; or

6. Is the adoptive father of the minor; and

c. A guardian of the minor; and

(3) In an agency placement by:

a. The agency that placed the minor for adoption; and

b. Each individual described in subdivision (2) of this section who has not relinquished the minor pursuant to Part 7 of Article 3 of this Chapter. (1949, c. 300; 1953, c. 906; 1957, c. 90; c. 778, ss. 3-5; 1961, c. 186; 1969, c. 534, s.1; c. 911, ss. 6, 7; c. 982; 1971, c. 1093, s. 13; c. 1185, s. 17; 1973, c. 1354, s. 5; 1975, c. 321, s. 1; c. 702, ss. 1-3; c. 714; 1977, c. 879, ss. 2, 3, 5; 1979, c. 107, s. 7; 2nd Sess., c. 1088, s. 1; 1983, cc. 30, 292; c. 454, ss. 2, 6; 1985, c. 758, ss. 5-11; 1987, c. 371, s. 1; 1995, c. 457, s. 2; 1997-215, s. 16.)

§ 48-3-602. Consent of incompetent parents.

If a parent as described in G.S. 48-3-601 has been adjudicated incompetent, then the court shall appoint a guardian ad litem for that parent and, unless the child already has a guardian, a guardian ad litem for the child to make a full investigation as to whether the adoption should proceed. The investigation shall include an evaluation of the parent's current condition and any reasonable likelihood that the parent will be restored to competency, the relationship between the child and the incompetent parent, alternatives to adoption, and any other relevant fact or circumstance. If the court determines after a hearing on the matter that it will be in the best interest of the child for the adoption to proceed, the court shall order the guardian ad litem of the parent to execute a consent for that parent. (1949, c. 300; 1953, c. 906; 1961, c. 186; 1969, c. 911, s. 7; c. 982; 1975, c. 702, ss. 1-3; 1977, c. 879, s. 5; 1985, c. 758, ss. 10, 11; 1995, c. 457, s. 2; 1997-215, s. 11(d).)

§ 48-3-603. Persons whose consent is not required.

(a) Consent to an adoption of a minor is not required of a person or entity whose consent is not required under G.S. 48-3-601, or:

(1) An individual whose parental rights and duties have been terminated under Article 11 of Chapter 7B of the General Statutes or by a court of competent jurisdiction in another state;

(2) A man described in G.S. 48-3-601(2), other than an adoptive father, if (i) the man has been judicially determined not to be the father of the minor to be adopted, or (ii) another man has been judicially determined to be the father of the minor to be adopted;

(3) Repealed by Session Laws 1997-215, s. 11(a).

(4) An individual who has relinquished parental rights or guardianship powers, including the right to consent to adoption, to an agency pursuant to Part 7 of this Article;

- 1 (5) A man who is not married to the minor's birth mother and who, after the
2 conception of the minor, has executed a notarized statement denying
3 paternity or disclaiming any interest in the minor;
4 (6) A deceased parent or the personal representative of a deceased parent's
5 estate; or
6 (7) An individual listed in G.S. 48-3-601 who has not executed a consent or a
7 relinquishment and who fails to respond to a notice of the adoption
8 proceeding within 30 days after the service of the notice.
9 (8) An individual notified under G.S. 48-2-206 who does not respond in a timely
10 manner or whose consent is not required as determined by the court.
11 (9) An individual whose actions resulted in a conviction under G.S. 14-27.2 or
12 G.S. 14-27.3 and the conception of the minor to be adopted.
- 13 (b) The court may issue an order dispensing with the consent of:
- 14 (1) A guardian or an agency that placed the minor upon a finding that the
15 consent is being withheld contrary to the best interest of the minor; or
16 (2) A minor 12 or more years of age upon a finding that it is not in the best
17 interest of the minor to require the consent. (1949, c. 300; 1957, c. 90; c.
18 778, ss. 3, 4; 1969, c. 534, s. 1; 1971, c. 1185, s. 17; 1975, c. 321, s. 1; c.
19 714; 1977, c. 879, ss. 2, 3; 1979, c. 107, s. 7; 2nd Sess., c. 1088, s. 1; 1983,
20 c. 292; 1985, c. 758, ss. 5-9; 1987, c. 371, s. 1; 1995, c. 457, s. 2; 1997-215,
21 ss. 11(a), 17; 1998-202, s. 13(o); 2004-128, s. 9.)
22

23 **§ 48-3-604. Execution of consent: timing.**

- 24 (a) A man whose consent is required under G.S. 48-3-601 may execute a consent to
25 adoption either before or after the child is born.
- 26 (b) The mother of a minor child may execute a consent to adoption at any time after the
27 child is born but not sooner.
- 28 (c) A guardian of a minor to be adopted may execute a consent to adoption at any time.
- 29 (d) An agency licensed by the Department or a county department of social services in
30 this State that places a minor for adoption shall execute its consent no later than 30 days after
31 being served with notice of the proceeding for adoption.
- 32 (e) A minor to be adopted who is 12 years of age or older may execute a consent at any
33 time. (1995, c. 457, s. 2.)
34

35 **§ 48-3-605. Execution of consent: procedures.**

- 36 (a) A consent executed by a parent or guardian or by a minor to be adopted who is 12
37 years of age or older must conform substantially to the requirements in G.S. 48-3-606 and must
38 be signed and acknowledged under oath before an individual authorized to administer oaths or
39 take acknowledgments.
- 40 (b) A parent who has not reached the age of 18 years shall have legal capacity to give
41 consent to adoption and to release that parent's rights in a child, and shall be as fully bound as if
42 the parent had attained 18 years of age.
- 43 (c) An individual before whom a consent is signed and acknowledged under subsection
44 (a) of this section shall certify in writing that to the best of the individual's knowledge or belief,
45 the parent, guardian, or minor to be adopted executing the consent:
- 46 (1) Read, or had read to him or her, and understood the consent;
47 (2) Signed the consent voluntarily;
48 (3) Received or was offered a copy of the consent; and
49 (4) Was advised that counselling services may be available through county
50 departments of social services or licensed child-placing agencies.

1 (d) A consent by an agency must be executed by the executive head or another
2 authorized employee and must be signed and acknowledged under oath in the presence of an
3 individual authorized to administer oaths or take acknowledgments.

4 (e) A consent signed in another state or in another country in accord with the procedure
5 of that state or country shall not be invalid solely because of failure to comply with the
6 formalities set out in this Chapter.

7 (f) A consent to the adoption of an Indian child, as that term is defined in the Indian
8 Child Welfare Act, 25 U.S.C. § 1901 et seq., must meet the requirements of that Act. (1949, c.
9 300; 1971, c. 1231, s. 1; 1995, c. 457, s. 2.)

10
11 **§ 48-3-606. Content of consent; mandatory provisions.**

12 A consent required from a minor to be adopted, a parent, or a guardian under G.S. 48-3-601
13 must be in writing and state:

- 14 (1) The date and place of the execution of the consent;
- 15 (2) The name, date of birth, and permanent address of the individual executing
16 the consent;
- 17 (3) The date of birth or the expected delivery date, the sex, and the name of the
18 minor to be adopted, if known;
- 19 (4) That the individual executing the document is voluntarily consenting to the
20 transfer of legal and physical custody to, and the adoption of the minor to be
21 adopted by, the identified prospective adoptive parent;
- 22 (5) The name of a person and an address where any notice of revocation may be
23 sent;
- 24 (6) That the individual executing the document understands that after the
25 consent is signed and acknowledged in accord with the procedures set forth
26 in G.S. 48-3-605, it may be revoked in accord with G.S. 48-3-608, but that it
27 is otherwise final and irrevocable and may not be withdrawn or set aside
28 except under a circumstance set forth in G.S. 48-3-609;
- 29 (7) That the consent shall be valid and binding and is not affected by any oral or
30 separate written agreement between the individual executing the consent and
31 the adoptive parent;
- 32 (8) That the individual executing the consent has not received or been promised
33 any money or anything of value for the consent, and has not received or been
34 promised any money or anything of value in relation to the adoption of the
35 child except for lawful payments that are itemized on a schedule attached to
36 the consent;
- 37 (9) That the individual executing the consent understands that when the
38 adoption is final, all rights and obligations of the adoptee's former parents or
39 guardian with respect to the adoptee will be extinguished, and every aspect
40 of the legal relationship between the adoptee and the former parent or
41 guardian will be terminated;
- 42 (10) The name and address of the court, if known, in which the petition for
43 adoption has been or will be filed;
- 44 (11) That the individual executing the consent waives notice of any proceeding
45 for adoption;
- 46 (12) If the individual executing the document is the minor to be adopted or the
47 person placing the minor for adoption, a statement that the adoption shall be
48 by a specific named adoptive parent;
- 49 (13) If the individual executing the document is the person placing the minor for
50 adoption, that the individual executing the consent has provided the

1 prospective adoptive parent, or the prospective adoptive parent's attorney,
2 with the written document required by G.S. 48-3-205; and

3 (14) That the person executing the consent has:

- 4 a. Received or been offered an unsigned copy of the consent;
5 b. Been advised that counselling services may be available through
6 county departments of social services or licensed child-placing
7 agencies; and
8 c. Been advised of the right to employ independent legal counsel.
9 (1995, c. 457, s. 2.)
10

11 **§ 48-3-607. Consequences of consent.**

12 (a) A consent executed pursuant to G.S. 48-3-605 and G.S. 48-3-606 may be revoked as
13 provided in G.S. 48-3-608. A consent is otherwise final and irrevocable except under a
14 circumstance set forth in G.S. 48-3-609.

15 (b) Except as provided in subsection (c) of this section, the consent of a parent,
16 guardian, or agency that placed a minor for adoption pursuant to Part 2 of this Article vests
17 legal and physical custody of the minor in the prospective adoptive parent and empowers this
18 individual to petition the court to adopt the minor.

19 (c) Any other parental right and duty of a parent who executed a consent is not
20 terminated until either the decree of adoption becomes final or the relationship of parent and
21 child is otherwise terminated, whichever comes first. Until termination, the minor remains the
22 child of a parent who executed a consent for purposes of any inheritance, succession, insurance,
23 arrears of child support, and other benefit or claim that the minor may have from, through, or
24 against the parent. (1949, c. 300; 1957, c. 778, s. 6; 1961, c. 186; 1969, c. 982; 1983, cc. 83,
25 688; 1985, c. 758, s. 12; 1987, c. 541, s. 1; 1991, c. 667, s. 1; 1995, c. 457, s. 2.)
26

27 **§ 48-3-608. Revocation of consent.**

28 (a) A consent to the adoption of any infant who is in utero or any minor may be
29 revoked within seven days following the day on which it is executed, inclusive of weekends
30 and holidays. If the final day of the revocation period falls on a Saturday, Sunday, or a legal
31 holiday when North Carolina courthouses are closed for transactions, then the revocation
32 period extends to the next business day. The individual who gave the consent may revoke by
33 giving written notice to the person specified in the consent. Notice may be given by personal
34 delivery, overnight delivery service, or registered or certified mail, return receipt requested. If
35 notice is given by mail, notice is deemed complete when it is deposited in the United States
36 mail, postage prepaid, addressed to the person to whom consent was given at the address
37 specified in the consent. If notice is given by overnight delivery service, notice is deemed
38 complete on the date it is deposited with the service as shown by the receipt from the service,
39 with delivery charges paid by the sender, addressed to the person to whom consent was given at
40 the address specified in the consent.

41 (b) In a direct placement, if:

- 42 (1) A preplacement assessment is required, and
43 (2) Placement occurs before the preplacement assessment is given to the parent
44 or guardian who is placing the minor,

45 then that individual's time under subsection (a) of this section to revoke any consent previously
46 given shall be either five business days after the date the individual receives the preplacement
47 assessment or the remainder of the time provided in subsection (a) of this section, whichever is
48 longer. The date of receipt is the earlier of the date of actual receipt or the date established
49 pursuant to G.S. 48-3-307.

50 (c) If a person who has physical custody places the minor with the prospective adoptive
51 parent and thereafter revokes a consent pursuant to this section, the prospective adoptive parent

1 shall, immediately upon request, return the minor to that person. The revocation restores the
2 right to physical custody and any right to legal custody to the person who placed the minor and
3 divests the prospective adoptive parent of any right to legal or physical custody and any further
4 responsibility for the care and support of the minor. In any subsequent proceeding, the court
5 shall award reasonable attorneys' fees to the person who revoked if the prospective adoptive
6 parent fails upon request to return the minor.

7 (d) If a person other than a person described in subsection (c) of this section revokes a
8 consent pursuant to this section and this person's consent is required, the adoption cannot
9 proceed until another consent is obtained or the person's parental rights are terminated. The
10 person who revoked consent is not thereby entitled to physical custody of the minor. If the
11 minor whose consent is required revokes consent, the county department of social services shall
12 be notified for appropriate action.

13 (e) A second consent to adoption by the same adoptive parents is irrevocable. (1949, c.
14 300; 1957, c. 778, s. 6; 1961, c. 186; 1969, c. 982; 1983, cc. 83, 688; 1985, c. 758, s. 12; 1987,
15 c. 541, s. 1; 1991, c. 667, s. 1; 1995, c. 457, s. 2; 1997-215, s. 8(a); 2001-150, s. 10; 2009-185,
16 s. 5.)
17

18 **§ 48-3-609. Challenges to validity of consent.**

19 (a) A consent shall be void if:

- 20 (1) Before the entry of the adoption decree, the individual who executed the
21 consent establishes by clear and convincing evidence that it was obtained by
22 fraud or duress;
- 23 (2) The prospective adoptive parent and the individual who executed the consent
24 mutually agree in writing to set it aside;
- 25 (3) The petition to adopt is voluntarily dismissed with prejudice; or
- 26 (4) The court dismisses the petition to adopt and no appeal has been taken, or
27 the dismissal has been affirmed on appeal and all appeals have been
28 exhausted.

29 (b) If the consent of an individual who previously had legal and physical custody of a
30 minor becomes void under subsection (a) of this section and no grounds exist under G.S.
31 48-3-603 for dispensing with this individual's consent, the court shall order the return of the
32 minor to the custody of that individual and shall dismiss any pending adoption proceeding. If
33 the court has reasonable cause to believe that the return will be detrimental to the minor, the
34 court shall not order the return of the minor but shall notify the county department of social
35 services for appropriate action.

36 (c) If the consent of an individual who did not previously have physical custody of a
37 minor becomes void under subsection (a) of this section and no ground exists under G.S.
38 48-3-603 for dispensing with this individual's consent, the court shall dismiss any pending
39 proceeding for adoption. If return of the minor is not ordered under subsection (b) of this
40 section, the court shall notify the county department of social services for appropriate action.
41 (1995, c. 457, s. 2.)
42

43 **§ 48-3-610. Collateral agreements.**

44 If a person executing a consent and the prospective adoptive parent or parents enter into an
45 agreement regarding visitation, communication, support, and any other rights and duties with
46 respect to the minor, this agreement shall not be a condition precedent to the consent itself,
47 failure to perform shall not invalidate a consent already given, and the agreement itself shall not
48 be enforceable. (1995, c. 457, s. 2.)
49

50 Part 7. Relinquishment of Minor for Adoption.

51 **§ 48-3-701. Individuals who may relinquish minor; timing.**

1 (a) A parent or guardian may relinquish all parental rights or guardianship powers,
2 including the right to consent to adoption, to an agency. If both parents are married to each
3 other and living together, both parents must act jointly in relinquishing a child to an agency.

4 (b) The mother of a minor child may execute a relinquishment at any time after the
5 child is born but not sooner. A man whose consent is required under G.S. 48-3-601 may
6 execute a relinquishment either before or after the child is born.

7 (c) A guardian may execute a relinquishment at any time. (1949, c. 300; 1953, c. 906;
8 1961, c. 186; 1969, c. 911, s. 7; c. 982; 1975, c. 702, ss. 1-3; 1977, c. 879, s. 5; 1985, c. 758, ss.
9 10, 11; 1995, c. 457, s. 2.)

10 11 **§ 48-3-702. Procedures for relinquishment.**

12 (a) A relinquishment executed by a parent or guardian must conform substantially to
13 the requirements in this Part and must be signed and acknowledged under oath before an
14 individual authorized to administer oaths or take acknowledgments.

15 (b) The provisions of G.S. 48-3-605(b), (c), (e), and (f), also apply to a relinquishment
16 executed under this Part.

17 (c) An agency that accepts a relinquishment shall furnish each parent or guardian who
18 signs the relinquishment a letter or other writing indicating the agency's willingness to accept
19 that person's relinquishment. (1995, c. 457, s. 2; 1997-215, s. 7(a).)

20 21 **§ 48-3-703. Content of relinquishment; mandatory provisions.**

22 (a) A relinquishment executed by a parent or guardian under G.S. 48-3-701 must be in
23 writing and state:

- 24 (1) The date and place of the execution of the relinquishment;
- 25 (2) The name, date of birth, and permanent address of the individual executing
26 the relinquishment;
- 27 (3) The date of birth or the expected delivery date, the sex, and the name of the
28 minor, if known;
- 29 (4) The name and address of the agency to whom the minor is being
30 relinquished;
- 31 (5) That the individual voluntarily consents to the permanent transfer of legal
32 and physical custody of the minor to the agency for the purposes of
33 adoption, and
 - 34 a. The placement of the minor for adoption with a prospective adoptive
35 parent selected by the agency; or
 - 36 b. The placement of the minor for adoption with a prospective adoptive
37 parent selected by the agency and agreed upon by the individual
38 executing the relinquishment;
- 39 (6) That the individual executing the relinquishment understands that after the
40 relinquishment is signed and acknowledged in the manner provided in G.S.
41 48-3-702, it may be revoked in accord with G.S. 48-3-706 but that it is
42 otherwise final and irrevocable except under the circumstances set forth in
43 G.S. 48-3-707;
- 44 (7) That the relinquishment shall be valid and binding and shall not be affected
45 by any oral or separate written agreement between the individual executing
46 the consent and the agency;
- 47 (8) That the individual executing the relinquishment understands that when the
48 adoption is final, all rights and duties of the individual executing the
49 relinquishment with respect to the minor will be extinguished and all other
50 aspects of the legal relationship between the minor child and the parent will
51 be terminated;

- 1 (9) That the individual executing the relinquishment has not received or been
2 promised any money or anything of value for the relinquishment of the
3 minor, and has not received or been promised any money or anything of
4 value in relation to the relinquishment or the adoption of the minor except
5 for lawful payments that are itemized on a schedule attached to the
6 relinquishment;
- 7 (10) That the individual executing the relinquishment waives notice of any
8 proceeding for adoption;
- 9 (11) That the individual executing the relinquishment has provided the agency
10 with the written document required by G.S. 48-3-205, or that the individual
11 has provided the agency with signed releases that will permit the agency to
12 compile the information required by G.S. 48-3-205; and
- 13 (12) That the individual executing the relinquishment has:
- 14 a. Received or been offered an unsigned copy of the relinquishment;
- 15 b. Been advised that counseling services are available through the
16 agency to which the relinquishment is given; and
- 17 c. Been advised of the right to employ independent legal counsel.
18 (1995, c. 457, s. 2.)
19

20 **§ 48-3-704. Content of relinquishment; optional provisions.**

21 In addition to the mandatory provisions listed in G.S. 48-3-703, a relinquishment may also
22 state that the relinquishment may be revoked upon notice by the agency that an adoption by a
23 specific prospective adoptive parent, named or described in the relinquishment is not
24 completed. In this event the parent's time to revoke a relinquishment is 10 days, inclusive of
25 weekends and holidays, from the date the parent receives such notice from the agency. The
26 revocation shall be in writing and delivered in a manner specified in G.S. 48-3-706(a) for
27 revocation of relinquishments. An agency, which after the exercise of due diligence cannot
28 personally locate the parent entitled to this notice, may deposit a copy of the notice in the
29 United States mail, return receipt requested, addressed to the address of the parent given in the
30 relinquishment, and the date of receipt by the parent is deemed to be the date of delivery or last
31 attempted delivery. If a parent does not revoke the relinquishment in the time and manner
32 provided in this section, the relinquishment is deemed a general relinquishment to the agency,
33 and the agency may place the child for adoption with a prospective adoptive parent selected by
34 the agency. (1995, c. 457, s. 2; 1997-215, s. 19.1(a); 2001-208, s. 15; 2001-487, s. 101.)
35

36 **§ 48-3-705. Consequences of relinquishment.**

37 (a) A relinquishment executed pursuant to G.S. 48-3-702 through G.S. 48-3-704 may
38 be revoked as provided in G.S. 48-3-706 and is otherwise final and irrevocable except under a
39 circumstance set forth in G.S. 48-3-707.

40 (b) Upon execution, a relinquishment by a parent or guardian entitled under G.S.
41 48-3-201 to place a minor for adoption:

- 42 (1) Vests legal and physical custody of the minor in the agency; and
- 43 (2) Empowers the agency to place the minor for adoption with a prospective
44 adoptive parent selected in the manner specified in the relinquishment.

45 (c) A relinquishment terminates:

- 46 (1) Any right and duty of the individual who executed the relinquishment with
47 respect to the legal and physical custody of the minor.
- 48 (2) The right to consent to the minor's adoption.
- 49 (3) Repealed by Session Laws 1997-215, s. 19.1(b).

50 (d) Except as provided in subsection (c) of this section, parental rights and duties of a
51 parent who executed a relinquishment are not terminated until the decree of adoption becomes

1 final or the parental relationship is otherwise legally terminated, whichever occurs first. Until
2 termination the minor remains the child of a parent who executed a relinquishment for purposes
3 of any inheritance, succession, insurance, arrears of child support, and other benefit or claim
4 that the minor may have from, through, or against the parent. (1949, c. 300; 1953, c. 906; 1957,
5 c. 778, s. 6; 1961, c. 186; 1967, c. 926, s. 1; 1969, c. 911, ss. 7, 9; c. 982; 1973, c. 476, s. 138;
6 1975, c. 702, ss. 1-3; 1977, c. 879, s. 5; 1983, c. 454, ss. 4, 7; cc. 83, 688; 1985, c. 758, ss.
7 10-12; 1987, c. 541, s. 1; 1991, c. 667, s. 1; 1995, c. 457, s. 2; 1997-215, s. 19.1(b).)

8
9 **§ 48-3-706. Revocation of relinquishments.**

10 (a) A relinquishment of any infant who is in utero or any minor may be revoked within
11 seven days following the day on which it is executed by the infant or minor's parent or
12 guardian, inclusive of weekends and holidays. If the final day of the period falls on a Saturday,
13 Sunday, or a legal holiday when North Carolina courthouses are closed for transactions, then
14 the revocation period extends to the next business day. The individual who gave the
15 relinquishment may revoke by giving written notice to the agency to which the relinquishment
16 was given. Notice may be given by personal delivery, overnight delivery service, or registered
17 or certified mail, return receipt requested. If notice is given by mail, notice is deemed complete
18 when it is deposited in the United States mail, postage prepaid, addressed to the agency at the
19 agency's address as given in the relinquishment. If notice is given by overnight delivery service,
20 notice is deemed complete on the date it is deposited with the service as shown by the receipt
21 from the service, with delivery charges paid by the sender, addressed to the agency at the
22 agency's address as given in the relinquishment.

23 (b) If a person who has physical custody relinquishes a minor and thereafter revokes a
24 relinquishment pursuant to this section, the agency shall upon request return the minor to that
25 person. The revocation restores the right to physical custody and any right to legal custody to
26 the person who relinquished the minor and divests the agency of any right to legal or physical
27 custody and any further responsibility for the care and support of the minor. In any subsequent
28 proceeding, the court may award the person who revoked reasonable attorneys' fees from a
29 prospective adoptive parent with whom the minor was placed who refuses to return the minor
30 and from the agency if the agency fails to cooperate in securing the minor's return.

31 (c) If a person other than a person described in subsection (b) of this section revokes a
32 relinquishment pursuant to this section and this person's consent is required, the agency may
33 not give consent for the adoption and the adoption cannot proceed until another relinquishment
34 or a consent is obtained or parental rights are terminated. The person who revoked the
35 relinquishment is not thereby entitled to physical custody of the minor.

36 (d) A second relinquishment for placement with the same adoptive parent selected by
37 the agency and agreed upon by the person executing the relinquishment, or a second general
38 relinquishment for placement by the agency with any adoptive parent selected by the agency, is
39 irrevocable. (1949, c. 300; 1957, c. 778, s. 6; 1961, c. 186; 1969, c. 982; 1983, cc. 83, 688;
40 1985, c. 758, s. 12; 1987, c. 541, s. 1; 1991, c. 667, s. 1; 1995, c. 457, s. 2; 1997-456, s. 56.2(a);
41 2001-150, s. 11; 2009-185, s. 6.)

42
43 **§ 48-3-707. Challenges to validity of relinquishments.**

44 (a) A relinquishment shall become void if:

- 45 (1) Before the entry of the adoption decree, the individual who executed the
46 relinquishment establishes by clear and convincing evidence that it was
47 obtained by fraud or duress.
48 (2) Before placement with a prospective adoptive parent occurs, the agency and
49 the person relinquishing the minor agree to rescind the relinquishment.

50 (b) A relinquishment may be revoked upon the happening of a condition expressly
51 provided for in the relinquishment pursuant to G.S. 48-3-704.

1 (c) If the relinquishment of an individual who previously had legal and physical
2 custody of a minor is set aside under subsection (a) or (b) of this section and no grounds exist
3 under G.S. 48-3-603 for dispensing with this individual's consent, the court shall order the
4 return of the minor to the custody of that individual, and shall dismiss any pending proceeding
5 for adoption. If the court has reasonable cause to believe that the return will be detrimental to
6 the minor, the court shall not order the return of the minor but shall notify the county
7 department of social services for appropriate action.

8 (d) If the relinquishment of an individual who did not previously have physical custody
9 of a minor is set aside under subsection (a) or (b) of this section, and no grounds exist under
10 G.S. 48-3-603 for dispensing with this individual's consent, the court shall dismiss any pending
11 proceeding for adoption. If return of the minor is not ordered under subsection (c) of this
12 section, the court shall notify the county department of social services for appropriate action.
13 (1995, c. 457, s. 2; 1997-215, s. 19.1(c).)

14 Article 4.

15 Adoption of a Minor Stepchild by Stepparent.

16 § 48-4-100. Application of Article.

17 This Article shall apply to the adoption of minors by their stepparents. (1995, c. 457, s. 2.)

18 § 48-4-101. Who may file a petition to adopt a minor stepchild.

19 A stepparent may file a petition under this Article to adopt a minor who is the child of the
20 stepparent's spouse if:

- 21 (1) The parent who is the spouse has legal and physical custody of the child, and
22 the child has resided primarily with this parent and the stepparent during the
23 six months immediately preceding the filing of the petition;
- 24 (2) The spouse is deceased or incompetent but, before dying or being
25 adjudicated incompetent, had legal and physical custody of the child, and the
26 child has resided primarily with the stepparent during the six months
27 immediately preceding the filing of the petition; or
- 28 (3) For cause, the court permits a stepparent who does not meet the
29 requirements of subdivisions (1) and (2) of this section to file a petition.
30 (1995, c. 457, s. 2.)

31 § 48-4-102. Consent to adoption of stepchild.

32 Except under circumstances described in G.S. 48-3-603, a petition to adopt a minor
33 stepchild may be granted only if consent to the adoption has been executed by the adoptee if 12
34 or more years of age; and

- 35 (1) The adoptee's parents as described in G.S. 48-3-601; and
- 36 (2) Any guardian of the adoptee.

37 The consent of an incompetent parent may be given pursuant to the procedures in G.S.
38 48-3-602. (1949, c. 300; 1957, c. 778, s. 5; 1969, c. 911, s. 6; 1971, c. 1093, s. 13; 1973, c.
39 1354, s. 5; 1983, c. 30; c. 454, ss. 2, 6; 1995, c. 457, s. 2; 1997-215, s. 11(c).)

40 § 48-4-103. Execution and content of consent to adoption by stepparent.

41 (a) A consent executed by a parent who is the stepparent's spouse:

- 42 (1) Must be signed and acknowledged before an individual authorized to
43 administer oaths or take acknowledgments;
- 44 (2) Must be in writing and state or contain:
 - 45 a. The statements required by G.S. 48-3-606, except for those required
46 by subdivisions (4), (9), (12), and (13) of that section;

- 1 b. That the parent executing the consent has legal and physical custody
2 of the child and is voluntarily consenting to the adoption of the child
3 by the stepparent;
4 c. That the adoption will not terminate the legal relation of parent and
5 child between the parent executing the consent and the child; and
6 d. That the adoption will terminate the legal relation of parent and child
7 between the adoptee and the adoptee's other parent, including all
8 right of the adoptee to inherit as a child from or through the other
9 parent, and will extinguish any existing court order of custody,
10 visitation, or communication with the adoptee, except that the other
11 parent will remain liable for past-due child support payments unless
12 legally released from this obligation.
- 13 (b) A consent executed by a minor stepchild's parent who is not the stepparent's spouse:
- 14 (1) Must be signed and acknowledged before an individual authorized to
15 administer oaths or take acknowledgments; and
16 (2) Must be in writing and state or contain:
- 17 a. The statements required by G.S. 48-3-606, except for those required
18 by subdivisions (4), (9), (12), and (13) of that section;
19 b. That the parent executing the consent is voluntarily consenting to:
- 20 1. The transfer of any right the parent has to legal or physical
21 custody of the child to the child's other parent and stepparent,
22 and
23 2. The adoption of the child by the stepparent; and
- 24 c. That the adoption will terminate the legal relation of parent and child
25 between the adoptee and the parent executing the consent, including
26 all rights of the adoptee to inherit as a child from or through the
27 parent, and will extinguish any court order of custody, visitation, or
28 communication with the adoptee, except that the parent executing the
29 consent will remain liable for past-due child support payments unless
30 legally released from this obligation.
- 31 (c) A consent executed by the guardian of a minor stepchild:
- 32 (1) Must be signed and acknowledged before an individual authorized to
33 administer oaths or take acknowledgments; and
34 (2) Must be in writing and state or contain:
- 35 a. The statements required by G.S. 48-3-606, except for those required
36 by subdivisions (4), (9), (12), and (13) of that section;
37 b. A statement that the guardian is voluntarily consenting to:
- 38 1. The transfer of any right the guardian has to legal or physical
39 custody of the adoptee to the adoptive stepparent; and
40 2. The adoption of the adoptee by the stepparent;
- 41 c. That the adoption will not terminate the legal relation of parent and
42 child between a parent who is or was the stepparent's spouse and the
43 adoptee;
44 d. That the adoption will terminate the legal relation of parent and child
45 between the adoptee and a parent who is not or has not been the
46 stepparent's spouse, including all right of the adoptee to inherit from
47 or through that parent, and will extinguish any court order of
48 custody, visitation, or communication with the adoptee, except that a
49 parent whose relation to the adoptee is terminated by the adoption
50 will remain liable for past-due child support payments unless legally
51 released from this obligation.

1 (d) G.S. 48-3-608(a) applies to consents executed pursuant to subsections (a) through
2 (c) of this section. Unless so revoked, the consent is final and irrevocable except under a
3 circumstance set forth in G.S. 48-3-609.

4 (e) A consent executed by an adoptee in a proceeding for adoption by a stepparent must
5 be signed and acknowledged under oath before an individual authorized to administer oaths or
6 take acknowledgments. The minor may revoke the consent at any time before the decree is
7 entered by filing written notice with the court in which the petition is pending. (1949, c. 300;
8 1957, c. 778, s. 6; 1961, c. 186; 1969, c. 982; 1983, cc. 83, 688; 1985, c. 758, s. 12; 1987, c.
9 541, s. 1; 1991, c. 667, s. 1; 1995, c. 457, s. 2.)

10
11 **§ 48-4-104: Repealed by Session Laws 1997-215, s. 12(b).**

12
13 **§ 48-4-105. Visitation awards to grandparents pursuant to Chapter 50 of the General**
14 **Statutes.**

15 (a) An adoption under this Article does not terminate or otherwise affect visitation
16 rights awarded to a biological grandparent of a minor pursuant to G.S. 50-13.2.

17 (b) An adoption under this Article does not affect the right of a biological grandparent
18 to petition for visitation rights pursuant to G.S. 50-13.2A or G.S. 50-13.5(j). (1949, c. 300;
19 1953, c. 824; 1955, c. 813, s. 5; 1963, c. 967; 1967, c. 619, s. 5; 1983, c. 454, s. 6; 1985, c. 67,
20 ss. 1-4; c. 575, s. 1; 1995, c. 457, s. 2.)

21
22 Article 5.

23 Adoption of Adults.

24 **§ 48-5-100. Application of Article.**

25 This Article shall apply to the adoption of adults, including married and emancipated
26 minors. (1995, c. 457, s. 2.)

27
28 **§ 48-5-101. Who may file for a petition to adopt an adult.**

29 (a) An adult may adopt another adult, except for the spouse of the adopting adult,
30 pursuant to this Article.

31 (b) If a prospective adoptive parent is married, both spouses must join in the petition
32 unless the prospective adoptive parent is the adoptee's stepparent or unless the court waives this
33 requirement for cause. (1967, c. 880, s. 3; 1969, c. 21, ss. 3-6; 1971, c. 1231, s. 1; 1973, c. 849,
34 s. 3; 1975, c. 91; 1981, c. 657; 1989, c. 208; c. 727, s. 219(4); 1993, c. 553, s. 14; 1995, c. 457,
35 s. 2.)

36
37 **§ 48-5-102. Consent to adoption.**

38 (a) Consent to the adoption of an adult is required only of:

- 39 (1) The adult being adopted; and
40 (2) The spouse of the petitioner in an adoption by the adult's stepparent, unless
41 the court waives this requirement for cause.

42 (b) The consent of the adult being adopted must:

- 43 (1) Be in writing and be signed and acknowledged before an individual
44 authorized to administer oaths or take acknowledgments;
45 (2) State that the adult agrees to assume toward the adoptive parent the legal
46 relation of parent and child and to have all of the rights and be subject to all
47 of the duties of that relationship; and
48 (3) State that the adult understands the consequences the adoption may have for
49 rights of inheritance, property, or support, including the loss of nonvested
50 inheritance rights which existed prior to the adoption and the acquisition of
51 new inheritance rights.

- 1 (c) The consent of the spouse of the petitioner in a stepparent adoption:
2 (1) Must be in writing and be signed and acknowledged before an individual
3 authorized to administer oaths or take acknowledgments; and
4 (2) Must state that the spouse:
5 a. Consents to the proposed adoption;
6 b. Understands that the adoption may diminish the amount the spouse
7 might take from the petitioner through intestate succession or by
8 dissenting to the petitioner's will and may also diminish the amount
9 of other entitlements that may become due the spouse and any other
10 children of the petitioner through the petitioner; and
11 c. Believes the adoption will be in the best interest of the adult being
12 adopted and the prospective adoptive parent.

13 (d) Anyone who gives a consent under this Article may revoke the consent at any time
14 before the entry of the decree of adoption by delivering a written notice of revocation to the
15 individual to whom the consent was given. If a petition to adopt has been filed, the notice of
16 revocation shall also be filed with the clerk of court in the county where the petition is pending.
17 (1967, c. 880, s. 3; 1969, c. 21, ss. 3-6; 1971, c. 1231, s. 1; 1973, c. 849, s. 3; 1975, c. 91; 1981,
18 c. 657; 1989, c. 208; c. 727, s. 219(4); 1993, c. 553, s. 14; 1995, c. 457, s. 2.)
19

20 **§ 48-5-103. Adoption of incompetent adults.**

21 (a) If an adult being adopted has been adjudicated incompetent, then that adult's
22 guardian shall have authority to consent in place of that adult.

23 (b) The consent of the guardian must:

- 24 (1) Be in writing and signed and acknowledged before an individual authorized
25 to administer oaths or take acknowledgments;
26 (2) State that the guardian understands that the adoption will terminate the legal
27 relationship of parent and child between the adult being adopted and the
28 adult's former parents, including all rights of the adult to inherit as a child
29 from or through the former parents, unless the adoption is by a stepparent, in
30 which case the adoption will terminate the legal relationship of parent and
31 child between the adult and the parent who is not married to the stepparent
32 but will have no effect on the relationship between the adult and the parent
33 who is married to the stepparent;
34 (3) State that the guardian understands that the adoption will create the legal
35 relationship of parent and child between the adult and the petitioner,
36 including the right of inheritance by, from, and through each other;
37 (4) State that the guardian consents to the proposed adoption and believes the
38 adoption will be in the best interest of the adult; and
39 (5) State that the guardian understands that the adoption will not terminate the
40 guardian's rights, duties, and powers.

41 (c) In any adoption of an adult who has been adjudicated incompetent, the court shall
42 appoint a guardian ad litem other than the guardian to investigate and report to the court on the
43 proposed adoption. (1995, c. 457, s. 2.)
44

45 Article 6.

46 Adoption by a Former Parent.

47 **§ 48-6-100. Application of Article.**

48 This Article shall apply to the adoption of adoptees by a former parent. (1995, c. 457, s. 2.)
49

50 **§ 48-6-101. Readoption under other Articles.**

1 A former parent may readopt a minor adoptee pursuant to Article 3 of this Chapter or, if
2 applicable, Article 4 of this Chapter. A former parent may readopt an adult adoptee pursuant to
3 Article 5 of this Chapter. (1995, c. 457, s. 2.)
4

5 **§ 48-6-102. Readoption after a stepparent adoption.**

6 (a) In addition to the methods set out in G.S. 48-6-101, a former parent may petition
7 pursuant to this section to readopt an adoptee adopted by a stepparent.

8 (b) The petitioner's spouse shall not join the petition.

9 (c) Consent to the readoption must be executed by:

10 (1) The adoptee, if 12 or more years of age;

11 (2) The petitioner's spouse, if any;

12 (3) The adoptee's adoptive parent, if the adoptee is a minor;

13 (4) The adoptee's parent who is or was the spouse of the adoptive parent, if the
14 adoptee is a minor; and

15 (5) Any guardian of the adoptee.

16 (d) The consent executed by the adoptee shall conform to the requirements of G.S.
17 48-4-103(e).

18 (e) The consent executed by the petitioner's spouse shall conform to the requirements of
19 G.S. 48-5-102(c).

20 (f) The consent executed by the adoptive parent shall conform to the requirements of
21 G.S. 48-4-103(b).

22 (g) The consent of the adoptee's parent who was the spouse of the adoptive parent shall
23 conform to the requirements of G.S. 48-4-103(a) except for those required by G.S.
24 48-4-103(a)(2)b.

25 (h) A consent executed by the guardian of a minor adoptee shall conform to the
26 requirements of G.S. 48-4-103(c).

27 (i) An adoption under this section does not affect the relationship between the adoptee
28 and the parent who was married to the adoptive parent.

29 (j) An adoption under this section does not terminate or otherwise affect any existing
30 order of custody. (1949, c. 300; 1983, c. 454, s. 6; 1995, c. 457, s. 2.)
31

32 Article 9.

33 Confidentiality of Records and Disclosure of Information.

34 **§ 48-9-101. Records defined.**

35 (a) For purposes of this Article, "records" means any petition, affidavit, consent or
36 relinquishment, transcript or notes of testimony, deposition, power of attorney, report, decree,
37 order, judgment, correspondence, document, invoice, receipt, certificate, or other printed,
38 written, microfilmed or microfiched, video-taped or tape-recorded material or electronic data
39 processing records regardless of physical form or characteristics pertaining to a proceeding for
40 adoption under this Chapter.

41 (b) Repealed by Session Laws 2010-116, s. 2, effective October 1, 2010. (1995, c. 457,
42 s. 2; 2007-262, s. 1; 2010-116, s. 2.)
43

44 **§ 48-9-102. Records confidential and sealed.**

45 (a) All records created or filed in connection with an adoption, except the decree of
46 adoption and the entry in the special proceedings index in the office of the clerk of court, and
47 on file with or in the possession of the court, an agency, the State, a county, an attorney, or
48 other provider of professional services, are confidential and may not be disclosed or used
49 except as provided in this Chapter.

1 (b) During a proceeding for adoption, records shall not be open to inspection by any
2 person except upon an order of the court finding that disclosure is necessary to protect the
3 interest of the adoptee.

4 (c) When a decree of adoption becomes final, all records and all indices of records on
5 file with the court, an agency, or this State shall be retained permanently and sealed. Sealed
6 records shall not be open to inspection by any person except as otherwise provided in this
7 Article.

8 (d) All records filed in connection with an adoption, including a copy of the petition
9 giving the date of the filing of the original petition, the original of each consent and
10 relinquishment, additional documents filed pursuant to G.S. 48-2-305, any report to the court,
11 any additional documents submitted and orders entered and a copy of the final decree, shall be
12 sent by the clerk of superior court to the Division within 10 days after the decree of adoption is
13 entered or 10 days following the final disposition of an appeal pursuant to G.S. 48-2-607(b).
14 The original petition and final decree shall be retained by the clerk.

15 (e) The Division must cause the papers and reports related to the proceeding to be
16 permanently indexed and filed.

17 (f) The Division shall transmit a report of each adoption and any name change to the
18 State Registrar if the adoptee was born in this State. In the case of an adoptee who was not born
19 in this State, the Division shall transmit the report and any name change to the appropriate
20 official responsible for issuing birth certificates or their equivalent.

21 (g) In any adoption, the State Registrar may, in addition to receiving the report from the
22 Division, request a copy of the final order and any separate order of name change directly from
23 the clerk of court. (1949, c. 300; 1957, c. 778, s. 7; 1961, c. 186; 1967, c. 619, ss. 6, 7; c. 880, s.
24 3; 1969, c. 21, ss. 3-6; c. 982; 1971, c. 1231, s. 1; 1973, c. 476, s. 138; c. 849, s. 3; 1975, c. 91;
25 1979, c. 739, ss. 1, 2; 1981, c. 657; c. 924, ss. 2, 3; 1983, c. 454, s. 6; 1989, c. 208; c. 727, s.
26 219(4); 1993, c. 539, s. 411; c. 553, s. 14; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 457, s. 2;
27 1997-215, s. 9(a)-(c); 2001-208, s. 11; 2001-487, s. 101.)

28 29 **§ 48-9-103. Release of nonidentifying information.**

30 (a) An adoptive parent, an adoptee who is an adult at the time of the request, or a minor
31 adoptee who is a parent or an expectant parent may request a copy of any document prepared
32 pursuant to G.S. 48-3-205 and a copy of any additional nonidentifying health-related
33 information about the adoptee's original family that has been submitted to a court, agency, or
34 the Division. A minor seeking treatment pursuant to G.S. 90-21.1 may request that a copy of
35 this information be sent to the treating physician.

36 (b) If a request under this section is made to the agency that placed the adoptee or
37 prepared the report to the court, the agency shall furnish the individual making the request or
38 the treating physician named by a minor making the request with a copy of any relevant report
39 or information that is included in the sealed records of the agency. If a request under this
40 section is made to the court that issued the decree of adoption, the court shall refer the
41 individual to the Division, or, if known to the court, the agency that placed the adoptee or
42 prepared the report to the court. The Division may refer the individual to the agency that
43 prepared the report to the court. If the agency no longer exists, the Division may furnish the
44 information to an agency convenient to the requesting party.

45 (c) Any report or information released under this section shall be edited by the sender to
46 exclude the name, address, or other information that could reasonably be expected to lead
47 directly to the identity of an adoptee at birth or an adoptee's parent at the adoptee's birth or
48 other member of the adoptee's original family and shall contain an express reference to the
49 confidentiality provisions of this Chapter.

1 (d) An individual who is denied access to a report or information requested under this
2 section may petition the clerk of original jurisdiction for review of the reasonableness of the
3 denial.

4 (e) If the court or the agency receives information from an adoptee's former parent or
5 from an adoptee's former relative about a health or genetic condition that may affect the health
6 of the adoptee or the adoptee's child, an appropriate employee shall make a reasonable effort to
7 contact and forward the information to an adoptee who is 18 or more years of age, or an
8 adoptive parent of an adoptee who is under 18 years of age.

9 (f) Nothing in this section shall prohibit an agency from disclosing nonidentifying
10 information about the adoptee's present circumstances, in the nature of information required
11 under G.S. 48-3-205, to a former parent, an adult sibling, or the guardian of a minor sibling on
12 request.

13 (g) The Department shall prescribe a reasonable procedure for verifying the identity,
14 age, or other relevant characteristics of an individual who requests or provides a report or
15 information under this section and the Department, the court, or agency may charge a
16 reasonable fee for locating and making copies of a report or information.

17 (h) No request under this section shall be made to the State Registrar of Vital Statistics.
18 (1949, c. 300; 1957, c. 778, s. 7; 1961, c. 186; 1969, c. 982; 1973, c. 476, s. 138; 1979, c. 739,
19 ss. 1, 2; 1981, c. 924, ss. 2, 3; 1983, c. 454, s. 6; 1993, c. 539, s. 411; 1994, Ex. Sess., c. 24, s.
20 14(c); 1995, c. 457, s. 2.)

21
22 **§ 48-9-104. Release of identifying information; confidential intermediary services.**

23 (a) Except as provided in this section or in G.S. 48-9-109(2) or (3), no person or entity
24 shall release from any records retained and sealed under this Article the name, address, or other
25 information that reasonably could be expected to lead directly to the identity of an adoptee, an
26 adoptive parent of an adoptee, an adoptee's parent at birth, or an individual who, but for the
27 adoption, would be the adoptee's sibling or grandparent, except upon order of the court for
28 cause pursuant to G.S. 48-9-105.

29 (b) A child placing agency licensed by the Department or a county department of social
30 services may agree to act as a confidential intermediary for any of the following:

- 31 (1) A biological parent.
- 32 (2) An adult adoptee.
- 33 (3) An adult biological sibling of an adult adoptee.
- 34 (4) An adult biological half sibling of an adult adoptee.
- 35 (5) An adult family member of a deceased biological parent.
- 36 (6) An adult family member of a deceased adoptee.

37 In order to obtain and share nonidentifying birth family health information, to facilitate contact,
38 or to share identifying information with any person listed in subdivisions (1) through (6) of this
39 subsection, an agency may act as a confidential intermediary without appointment by the court
40 pursuant to G.S. 48-9-105 and with the written consent of all parties to the contact or the
41 sharing of information. Written consent of the biological parent is required if the biological
42 parent is living at the time any party described in subdivisions (2) through (6) of this subsection
43 seeks to contact or share identifying information with any other party described in subdivisions
44 (2) through (6) of this subsection. Further, an agency may agree to act as a confidential
45 intermediary for the adoptive parents of a minor adoptee or the guardian of a minor adoptee,
46 without appointment by the court pursuant to G.S. 48-9-105, to obtain and share nonidentifying
47 birth family health information. An agency providing confidential intermediary services shall
48 contact individuals in a manner reasonably calculated to prevent incidental disclosure of
49 confidential information. An agency that agrees to provide confidential intermediary services
50 may charge a reasonable fee for doing so, which fee must be pursuant to written agreement

1 signed by the individual to be charged. The Division shall establish guidelines for confidential
2 intermediary services.

3 (c) For purposes of this section only, the term "family member" means a spouse, child,
4 stepchild, parent, stepparent, grandparent, or grandchild.

5 (d) If an agency providing confidential intermediary services determines that the person
6 who is the subject of the search is deceased, the agency may obtain a copy of the death
7 certificate pursuant to G.S. 130A-93 and deliver it to the person who requested the services. If
8 the agency further determines that a lineal ascendant of the deceased person who is the subject
9 of the search is deceased, the agency may also obtain a copy of the death certificate of the
10 deceased lineal ascendant and deliver it to the person who requested the services. (1949, c.
11 300; 1957, c. 778, s. 7; 1961, c. 186; 1969, c. 982; 1973, c. 476, s. 138; 1979, c. 739, ss. 1, 2;
12 1981, c. 924, ss. 2, 3; 1983, c. 454, s. 6; 1993, c. 539, s. 411; 1994, Ex. Sess., c. 24, s. 14(c);
13 1995, c. 457, s. 2; 2001-150, s. 12; 2007-262, s. 3; 2010-116, s. 3; 2011-237, s. 1.)
14

15 **§ 48-9-105. Action for release of identifying and other nonidentifying information.**

16 (a) Any information necessary for the protection of the adoptee or the public in or
17 derived from the records, including medical information not otherwise obtainable, may be
18 disclosed to an individual who files a written motion in the cause before the clerk of original
19 jurisdiction. In hearing the petition, the court shall give primary consideration to the best
20 interest of the adoptee, but shall also give due consideration to the interests of the members of
21 the adoptee's original and adoptive family.

22 (b) The movant must serve a copy of the motion, with written proof of service, upon the
23 Department and the agency that prepared the report for the court. The clerk shall give at least
24 five days' notice to the Department and the agency of every hearing on this motion, whether the
25 hearing is before the clerk or a judge of the district court; and the Department and the agency
26 shall be entitled to appear and be heard in response to the motion.

27 (c) In determining whether cause exists for the release of the name or identity of an
28 individual, the court shall consider:

- 29 (1) The reason the information is sought;
- 30 (2) Any procedure available for satisfying the petitioner's request without
31 disclosing the name or identity of another individual, including having the
32 court appoint a representative to contact the individual and request specific
33 information;
- 34 (3) Whether the individual about whom identifying information is sought is
35 alive;
- 36 (4) To the extent known, the preference of the adoptee, the adoptive parents, the
37 adoptee's parents at birth, and other members of the adoptee's original and
38 adoptive families, and the likely effect of disclosure on these individuals;
- 39 (5) The age, maturity, and expressed needs of the adoptee;
- 40 (6) The report or recommendation of any individual appointed by the court to
41 assess the request for identifying information; and
- 42 (7) Any other factor relevant to an assessment of whether the benefit to the
43 petitioner of releasing the information sought will be greater than the benefit
44 to any other individual of not releasing the information.

45 (d) An individual who files a motion under this section may also ask the court to
46 authorize the release by the State Registrar of a certified copy of the adoptee's original
47 certificate of birth. (1949, c. 300; 1985, c. 448; 1995, c. 88, s. 6; 1995, c. 457, s. 2.)
48

49 **§ 48-9-106. Release of original certificate of birth.**

50 Upon receipt of a certified copy of a court order issued pursuant to G.S. 48-9-105
51 authorizing the release of an adoptee's original certificate of birth, the State Registrar shall give

1 the individual who obtained the order a copy of the original certificate of birth with a
2 certification that the copy is a true copy of a record that is no longer a valid certificate of birth.
3 (1995, c. 457, s. 2.)
4

5 **§ 48-9-107. New birth certificates.**

6 (a) Upon receipt of a report of the adoption of a minor from the Division, or the
7 documents required by G.S. 48-9-102(g) from the clerk of superior court in the adoption of an
8 adult, or a report of an adoption from another state, the State Registrar shall prepare a new birth
9 certificate for the adoptee that shall contain the adoptee's full adoptive name, sex, state of birth,
10 and date of birth; the full name of the adoptive father, if applicable; the full maiden name of the
11 adoptive mother, if applicable; and any other pertinent information consistent with this section
12 as may be determined by the State Registrar. The new certificate shall contain no reference to
13 the adoption of the adoptee and shall not refer to the adoptive parents in any way other than as
14 the adoptee's parents.

15 (b) In an adoption by a stepparent, the State Registrar shall prepare a new birth
16 certificate pursuant to subsection (a) of this section except:

- 17 (1) The adoptive parent and the parent whose relation with the adoptee remains
18 unchanged shall be listed as the adoptee's mother and father on the new birth
19 certificate; and
- 20 (2) The city and county of birth of the adoptee shall be the same on the new
21 birth certificate as on the original certificate.

22 The names of the adoptee's parents shall not be changed as provided in subdivision (1) of
23 this subsection if the petitioner, the petitioner's spouse, the adoptee if age 12 or older, and any
24 living parent whose parental rights are terminated by the adoption jointly file a request that the
25 parents' names not be changed with the court prior to the entry of the adoption decree. The
26 Division shall send a copy of this request with its report to the State Registrar or other
27 appropriate official in the adoption of a minor stepchild, and the clerk of superior court shall
28 send a copy with the documents required by G.S. 48-9-102(g) in the adoption of an adult
29 stepchild.

30 (c) The State Registrar shall seal the original certificate of birth and all records in the
31 possession of that office pertaining to the adoption. These records shall not be unsealed except
32 as provided in this Article. The State Registrar shall provide certified typed copies or abstracts
33 of the new certificate of birth of an adoptee prepared pursuant to subsection (a) of this section
34 to the adoptee, the adoptee's children, the adoptive parents, and the adoptee's spouse, brothers,
35 and sisters. For purposes of this subsection, "parent", "brother", and "sister" shall mean the
36 adoptee's adoptive parent, brother, or sister and shall not mean a former parent, brother, or
37 sister.

38 (d) At the time of preparing the new birth certificate pursuant to subsection (a) of this
39 section, the State Registrar shall notify the register of deeds or appropriate official in the health
40 department in the county of the adoptee's birth to remove the adoptee's birth certificate from the
41 records and forward it to the State Registrar for retention under seal with the original certificate
42 of birth in the State Registrar's office. The register of deeds shall also delete all index entries for
43 that birth certificate. The State Registrar shall not issue copies of birth certificates for adoptees
44 to registers of deeds. Only the State Registrar shall issue certified copies of such records, and
45 these copies shall be prepared as prescribed in subsection (c) of this section.

46 (e) The State Registrar may by rule prescribe requirements for reports of adoptions
47 from other states. (1949, c. 300; 1951, c. 730, ss. 1-4; 1955, c. 951, s. 1; 1967, c. 880, s. 3; c.
48 1042, ss. 1-3; 1969, c. 21, s. 2-6; c. 977; 1971, c. 1231, s. 1; 1973, c. 476, s. 128; c. 849, ss. 1-3;
49 1975, c. 91; 1981, c. 657; 1983, c. 454, s. 6; 1989, c. 208; c. 727, s. 219(3), (4); 1993, c. 553, s.
50 14; 1995, c. 457, s. 2; 1997-215, s. 18.)
51

1 **§ 48-9-108. Restoration of original birth certificates if a decree of adoption is set aside.**

2 If a final decree of adoption is set aside, the court shall send a certified copy of the order
3 within 10 days after it becomes final to the State Registrar if the adoptee was born in this State
4 or to the appropriate official responsible for issuing birth certificates or their equivalent if the
5 adoptee was not born in this State. The court shall also send a copy to the Division. If the
6 adoptee desires to have the adoptive name shown on the original birth certificate when it is
7 restored, the order must include this directive. Upon receipt of such an order, the State
8 Registrar shall seal the certificate issued under this section and restore the adoptee's original
9 certificate of birth. This sealed file may subsequently be opened only by direction of a valid
10 court order pursuant to G.S. 48-9-105 and G.S. 48-9-106. (1995, c. 457, s. 2.)

11
12 **§ 48-9-109. Certain disclosures authorized.**

13 Nothing in this Article shall be interpreted or construed to prevent:

- 14 (1) An employee of a court, agency, or any other person from:
- 15 a. Inspecting permanent, confidential, or sealed records, other than
16 records maintained by the State Registrar, for the purpose of
17 discharging any obligation under this Chapter.
 - 18 b. Disclosing the name of the court where a proceeding for adoption
19 occurred, or the name of an agency that placed an adoptee, to an
20 individual described in G.S. 48-9-104 who can verify his or her
21 identity.
 - 22 c. Disclosing or using information contained in permanent and sealed
23 records, other than records maintained by the State Registrar, for
24 statistical or other research purposes as long as the disclosure will not
25 result in identification of a person who is the subject of the
26 information and subject to any further conditions the Department
27 may reasonably impose.
- 28 (2) In agency placements, a parent or guardian placing a child for adoption and
29 the adopting parents from authorizing an agency to release information or
30 from releasing information to each other that could reasonably be expected
31 to lead directly to the identity of an adoptee, an adoptive parent of an
32 adoptee, or an adoptee's placing parent or guardian. The consent to the
33 release of identifying information shall be in writing and signed prior to the
34 adoption by any placing parent or guardian and the adopting parents and
35 acknowledged under oath in the presence of an individual authorized to
36 administer oaths or take acknowledgments. Any consent to release
37 identifying information shall be filed under G.S. 48-2-305.
- 38 (3) The Division from sharing information from its records regarding the
39 identity of birth parents with an agency acting as a confidential intermediary
40 pursuant to G.S. 48-9-104(b), if the information is needed by the agency to
41 carry out its duties as a confidential intermediary. Any information disclosed
42 to the agency pursuant to this subdivision shall not be redisclosed by the
43 agency except as allowed by G.S. 48-9-104(b). (1995, c. 457, s. 2; 2001-150,
44 s. 13; 2007-262, s. 4.)

45
46 Article 10.

47 Prohibited Practices in Connection with Adoption.

48 **§ 48-10-101. Prohibited activities in placement.**

49 (a) No one other than a person or entity specified in G.S. 48-3-201 may place a minor
50 for adoption. No one other than a person or entity specified in G.S. 48-3-201, or an adoption
51 facilitator, may solicit potential adoptive parents for children in need of adoption. No one other

1 than an agency or an adoption facilitator, or an individual with a completed preplacement
2 assessment that contains a finding that the individual is suitable to be an adoptive parent or that
3 individual's immediate family, may solicit for adoption a potential adoptee.

4 (b) No one other than a county department of social services, an adoption facilitator, or
5 an agency licensed by the Department in this State may advertise in any periodical or
6 newspaper, or by radio, television, or other public medium, that any person or entity will place
7 or accept a child for adoption.

8 (b1) Notwithstanding subsections (a) and (b) of this section, this Article shall not
9 prohibit a person from advertising that the person desires to adopt. This subsection shall apply
10 only to a person with a current completed preplacement assessment finding that person suitable
11 to be an adoptive parent. The advertisement may be published only in a periodical or
12 newspaper or on radio, television, cable television, or the Internet. The advertisement shall
13 include a statement that (i) the person has a completed preplacement assessment finding that
14 person suitable to be an adoptive parent, (ii) identifies the name of the agency that completed
15 the preplacement assessment, and (iii) identifies the date the preplacement assessment was
16 completed. Any advertisement under this subsection may state whether the person is willing to
17 provide lawful expenses as permitted by G.S. 48-10-103.

18 (c) A person who violates subsection (a), (b), or (b1) of this section is guilty of a Class
19 1 misdemeanor.

20 (d) The district court may enjoin any person from violating this section. (1975, c. 335,
21 s. 2; 1981, c. 275, s. 6; 1993, c. 539, s. 413; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 457, s. 2;
22 2001-150, s. 14.)

23 24 **§ 48-10-102. Unlawful payments related to adoption.**

25 (a) Except as provided in G.S. 48-10-103, a person or entity may not pay or give, offer
26 to pay or give, or request, receive or accept any money or anything of value, directly or
27 indirectly, for:

- 28 (1) The placement of a minor for adoption;
- 29 (2) The consent of a parent, a guardian, or an agency to the adoption of a minor;
- 30 (3) The relinquishment of a minor to an agency for purposes of adoption; or
- 31 (4) Assisting a parent or guardian in locating or evaluating a potential adoptive
32 parent or in transferring custody of a minor to the adoptive parent.

33 (b) A person who violates this section is guilty of a Class 1 misdemeanor. For each
34 subsequent violation, a person is guilty of a Class H felony which may include a fine of not
35 more than ten thousand dollars (\$10,000).

36 (c) The district court may enjoin any person or entity from violating this section. (1975,
37 c. 335, s. 1; 1991, c. 335, s. 1; 1993, c. 539, ss. 412, 1264; 1994, Ex. Sess., c. 24, s. 14(c); 1995,
38 c. 457, s. 2.)

39 40 **§ 48-10-103. Lawful payments related to adoption.**

41 (a) An adoptive parent, or another person acting on behalf of an adoptive parent, may
42 pay the reasonable and actual fees and expenses for:

- 43 (1) Services of an agency in connection with an adoption;
- 44 (2) Medical, hospital, nursing, pharmaceutical, traveling, or other similar
45 expenses incurred by a mother or her child incident to the pregnancy and
46 birth or any illness of the adoptee;
- 47 (3) Counseling services for a parent or the adoptee that are directly related to the
48 adoption and are provided by a licensed psychiatrist, licensed psychologist,
49 licensed marriage and family therapist, licensed professional counselor,
50 licensed or certified social worker, fee-based practicing pastoral counselor or
51 other licensed professional counselor, or an employee of an agency;

- 1 (4) Ordinary living expenses of a mother during the pregnancy and for no more
2 than six weeks after the birth;
- 3 (5) Expenses incurred in ascertaining the information required under G.S.
4 48-3-205 about an adoptee and the adoptee's biological family;
- 5 (6) Legal services, court costs, and traveling or other administrative expenses
6 connected with an adoption, including any legal service connected with the
7 adoption performed for a parent who consents to the adoption of a minor or
8 relinquishes the minor to an agency; and
- 9 (7) Preparation of the preplacement assessment and the report to the court.

10 (b) A birth parent, or another person acting on the parent's behalf, may receive or accept
11 payments authorized in subsection (a) of this section; or a provider of a service listed in
12 subsection (a) of this section may receive or accept payments for that service.

13 (c) A payment authorized by subsection (a) of this section may not be made contingent
14 on the placement of the minor for adoption, relinquishment of the minor, consent to the
15 adoption, or cooperation in the completion of the adoption. Except as provided in subsection
16 (d) of this section, if the adoption is not completed, a person who has made payments
17 authorized by subsection (a) of this section may not recover them; but neither is this person
18 liable for any further payment unless the person has agreed in a signed writing with a provider
19 of a service to make this payment regardless of the outcome of the proceeding for adoption.

20 (d) A prospective adoptive parent may seek to recover a payment if the parent or other
21 person receives or accepts it with the fraudulent intent to prevent the proposed adoption from
22 being completed.

23 (e) An agency may charge or accept a reasonable fee or other compensation from
24 prospective adoptive parents. In assessing a fee or charge, the agency may take into account the
25 income of adoptive parents and may use a sliding scale related to income in order to provide
26 services to persons of all incomes. (1975, c. 335, s. 1; 1991, c. 335, s. 1; 1993, c. 539, ss. 412,
27 1264; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 457, s. 2; 2001-487, s. 40(c).)

28

29 **§ 48-10-104. Failure to disclose nonidentifying information.**

30 An adoptive parent, an adoptee, or any person who is the subject of any information
31 required under G.S. 48-3-205 or authorized for release under Article 9 of this Chapter may
32 bring a civil action for equitable or monetary relief or both against a person who fraudulently or
33 intentionally misrepresents or fails to disclose information required under G.S. 48-3-205 or
34 Article 9 of this Chapter. (1995, c. 457, s. 2.)

35

36 **§ 48-10-105. Unauthorized disclosure of information.**

37 (a) Except as authorized in G.S. 48-3-205 or in Article 9 of this Chapter, no identifying
38 or nonidentifying information contained in a report or records described therein may be
39 disclosed by present or former employees or officials of the court, an agency, the State, a
40 county, an attorney or other provider of professional services, or any person or entity who
41 wrongfully obtains such a report or records.

42 (b) A person who knowingly makes an unauthorized disclosure of identifying
43 information is guilty of a Class 1 misdemeanor.

44 (c) The district court may enjoin from further violations any person who makes an
45 unauthorized disclosure.

46 (d) Notwithstanding the penalties provided in subsection (b) of this section, an
47 individual who is the subject of any of this information may bring a civil action for equitable or
48 monetary relief or both against any person or entity who makes an unauthorized disclosure of
49 the information. (1949, c. 300; 1957, c. 778, s. 7; 1961, c. 186; 1969, c. 982; 1973, c. 476, s.
50 138; 1979, c. 739, ss. 1, 2; 1981, c. 924, ss. 2, 3; 1983, c. 454, s. 6; 1993, c. 539, s. 411; 1994,
51 Ex. Sess., c. 24, s. 14(c); 1995, c. 457, s. 2.)