

## Article 10.

### Prohibited Practices in Connection with Adoption.

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

(a) No one other than a person or entity specified in G.S. 48-3-201 may place a minor for adoption. No one other than a person or entity specified in G.S. 48-3-201, or an adoption facilitator, may solicit potential adoptive parents for children in need of adoption. No one other than an agency or an adoption facilitator, or an individual with a completed preplacement assessment that contains a finding that the individual is suitable to be an adoptive parent or that individual's immediate family, may solicit for adoption a potential adoptee.

(b) No one other than a county department of social services, an adoption facilitator, or an agency licensed by the Department in this State may advertise in any periodical or newspaper, or by radio, television, or other public medium, that any person or entity will place or accept a child for adoption. For purposes of this section, "other public medium" includes the use of any computerized system, including electronic mail, Internet site, Internet profile, or any similar medium of communication provided via the Internet.

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

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

(d) The district court may enjoin any person from violating this section. (1975, c. 335, 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; 2001-150, s. 14; 2016-115, s. 2.)

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

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

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

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

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

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

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

- (1) Services of an agency in connection with an adoption;
- (2) Medical, hospital, nursing, pharmaceutical, traveling, or other similar expenses incurred by a mother or her child incident to the pregnancy and birth or any illness of the adoptee;
- (3) Counseling services for a parent or the adoptee that are directly related to the adoption and are provided by a licensed psychiatrist, licensed psychologist, licensed marriage and family therapist, licensed professional counselor, licensed or certified social worker, fee-based practicing pastoral counselor or other licensed professional counselor, or an employee of an agency;
- (4) Ordinary living expenses of a mother during the pregnancy and for no more than six weeks after the birth;
- (5) Expenses incurred in ascertaining the information required under G.S. 48-3-205 about an adoptee and the adoptee's biological family;
- (6) Legal services, court costs, and traveling or other administrative expenses connected with an adoption, including any legal service connected with the adoption performed for a parent who consents to the adoption of a minor or relinquishes the minor to an agency; and
- (7) Preparation of the preplacement assessment and the report to the court.

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

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

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

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

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

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

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

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

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

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

(d) Notwithstanding the penalties provided in subsection (b) of this section, an individual who is the subject of any of this information may bring a civil action for equitable or monetary relief or both against any person or entity who makes an unauthorized disclosure of the information. (1949, c. 300; 1957, c. 778, s. 7; 1961, c. 186; 1969, c. 982; 1973, c. 476, s. 138; 1979, c. 739, 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. 14(c); 1995, c. 457, s. 2.)