

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 667
HOUSE BILL 479

AN ACT TO PROVIDE THAT CONSENT TO ADOPTION IS NOT REVOCABLE
AFTER A CERTAIN PERIOD OF TIME AND TO AMEND THE PROCEDURES
REGARDING LEGITIMATION OF CHILDREN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 48-11 reads as rewritten:

"§ 48-11. Consent not revocable.

(a) No consent described in G.S. 48-6, 48-7, or 48-9 may be revoked by the consenting party:

- (1) After the entering of an interlocutory decree.
- (2) After the entering of a final order of adoption when the entering of an interlocutory decree has been waived in accordance with the provisions of G.S. 48-21.
- (3) After ~~three months~~ 30 days from the date of the giving of the consent.
- (4) ~~After 30 days from the date of the giving of the consent, when the consent has been given generally to a director of social services or to a duly licensed non-profit child placing agency.~~

When the consent of any person or agency is required under the provisions of this Chapter, the filing of such consent with the petition shall be sufficient to make the consenting person or agency a party of record to the proceeding; and no service of any process need be made upon such person or agency.

(b) Revocation of a consent to adoption must be made in writing and must be signed by the person revoking consent before any person empowered to take acknowledgements of signatures pursuant to Chapter 47 of the General Statutes of North Carolina. If the petition for adoption and the consent have been filed according to G.S. 48-7(a), the person revoking consent shall deliver the revocation to the clerk of court in the county in which the petition for adoption and the consent are filed. If the person revoking consent is unable to determine the county in which the petition for adoption and the consent have been filed or if the petition for adoption has not been filed, then and in that event said person is responsible for delivering the revocation in person or by registered or certified mail, return receipt requested, to the person or to the director of social services to whom the consent was given or to the duly licensed child-placing agency to which the consent for adoption was given. The person, the director of social services, or the duly licensed child-placing agency shall immediately deliver the revocation to the clerk of court in the county in which the petition for adoption and the

consent are filed or, if a petition for adoption has not been filed by the prospective adoptive parents, revocation of the consent shall prohibit the filing of such petition."

Sec. 2. Article 2 of Chapter 49 of the General Statutes is amended by adding the following new section to read:

"§ 49-12.1. Legitimation when mother married.

(a) The putative father of a child born to a mother who is married to another man may file a special proceeding to legitimate the child. The procedures shall be the same as those specified by G.S. 49-10, except that the spouse of the mother of the child shall be a necessary party to the proceeding and shall be properly served. A guardian **ad litem** shall be appointed to represent the child if the child is a minor.

(b) The presumption of legitimacy can be overcome by clear and convincing evidence.

(c) The parties may waive a jury trial and enter a consent order with the approval of the clerk of superior court. The order entered by the clerk shall find the facts and declare the proper person the father of the child and may change the surname of the child.

(d) The effect of legitimation under this section shall be same as provided by G.S. 49-11.

(e) A certified copy of the order of legitimation under this section shall be sent by the clerk of superior court under his official seal to the State Registrar of Vital Statistics who shall make a new birth certificate bearing the full name of the father of the child and, if ordered by the clerk, changing the surname of the child."

Sec. 3. This act becomes effective October 1, 1991.

In the General Assembly read three times and ratified this the 13th day of July, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives