

**§§ 48-1 through 48-38: Repealed by Session Laws 1995, c. 457, s. 1.**

**Chapter 48.**

**Adoptions.**

Article 1.

General Provisions.

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

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

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

- (1) The primary purpose of this Chapter is to advance the welfare of minors by (i) protecting minors from unnecessary separation from their original parents, (ii) facilitating the adoption of minors in need of adoptive placement by persons who can give them love, care, security, and support, (iii) protecting minors from placement with adoptive parents unfit to have responsibility for their care and rearing, and (iv) assuring the finality of the adoption; and
- (2) Secondary purposes of this Chapter are (i) to protect biological parents from ill-advised decisions to relinquish a child or consent to the child's adoption, (ii) to protect adoptive parents from assuming responsibility for a child about whose heredity or mental or physical condition they know nothing, (iii) to protect the privacy of the parties to the adoption, and (iv) to discourage unlawful trafficking in minors and other unlawful placement activities.

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

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

**§ 48-1-101. Definitions.**

In this Chapter, the following definitions apply:

- (1) "Adoptee" means an individual who is adopted, is placed for adoption, or is the subject of a petition for adoption properly filed with the court.
- (2) "Adoption" means the creation by law of the relationship of parent and child between two individuals.
- (3) "Adult" means an individual who has attained 18 years of age, or if under the age of 18, is either married or has been emancipated under the applicable State law.

- (3a) "Adoption facilitator" means an individual or a nonprofit entity that assists biological parents in locating and evaluating prospective adoptive parents without charge.
- (4) "Agency" means a public or private association, corporation, institution, or other person or entity that is licensed or otherwise authorized by the law of the jurisdiction where it operates to place minors for adoption. "Agency" also means a county department of social services in this State.
- (4a) "Agency identified adoption" means a placement where an agency has agreed to place the minor with a prospective adoptive parent selected by the parent or guardian.
- (5) "Child" means a son or daughter, whether by birth or adoption.
- (5a) "Confidential intermediary" means an agency that may act as a third party to facilitate the sharing of information authorized by G.S. 48-9-104.
- (5b) "Criminal history" means a county, State, or federal conviction of a felony by a court of competent jurisdiction or a pending felony indictment of a crime for child abuse or neglect, spousal abuse, a crime against a child, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide, other than physical assault or battery; a county, State, or federal conviction of a felony by a court of competent jurisdiction or a pending felony indictment for physical assault, battery, or a drug-related offense, if the offense was committed within the past five years; or similar crimes under federal law or under the laws of other states.
- (6) "Department" means the North Carolina Department of Health and Human Services.
- (7) "Division" means the Division of Social Services of the Department.
- (8) "Guardian" means an individual, other than a parent, appointed by a clerk of court in North Carolina to exercise all of the powers conferred by G.S. 35A-1241, including a standby guardian appointed under Article 21 of Chapter 35A of the General Statutes whose authority has actually commenced; and also means an individual, other than a parent, appointed in another jurisdiction according to the law of that jurisdiction who has the power to consent to adoption under the law of that jurisdiction.
- (9) "Legal custody" of an individual means the general right to exercise continuing care of and control over the individual as authorized by law, with or without a court order, and:
  - a. Includes the right and the duty to protect, care for, educate, and discipline the individual;
  - b. Includes the right and the duty to provide the individual with food, shelter, clothing, and medical care; and
  - c. May include the right to have physical custody of the individual.
- (9a) Repealed by Session Laws 2010-116, s. 1, effective October 1, 2010.
- (10) "Minor" means an individual under 18 years of age who is not an adult.

- (11) "Party" means a petitioner, adoptee, or any person whose consent to an adoption is necessary under this Chapter but has not been obtained.
- (12) "Physical custody" means the physical care of and control over an individual.
- (13) "Placement" means transfer of physical custody of a minor to the selected prospective adoptive parent. Placement may be either:
  - a. Direct placement by a parent or the guardian of the minor; or
  - b. Placement by an agency.
- (14) "Preplacement assessment" means a document, whether prepared before or after placement, that contains the information required by G.S. 48-3-303 and any rules adopted by the Social Services Commission.
- (15) "Relinquishment" means the voluntary surrender of a minor to an agency for the purpose of adoption.
- (16) "Report to the court" means a document prepared in accordance with G.S. 48-2-501, et seq.
- (17) "State" means a state as defined in G.S. 12-3(11).
- (18) "Stepparent" means an individual who is the spouse of a parent of a child, but who is not a legal parent of the child. (1949, c. 300; 1953, c. 880; 1957, c. 778, s. 1; 1961, c. 241; 1969, c. 982; 1971, c. 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. 924, s. 1; 1985, c. 758, s. 4; 1995, c. 457, s. 2; 1997-215, s. 11(e); 1997-443, s. 11A.118(a); 1998-229, s. 12; 2001-150, s. 1; 2007-262, s. 2; 2007-276, s. 7; 2010-116, s. 1.)

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

As used in this Article, the term "parent" includes one who has become a parent by adoption. (1949, c. 300; 1953, c. 880; 1957, c. 778, s. 1; 1961, c. 241; 1969, c. 982; 1971, c. 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. 924, s. 1; 1985, c. 758, s. 4; 1995, c. 457, s. 2.)

**§ 48-1-103. Who may adopt.**

Any adult may adopt another individual as provided in this Chapter, but spouses may not adopt each other. (1949, 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; 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; 1983, c. 454, s. 6; 1989, c. 208; c. 727, s. 219(4); 1993, c. 553, s. 14; 1995, c. 457, s. 2.)

**§ 48-1-104. Who may be adopted.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**§ 48-1-108.1. Adoptees subject to the Hague Adoption Convention.**

If the adoption of the adoptee is subject to the Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption (Hague Adoption Convention), the provisions of the Hague Adoption Convention shall control the individual's adoption. Documentation establishing whether the Hague Adoption Convention applies to an adoptee may be filed and copies thereof may be certified by the court before or after the decree of adoption has been granted. (2015-54, s. 1.)

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

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

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

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

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

(c) An order for a report to the court must be sent to a county department of social services in this State, an agency licensed by the Department, or a person or entity authorized to prepare home assessments for the purpose of adoption proceedings under the laws of the petitioner's state of residence. If the petitioner moves to a different state before the agency completes the report, the agency shall request a report from a person or entity authorized to prepare home assessments for the purpose of adoption proceedings under the laws of the petitioner's new state residence. (1949, c. 300; 1961, c. 186; 1969, c. 982; 1973, c. 476, s. 138; 1983, c. 454, s. 5; 1991, c. 335, s. 2; 1995, c. 457, s. 2; 1998-202, s. 13(h); 2009-185, s. 1; 2015-54, s. 2.)

**§ 48-1-110. Support for adoptive families at risk of dissolution.**

The Department of Health and Human Services shall develop a program to provide needed supports to families at risk of adoption dissolutions in order to keep families together. (2016-115, s. 5.)

## Article 2.

### General Adoption Procedure.

#### Part 1. Jurisdiction and Venue.

#### **§ 48-2-100. Jurisdiction.**

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

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

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

(c) The courts of this State shall not exercise jurisdiction under this Chapter if at the time the petition for adoption is filed, a court of any other state is exercising jurisdiction substantially in conformity with the Uniform Child-Custody Jurisdiction and Enforcement Act, Article 2 of Chapter 50A of the General Statutes. However, this subsection shall not apply if prior to the decree of adoption being granted, the court of the other state dismisses its proceeding or releases its exclusive, continuing jurisdiction. (1949, 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. 233, s. 1; c. 395; 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; 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. 457, s. 2; 1999-223, s. 8; 2007-151, s. 2; 2015-54, s. 3.)

#### **§ 48-2-101. Venue.**

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

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

#### **§ 48-2-102. Transfer, stay, or dismissal.**

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

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

## Part 2. General Procedural Provisions.

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

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

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

### **§ 48-2-202. No right to jury.**

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

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

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

### **§ 48-2-204. Death of a joint petitioner or stepparent pending final decree.**

(a) When spouses have petitioned jointly to adopt and one spouse dies before entry of a final decree, the adoption may proceed in the names of both spouses. Upon completion of the adoption, the name of the deceased spouse shall be entered as one of the adoptive parents on the new birth certificate prepared pursuant to Article 9 of this Chapter. For purposes of inheritance, testate or intestate, the adoptee shall be treated as a child of the deceased spouse.

(b) When a stepparent who has petitioned to adopt dies before entry of a final decree, the adoption may proceed in the name of the petitioning stepparent if the court causes to be mailed to any individual who executed a consent to adoption a notice advising that the petitioning stepparent has died and the individual may, within 15 days from the date the individual receives notice, request a hearing on the adoption. Notice is complete when mailed to the individual at the address given in the consent. Upon completion of the adoption, the name of the petitioning stepparent shall be entered as one of the adoptee's parents on the new birth certificate prepared in accordance with Article 9 of this Chapter. For purposes of inheritance, testate or intestate, the adoptee shall be treated as a child of the deceased stepparent. (1949, c. 300; 1995, c. 457, s. 2; 2013-236, s. 2.)

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

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

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

(a) At any time after approximately three months from the date of conception as reasonably determined by a physician, the biological mother, agency, or adoptive parents chosen by the biological mother may file a special proceeding with the clerk requesting the court to determine whether consent of the biological father is required. The biological father shall be served with notice of the intent of the biological mother to place the child for adoption, allowing the biological father 30 days after service to assert a claim that his consent is required.

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

[Name of the biological mother], the biological mother, is expected to give birth to a child on or about [birth due date]. You have been identified as the biological father. It is the intention of the biological mother to place the child for adoption. It is her belief that your consent to the adoption is not required. If you believe your consent to the adoption of this child is required pursuant to G.S. 48-3-601, you must notify the court in writing no later than 30 days from the date you received this notice that you believe your consent is required. A copy of your notice to the court must also be sent to the person or agency that sent you this notice. If you fail to notify the court within 30 days that you believe your consent is required, the court will rule that your consent is not required.

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

(d) If the biological father notifies the court within 30 days of his receipt of the notice required by subsection (a) of this section that he believes his consent to the adoption is required, on motion of the petitioner, the court shall hold a hearing to determine whether the consent of the biological father is required. Promptly on receipt of the petitioner's motion, the court shall set a date for the hearing no earlier than 60 days nor later than 70 days after the biological father received the notice required by subsection (a) of this section and shall notify the petitioner and the biological father of the date, time, and place of the

hearing. The notice of hearing to the biological father shall include a statement substantially similar to the following:

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

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

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

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

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

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

(i) A determination by the court under this section that the consent of the biological father is not required shall only apply to an adoption petition filed within three months of the birth of the minor. (1997-215, s. 14; 2002-159, s. 11; 2005-166, s. 1; 2015-54, s. 4.)

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

(a) If any individual who is described in G.S. 48-3-601 or entitled to notice under G.S. 48-2-401(c)(3) is served with notice of the filing of the petition in accordance with G.S. 48-2-402 and fails to respond within the time specified in the notice, the court, upon motion by the petitioner, shall enter an order under G.S. 48-3-603(a)(7) that the individual's consent is not required for the adoption.

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

- (1) Any individual described in G.S. 48-2-401(c)(3) who has been served with notice of the filing of the petition in accordance with G.S. 48-2-402 notifies the court within the time specified in the notice that he believes his consent to the adoption is required.
- (2) Any individual who has not been served with the notice of the filing of the petition intervenes in the adoption proceeding alleging that his or her consent to the adoption is required.

(c) If the court determines that the consent of any individual is required, the adoption cannot proceed until such individual's consent is obtained or such individual's parental

rights are terminated. If the individual whose consent is required did not have physical custody of the minor immediately prior to the placement of the minor with the prospective adoptive parents, a finding that such individual's consent is required does not entitle such individual to physical custody of the minor.

(d) If the court determines that the consent of any individual described in G.S. 48-2-401(c)(3) is not required, such individual shall not be entitled to receive notice of, or to participate in, further proceedings in the adoption. (2005-166, s. 2; 2013-236, s. 3.)

### Part 3. Petition for Adoption.

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

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

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

(c) If the individual who files the petition is unmarried, no other individual may join in the petition, except that a man and a woman who jointly adopted a minor child in a foreign country while married to one another must readopt jointly as provided in G.S. 48-2-205. (1949, 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; 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; 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. 2; 2009-185, s. 2.1.)

#### **§ 48-2-302. Concurrent petitions to adopt and terminate parental rights.**

(a) Repealed by Session Laws 2012-16, s. 1, effective October 1, 2012.

(b) Repealed by Session Laws 2013-236, s. 4, effective July 3, 2013.

(c) A petition for adoption may be filed concurrently with a petition to terminate parental rights. (1949, c. 300; 1957, c. 90; c. 778, s. 3; 1971, c. 1185, s. 17; 1975, c. 321, s. 1; 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; 2012-16, s. 1; 2013-236, s. 4.)

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

The caption of the petition shall be substantially as follows:

STATE OF NORTH CAROLINA  
IN THE DISTRICT COURT  
\_\_\_\_\_ COUNTY  
BEFORE THE CLERK

\_\_\_\_\_  
\*(Full name of petitioning father)  
and

\_\_\_\_\_  
PETITION FOR ADOPTION

\*(Full name of petitioning mother)  
and  
FOR THE ADOPTION OF

|  
|  
|

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

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

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

- (1) Each petitioner's full name, current address, place of domicile if different from current address, and whether each petitioner has resided or been domiciled in this State for the six months immediately preceding the filing of the petition;
- (2) The marital status and gender of each petitioner;
- (3) The sex and, if known, the date and state or country of birth of the adoptee;
- (4) The full name by which the adoptee is to be known if the petition is granted;
- (5) That the petitioner desires and agrees to adopt and treat the adoptee as the petitioner's lawful child; and
- (6) If the adoptee is a minor or an adult who has been adjudicated incompetent, a description and estimate of the value of any property of the adoptee.

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

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

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

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

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

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

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

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

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

(f) The Department may promulgate a standard adoption petition. (1949, c. 300; 1961, c. 186; 1969, c. 982; 1973, c. 476, s. 138; 1995, c. 88, s. 5; c. 457, s. 2; 1998-202, s. 13(k); 1999-223, s. 9; 2001-150, s. 2; 2005-166, s. 3; 2012-16, s. 2.)

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

The petitioner shall file or cause to be filed the following documents:

- (1) Any required affidavit of parentage executed under G.S. 48-3-206.
- (2) Any required consent or relinquishment that has been executed.
- (3) A certified copy of any court order terminating the rights and duties of a parent or a guardian of the adoptee.
- (4) A certified copy of any court order or pleading in a pending proceeding concerning custody of or visitation with the adoptee.
- (5) A copy of any required preplacement assessment certified by the agency that prepared the assessment or an affidavit from the petitioner stating why the assessment is not available.

- (6) A copy of any document containing the information required under G.S. 48-3-205 concerning the health, social, educational, and genetic history of the adoptee and the adoptee's original family which the petitioner received before the placement or at any later time, certified by the person who prepared it, or if this document is not available, an affidavit stating the reason why it is not available.
- (7) Any signed copy of the form required by the Interstate Compact on the Placement of Children, Article 38 of Chapter 7B of the General Statutes, authorizing a minor to come into this State, or any statement required by G.S. 48-2-304(c) describing the circumstances of any noncompliance.
- (8) A writing that states the name of any individual whose consent is or may be required, but who has not executed a consent or a relinquishment or whose parental rights have not been legally terminated, and any fact or circumstance that may excuse the lack of consent or relinquishment.
- (9) In an adoption pursuant to Article 4 of this Chapter, a copy of any agreement to release past-due child support payments.
- (10) Any consent to an agency by a placing parent and adopting parents to release identifying information under G.S. 48-9-109.
- (11) A certificate as required by G.S. 48-3-307(c), if the person who placed the minor executes a consent before receiving a copy of the preplacement assessment.
- (12) A certified copy of any judgment of conviction of a crime specified under G.S. 48-3-603(a)(9) establishing that an individual's consent to adoption is not required.

Any document required under this section that is available to the petitioner when the petition is filed shall be filed with the petition. Any document required under this section that is not available when the petition is filed shall be filed as the document becomes available. The petitioner may also file any other document necessary or helpful to the court's determination. (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. 1; 1998-202, s. 13(m); 2001-150, s. 3; 2005-166, s. 4; 2013-236, s. 5.)

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

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

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

Part 4. Notice of Pendency of Proceedings.

**§ 48-2-401. Notice by petitioner.**

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

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

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

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

- (1) A minor whose consent is dispensed with under G.S. 48-3-603(b)(2).
- (2) Any agency that placed the adoptee.
- (3) A man who to the actual knowledge of the petitioner claims to be or is named as the biological or possible biological father of the minor, and any biological or possible biological fathers who are unknown or whose whereabouts are unknown, but notice need not be served upon a man who has executed a consent, a relinquishment, or a notarized statement denying paternity or disclaiming any interest in the minor, a man whose parental rights have been legally terminated or who has been judicially determined not to be the minor's parent, a man whose consent to the adoption is not required under G.S. 48-3-603(a)(9) due to his conviction of a specified crime, or, provided the petition is filed within three months of the birth of the minor, a man whose consent to the adoption has been determined not to be required under G.S. 48-2-206.
- (4) Any individual who the petitioner has been actually informed has legal or physical custody of the minor or who has a right of visitation or communication with the minor under an existing court order issued by a court in this State or another state.

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

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

(f) A notice required under this section must state that the person served must file a response to the petition within 30 days after service or, if service is by publication, 40 days after first publication of the notice, in order to participate in and to receive further notice of the proceeding, including notice of the time and place of any hearing.

(g) Issuance of a summons is not required to commence an adoption proceeding under this Chapter. (1949, c. 300; 1957, c. 778, s. 5; 1969, c. 911, 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; 1997-215, s. 2; 2001-208, s. 12; 2001-487, s. 101; 2005-166, s. 5; 2009-185, s. 3; 2012-16, s. 3; 2013-236, s. 6; 2015-54, s. 5.)

**§ 48-2-402. Manner of service.**

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

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

(c) In an agency placement under Article 3 of this Chapter, the agency or other proper person shall file a petition to terminate the parental rights of an unknown parent or possible parent instead of serving notice under subsection (b) of this section, and the court shall stay any adoption proceeding already filed, except that nothing in this subsection shall require that the agency or other proper person file a petition to terminate the parental rights of any known or possible parent who has been served notice as provided under G.S. 1A-1, Rule 4(j)(1) of the Rules of Civil Procedure. (1949, c. 300; 1957, c. 778, s. 5; 1969, c. 911, 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; 2001-150, s. 4.)

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

No later than five days after a petition is filed, the clerk of the court shall mail or otherwise deliver notice of the adoption proceeding to any agency that has undertaken but not yet completed a preplacement assessment and any agency ordered to make a report to the court pursuant to Part 5 of this Article. (1995, c. 457, s. 2; 1997-215, s. 3.)

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

If, at any time in the proceeding, it appears to the court that there is an alleged father of a minor adoptee as described in G.S. 48-2-401(c)(3) who has not been given notice, the

court shall require notice of the proceeding to be given to him pursuant to G.S. 48-2-402. (1995, c. 457, s. 2.)

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

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

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

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

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

(c) A parent who has executed a consent or relinquishment may appear in the adoption proceeding for the limited purpose of moving to set aside the consent or relinquishment on the grounds that it was obtained by fraud or duress. (1949, c. 300; 1957, c. 778, s. 5; 1969, c. 911, 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.)

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

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

Part 5. Report to the Court.

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

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

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

- (1) By the agency that placed the minor;
- (2) By the agency that made the preplacement assessment pursuant to Part 3 of Article 3 of this Chapter; or
- (3) By another agency.

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

- (1) The petition to adopt; and
- (2) The documents filed with it.

(d) The following exceptions apply in this section:

- (1) In any stepparent adoption under Article 4 of this Chapter in which the minor has lived with the stepparent for at least the two consecutive years immediately preceding the filing of the petition, the court may order a

report. However, the court is not required to order a report unless the minor's consent is to be waived, the minor has revoked a consent, or both of the minor's parents are dead.

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

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

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

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

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

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

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

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

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

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

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

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

#### **§ 48-2-504. Fee for report.**

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

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

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

### Part 6. Dispositional Hearing; Decree of Adoption.

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

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

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

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

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

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

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

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

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

- (1) At least 90 days have elapsed since the filing of the petition for adoption, unless the court for cause waives this requirement.
- (2) The adoptee has been in the physical custody of the petitioner for at least 90 days, unless the court for cause waives this requirement.
- (3) Notice of the filing of the petition has been served on any person entitled to receive notice under Part 4 of this Article.
- (4) Each necessary consent, relinquishment, waiver, or judicial order terminating parental rights, has been obtained and filed with the court and the time for revocation has expired.
- (5) Any assessment required by this Chapter has been filed with and considered by the court.
- (6) If applicable, the requirements of the Interstate Compact on the Placement of Children, Article 38 of Chapter 7B of the General Statutes, have been met.
- (7) Any motion to dismiss the proceeding has been denied.
- (8) Each petitioner is a suitable adoptive parent.

- (9) Any accounting and affidavit required under G.S. 48-2-602 has been reviewed by the court, and the court has denied, modified, or ordered reimbursement of any payment or disbursement that violates Article 10 or is unreasonable when compared with the expenses customarily incurred in connection with an adoption.
- (10) The petitioner has received information about the adoptee and the adoptee's biological family if required by G.S. 48-3-205.
- (10a) Any certificate of service required by G.S. 48-3-307 has been filed.
- (11) There has been substantial compliance with the provisions of this Chapter.

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

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

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

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

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

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

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

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

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

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

- (1) At least 30 days have elapsed since the filing of the petition for adoption, but the court for cause may waive this requirement;
- (2) Notice of the petition has been served on any person entitled to receive notice under Part 4 of this Article;
- (3) Each necessary consent, waiver, document, or judicial order has been obtained and filed with the court;
- (4) The adoption is entered into freely and without duress or undue influence for the purpose of creating the relation of parent and child between each petitioner and the adoptee, and each petitioner and the adoptee understand the consequences of the adoption; and
- (5) There has been substantial compliance with the provisions of this Chapter. (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, c. 657; 1989, c. 208; c. 727, s. 219(4); 1993, c. 553, s. 14; 1995, c. 457, s. 2.)

**§ 48-2-606. Decree of adoption.**

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

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

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

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

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

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

**§ 48-2-607. Appeals.**

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

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

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

Article 3.

Adoption of Minors.

Part 1. General Provisions.

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

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

Part 2. Placement of Minors for Adoption.

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

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

- (1) An agency,
- (2) A guardian,
- (3) Both parents acting jointly, if
  - a. Both parents are married to each other and living together, or
  - b. One parent has legal custody of a minor and the other has physical custody but neither has both, or
- (4) A parent with legal and physical custody of a minor, except as provided in subdivision (3) of this subsection.

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

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

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

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

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

(b) Information about a prospective adoptive parent shall be provided to a prospective placing parent or guardian by the prospective adoptive parent, the prospective adoptive parent's attorney, or a person or entity assisting the parent or guardian. Except as otherwise provided in this subsection, this information shall include the preplacement assessment prepared pursuant to Part 3 of this Article, and may include additional information requested by the parent or guardian. The agency preparing the preplacement assessment may redact from the preplacement assessment the information described in G.S. 48-3-303(c)(12). (1995, c. 457, s. 2; 2001-150, s. 6; 2015-54, s. 6.)

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

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

(b) An agency shall give any individual, upon request, a written statement of the services it provides, its procedure for selecting a prospective adoptive parent for a minor, including the role of the minor's parent or guardian in the selection process, and the procedure for an agency identified adoption and the disclosures permitted under G.S. 48-9-109. This statement shall

include a schedule of any fee or expenses charged or required to be paid by the agency and a summary of the provisions of this Chapter that pertain to the requirements and consequences of a relinquishment and to the selection of a prospective adoptive parent.

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

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

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

(2) If the agency has not agreed to place the minor with the prospective adoptive parent selected by the parent or guardian, the minor shall be placed with the prospective adoptive parent selected by the agency on the basis of the preplacement assessment. The selection may not be delegated, but may be based on criteria requested by a parent who relinquishes the child to the agency.

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

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

(f) An agency may release identifying information as provided in G.S. 48-9-104. (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; 1998-229, s. 13; 2001-150, s. 7.)

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

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

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

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

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

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

(1) The date of the birth of the minor and the minor's weight at birth and any other reasonably available nonidentifying information about the minor that is relevant to the adoption decision or to the minor's development and well-being;

(2) Age of the biological parents in years at the time of the minor's birth;

- (3) Heritage of the biological parents, which shall consist of nationality, ethnic background, and race;
- (4) Education of the biological parents, which shall be the number of years of school completed by the biological parents at the time of the minor's birth; and
- (5) General physical appearance of the biological parents.

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

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

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

(d) The Division shall develop and make available forms designed to collect the information described in subsection (a) of this section. However, forms reasonably equivalent to those provided by the Division may be substituted. (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; 2012-16, s. 4.)

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

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

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

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

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

Part 3. Preplacement Assessment.

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

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

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

(b) A preplacement assessment is not required in an independent adoption when a prospective adoptive parent is a grandparent, full or half sibling, first cousin, aunt, uncle, great-aunt, great-uncle, or great-grandparent of the minor.

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

- (1) The prospective adoptive parent shall request any preplacement assessment already commenced to be expedited, and if none has been commenced, shall obtain a preplacement assessment from an agency as authorized by G.S. 48-1-109; in either case, the assessment shall include the fact and date of placement;
- (2) The court may not enter a decree of adoption until both a favorable preplacement assessment and a report to the court have been completed and filed, and the court may not order a report to the court for at least 30 days after the preplacement assessment has been completed; and
- (3) If the person who placed the minor executes a consent before receiving a copy of the preplacement assessment, G.S. 48-3-608 shall determine the time within which that person may revoke. (1949, c. 300; 1957, c. 778, s. 2; 1967, c. 880, s. 2; 1987, c. 716, s. 1; 1993, c. 539, s. 410; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 457, s. 2; 1997-215, s. 19(a); 2015-54, s. 7.)

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

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

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

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

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

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

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

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

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

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

- (1) Age and date of birth, nationality, race, or ethnicity, and any religious preference;
- (2) Marital and family status and history, including the presence of any children born to or adopted by the individual and any other children in the household;
- (3) Physical and mental health, including any addiction to alcohol or drugs;
- (4) Educational and employment history and any special skills;
- (5) Property and income, and current financial information provided by the individual;
- (6) Reason for wanting to adopt;
- (7) Any previous request for an assessment or involvement in an adoptive placement and the outcome of the assessment or placement;
- (8) Whether the individual has ever been a respondent in a domestic violence proceeding or a proceeding concerning a minor who was allegedly abused, dependent, neglected, abandoned, or delinquent, and the outcome of the proceeding;
- (9) Whether the individual has ever been convicted of a crime other than a minor traffic violation;
- (10) Whether the individual has located a parent interested in placing a child with the individual for adoption and a brief, nonidentifying description of the parent and the child; and
- (11) Any other fact or circumstance that may be relevant to a determination of the individual's suitability to be an adoptive parent, including the quality of the environment in the home and the functioning of any children in the household.

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

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

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

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

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

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

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

(i) The Social Services Commission shall have authority to establish by rule additional standards for preplacement assessments. (1995, c. 457, s. 2; 1998-229, s. 14; 2001-150, s. 8; 2005-114, s. 2; 2007-276, s. 8; 2012-16, s. 5.)

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

(a) An agency that prepares a preplacement assessment may charge a reasonable fee for doing so, even if the individual being assessed requests that it not be completed. No fee may be charged except pursuant to a written agreement which must be signed by the individual to be

charged prior to the beginning of the assessment. The fee agreement may not be based on the outcome of the assessment or any adoption.

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

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

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

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

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

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

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

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

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

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

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

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

(a) Each agency shall have a procedure for allowing an individual who has received an unfavorable preplacement assessment to have the assessment reviewed by the agency. In addition

to the authority in G.S. 131D-10.5, the Social Services Commission shall have authority to adopt rules implementing this section.

(b) An individual who receives an unfavorable preplacement assessment may, after exhausting the agency's procedures for internal review, prepare and file a written response with the Division and the agency. The Division shall attach the response to the unfavorable assessment.

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

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

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

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

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

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

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(c) The Department of Public Safety shall provide to the Department of Health and Human Services the criminal history of any individual required to be checked under subsection (a) of this section as requested by the Department and obtained from the State and National Repositories of Criminal Histories. The Department shall provide to the Department of Public Safety, along with the request, the fingerprints of any individual to

be checked, any additional information required by the Department of Public Safety, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the individual to be checked. The fingerprints of any individual to be checked shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

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

**"NOTICE**

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

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

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

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

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

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

(e) The Department shall notify the prospective adoptive parent's supervising county department of social services of the results of the criminal history check. In

accordance with the federal and State law regulating the dissemination of the contents of the criminal history file, the Department shall not release or disclose any portion of an individual's criminal history to the prospective adoptive parent or any other individual required to be checked. The Department, however, shall ensure that the prospective adoptive parent or any other individual required to be checked is notified of the individual's right to review the criminal history information, the procedure for completing or challenging the accuracy of the criminal history, and the prospective adoptive parent's right to contest the preplacement assessment of the county department of social services.

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

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

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

(h) The Department of Public Safety shall perform the State and national criminal history checks on prospective adoptive parents seeking to adopt a minor in the custody or placement responsibility of a county department of social services and all individuals 18 years of age or older who reside in the prospective adoptive home and shall charge the Department of Health and Human Services a reasonable fee only for conducting the checks of the national criminal history records authorized by this section. The Division of Social Services, Department of Health and Human Services, shall bear the costs of implementing this section. (1998-229, s. 15; 2005-114, s. 1; 2007-276, ss. 9, 10; 2014-100, s. 17.1(o).)

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

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

As used in this Article:

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

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

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

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

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

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

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

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

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

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

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

- (1) The agency retains legal but not physical custody of the adoptee until the adoption decree becomes final; but
- (2) The agency may delegate to the petitioner responsibility for the care and support of the adoptee.

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

#### Part 6. Consent to Adoption.

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

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

- (1) The minor to be adopted if 12 or more years of age;
- (2) In a direct placement, by:
  - a. The mother of the minor;
  - b. Any man who may or may not be the biological father of the minor but who:
    1. Is or was married to the mother of the minor if the minor was born during the marriage or within 280 days after the marriage is terminated or the parties have separated pursuant to a written

separation agreement or an order of separation entered under Chapters 50 or 50B of the General Statutes or a similar order of separation entered by a court in another jurisdiction;

2. Attempted to marry the mother of the minor before the minor's birth, by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and the minor is born during the attempted marriage, or within 280 days after the attempted marriage is terminated by annulment, declaration of invalidity, divorce, or, in the absence of a judicial proceeding, by the cessation of cohabitation;
  3. Before the filing of the petition, has legitimated the minor under the law of any state;
  4. Before the earlier of the filing of the petition or the date of a hearing under G.S. 48-2-206, has acknowledged his paternity of the minor and
    - I. Is obligated to support the minor under written agreement or by court order;
    - II. Has provided, in accordance with his financial means, reasonable and consistent payments for the support of the biological mother during or after the term of pregnancy, or the support of the minor, or both, which may include the payment of medical expenses, living expenses, or other tangible means of support, and has regularly visited or communicated, or attempted to 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 for that parent a consent as provided in this Part or a relinquishment as provided in Part 7 of this Article. (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); 2012-16, s. 6.)

**§ 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 any of the following:

- (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.
- (5) A man who is not married to the minor's birth mother and who, after the conception of the minor, has executed a notarized statement denying paternity or disclaiming any interest in the minor.
- (6) A deceased parent or the personal representative of a deceased parent's estate.
- (7) An individual listed in G.S. 48-3-601 who has not executed a consent or a relinquishment and who fails to respond to a notice of the adoption proceeding within 30 days after the service of the notice or, if service is by publication, 40 days from the first publication of the notice.
- (8) An individual notified under G.S. 48-2-206 who does not respond in a timely manner or whose consent is not required as determined by the court.

- (9) **(See editor's note)** An individual whose actions resulted in a conviction under G.S. 14-27.21, G.S. 14-27.22, G.S. 14-27.23, or G.S. 14-27.24 and the conception of the minor to be adopted.
- (b) The court may issue an order dispensing with the consent of the following:
  - (1) A guardian or an agency that placed the minor upon a finding that the consent is being withheld contrary to the best interest of the minor.
  - (2) A minor 12 or more years of age upon a finding that it is not in the best interest of the minor to require the consent. (1949, c. 300; 1957, c. 90; c. 778, ss. 3, 4; 1969, c. 534, s. 1; 1971, c. 1185, s. 17; 1975, c. 321, s. 1; c. 714; 1977, c. 879, ss. 2, 3; 1979, c. 107, s. 7; 2nd Sess., c. 1088, s. 1; 1983, c. 292; 1985, c. 758, ss. 5-9; 1987, c. 371, s. 1; 1995, c. 457, s. 2; 1997-215, ss. 11(a), 17; 1998-202, s. 13(o); 2004-128, s. 9; 2013-236, s. 7; 2015-54, s. 8; 2015-181, s. 34.)

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

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

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

- (a) A consent executed by a parent or guardian or by a minor to be adopted who is 12 years of age or older must conform substantially to the requirements in G.S. 48-3-606 and must be signed and acknowledged under oath before an individual authorized to administer oaths or take acknowledgments.
- (b) A parent who has not reached the age of 18 years shall have legal capacity to give consent to adoption and to release that parent's rights in a child, and shall be as fully bound as if the parent had attained 18 years of age. In addition to other methods of identification permitted by Chapter 10B of the General Statutes or other applicable law, a parent who has not reached the age of 18 years may be identified to an individual authorized to administer oaths or take acknowledgments by an affidavit of an adult relative of the minor parent, a teacher, a licensed professional social worker, or a health service provider.
- (c) An individual before whom a consent is signed and acknowledged under subsection (a) of this section shall certify in writing that to the best of the individual's knowledge or belief, the parent, guardian, or minor to be adopted executing the consent has met each of the following:
  - (1) Read, or had read to him or her, and understood the consent.
  - (2) Signed the consent voluntarily.

- (3) Been given an original or a copy of his or her fully executed consent.
- (4) Been advised that counseling services may be available through county departments of social services or licensed child-placing agencies.

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

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

(f) A consent to the adoption of an Indian child, as that term is defined in the Indian Child Welfare Act, 25 U.S.C. § 1901 et seq., must meet the requirements of that Act.

(g) The office of the clerk of superior court, the district court, and the superior court shall each be a court of competent jurisdiction for the purposes of (i) judicial proceedings for accepting voluntary consents to adoption under 25 U.S.C. § 1913, (ii) making determinations as to whether there is good cause to deviate from placement preferences under 25 U.S.C. § 1915(a), or (iii) judicial proceedings for voluntary consent to adoption in conformance with the laws of any state. (1949, c. 300; 1971, c. 1231, s. 1; 1995, c. 457, s. 2; 2013-236, s. 8; 2015-54, s. 9; 2015-264, s. 44(a).)

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

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

- (1) The date and place of the execution of the consent.
- (2) The name, date of birth, and permanent address, if any, and if none, the current mailing address, of the individual executing the consent.
- (3) The date of birth or the expected delivery date, the sex, and the name of the minor to be adopted, if known.
- (4) That the individual executing the document is voluntarily consenting to the transfer of legal and physical custody to, and the adoption of the minor to be adopted by, the identified prospective adoptive parent.
- (5) The name of a person and an address where any notice of revocation may be sent.
- (6) That the individual executing the document understands that after the consent is signed and acknowledged in accord with the procedures set forth in G.S. 48-3-605, it may be revoked in accord with G.S. 48-3-608, but that it is otherwise final and irrevocable and may not be withdrawn or set aside except under a circumstance set forth in G.S. 48-3-609.
- (7) That the consent shall be valid and binding and is not affected by any oral or separate written agreement between the individual executing the consent and the adoptive parent.
- (8) That the individual executing the consent has not received or been promised any money or anything of value for the consent, and has not received or been promised any money or anything of value in relation to

- the adoption of the child except for lawful payments that are itemized on a schedule attached to the consent.
- (9) That the individual executing the consent understands that when the adoption is final, all rights and obligations of the adoptee's former parents or guardian with respect to the adoptee will be extinguished, and every aspect of the legal relationship between the adoptee and the former parent or guardian will be terminated.
  - (10) The name and address of the court, if known, in which the petition for adoption has been or will be filed.
  - (11) That the individual executing the consent waives notice of any proceeding for adoption.
  - (12) If the individual executing the document is the minor to be adopted or the person placing the minor for adoption, a statement that the adoption shall be by a specific named adoptive parent.
  - (13) If the individual executing the document is the person placing the minor for adoption, that the individual executing the consent has provided the prospective adoptive parent, or the prospective adoptive parent's attorney, with the written document required by G.S. 48-3-205.
  - (14) That the person executing the consent has:
    - a. Repealed by Session Laws 2013-236, s. 9, effective July 3, 2013.
    - b. Been advised that counseling services may be available through county departments of social services or licensed child-placing agencies; and
    - c. Been advised of the right to employ independent legal counsel. (1995, c. 457, s. 2; 2013-236, s. 9; 2015-54, s. 10.)

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

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

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

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

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

(a) A consent to the adoption of any infant who is in utero or any minor may be revoked within seven days following the day on which it is executed, inclusive of weekends

and holidays. If the final day of the revocation period falls on a Saturday, Sunday, or a legal holiday when North Carolina courthouses are closed for transactions, then the revocation period extends to the next business day. The individual who gave the consent may revoke by giving written notice to the person specified in the consent. Notice may be given by personal delivery, overnight delivery service, or registered or certified mail, return receipt requested. If notice is given by mail, notice is deemed complete when it is deposited in the United States mail, postage prepaid, addressed to the person to whom consent was given at the address specified in the consent. If notice is given by overnight delivery service, notice is deemed complete on the date it is deposited with the service as shown by the receipt from the service, with delivery charges paid by the sender, addressed to the person to whom consent was given at the address specified in the consent.

(b) In a direct placement, if:

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

then that individual's time under subsection (a) of this section to revoke any consent previously given shall be either five business days after the date the individual receives the preplacement assessment prepared substantially in conformance with the requirements of G.S. 48-3-303, or the remainder of the time provided in subsection (a) of this section, whichever is longer. The date of receipt is the earlier of the date of actual receipt or the date established pursuant to G.S. 48-3-307.

(c) If a person who has physical custody places the minor with the prospective adoptive parent and thereafter revokes a consent pursuant to this section, the prospective adoptive parent shall, immediately upon request, return the minor to that person. The revocation restores the right to physical custody and any right to legal custody to the person who placed the minor and divests the prospective adoptive parent of any right to legal or physical custody and any further responsibility for the care and support of the minor. In any subsequent proceeding, the court shall award reasonable attorneys' fees to the person who revoked if the prospective adoptive parent fails upon request to return the minor.

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

(e) A second consent to adoption by the same adoptive parents is irrevocable. (1949, c. 300; 1957, c. 778, s. 6; 1961, c. 186; 1969, c. 982; 1983, cc. 83, 688; 1985, c. 758, s. 12; 1987, 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, s. 5; 2012-16, s. 7.)

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

(a) A consent shall be void if:

- (1) Before the entry of the adoption decree, the individual who executed the consent establishes by clear and convincing evidence that it was obtained by fraud or duress;

- (2) The prospective adoptive parent and the individual who executed the consent mutually agree in writing to set it aside;
- (3) The petition to adopt is voluntarily dismissed with prejudice; or
- (4) The court dismisses the petition to adopt and no appeal has been taken, or the dismissal has been affirmed on appeal and all appeals have been exhausted.

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

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

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

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

Part 7. Relinquishment of Minor for Adoption.

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

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

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

(c) A guardian may execute a relinquishment at any time. (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.)

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

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

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

(b1) An individual before whom a relinquishment is signed and acknowledged under subsection (a) of this section shall certify in writing that to the best of the individual's

knowledge or belief, the parent, guardian, or minor to be adopted executing the relinquishment has met each of the following:

- (1) Read, or had read to him or her, and understood the relinquishment.
- (2) Signed the relinquishment voluntarily.
- (3) Been given an original or copy of his or her fully executed relinquishment.
- (4) Been advised that counseling services are available through the agency to which the relinquishment is given.

(c) An agency that accepts a relinquishment shall furnish each parent or guardian who signs the relinquishment a letter or other writing indicating the agency's willingness to accept that person's relinquishment. (1995, c. 457, s. 2; 1997-215, s. 7(a); 2013-236, s. 10; 2015-264, s. 44(b).)

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

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

- (1) The date and place of the execution of the relinquishment.
- (2) The name, date of birth, and permanent address, if any, and if none, the current mailing address, of the individual executing the relinquishment.
- (3) The date of birth or the expected delivery date, the sex, and the name of the minor, if known.
- (4) The name and address of the agency to which the minor is being relinquished.
- (5) That the individual voluntarily consents to the permanent transfer of legal and physical custody of the minor to the agency for the purposes of adoption, and
  - a. The placement of the minor for adoption with a prospective adoptive parent selected by the agency; or
  - b. The placement of the minor for adoption with a prospective adoptive parent selected by the agency and agreed upon by the individual executing the relinquishment.
- (6) That the individual executing the relinquishment understands that after the relinquishment is signed and acknowledged in the manner provided in G.S. 48-3-702, it may be revoked in accord with G.S. 48-3-706 but that it is otherwise final and irrevocable except under the circumstances set forth in G.S. 48-3-707.
- (7) That the relinquishment shall be valid and binding and shall not be affected by any oral or separate written agreement between the individual executing the consent and the agency.
- (8) That the individual executing the relinquishment understands that when the adoption is final, all rights and duties of the individual executing the relinquishment with respect to the minor will be extinguished and all

other aspects of the legal relationship between the minor child and the parent will be terminated.

- (9) That the individual executing the relinquishment has not received or been promised any money or anything of value for the relinquishment of the minor, and has not received or been promised any money or anything of value in relation to the relinquishment or the adoption of the minor except for lawful payments that are itemized on a schedule attached to the relinquishment.
  - (10) That the individual executing the relinquishment waives notice of any proceeding for adoption.
  - (11) That the individual executing the relinquishment has provided the agency with the written document required by G.S. 48-3-205, or that the individual has provided the agency with signed releases that will permit the agency to compile the information required by G.S. 48-3-205.
  - (12) That the individual executing the relinquishment has:
    - a. Repealed by Session Laws 2013-236, s. 9, effective July 3, 2013.
    - b. Been advised that counseling services are available through the agency to which the relinquishment is given; and
    - c. Been advised of the right to employ independent legal counsel.
- (b) Reserved. (1995, c. 457, s. 2; 2013-236, s. 11; 2015-54, s. 11.)

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

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

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

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

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

- (1) Vests legal and physical custody of the minor in the agency; and

- (2) Empowers the agency to place the minor for adoption with a prospective adoptive parent selected in the manner specified in the relinquishment.
- (c) A relinquishment terminates:
  - (1) Any right and duty of the individual who executed the relinquishment with respect to the legal and physical custody of the minor.
  - (2) The right to consent to the minor's adoption.
  - (3) Repealed by Session Laws 1997-215, s. 19.1(b).
- (d) Except as provided in subsection (c) of this section, parental rights and duties of a parent who executed a relinquishment are not terminated until the decree of adoption becomes final or the parental relationship is otherwise legally terminated, whichever occurs first. Until termination the minor remains the child of a parent who executed a relinquishment for purposes of any inheritance, succession, insurance, arrears of child support, and other benefit or claim that the minor may have from, through, or against the parent. (1949, c. 300; 1953, c. 906; 1957, 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; 1975, c. 702, ss. 1-3; 1977, c. 879, s. 5; 1983, c. 454, ss. 4, 7; cc. 83, 688; 1985, c. 758, ss. 10-12; 1987, c. 541, s. 1; 1991, c. 667, s. 1; 1995, c. 457, s. 2; 1997-215, s. 19.1(b).)

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

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

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

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

(d) A second relinquishment for placement with the same adoptive parent selected by the agency and agreed upon by the person executing the relinquishment, or a second general relinquishment for placement by the agency with any adoptive parent selected by the agency, is

irrevocable. (1949, c. 300; 1957, c. 778, s. 6; 1961, c. 186; 1969, c. 982; 1983, cc. 83, 688; 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); 2001-150, s. 11; 2009-185, s. 6.)

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

(a) A relinquishment shall become void if any of the following occur:

- (1) Before the entry of the adoption decree, the individual who executed the relinquishment establishes by clear and convincing evidence that it was obtained by fraud or duress.
- (2) Before placement with a prospective adoptive parent occurs, the agency and the person relinquishing the minor agree to rescind the relinquishment.
- (3) After placement with a prospective adoptive parent occurs, but before the entry of the adoption decree, the agency, the person relinquishing the minor, and the prospective adoptive parent agree to rescind the relinquishment.
- (4) Upon motion of a county department of social services or licensed child-placing agency under G.S. 7B-909, the court orders that the relinquishment shall be voided based on a finding that another consent or relinquishment necessary for an adoption cannot be obtained and that no further steps are being taken to terminate the parental rights of the parent from whom the consent or relinquishment has not been obtained.

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

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

(d) If the relinquishment of an individual who did not previously have physical custody of a minor is set aside under subsection (a) or (b) of this section, and no grounds exist under G.S. 48-3-603 for dispensing with this individual's consent, the court shall dismiss any pending proceeding for adoption. If return of the minor is not ordered under subsection (c) of this section, the court shall notify the county department of social services for appropriate action. (1995, c. 457, s. 2; 1997-215, s. 19.1(c); 2012-16, s. 8; 2013-236, s. 12.)

Article 4.

Adoption of a Minor Stepchild by Stepparent.

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

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

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

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

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

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

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

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

The consent of an incompetent parent may be given pursuant to the procedures in G.S. 48-3-602. (1949, c. 300; 1957, c. 778, s. 5; 1969, c. 911, 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; 1997-215, s. 11(c).)

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

- (a) A consent executed by a parent who is the stepparent's spouse:
  - (1) Must be signed and acknowledged before an individual authorized to administer oaths or take acknowledgments;
  - (2) Must be in writing and state or contain:
    - a. The statements required by G.S. 48-3-606, except for those required by subdivisions (4), (9), (12), and (13) of that section;
    - b. That the parent executing the consent has legal and physical custody of the child and is voluntarily consenting to the adoption of the child by the stepparent;
    - c. That the adoption will not terminate the legal relation of parent and child between the parent executing the consent and the child; and
    - d. That the adoption will terminate the legal relation of parent and child between the adoptee and the adoptee's other parent, including all right of the adoptee to inherit as a child from or through the other parent, and will extinguish any existing court order of custody, visitation, or communication with the adoptee, except that the other parent will remain liable for past-due child support payments unless legally released from this obligation.
- (b) A consent executed by a minor stepchild's parent who is not the stepparent's spouse:

- (1) Must be signed and acknowledged before an individual authorized to administer oaths or take acknowledgments; and
  - (2) Must be in writing and state or contain:
    - a. The statements required by G.S. 48-3-606, except for those required by subdivisions (4), (9), (12), and (13) of that section;
    - b. That the parent executing the consent is voluntarily consenting to:
      - 1. The transfer of any right the parent has to legal or physical custody of the child to the child's other parent and stepparent, and
      - 2. The adoption of the child by the stepparent; and
    - c. That the adoption will terminate the legal relation of parent and child between the adoptee and the parent executing the consent, including all rights of the adoptee to inherit as a child from or through the parent, and will extinguish any court order of custody, visitation, or communication with the adoptee, except that the parent executing the consent will remain liable for past-due child support payments unless legally released from this obligation.
- (c) A consent executed by the guardian of a minor stepchild:
- (1) Must be signed and acknowledged before an individual authorized to administer oaths or take acknowledgments; and
  - (2) Must be in writing and state or contain:
    - a. The statements required by G.S. 48-3-606, except for those required by subdivisions (4), (9), (12), and (13) of that section;
    - b. A statement that the guardian is voluntarily consenting to:
      - 1. The transfer of any right the guardian has to legal or physical custody of the adoptee to the adoptive stepparent; and
      - 2. The adoption of the adoptee by the stepparent;
    - c. That the adoption will not terminate the legal relation of parent and child between a parent who is or was the stepparent's spouse and the adoptee;
    - d. That the adoption will terminate the legal relation of parent and child between the adoptee and a parent who is not or has not been the stepparent's spouse, including all right of the adoptee to inherit from or through that parent, and will extinguish any court order of custody, visitation, or communication with the adoptee, except that a parent whose relation to the adoptee is terminated by the adoption will remain liable for past-due child support payments unless legally released from this obligation.

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

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

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

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

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

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

Article 5.

Adoption of Adults.

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

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

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

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

(b) If a prospective adoptive parent is married, both spouses must join in the petition unless the prospective adoptive parent is the adoptee's stepparent or unless the court waives this requirement for cause. (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, c. 657; 1989, c. 208; c. 727, s. 219(4); 1993, c. 553, s. 14; 1995, c. 457, s. 2.)

**§ 48-5-102. Consent to adoption.**

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

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

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

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

(c) The consent of the spouse of the petitioner in a stepparent adoption:

- (1) Must be in writing and be signed and acknowledged before an individual authorized to administer oaths or take acknowledgments; and
- (2) Must state that the spouse:

- a. Consents to the proposed adoption;
- b. Understands that the adoption may diminish the amount the spouse might take from the petitioner through intestate succession or by dissenting to the petitioner's will and may also diminish the amount of other entitlements that may become due the spouse and any other children of the petitioner through the petitioner; and
- c. Believes the adoption will be in the best interest of the adult being adopted and the prospective adoptive parent.

(d) Anyone who gives a consent under this Article may revoke the consent at any time before the entry of the decree of adoption by delivering a written notice of revocation to the individual to whom the consent was given. If a petition to adopt has been filed, the notice of revocation shall also be filed with the clerk of court in the county where the petition is pending. (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, c. 657; 1989, c. 208; c. 727, s. 219(4); 1993, c. 553, s. 14; 1995, c. 457, s. 2.)

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

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

(b) The consent of the guardian must:

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

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

Article 6.

Adoption by a Former Parent.

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

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

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

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

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

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

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

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

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

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

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

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

(5) Any guardian of the adoptee.

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

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

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

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

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

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

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

Article 9.

Confidentiality of Records and Disclosure of Information.

**§ 48-9-101. Records defined.**

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

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

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

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

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

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

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

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

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

(g) In any adoption, the State Registrar may, in addition to receiving the report from the Division, request a copy of the final order and any separate order of name change directly from the clerk of court. (1949, c. 300; 1957, c. 778, s. 7; 1961, c. 186; 1967, c. 619, ss. 6, 7; c. 880, s. 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; 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. 219(4); 1993, c. 539, s. 411; c. 553, s. 14; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 457, s. 2; 1997-215, s. 9(a)-(c); 2001-208, s. 11; 2001-487, s. 101.)

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

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

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

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

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

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

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

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

(h) No request under this section shall be made to the State Registrar of Vital Statistics. (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.)

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

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

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

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

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

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

(d) If an agency providing confidential intermediary services determines that the person who is the subject of the search is deceased, the agency may obtain a copy of the death certificate pursuant to G.S. 130A-93 and deliver it to the person who requested the services. If the agency further determines that a lineal ascendant of the deceased person who is the subject of the search is deceased, the agency may also obtain a copy of the death certificate of the deceased lineal ascendant and deliver it to the person who requested the services. (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; 2001-150, s. 12; 2007-262, s. 3; 2010-116, s. 3; 2011-237, s. 1.)

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

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

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

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

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

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

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

Upon receipt of a certified copy of a court order issued pursuant to G.S. 48-9-105 authorizing the release of an adoptee's original certificate of birth, the State Registrar shall give the individual who obtained the order a copy of the original certificate of birth with a certification that the copy is a true copy of a record that is no longer a valid certificate of birth. (1995, c. 457, s. 2.)

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

(a) Upon receipt of a report of the adoption of a minor from the Division, or the documents required by G.S. 48-9-102(g) from the clerk of superior court in the adoption of an adult, or a report of an adoption from another state, the State Registrar shall prepare a new birth certificate for the adoptee that shall contain the adoptee's full adoptive name, sex, state of birth, and date of birth; the full name of the adoptive father, if applicable; the full maiden name of the adoptive mother, if applicable; and any other pertinent information consistent with this section as may be determined by the State Registrar. The new

certificate shall contain no reference to the adoption of the adoptee and shall not refer to the adoptive parents in any way other than as the adoptee's parents.

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

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

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

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

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

(e) The State Registrar may by rule prescribe requirements for reports of adoptions from other states. (1949, c. 300; 1951, c. 730, ss. 1-4; 1955, c. 951, s. 1; 1967, c. 880, s. 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, 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. 553, s. 14; 1995, c. 457, s. 2; 1997-215, s. 18.)

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

If a final decree of adoption is set aside, the court shall send a certified copy of the order within 10 days after it becomes final to the State Registrar if the adoptee was born in this

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

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

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

- (1) An employee of a court, agency, or any other person from:
  - a. Inspecting permanent, confidential, or sealed records, other than records maintained by the State Registrar, for the purpose of discharging any obligation under this Chapter.
  - b. Disclosing the name of the court where a proceeding for adoption occurred, or the name of an agency that placed an adoptee, to an individual described in G.S. 48-9-104(a) who can verify his or her identity.
  - c. Disclosing or using information contained in permanent and sealed records, other than records maintained by the State Registrar, for statistical or other research purposes as long as the disclosure will not result in identification of a person who is the subject of the information and subject to any further conditions the Department may reasonably impose.
- (2) In agency placements, a parent or guardian placing a child for adoption and the adopting parents from authorizing an agency to release information or from releasing information to each other that could reasonably be expected to lead directly to the identity of an adoptee, an adoptive parent of an adoptee, or an adoptee's placing parent or guardian. The consent to the release of identifying information shall be in writing and signed prior to the adoption by any placing parent or guardian and the adopting parents and acknowledged under oath in the presence of an individual authorized to administer oaths or take acknowledgments. Any consent to release identifying information shall be filed under G.S. 48-2-305.
- (3) The Division from sharing information from its records regarding the identity of birth parents with an agency acting as a confidential intermediary pursuant to G.S. 48-9-104(b), if the information is needed by the agency to carry out its duties as a confidential intermediary. Any information disclosed to the agency pursuant to this subdivision shall not be redisclosed by the agency except as allowed by G.S. 48-9-104(b). (1995, c. 457, s. 2; 2001-150, s. 13; 2007-262, s. 4; 2012-16, s. 9.)

## 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.)