

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 607*

Short Title: Adoptions Rewrite.

(Public)

Sponsors: Senators Hartsell, Seymour; Marshall, Plexico, Hunt, Cochrane, Richardson, Allran, and Codington.

Referred to: Judiciary I.

March 29, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO REWRITE CHAPTER 48 OF THE GENERAL STATUTES RELATING
3 TO ADOPTION AS RECOMMENDED BY THE GENERAL STATUTES
4 COMMISSION.

5 The General Assembly of North Carolina enacts:

6 Section 1. Chapter 48 of the General Statutes is repealed.

7 Sec. 2. A new Chapter is added to the General Statutes to read:

8 **"CHAPTER 48.**

9 **"ADOPTIONS.**

10 **"ARTICLE 1.**

11 **"GENERAL PROVISIONS.**

12 **"§ 48-1-100. Legislative findings and intent; construction of Chapter.**

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

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

21 (1) The primary purpose of this Chapter is to advance the welfare of
22 minors by (i) protecting minors from unnecessary separation from their
23 original parents, (ii) facilitating the adoption of minors in need of

1 adoptive placement by persons who can give them love, care, security,
2 and support, (iii) protecting minors from placement with adoptive
3 parents unfit to have responsibility for their care and rearing, and (iv)
4 assuring the finality of the adoption; and

5 (2) Secondary purposes of this Chapter are (i) to protect biological parents
6 from ill-advised decisions to relinquish a child or consent to the child's
7 adoption; (ii) to protect adoptive parents from assuming responsibility
8 for a child about whose heredity or mental or physical condition they
9 know nothing; (iii) to protect the privacy of the parties to the adoption;
10 and (iv) to discourage unlawful trafficking in minors and other
11 unlawful placement activities.

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

15 (d) This Chapter shall be liberally construed and applied to promote its
16 underlying purposes and policies.

17 **"§ 48-1-101. Definitions.**

18 In this Chapter, the following definitions apply:

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

21 (2) 'Adoption' means the creation by law of the relationship of parent and
22 child between two individuals.

23 (3) 'Adult' means an individual who has attained 18 years of age, is a
24 married minor, or has been emancipated under the applicable state law.

25 (4) 'Agency' means a public or private association, corporation, institution,
26 or other person or entity that is licensed or otherwise authorized by the
27 law of the jurisdiction where it operates to place minors for adoption.

28 (5) 'Child' means a son or daughter, whether by birth or adoption.

29 (6) 'Department' means the North Carolina Department of Human
30 Resources.

31 (7) 'Division' means the Division of Social Services of the Department.

32 (8) 'Guardian' means an individual, other than a parent, appointed by the
33 clerk of court in North Carolina to exercise all of the powers conferred
34 by G.S. 35A-1241; and also means an individual, other than a parent,
35 appointed in another jurisdiction according to the law of that
36 jurisdiction who has the power to consent to adoption under the law of
37 that jurisdiction.

38 (9) 'Legal custody' of an individual means the general right to exercise
39 continuing care of and control over the individual as authorized by
40 law, and:

41 a. Includes the right and the duty to protect, care for, educate, and
42 discipline the individual;

43 b. Includes the right and the duty to provide the individual with
44 food, shelter, clothing, and medical care; and

1 c. May include the right to have physical custody of the
2 individual.

3 (10) 'Minor' means an individual under 18 years of age who is not an adult.

4 (11) 'Parent' includes one who has become a parent by adoption.

5 (12) 'Physical custody' means the physical care of and control over an
6 individual.

7 (13) 'Placement' means transfer of physical custody of a minor to the
8 selected prospective adoptive parent. Placement may be either:

9 a. Direct placement by a parent or the guardian of the minor; or

10 b. Placement by an agency.

11 (14) 'Preplacement assessment' means a document, whether prepared before
12 or after placement, that contains the information required by G.S. 48-
13 3-303 and any rules adopted by the Social Services Commission.

14 (15) 'Relinquishment' means the voluntary surrender of a minor to an
15 agency for the purpose of adoption.

16 (16) 'Report to the court' means a document prepared in accordance with
17 G.S. 48-2-501, et seq.

18 (17) 'State' means a state of the United States, the District of Columbia, the
19 Commonwealth of Puerto Rico, or any territory or insular possession
20 of the United States.

21 (18) 'Stepparent' means an individual who is the spouse of a parent of a
22 child, but who is not a legal parent of the child.

23 **"§ 48-1-102. Who may adopt.**

24 Any adult may adopt another individual, but spouses may not adopt each other.

25 **"§ 48-1-103. Who may be adopted.**

26 (a) Any individual may be adopted.

27 (b) A minor may be adopted by an adult other than the minor's stepparent, or by
28 two adults married to each other, pursuant to Article 3 of this Chapter.

29 (c) Reserved.

30 (d) A minor stepchild may be adopted by a stepparent pursuant to Article 5 of
31 this Chapter.

32 (e) Reserved.

33 (f) An adult may be adopted pursuant to Article 7 of this Chapter.

34 (g) An adoptee may be adopted by a former parent pursuant to Article 8 of this
35 Chapter.

36 **"§ 48-1-104. Name of adoptee after adoption.**

37 When a decree of adoption becomes final, the name of the adoptee shall become the
38 name designated in the decree.

39 **"§ 48-1-105. Legal effect of decree of adoption.**

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

42 (b) A decree of adoption establishes the relationship of parent and child between
43 each petitioner and the individual being adopted. From the date of the signing of the
44 decree, the adoptee is entitled to inherit real and personal property by, through, and

1 from the adoptive parents in accordance with the statutes on intestate succession and has
2 the same legal status, including all legal rights and obligations of any kind whatsoever,
3 as a child born the legitimate child of the adoptive parents.

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

10 (d) Notwithstanding any other provision of this section, an adoption by a
11 stepparent and a readoption pursuant to G.S. 48-8-102 has no effect on the relationship
12 between the child and the parent who is the stepparent's spouse.

13 (e) In any deed, grant, will, or other written instrument executed before October
14 1, 1985, the words 'child,' 'grandchild,' 'heir,' 'issue,' 'descendant,' or an equivalent, or
15 any other word of like import, shall be held to include any adopted persons after the
16 entry of the decree of adoption, unless a contrary intention plainly appears from the
17 terms of the instrument, whether the instrument was executed before or after the entry
18 of the decree of adoption. The use of the phrase 'hereafter born' or similar language in
19 any such instrument to establish a class of persons shall not by itself be sufficient to
20 exclude adoptees from inclusion in the class. In any deed, grant, will, or other written
21 instrument executed on or after October 1, 1985, any reference to a natural person shall
22 include any adopted person after the entry of the decree of adoption unless the
23 instrument explicitly states that adopted persons are excluded, whether the instrument
24 was executed before or after the entry of the decree of adoption.

25 (f) A biological grandparent may be entitled to visitation rights with an adopted
26 minor as provided in G.S. 50-13.2(b1), 50-13.2A, and 50-13.5(j).

27 **"§ 48-1-106. Other rights of adoptee.**

28 (a) A decree of adoption does not divest any vested property interest owned by
29 the adoptee immediately prior to the decree of adoption.

30 (b) A decree of adoption does not eliminate the adoptee's right to receive any
31 right, chose in action, entitlement or benefit which the adoptee was entitled to receive
32 immediately prior to the decree of adoption.

33 **"§ 48-1-107. Adoptees subject to Indian Child Welfare Act.**

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

37 **"§ 48-1-108. Which agencies may prepare assessments and reports to the court.**

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

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

1 county where venue lies under G.S. 48-2-101, the court may transfer, stay, or dismiss
2 the proceeding.

3 **"PART 2. GENERAL PROCEDURAL PROVISIONS."**

4 **"§ 48-2-201. Appointment of attorney or guardian ad litem."**

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

8 (b) The court on its own motion may appoint an attorney or a guardian ad litem
9 to represent the interests of the adoptee in a contested proceeding brought under this
10 Chapter.

11 **"§ 48-2-202. No right to jury."**

12 All proceedings under this Chapter must be heard by the court without a jury.

13 **"§ 48-2-203. Order of proof, consolidation, or bifurcation of issues, continuances."**

14 (a) The court may establish the order of proof and consolidate or bifurcate issues
15 in a proceeding for adoption.

16 (b) The court may continue a hearing under this Chapter for cause.

17 **"§ 48-2-204. Confidentiality of proceedings under Chapter."**

18 A judicial hearing in any proceeding pursuant to this Chapter shall be held in closed
19 court. The court shall exclude any individual other than an essential officer of the court,
20 a party, a party's attorney, a witness, a person entitled to notice of the proceeding, a
21 representative of an agency that prepared a preplacement assessment or report to the
22 court, or any other person whose presence the court determines would be helpful.

23 **"§ 48-2-205. Death of a joint petitioner pending final decree."**

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

29 **"§ 48-2-206. Recognition of adoption decrees from other jurisdictions."**

30 A final court decree establishing the relationship of parent and child by adoption
31 issued by a court of any other state must be recognized in this State. Where a child has
32 been previously adopted in a foreign country by petitioners seeking to readopt the child
33 under the laws of North Carolina, the adoption order entered in the foreign country may
34 be accepted in lieu of the consent of the biological parent or parents or the guardian of
35 the child to said readoption.

36 **"PART 3. PETITION FOR ADOPTION."**

37 **"§ 48-2-301. Petition for adoption; who may file."**

38 (a) A prospective adoptive parent may file a petition for adoption pursuant to
39 Article 3 of this Chapter only if a minor has been placed with the prospective adoptive
40 parent pursuant to Part 1 of Article 3 of this Chapter unless the requirement of
41 placement is waived by the court for cause.

42 (b) Except as authorized by Articles 5 and 8 of this Chapter, the spouse of a
43 petitioner must join in the petition, unless the spouse has been declared incompetent or
44 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.

§ 48-2-302. Time for filing petition.

(a) Except for petitions filed pursuant to Articles 5 and 8 of this Chapter, a petition for adoption must be filed no later than 30 days after a minor is placed with the petitioner or this State acquires jurisdiction to hear the petition, whichever is later, unless the court extends the time for filing.

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

(c) A petition for adoption may be filed concurrently with a petition to terminate parental rights.

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

The caption of the petition shall be substantially as follows:

STATE OF NORTH CAROLINA)	
IN THE SUPERIOR COURT)	
COUNTY)	
BEFORE THE CLERK)	
))	
(Full name of petitioning father) and)	
))	
(Full name of petitioning mother))	<u>PETITION</u>
)	<u>FOR ADOPTION</u>
FOR THE ADOPTION OF)	
))	
(Full name of adoptee as used in proceeding))	

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

(a) A petition for adoption must be signed and verified by each petitioner, and three copies so signed and verified 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 lived or been domiciled in this State for the six months immediately preceding the filing of the petition;
- (2) The marital status of each petitioner;

- 1 (3) The sex and, if known, the date and state or country of birth of the
2 adoptee;
- 3 (4) The full name by which the adoptee is to be known if the petition is
4 granted;
- 5 (5) That the petitioner desires and agrees to adopt and treat the adoptee as
6 the petitioner's lawful child; and
- 7 (6) A description and estimate of the value of any property of the adoptee.
- 8 (b) Any petition to adopt a minor shall also state:
- 9 (1) The length of time the adoptee has been in the physical custody of the
10 petitioner;
- 11 (2) If the adoptee is not in the physical custody of the petitioner, the
12 reason why the petitioner does not have physical custody and the date
13 and manner in which the petitioner intends to acquire custody;
- 14 (3) That the petitioner has the resources, including those available under a
15 subsidy for an adoptee with special needs, to provide for the care and
16 support of the adoptee;
- 17 (4) Any information required by the Uniform Child Custody Jurisdiction
18 Act, G.S. 50A-1, et seq., which is known to the petitioner;
- 19 (5) That any required assessment has been completed or updated within
20 the 12 months before the placement; and
- 21 (6) That all necessary consents, relinquishments, or terminations of
22 parental rights have been obtained and will be filed as additional
23 documents with the petition; or that the necessary consents,
24 relinquishments, and terminations of parental rights that have been
25 obtained will be filed as additional documents with the petition, along
26 with the document listing the names of any other individuals whose
27 consent, relinquishment, or termination of rights may be necessary but
28 has not been obtained.
- 29 (c) A petition to adopt a minor under Article 3 of this Chapter shall also state:
- 30 (1) A description of the source of placement and the date of placement of
31 the adoptee with the petitioner; and
- 32 (2) That the provisions of the Interstate Compact on the Placement of
33 Children, G.S. 110-57.1, et seq., were followed if the adoptee was
34 brought into this State from another state for purposes of adoption.
- 35 (d) A petition to adopt a minor under Article 5 of this Chapter shall also state:
- 36 (1) The date of the petitioner's marriage, the name of the petitioner's
37 spouse, and whether the spouse is deceased or has been adjudicated
38 incompetent;
- 39 (2) The length of time the petitioner's spouse or the petitioner has had
40 legal custody of the adoptee and the circumstances under which
41 custody was acquired; and
- 42 (3) That the adoptee has resided primarily with the petitioner or with the
43 petitioner and the petitioner's spouse during the six months
44 immediately preceding the filing of the petition.

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

2 (1) The name, age, and last known address of any child of the prospective
3 adoptive parent, including a child previously adopted by the
4 prospective adoptive parent or his or her spouse, and the date and place
5 of the adoption; and

6 (2) The name, age, and last known address of any living parent, spouse, or
7 child of the adoptee.

8 (f) The Department may promulgate a standard adoption petition.

9 **"§ 48-2-305. Petition for adoption; additional documents.**

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

12 (1) A certified copy of the birth certificate or verification of the birth
13 record of the adoptee, if available;

14 (2) Any required affidavit of parentage executed pursuant to G.S. 48-3-
15 206;

16 (3) Any required consent or relinquishment that has been executed;

17 (4) A certified copy of any court order terminating the rights and duties of
18 a parent or a guardian of the adoptee;

19 (5) A certified copy of any court order or petition in a pending proceeding
20 concerning custody of or visitation with the adoptee;

21 (6) A copy of any required preplacement assessment certified by the
22 agency that prepared it or an affidavit from the petitioner stating why
23 the assessment is not available;

24 (7) A certified copy of any document containing the information required
25 under G.S. 48-3-205 concerning the health, social, educational, and
26 genetic history of the adoptee and the adoptee's original family which
27 the petitioner received before the placement or at any later time, or if
28 this document is not available, an affidavit stating the reason why it is
29 not available;

30 (8) Any signed copy of the form required by the Interstate Compact on the
31 Placement of Children, G.S. 110-57.1, et seq., authorizing a minor to
32 come into the State;

33 (9) A writing that states the name of any individual whose consent is or
34 may be required, but who has not executed a consent or a
35 relinquishment or whose parental rights have not been legally
36 terminated, and any fact or circumstance that may excuse the lack of
37 consent or relinquishment; and

38 (10) In an adoption pursuant to Article 5 of this Chapter, a copy of any
39 agreement to release past-due child support payments.

40 The petitioner may also file any other document necessary or helpful to the court's
41 determination.

42 **"§ 48-2-306. Omission of required information.**

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

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

3 **"PART 4. NOTICE OF PENDENCY OF PROCEEDINGS.**

4 **"§ 48-2-401. Notice by petitioner.**

5 (a) No later than 30 days after a petition for adoption is filed pursuant to Part 3 of
6 this Article, the petitioner shall serve notice of the filing on the persons identified in this
7 section.

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

9 (1) Any individual whose consent to the adoption is required but has not
10 been obtained, has been revoked in accord with this Chapter, or has
11 become void as provided in this Chapter;

12 (2) The spouse of the petitioner if that spouse is required to join in the
13 petition and petitioner is requesting that the joinder requirement be
14 waived;

15 (3) Any individual who has executed a consent or relinquishment, but who
16 the petitioner has actually been informed has filed an action to set it
17 aside for fraud or duress; and

18 (4) Any other person designated by the court who can provide information
19 relevant to the proposed adoption.

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

22 (1) A minor whose consent is waived under G.S. 48-3-603(b);

23 (2) Any agency that placed the adoptee;

24 (3) A man who to the actual knowledge of the petitioner claims to be or is
25 named as the biological or possible biological father of the minor, and
26 any biological or possible biological fathers who are unknown or
27 whose whereabouts are unknown, whose paternity of the minor has not
28 been judicially determined, but notice need not be served upon a man
29 who has executed a consent, a relinquishment, or a notarized statement
30 denying paternity or disclaiming any interest in the minor, or a man
31 whose parental rights have been legally terminated; and

32 (4) Any individual who the petitioner has been actually informed has legal
33 or physical custody of the minor or who has a right of visitation or
34 communication with the minor under an existing court order issued by
35 a court in this or another State.

36 (d) In the adoption of an adult, the petitioner shall also serve notice of the filing
37 on any children of the prospective adoptive parent and any parent, spouse, or child of
38 the adoptee who are listed in the petition to adopt.

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

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

1 **"§ 48-2-402. Manner of service.**

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

4 **"§ 48-2-403. Notice of proceedings by clerk.**

5 No later than five days after a petition for adoption is filed, the clerk of the court in
6 which the petition is filed shall give notice of the adoption proceeding by certified mail,
7 return receipt requested, to any agency that has undertaken but not yet completed a
8 preplacement assessment and any agency ordered to make a report to the court pursuant
9 to Part 5 of this Article.

10 **"§ 48-2-404. Notice of proceedings by court to alleged father.**

11 If, at any time in the proceeding, it appears to the court that there is an alleged father
12 of a minor adoptee as described in G. S. 48-2-401(c)(3) who has not been given notice,
13 the court shall require notice of the proceeding to be given to him pursuant to G.S. 48-2-
14 402.

15 **"§ 48-2-405. Rights of persons entitled to notice.**

16 A person entitled to notice whose consent is not required may appear and present
17 evidence only as to whether the adoption is in the best interest of the adoptee.

18 **"§ 48-2-406. Waiver of notice; effect.**

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

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

25 (c) A parent who has executed a consent or relinquishment may appear in the
26 adoption proceeding for the limited purpose of moving to set aside the consent or
27 relinquishment on the grounds that it was obtained by fraud or duress.

28 **"§ 48-2-407. Filing proof of service.**

29 Proof of service of notice on each person entitled to receive notice under this Part, or
30 a certified copy of each waiver of notice, must be filed with the court before the hearing
31 on the adoption begins.

32 **"PART 5. REPORT TO THE COURT.**

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

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

37 (b) Consistent with G.S. 48-1-108, the court shall order the report to be prepared:

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

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

41 (3) By another agency.

42 (c) The court shall provide the individual who prepares the report with copies of:
43 (i) the petition to adopt; and (ii) the documents filed with it.

44 **"§ 48-2-502. Preparation and content of report.**

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

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

6 (1) An account of the petitioner's marital or family status, physical and
7 mental health, home environment, property, income, and financial
8 obligations; if there has been a preplacement assessment, the account
9 may be limited to any changes since the filing of the preplacement
10 assessment;

11 (2) All reasonably available nonidentifying information concerning the
12 physical, mental, and emotional condition of the adoptee required by
13 G.S. 48-3-205 which is not already included in the document prepared
14 under that section;

15 (3) Copies of any court order, judgment, decree, or pending legal
16 proceeding affecting the adoptee, the petitioner, or any child of the
17 petitioner relevant to the welfare of the adoptee;

18 (4) A list of the expenses, fees, or other charges incurred, paid, or to be
19 paid in connection with the adoption that can reasonably be
20 ascertained by the agency;

21 (5) Any fact or circumstance known to the agency that raises a specific
22 concern about whether the proposed adoption is contrary to the best
23 interest of the adoptee because it poses a significant risk of harm to the
24 well-being of the adoptee;

25 (6) A finding by the agency concerning the suitability of the petitioner and
26 the petitioner's home for the adoptee;

27 (7) A recommendation concerning the granting of the petition; and

28 (8) Such other information as may be required by rules adopted pursuant
29 to subsection (c) of this section.

30 (c) The Social Services Commission may adopt rules to implement the
31 provisions of this section.

32 **"§ 48-2-503. Timing and filing of report.**

33 (a) The agency shall complete a written report and file it with the court within 60
34 days after receipt of the order under G.S. 48-2-501 unless the court extends the time for
35 filing.

36 (b) If the agency identifies a specific concern about the suitability of the
37 petitioner or the petitioner's home for the adoptee, the agency must file an interim report
38 immediately, which must contain an account of the specific concern.

39 (c) The agency shall give the petitioner a copy of each report filed with the court,
40 and the agency shall retain a copy.

41 **"§ 48-2-504. Fee for report.**

42 (a) An agency that prepares a report to the court may charge the petitioner a
43 reasonable fee for preparing and writing the report. No fee may be charged except
44 pursuant to a written fee agreement which must be signed by the parties to be charged

1 prior to the beginning of the preparation. The fee agreement may not be based on the
2 outcome of the report or the adoption proceeding.

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

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

11 **"PART 6. DISPOSITIONAL HEARING; DECREE OF ADOPTION.**

12 **"§ 48-2-601. Hearing on adoption petition; timing.**

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

15 (b) The hearing must take place no later than six months after the petition is filed,
16 but the court for cause may extend the time for the hearing.

17 **"§ 48-2-602. Disclosure of fees and charges.**

18 At least 10 days before the date of the hearing:

19 (1) The petitioner shall file with the court a signed, verified accounting of
20 any payment of disbursement of money or anything of value made or
21 agreed to be made by or on behalf of each petitioner in connection
22 with the adoption, or pursuant to Article 10. The accounting must
23 include the date and amount of each payment or disbursement made,
24 the name and address of each recipient, and the purpose of each
25 payment or disbursement;

26 (2) The attorney for each petitioner shall file with the court an affidavit
27 itemizing any fee, compensation, and other thing of value received by,
28 or agreed to be paid or given to, the attorney in connection with the
29 adoption of the minor;

30 (3) The attorney for each biological or former adoptive parent of the
31 adoptee shall file with the court an affidavit itemizing any fee,
32 compensation, and other thing of value received by, or agreed to be
33 paid or given to, the attorney in connection with the adoption of the
34 minor; and

35 (4) In an agency placement, the agency that placed the adoptee and
36 consented to the adoption shall file with the court an affidavit
37 itemizing any fee, compensation, and other thing of value received by,
38 or agreed to be paid or given to, the agency for, or incidental to, the
39 placement and adoption of the minor.

40 **"§ 48-2-603. Hearing on petition to adopt a minor.**

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

- 1 (1) At least 90 days have elapsed since the filing of the petition for
2 adoption, unless the court for cause waives this requirement;
- 3 (2) The adoptee has been in the physical custody of the petitioner for at
4 least 90 days, unless the court for cause waives this requirement;
- 5 (3) Notice of the filing of the petition has been served on any person
6 entitled to receive notice under Part 4 of this Article;
- 7 (4) Each necessary consent, relinquishment, waiver, or judicial order
8 terminating parental rights, has been obtained and filed with the court
9 and the time for revocation has expired;
- 10 (5) Any assessment required by this Chapter has been filed with and
11 considered by the court;
- 12 (6) If applicable, the requirements of the Interstate Compact on the
13 Placement of Children, G.S. 110-57.1, et seq., have been met;
- 14 (7) Any motion to dismiss the proceeding has been denied;
- 15 (8) Each petitioner is a suitable adoptive parent;
- 16 (9) Any accounting and affidavit required under G.S. 48-2-602 has been
17 reviewed by the court, and the court has denied, modified, or ordered
18 reimbursement of any payment or disbursement that violates Article 10
19 or is unreasonable when compared with the expenses customarily
20 incurred in connection with an adoption;
- 21 (10) The petitioner has received information about the adoptee and the
22 adoptee's biological family if required by G.S. 48-3-205; and
- 23 (11) There has been substantial compliance with the provisions of this
24 Chapter.

25 (b) If the Court finds a violation of this Chapter pursuant to Article 10 or of the
26 Interstate Compact on the Placement of Children, G.S. 110-57.1, et seq., but determines
27 that in every other respect there has been substantial compliance with the provisions of
28 this Chapter and the adoption will serve the best interest of the adoptee, the court shall:

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

33 (c) The court on its own motion may continue the hearing for further evidence.

34 **"§ 48-2-604. Denying petition to adopt a minor.**

35 If the court denies a petition to adopt a minor, the court shall make an appropriate
36 order, according to the best interest of the minor, for the legal and physical custody of
37 the minor. If the placement of the child was made by its biological parents directly with
38 the adoptive parents, the court shall notify the director of social services of the county in
39 which the petition was filed of such dismissal and the director of social services shall be
40 responsible for taking appropriate action for the protection of the child.

41 **"§ 48-2-605. Hearing on petition to adopt an adult.**

42 (a) At the hearing on a petition to adopt an adult, the prospective adoptive parent
43 and the adoptee shall both appear in person, unless the court waives this requirement for

1 cause, in which event an appearance may be made for either or both of them by an
2 attorney authorized in writing to make the appearance.

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

5 (1) At least 30 days have elapsed since the filing of the petition for
6 adoption, but the court for cause may waive this requirement;

7 (2) Notice of the petition has been served on any person entitled to receive
8 notice under Part 4 of this Article;

9 (3) Each necessary consent, waiver, document, or judicial order has been
10 obtained and filed with the court;

11 (4) The adoption is entered into freely and without duress or undue
12 influence for the purpose of creating the relation of parent and child
13 between each petitioner and the adoptee, and each petitioner and the
14 adoptee understand the consequences of the adoption; and

15 (5) There has been substantial compliance with the provisions of this
16 Chapter.

17 **"§ 48-2-606. Decree of adoption.**

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

19 (1) The name of each petitioner for adoption;

20 (2) Whether the petitioner is married, a stepparent, or single;

21 (3) The name by which the adoptee is to be known;

22 (4) Information to be incorporated in a new certificate of birth to be issued
23 by the State Registrar of Vital Statistics;

24 (5) The adoptee's date and place of birth, if known, or as determined under
25 subsection (b) of this section in the case of an adoptee born outside the
26 United States;

27 (6) The effect of the decree of adoption as set forth in G.S. 48-1-105; and

28 (7) That the adoption is in the best interest of the adoptee.

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

31 (1) Enter the date and place of birth as stated in the certificate of birth
32 from the country of origin, the United States Department of State's
33 report of birth abroad, or the documents of the United States
34 Immigration and Naturalization Service;

35 (2) If the exact place of birth is unknown, enter the information that is
36 known, including the country of origin; and

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

41 (c) A decree of adoption must not contain the name of a former parent of the
42 adoptee.

43 **"§ 48-2-607. Appeals.**

1 (a) Except as provided in subsections (b) and (c) of this section, after the final
2 order of adoption is entered, no party to an adoption proceeding nor anyone claiming
3 under such a party, may question the validity of the adoption because of any defect or
4 irregularity, jurisdictional or otherwise, in the proceeding, but shall be fully bound by
5 the order. No adoption may be attacked either directly or collaterally because of any
6 procedural or other defect by anyone who was not a party to the adoption, other than a
7 former parent or guardian of a minor adoptee whose consent was necessary under this
8 Chapter but was not obtained. The failure on the part of the court or an agency to
9 perform duties or acts within the time required by the provisions of this Chapter shall
10 not affect the validity of any adoption proceeding.

11 (b) A party to an adoption proceeding may appeal a final decree of adoption by
12 giving notice of appeal as provided in G.S. 1-272 and G.S. 1-279.1.

13 (c) A parent or guardian whose consent or relinquishment was obtained by fraud
14 or duress may, within six months of the time the fraud or duress is or ought reasonably
15 to have been discovered, move to have the decree of adoption set aside and the consent
16 declared void. A parent or guardian whose consent was necessary under this Chapter
17 but was not obtained may, within six months of the time the omission is or ought
18 reasonably to have been discovered, move to have the decree of adoption set aside. Any
19 action for damages against an adoptee or the adoptive parents for fraud or duress in
20 obtaining a consent or for failure to obtain a necessary consent must be brought within
21 six months of the time the fraud, duress, or omission is or ought reasonably to have been
22 discovered.

"ARTICLE 3.

"ADOPTION OF MINORS.

"PART 1. GENERAL PROVISIONS.

"§ 48-3-100. Application of Article.

27 This Article shall apply to the adoption of minors by adults who are not their
28 stepparents.

"PART 2. PLACEMENT OF MINORS FOR ADOPTION.

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

31 (a) Only

32 (1) An agency,

33 (2) A guardian, or

34 (3) Except as provided in subsection (b) of this section, a parent,

35 with legal and physical custody of a minor may place the minor for adoption. If one
36 parent has legal custody of a minor and the other has physical custody but neither has
37 both, then both parents acting jointly may place a minor for adoption.

38 (b) If both parents are married to each other and living together, both parents
39 must act jointly in placing a child for adoption.

40 (c) If one parent places a child for adoption, the prospective adoptive parent shall
41 act to obtain the consent of the other parent or to terminate the relationship between the
42 minor and the other parent pursuant to Article 24B of Chapter 7A of the General
43 Statutes.

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

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

6 (f) An agency having legal and physical custody of a minor may place the minor
7 for adoption at any time after a relinquishment is executed, even if only one parent has
8 executed a relinquishment pursuant to Part 7 of this Article or has had parental rights
9 terminated, unless the other parent notifies the agency in writing of his or her objections
10 before the placement. The agency shall act promptly to obtain the consent or
11 relinquishment of the other parent or to terminate the rights between the minor and the
12 other parent pursuant to Article 24B of Chapter 7A of the General Statutes.

13 **"§ 48-3-202. Direct placement for adoption.**

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

18 (b) Information about a prospective adoptive parent must be provided to a parent
19 or guardian by the prospective adoptive parent, the prospective adoptive parent's
20 attorney, or a person assisting the parent or guardian. This information must include the
21 preplacement assessment or assessments prepared pursuant to Part 3 of this Article, and
22 may include additional information requested by the parent or guardian.

23 **"§ 48-3-203. Agency placement adoption.**

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

27 (b) An agency shall give any individual upon request a written statement of the
28 services it provides and of its procedure for selecting a prospective adoptive parent for a
29 minor, including the role of the minor's parent or guardian in the selection process. This
30 statement must include a schedule of any fee charged by the agency for its services and
31 a summary of the provisions of this Chapter that pertain to the requirements and
32 consequences of a relinquishment and to the selection of a prospective adoptive parent.

33 (c) Upon request by a parent who has relinquished a child pursuant to Part 7 of
34 this Article, an agency may notify the parent when a placement has occurred and when
35 an adoption decree is issued.

36 (d) The selection of a prospective adoptive parent for a minor shall be made by
37 the agency on the basis of a preplacement assessment prepared pursuant to Part 3 of this
38 Article. The selection may not be delegated, but may be based on criteria requested by
39 a parent who relinquishes the child to the agency.

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

43 **"§ 48-3-204. Recruitment of adoptive parents.**

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

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

6 (c) Agencies and the Division shall cooperate with similar agencies in other
7 states, and with national adoption exchanges in an effort to recruit suitable adoptive
8 parents, especially for minors who are difficult to place.

9 **"§ 48-3-205. Disclosure of background information.**

10 (a) Before placing a minor for adoption, an individual or agency placing the
11 minor, or the individual's agent, must compile and provide to the prospective adoptive
12 parent a written document containing all reasonably available nonidentifying
13 information about the minor, the biological parents, and other members of the biological
14 parents' families that is relevant to the adoption decision or to the minor's development
15 and well-being. This information shall include each such individual's present state of
16 physical and mental health and educational, social, health, and genetic histories,
17 including any history of emotional, physical, sexual, or substance abuse. The
18 information shall also include an account of the prenatal and postnatal care received by
19 the minor.

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

27 (c) The Division shall develop and make available forms designed to collect the
28 information described in subsection (a) of this section.

29 **"§ 48-3-206. Affidavit of parentage.**

30 (a) To assist the court in determining that a direct placement was valid and all
31 necessary consents have been obtained, the parent or guardian who placed the minor
32 shall execute an affidavit setting out names, last known addresses, and marital status of
33 the minor's parents or possible parents.

34 (b) In an agency placement, the agency shall obtain from at least one individual
35 who relinquishes a minor to the agency an affidavit setting out the information required
36 in subsection (a) of this section.

37 **"§ 48-3-207. Interstate placements.**

38 An interstate placement of a minor for purposes of adoption shall comply with the
39 Interstate Compact on the Placement of Children, G.S. 110-57.1 et seq.

40 **"PART 3. PREPLACEMENT ASSESSMENT.**

41 **"§ 48-3-301. Preplacement assessment required.**

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

- 1 (1) Has been completed or updated within the 12 months immediately
2 preceding the placement; and
- 3 (2) Contains a finding that the individual who is the subject of the
4 assessment is suitable to be an adoptive parent, either in general or for
5 a specific minor.
- 6 (b) A preplacement assessment is not required when a parent or guardian places a
7 minor directly with a grandparent, sibling, first cousin, aunt, uncle, great aunt, great
8 uncle, or great-grandparent of the minor.
- 9 (c) If a direct placement is made in violation of this section:
- 10 (1) The prospective adoptive parent shall request any preplacement
11 assessment already commenced to be expedited, and if none has been
12 commenced, shall obtain a preplacement assessment from an agency
13 as authorized by G.S. 48-1-108; in either case, the assessment shall
14 include the fact and date of placement;
- 15 (2) The court may not enter a decree of adoption until both a favorable
16 preplacement assessment and a report to the court have been
17 completed and filed, and the court may not order a report to the court
18 for at least 30 days after the preplacement assessment has been
19 completed; and
- 20 (3) If the person who placed the minor executes a consent before receiving
21 a copy of the preplacement assessment, G.S. 48-3-608 shall determine
22 the time within which that person may revoke.

23 **"§ 48-3-302. Request for preplacement assessment.**

24 (a) An individual seeking to adopt may request a preplacement assessment at any
25 time by an agency authorized by G.S. 48-1-108 to prepare preplacement assessments.

26 (b) Before beginning any preplacement assessment, the agency shall give a
27 written statement of the services it provides and its procedures to the individual
28 requesting a preplacement assessment.

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

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

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

37 (f) If an individual requesting a preplacement assessment has identified a
38 prospective adoptive child and has otherwise been unable to obtain a preplacement
39 assessment, the county department of social services must, upon request, prepare or
40 contract for the preparation of the preplacement assessment. Except as provided in this
41 subsection, no agency is required to conduct a preplacement assessment unless it agrees
42 to do so.

43 **"§ 48-3-303. Content and timing of preplacement assessment.**

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

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

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

8 (1) Age and date of birth, nationality, race, or ethnicity, and any religious
9 preference;

10 (2) Marital and family status and history; including the presence of any
11 children born to or adopted by the individual and any other children in
12 the household;

13 (3) Physical and mental health, including any addiction to alcohol or
14 drugs;

15 (4) Educational and employment history and any special skills;

16 (5) Property and income, and current financial information provided by
17 the individual;

18 (6) Reason for wanting to adopt;

19 (7) Any previous request for an assessment or involvement in an adoptive
20 placement and the outcome of the assessment or placement;

21 (8) Whether the individual has ever been a respondent in a domestic
22 violence proceeding or a proceeding concerning a minor who was
23 allegedly abused, dependent, neglected, abandoned, or delinquent, and
24 the outcome of the proceeding;

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

27 (10) Whether the individual has located a parent interested in placing a
28 child with the individual for adoption and a brief description of the
29 parent and the child; and

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

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

36 (d) The agency shall conduct a reasonable investigation for any criminal record.

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

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

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

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

9 (i) The Social Services Commission shall have authority to establish by rule
10 additional standards for preplacement assessments.

11 **"§ 48-3-304. Fees for preplacement assessment.**

12 (a) An agency that prepares a preplacement assessment may charge a reasonable
13 fee for conducting and writing the assessment, even if the individual being assessed
14 requests that it not be completed. No fee may be charged except pursuant to a written
15 agreement which must be signed by the individual to be charged prior to the beginning
16 of the assessment. The fee agreement may not be based on the outcome of the
17 assessment or any adoption.

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

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

26 **"§ 48-3-305. Agency disposition of preplacement assessments.**

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

31 (b) The agency shall retain a copy of a completed or incomplete preplacement
32 assessment for at least five years.

33 **"§ 48-3-306. Favorable preplacement assessments.**

34 An individual who receives a preplacement assessment containing a finding that the
35 individual is suitable to be an adoptive parent shall provide a copy of the assessment to
36 any person or agency considering the placement of a minor with the individual for
37 adoption and shall also attach a copy of the assessment to any petition to adopt.

38 **"§ 48-3-307. Assessments completed after placement.**

39 (a) If a placement occurs before a preplacement assessment is completed, the
40 prospective adopted parent shall deliver a copy of the assessment when completed,
41 whether favorable or unfavorable, to the parent or guardian who placed the minor. A
42 prospective adoptive parent, who cannot after the exercise of due diligence, personally
43 locate the parent or guardian who placed the minor may deposit a copy of the
44 preplacement assessment in the United States mail, return receipt requested, addressed

1 to the address of the parent or guardian given in the consent, and the date of receipt by
2 the parent or guardian for purposes of G.S. 48-3-608 shall be deemed to be the date of
3 delivery or last attempted delivery.

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

8 **"§ 48-3-308. Response to unfavorable preplacement assessment.**

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

13 (b) An individual who receives an unfavorable preplacement assessment may,
14 after exhausting the agency's procedures for internal review, prepare and file a written
15 response with the Division and shall send a copy of the response to the agency that
16 prepared the unfavorable assessment. The Division shall attach the response to the
17 unfavorable assessment.

18 (c) The Division shall acknowledge receipt of the response but shall have no
19 authority or responsibility to review or modify the unfavorable assessment or to take
20 any action with respect to the response.

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

25 **"PART 4. TRANSFER OF PHYSICAL CUSTODY OF MINOR BY HEALTH**

26 **CARE**

27 **FACILITY OR ATTENDING PRACTITIONER FOR PURPOSES OF**
28 **ADOPTION.**

29 **"§ 48-3-401. 'Health Care Facility' and 'Attending Practitioner' defined.**

30 As used in this Article:

31 (1) 'Health care facility' includes a hospital and maternity home; and

32 (2) 'Attending practitioner' includes a physician, licensed nurse midwife,
33 or other licensed professional provider of health care who assists in a
34 birth.

35 **"§ 48-3-402. Authorization required to transfer physical custody.**

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

40 (1) A parent, guardian, or other person having legal custody of the minor
41 signs an authorization of the transfer of physical custody; and

42 (2) The authorization states that the release is for the purpose of adoption.

43 (b) The health care facility or attending practitioner shall retain the authorization
44 described in subsection (a) of this section for at least one year.

"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 party 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.

"§ 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.

"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

- 1 the attempted marriage is terminated by annulment,
2 declaration of invalidity, divorce, or, in the absence of a
3 judicial proceeding, by the cessation of cohabitation;
4 3. Before the filing of the petition has acknowledged his
5 paternity of the minor under applicable State law, and
6 I. Is obligated to support the minor under written
7 agreement or by court order;
8 II. Has provided, in accordance with his financial
9 means, reasonable and consistent payments for
10 the support of the minor and has regularly visited
11 or communicated with the minor; or
12 III. After the minor's birth but before the minor's
13 placement for adoption or the mother's
14 relinquishment, has married or attempted to marry
15 the mother of the minor by a marriage solemnized
16 in apparent compliance with law, although the
17 attempted marriage is or could be declared
18 invalid; or
19 4. Before the filing of the petition, has received the minor
20 into his home and openly held out the minor as his
21 biological child; or
22 5. Is the adoptive father of the minor; and
23 c. A guardian of the minor; and
24 (3) In an agency placement by:
25 a. The agency that placed the minor for adoption; and
26 b. An individual described in subdivision (2) of this section who
27 has not relinquished the minor pursuant to Part 7 of Article 3 of
28 this Chapter.

29 "**§ 48-3-602. Consent of incompetent parents.**

30 If a parent as described in G.S. 48-3-601 has been adjudicated incompetent and is
31 therefore unable to give a valid consent to the adoption of that parent's child, then the
32 court shall appoint a guardian **ad litem** for that parent and a guardian **ad litem** for the
33 child to make a full investigation as to whether the adoption should proceed. The
34 investigation shall include an evaluation of the parent's current condition and any
35 reasonable likelihood that the parent will be restored to competency, the relationship
36 between the child and the incompetent parent, alternatives to adoption, and other
37 relevant fact or circumstance. If the court determines after a hearing on the matter that
38 it will be in the best interest of the child for the adoption to proceed, the court shall
39 order the guardian **ad litem** of the parent, and the guardian **ad litem** of the parent shall
40 then be authorized, to execute a consent for that parent.

41 "**§ 48-3-603. Persons whose consent is not required.**

- 42 (a) Consent to an adoption of a minor is not required of:

- 1 (1) An individual whose parental rights and duties have been terminated
2 under Article 24B of Chapter 7A of the General Statutes or by a court
3 of competent jurisdiction in another state;
- 4 (2) A man described in G.S. 48-3-601(2), other than an adoptive father, if
5 (i) the man has been judicially determined not to be the father of the
6 minor to be adopted, or (ii) another man has been judicially
7 determined to be the father of the minor to be adopted;
- 8 (3) A parent for whose minor child a guardian has been appointed;
- 9 (4) An individual who has relinquished parental rights or guardianship
10 powers, including the right to consent to adoption, to an agency
11 pursuant to Part 7 of this Article;
- 12 (5) A man who is not married to the minor's birth mother and who, after
13 the conception of the minor, has executed a notarized statement
14 denying paternity or disclaiming any interest in the minor;
- 15 (6) A deceased parent or the personal representative of a deceased parent's
16 estate; or
- 17 (7) An individual listed in G.S. 48-3-601 who has not executed a consent
18 or a relinquishment and who fails to respond to a notice of the
19 adoption proceeding within 30 days after the service of the notice.
- 20 (b) The court may issue an order dispensing with the consent of:
- 21 (1) A guardian or an agency that placed the minor upon a finding that the
22 consent is being withheld contrary to the best interest of the minor; or
- 23 (2) A minor 12 or more years of age upon a finding that it is not in the best
24 interest of the minor to require the consent.

25 **"§ 48-3-604. Execution of consent: timing.**

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

37 **"§ 48-3-605. Execution of consent: procedures.**

- 38 (a) A consent executed by a parent or guardian or by a minor to be adopted who
39 is 12 years of age or older must conform substantially to the requirements in G.S. 48-3-
40 606 and must be signed and acknowledged under oath before a person authorized to
41 administer oaths and a witness who is not a party to the adoption proceeding.
- 42 (b) A parent who has not reached the age of 18 years shall have legal capacity to
43 give consent to adoption and to release that parent's rights in a child, and shall be as
44 fully bound as if the parent had attained 18 years of age.

1 (c) An individual before whom a consent is signed and acknowledged under
2 subsection (a) of this section shall certify in writing that to the best of the individual's
3 knowledge or belief, the parent, guardian, or minor to be adopted executing the consent:

- 4 (1) Read, or had read to him or her, and understood the consent;
- 5 (2) Signed the consent voluntarily;
- 6 (3) Received or was offered a copy of the consent; and
- 7 (4) Was advised that counselling services may be available through county
8 departments of social services or licensed child-placing agencies.

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

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

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

18 **"§ 48-3-606. Content of consent; mandatory provisions.**

19 A consent required from a minor to be adopted, a parent, or a guardian under G.S.
20 48-3-601 must be in writing and state:

- 21 (1) The date, place, and time of the execution of the consent;
- 22 (2) The name, date of birth, and permanent address of the individual
23 executing the consent;
- 24 (3) The date of birth or the expected delivery date, the sex, and the name
25 of the minor to be adopted, if known;
- 26 (4) That the individual executing the document is voluntarily consenting
27 to the transfer of legal and physical custody to, and the adoption of the
28 minor to be adopted by, the prospective adoptive parent;
- 29 (5) The name of a person and an address where any notice of revocation
30 may be sent;
- 31 (6) That the individual executing the document understands that after the
32 consent is signed and acknowledged in accord with the procedures set
33 forth in G.S. 48-3-605, it may be revoked in accord with G.S. 48-3-608
34 but that after that time it is final and irrevocable and may not be
35 withdrawn or set aside except under a circumstance set forth in G.S.
36 48-3-609;
- 37 (7) That the consent shall be valid and binding and is not affected by any
38 oral or separate written agreement between the individual executing
39 the consent and the adoptive parent;
- 40 (8) That the individual executing the consent has not received or been
41 promised any money or anything of value for the consent, and has not
42 received or been promised any money or anything of value in relation
43 to the adoption of the child except for lawful payments that are
44 itemized on a schedule attached to the consent;

- 1 (9) That the individual executing the consent understands that when the
2 adoption is final, all rights and obligations of the adoptee's former
3 parents or guardian with respect to the adoptee will be extinguished,
4 and every aspect of the legal relationship between the adoptee and the
5 former parent or guardian will be terminated;
- 6 (10) The name and address of the court, if known, in which the petition for
7 adoption has been or will be filed;
- 8 (11) That the individual executing the consent waives notice of any
9 proceeding for adoption;
- 10 (12) If the individual executing the document is the minor to be adopted or
11 the person placing the minor for adoption, a statement that the
12 adoption shall be by a specific named adoptive parent;
- 13 (13) If the individual executing the document is the person placing the
14 minor for adoption, that the individual executing the consent has
15 provided the prospective adoptive parent, or his or her attorney, with a
16 written document containing all reasonably available nonidentifying
17 information about the minor, the biological parents, and other
18 members of the biological parents' families, including their
19 educational, social, health, and genetic histories, and an account of the
20 minor's prenatal and postnatal care as required under G.S. 48-3-205;
21 and
- 22 (14) That the person executing the consent has:
- 23 a. Received or been offered a copy of the consent;
- 24 b. Been advised that counselling services may be available
25 through county departments of social services or licensed child-
26 placing agencies; and
- 27 c. Been advised of the right to employ independent legal counsel.

28 **"§ 48-3-607. Consequences of consent.**

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

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

36 (c) Any other parental right and duty of a parent who executed a consent is not
37 terminated until either the decree of adoption becomes final or the relationship of parent
38 and child is otherwise terminated, whichever comes first. Until termination, the minor
39 remains the child of a parent who executed a consent for purposes of any inheritance,
40 succession, insurance, arrears of child support, and other benefit or claim that the minor
41 may have from, through, or against the parent.

42 **"§ 48-3-608. Revocation of consent.**

43 (a) A consent to the adoption of an infant three months old or less at the time the
44 consent is given may be revoked within 21 days following the day on which it is

1 executed, inclusive of weekends and holidays. A consent to the adoption of any other
2 minor may be revoked within seven days following the day on which it is executed,
3 inclusive of weekends and holidays. If the final day of the revocation period falls on a
4 weekend or federal holiday, then the revocation period extends to the next business day.
5 The individual who gave the consent may revoke by giving written notice to the person
6 specified in the consent. Notice may be given either by personal delivery, overnight
7 delivery service, or by registered or certified mail, return receipt requested. If notice is
8 given by mail, notice is deemed complete when it is deposited in the United States mail,
9 postage prepaid, addressed to the person to whom consent was given at the address
10 specified in the consent.

11 (b) In a direct placement, if:

12 (1) A preplacement assessment is required, and

13 (2) Placement occurs before the preplacement assessment is given to the
14 parent or guardian who is placing the minor,

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

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

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

34 **§ 48-3-609. Challenges to validity of consent.**

35 (a) A consent shall be void if:

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

39 (2) The prospective adoptive parent and the individual who executed the
40 consent mutually agree in writing to set it aside;

41 (3) The petition to adopt is voluntarily dismissed with prejudice; or

42 (4) The court dismisses the petition to adopt and no appeal has been taken
43 or the dismissal has been affirmed on appeal and all appeals have been
44 exhausted.

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

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

14 **"§ 48-3-610. Collateral agreements.**

15 If a person executing a consent under this Part and the prospective adoptive parent or
16 parents enter into an agreement separate from the consent regarding visitation,
17 communication, support, and any other rights and duties with respect to the care and
18 education of the minor, this agreement shall not be a condition precedent to the consent
19 itself, failure to perform shall not invalidate a consent already given, and the agreement
20 itself shall not be enforceable.

21 **"PART 7. RELINQUISHMENT OF MINOR FOR ADOPTION.**

22 **"§ 48-3-701. Individuals who may relinquish minor; timing.**

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

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

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

31 **"§ 48-3-702. Procedures for relinquishment.**

32 (a) A relinquishment executed by a parent or guardian must conform
33 substantially to the requirements in this Part and must be signed and acknowledged
34 under oath before a person authorized to administer oaths and by a witness.

35 (b) The provisions of G.S. 48-3-605(b), (c), (d), (f), and (g) also apply to a
36 relinquishment executed under this Part, except that an individual before whom a
37 relinquishment is signed and acknowledged shall also certify that an employee of the
38 agency to which the minor is being relinquished signed a statement indicating the
39 agency's willingness to accept the relinquishment.

40 **"§ 48-3-703. Content of relinquishment; mandatory provisions.**

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

43 (1) The date, place, and time of the execution of the relinquishment;

- 1 (2) The name, date of birth, and permanent address of the individual
2 executing the relinquishment;
- 3 (3) The date of birth or the expected delivery date, the sex, and the name
4 of the minor, if known;
- 5 (4) The name and address of the agency to whom the minor is being
6 relinquished;
- 7 (5) That the individual voluntarily consents to the permanent transfer of
8 legal and physical custody of the minor to the agency for the purposes
9 of adoption and
- 10 a. The placement of the minor for adoption with a prospective
11 adoptive parent selected by the agency or
- 12 b. The placement of the minor for adoption with a prospective
13 adoptive parent selected by the agency and agreed upon by the
14 individual executing the relinquishment;
- 15 (6) That the individual executing the relinquishment understands that after
16 the relinquishment is signed and acknowledged in the manner provided
17 in G.S. 48-3-702, it may be revoked in accord with G.S. 48-3-706 but
18 that after that time it is final and irrevocable except under the
19 circumstances set forth in G.S. 48-3-707;
- 20 (7) That the relinquishment shall be valid and binding and shall not be
21 affected by any oral or separate written agreement between the
22 individual executing the consent and the agency;
- 23 (8) That the individual executing the relinquishment understands that
24 when the adoption is final, all rights and duties of the individual
25 executing the relinquishment with respect to the minor will be
26 extinguished and all other aspects of the legal relationship between the
27 minor child and the parent will be terminated;
- 28 (9) That the individual executing the relinquishment has not received or
29 been promised any money or anything of value for the relinquishment
30 of the minor, and has not received or been promised any money or
31 anything of value in relation to the relinquishment or the adoption of
32 the minor except for lawful payments that are itemized on a schedule
33 attached to the relinquishment;
- 34 (10) That the individual executing the relinquishment waives notice of any
35 proceeding for adoption;
- 36 (11) That the individual executing the relinquishment has provided the
37 agency with a written document containing all reasonably available
38 nonidentifying information about the minor, the biological parents of
39 the minor, and other members of the biological families, including
40 their physical and mental health, genetic, and social histories and an
41 account of the minor's prenatal and postnatal care as required under
42 G.S. 48-3-205, or that the individual has provided the agency with
43 signed releases that will permit the agency to compile the information
44 required under G.S. 48-3-205; and

1 (12) That the individual executing the relinquishment has:

- 2 a. Received or been offered a copy of the relinquishment;
3 b. Been advised that counseling services are available through the
4 agency to which the relinquishment is given; and
5 c. Been advised of the right to employ independent legal counsel.

6 **"§ 48-3-704. Content of relinquishment; optional provisions.**

7 In addition to the mandatory provisions listed in G.S. 48-3-703, a relinquishment
8 may also state that the relinquishment may be revoked upon notice by the agency that
9 an adoption by a specific prospective adoptive parent, named or described in the
10 relinquishment is not completed, or if the agency and the person relinquishing the minor
11 mutually agree to rescind the relinquishment before placement with a prospective
12 adoptive parent occurs.

13 **"§ 48-3-705. Consequences of relinquishment.**

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

17 (b) Upon execution, a relinquishment by a parent or guardian entitled under G.S.
18 48-3-201 to place a minor for adoption:

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

23 (c) A relinquishment terminates:

- 24 (1) Any right and duty of the individual who executed the relinquishment
25 with respect to the legal and physical custody of the minor,
26 (2) The right to consent to the minor's adoption, and
27 (3) The duty to support the minor.

28 (d) Except as provided in subsection (c) of this section, parental rights and duties
29 of a parent who executed a relinquishment are not terminated until the decree of
30 adoption becomes final or the parental relationship is otherwise legally terminated,
31 whichever occurs first. Until termination the minor remains the child of a parent who
32 executed a relinquishment for purposes of any inheritance, succession, insurance,
33 arrears of child support, and other benefit or claim that the minor may have from,
34 through, or against the parent.

35 **"§ 48-3-706. Revocation of relinquishments.**

36 (a) A relinquishment of an infant three months old or less at the time the
37 relinquishment is executed may be revoked within 21 days following the day on which
38 it is executed, inclusive of weekends and holidays. A relinquishment of any other minor
39 may be revoked within seven days following the day on which it is executed, inclusive
40 of weekends and holidays. If the final day of the period falls on a weekend or federal
41 holiday, then the revocation period extends to the next business day. The individual
42 who gave the relinquishment may revoke by giving written notice to the agency to
43 which the relinquishment was given. Notice may be given either by personal delivery,
44 overnight delivery service, or by registered or certified mail, return receipt requested. If

1 notice is given by mail, notice is deemed complete when it is deposited in the United
2 States mail, postage prepaid, addressed to the agency at the agency's address as given in
3 the relinquishment.

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

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

19 **"§ 48-3-707. Challenges to validity of relinquishments.**

20 (a) A relinquishment shall become void if, before the entry of the adoption
21 decree, the individual who executed the relinquishment establishes by clear and
22 convincing evidence that it was obtained by fraud or duress.

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

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

32 (d) If the relinquishment of an individual who did not previously have physical
33 custody of a minor is set aside under subsections (a) or (b) of this section, and no
34 grounds exist under G.S. 48-3-603 for dispensing with this individual's consent, the
35 court shall dismiss any pending proceeding for adoption. If return of the minor is not
36 ordered under subsection (c) of this section, the court shall notify the county department
37 of social services for appropriate action.

38 **"ARTICLE 4. [RESERVED]**

39 **"ARTICLE 5.**

40 **"ADOPTION OF A MINOR STEPPCHILD BY STEPPARENT.**

41 **"§ 48-5-100. Application of Article.**

42 This Article shall apply to the adoption of minors by their stepparents.

43 **"§ 48-5-101. Who may file a petition to adopt a minor stepchild.**

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

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

14 **"§ 48-5-102. Consent to adoption of stepchild.**

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

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

20 The consent of an incompetent parent may be given pursuant to the procedures in G.S.
21 48-3-602.

22 **"§ 48-5-103. Execution and content of consent to adoption by stepparent.**

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

- 24 (1) Must be signed and acknowledged before an individual authorized to
25 take acknowledgments;
26 (2) Must be in writing and state or contain:
27 a. The statements required by G.S. 48-3-606, except for those
28 required by subdivisions (4), (9), (12), and (13) of that section;
29 b. That the parent executing the consent has legal and physical
30 custody of his or her child and is voluntarily consenting to the
31 adoption of the child by the stepparent;
32 c. That the adoption will not terminate the legal relation of parent
33 and child between the parent executing the consent and the
34 child; and
35 d. That the adoption will terminate the legal relation of parent and
36 child between the adoptee and the adoptee's other parent,
37 including all right of the adoptee to inherit as a child from or
38 through the other parent, and will extinguish any existing court
39 order of custody, visitation, or communication with the adoptee,
40 except that the other parent will remain liable for past-due child
41 support payment unless legally released from this obligation.

42 (b) A consent executed by a minor stepchild's parent who is not the stepparent's
43 spouse:

- 1 (1) Must be signed and acknowledged before an individual authorized to
2 take acknowledgments; and
- 3 (2) Must be in writing and state or contain:
- 4 a. The statements required by G.S. 48-3-606, except for those
5 required by subdivisions (4), (9), (12), and (13) of that section;
- 6 b. That the parent executing the consent is voluntarily consenting
7 to:
- 8 1. The transfer of any right the parent has to legal or
9 physical custody of the child to the child's other parent
10 and stepparent, and
- 11 2. The adoption of the child by the stepparent; and
- 12 c. That the adoption will terminate the legal relation of parent and
13 child between the adoptee and the parent executing the consent,
14 including all right of the adoptee to inherit as a child from or
15 through the parent, and will extinguish any court order of
16 custody, visitation, or communication with the adoptee, except
17 that the parent executing the consent will remain liable for past-
18 due child support payments unless legally released from this
19 obligation.
- 20 (c) A consent executed by the guardian of a minor stepchild:
- 21 (1) Must be signed and acknowledged before an individual authorized to
22 take acknowledgments; and
- 23 (2) Must be in writing and state or contain:
- 24 a. The statements required by G.S. 48-3-606, except for those
25 required by subdivisions (4), (9), (12), and (13) of that section;
- 26 b. A statement that the guardian is voluntarily consenting to:
- 27 1. The transfer of any right the guardian has to legal or
28 physical custody of the adoptee to the adoptive
29 stepparent; and
- 30 2. The adoption of the adoptee by the stepparent;
- 31 c. That the adoption will not terminate the legal relation of parent
32 and child between a parent who is or was the stepparent's
33 spouse and the adoptee;
- 34 d. That the adoption will terminate the legal relation of parent and
35 child between the adoptee and a parent who is not or has not
36 been the stepparent's spouse, including all right of the adoptee
37 to inherit from or through that parent, and will extinguish any
38 court order of custody, visitation, or communication with the
39 adoptee, except that a parent whose relation to the adoptee is
40 terminated by the adoption, will remain liable for past-due child
41 support payments unless legally released from this obligation.
- 42 (d) G.S. 48-3-608(a) applies to consents executed pursuant to subsections (a)
43 through (c) of this section. Unless so revoked, the consent is final and irrevocable
44 except under a circumstance set forth in G.S. 48-3-609.

1 (e) A consent executed by an adoptee in a proceeding for adoption by a
2 stepparent must be signed and acknowledged under oath before a person authorized to
3 administer oaths and a witness who is not a party to the adoption proceeding. The
4 minor may revoke the consent at any time before the decree is entered by filing written
5 notice with the court in which the petition is pending.

6 **"§ 48-5-104. Report to the court.**

7 Whenever a petition is filed for adoption of a minor stepchild by a stepparent, the
8 court shall order an agency to conduct an assessment as provided in Part 5 of Article 2
9 of this Chapter to determine if the adoption will be in the adoptee's best interest.

10 **"§ 48-5-105. Visitation awards to grandparents pursuant to Chapter 50 of the**
11 **General Statutes.**

12 (a) An adoption under this Article does not terminate or otherwise affect
13 visitation rights awarded to a biological grandparent of a minor pursuant to G.S. 50-
14 13.2.

15 (b) An adoption under this Article does not affect the right of a biological
16 grandparent to petition for visitation rights pursuant to G.S. 50-13.2A or G.S. 50-
17 13.5(j).

18 **"ARTICLE 6. [RESERVED]**

19 **"ARTICLE 7.**

20 **"ADOPTION OF ADULTS.**

21 **"§ 48-7-100. Application of Article.**

22 This Article shall apply to the adoption of adults, including married and emancipated
23 minors.

24 **"§ 48-7-101. Who may file for a petition to adopt an adult.**

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

27 (b) If a prospective adoptive parent is married, both spouses must join in the
28 petition unless the prospective adoptive parent is the adoptee's stepparent or unless the
29 court waives this requirement for cause.

30 **"§ 48-7-102. Consent to adoption.**

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

32 (1) The adult being adopted; and

33 (2) The spouse of the petitioner in an adoption by the adult's stepparent,
34 unless the court waives this requirement for cause.

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

36 (1) Be in writing and be signed and acknowledged before an individual
37 authorized to take acknowledgements;

38 (2) State that the adult agrees to assume toward the adoptive parent the
39 legal relation of parent and child and to have all of the rights and be
40 subject to all of the duties of that relationship; and

41 (3) State that the adult understands the consequences the adoption may
42 have for rights of inheritance, property, or support, including the loss
43 of prior inheritance rights and the acquisition of new inheritance rights.

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

- 1 (1) Must be in writing and be signed and acknowledged before an
2 individual authorized to take acknowledgments; and
- 3 (2) Must state that the spouse:
- 4 a. Consents to the proposed adoption;
- 5 b. Understands that the adoption may diminish the amount the
6 spouse might take from the petitioner through intestate
7 succession or by dissenting to the petitioner's will and may also
8 diminish the amount of other entitlements that may become due
9 the spouse and any other children of the petitioner through the
10 petitioner; and
- 11 c. Believes the adoption will be in the best interest of the adult
12 being adopted and the prospective adoptive parent.
- 13 d. Anyone who gives a consent under this Article may revoke the
14 consent at any time before the entry of the decree of adoption
15 by delivering a written notice of revocation to the individual to
16 whom the consent was given. If a petition to adopt has been
17 filed, the notice of revocation shall also be filed with the clerk
18 of court in the county where the petition is pending.

19 **"§ 48-7-103. Adoption of incompetent adults.**

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

22 (b) The consent of the guardian must:

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

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

1 "ARTICLE 8.

2 "ADOPTION BY A FORMER PARENT.

3 "§ 48-8-100. Application of Article.

4 This Article shall apply to the adoption of adoptees by a former parent.

5 "§ 48-8-101. Readoption under other Articles.

6 A former parent may readopt a minor adoptee pursuant to Article 3 of this Chapter
7 or, if applicable, Article 5 of this Chapter. A former parent may readopt an adult
8 adoptee pursuant to Article 7 of this Chapter.

9 "§ 48-8-102. Readoption after a stepparent adoption.

10 (a) In addition to the methods set out in G.S. 48-8-101, a former parent may
11 petition pursuant to this section to readopt an adoptee adopted by a stepparent.

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

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

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

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

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

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

19 (5) Any guardian of the adoptee.

20 (d) The consent executed by the adoptee shall conform to the requirements of
21 G.S. 48-5-103(e).

22 (e) The consent executed by the petitioner's spouse shall conform to the
23 requirements of G.S. 48-7-102(c).

24 (f) The consent executed by the adoptive parent shall conform to the
25 requirements of G.S. 48-5-103(b).

26 (g) The consent of the adoptee's parent who was the spouse of the adoptive
27 parent shall conform to the requirements of G.S. 48-5-103(a) except for those required
28 by clause (ii) of subdivision (2).

29 (h) A consent executed by the guardian of a minor adoptee shall conform to the
30 requirements of G.S. 48-5-103(c).

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

33 (j) An adoption under this section does not terminate or otherwise affect any
34 existing order of custody.

35 "ARTICLE 9.

36 "CONFIDENTIALITY OF RECORDS AND DISCLOSURE OF
37 INFORMATION.

38 "§ 48-9-101. Records defined.

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

1 **"§ 48-9-102. Records confidential and sealed.**

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

6 (b) During a proceeding for adoption, records shall not be open to inspection by
7 any person except upon an order of the court for cause.

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

12 (d) Records must be sent by the clerk of superior court to the Division in the
13 following order:

14 (1) Within 10 days after the petition is filed with the clerk of the superior
15 court, a copy of the petition giving the date of the filing of the original
16 petition and the original of each consent and relinquishment must be
17 filed by the clerk with the Division.

18 (2) Within 10 days after the decree of adoption is entered the clerk must
19 file with the Division the additional documents filed pursuant to G.S.
20 48-2-305, any report to the court, any additional documents submitted
21 and orders entered, and a copy of the final order.

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

24 (f) The Division shall transmit a report of the adoption of a minor and any name
25 change to the State Registrar of Vital Statistics if the minor was born in this State, or to
26 the appropriate official responsible for issuing birth certificates or their equivalent if the
27 minor was not born in this State.

28 (g) In the adoption of an adult born in this State in which the name of the adoptee
29 is changed, the clerk of superior court shall, within 10 days after the decree of adoption
30 is entered, send the State Registrar a copy of the final order, any separate order of name
31 change, and a report in a form acceptable to the State Registrar containing sufficient
32 information for a new birth certificate. In the adoption of an adult who was not born in
33 this State, the clerk shall transmit a copy of the final order and any other required
34 information to the adoptee.

35 **"§ 48-9-103. Release of nonidentifying information.**

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

42 (b) If a request under this section is made to the agency that placed the adoptee or
43 prepared the report to the court, the agency shall furnish the individual making the
44 request or the treating physician named by a minor making the request with a copy of

1 any relevant report or information that is included in the sealed records of the agency.
2 If a request under this section is made to the court that issued the decree of adoption, the
3 court shall refer the individual to the Division, or, if known to the court, the agency that
4 placed the adoptee or prepared the report to the court. The Division may refer the
5 individual to the agency that prepared the report to the court. If the agency no longer
6 exists, the Division may furnish the information to an agency convenient to the
7 requesting party.

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

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

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

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

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

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

31 **"§ 48-9-104. Release of identifying information.**

32 No person shall release from any records retained and sealed under this Article the
33 name, address, or other information that reasonably could be expected to lead directly to
34 the identity of an adoptee, an adoptive parent of an adoptee, an adoptee's parent at birth,
35 or an individual who, but for the adoption, would be the adoptee's sibling or
36 grandparent, except upon order of the court for cause pursuant to G.S. 48-9-105.

37 **"§ 48-9-105. Action for release of identifying and other nonidentifying**
38 **information.**

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

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

3 (1) The reason the information is sought;

4 (2) Any procedure available for satisfying the petitioner's request without
5 disclosing the name or identity of another individual, including having
6 the court appoint a representative to contact the individual and request
7 specific information;

8 (3) Whether the individual about whom identifying information is sought
9 is alive;

10 (4) The preference, to the extent known of the adoptee, the adoptive
11 parents, the adoptee's parents at birth, and other members of the
12 adoptee's original and adoptive families, and the likely effect of
13 disclosure on these individuals;

14 (5) The age, maturity, and expressed needs of the adoptee;

15 (6) The report or recommendation of any individual appointed by the
16 court to assess the request for identifying information; and

17 (7) Any other factor relevant to an assessment of whether the benefit to
18 the petitioner of releasing the information sought will be greater than
19 the benefit to any other individual of not releasing the information.

20 (c) An individual who files a motion under this section may also ask the court to
21 authorize the release by the State Registrar of a certified copy of the adoptee's original
22 certificate of birth.

23 **"§ 48-9-106. Release of original certificate of birth.**

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

29 **"§ 48-9-107. New birth certificates.**

30 (a) Upon receipt of a report of the adoption of a minor from the Division, or the
31 documents required by G.S. 48-9-102(g) from the clerk of superior court in the adoption
32 of an adult, or a report of an adoption from another state, the State Registrar shall
33 prepare a new birth certificate for the adoptee that shall contain the adoptee's full
34 adoptive name, sex, and date of birth; the full name of the adoptive father, if applicable,
35 and his social security number; the full maiden name of the adoptive mother, if
36 applicable, and her social security number; and any other pertinent information
37 consistent with this section as may be determined by the State Registrar. In an adoption
38 by a stepparent, the adoptive parent and the parent whose relation with the adoptee
39 remains unchanged shall be listed as the parents. In the case of a stepparent adoption,
40 the city and county of birth of the adoptee shall be the same on the new birth certificate
41 as on the original certificate. The new certificate shall contain no reference to the
42 adoption of the adoptee and shall not refer to the adoptive parents in any way other than
43 as the adoptee's parents.

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

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

17 (d) The State Registrar may by rule prescribe requirements for reports of
18 adoptions from other states.

19 **"§ 48-9-108. Restoration of original birth certificates if a decree of adoption is set**
20 **aside.**

21 If a final decree of adoption is set aside, the court shall send a copy of the order
22 within 10 days after it becomes final to the State Registrar if the adoptee was born in
23 this State or to the appropriate official responsible for issuing birth certificates or their
24 equivalent if the adoptee was not born in this State. The court shall also send a copy to
25 the Division. Upon receipt of such an order, the State Registrar shall seal the certificate
26 issued under this section and restore the adoptee's original certificate of birth.

27 **"§ 48-9-109. Certain disclosures authorized.**

28 Nothing in this Article shall be interpreted or construed to prevent an employee of a
29 court, agency, or any other person from:

- 30 (1) Inspecting permanent, confidential, or sealed records, other than
31 records maintained by the State Registrar, for the purpose of
32 discharging any obligation under this Chapter;
- 33 (2) Disclosing the name of the court where a proceeding for adoption
34 occurred, or the name of an agency that placed an adoptee, to an
35 individual described in G.S. 48-9-104 who can verify his or her
36 identity; or
- 37 (3) Disclosing or using information contained in permanent and sealed
38 records, other than records maintained by the State Registrar, for
39 statistical or other research purposes as long as the disclosure will not
40 result in identification of a person who is the subject of the information
41 and subject to any further conditions the Department may reasonably
42 impose.

43 **"ARTICLE 10.**

44 **"PROHIBITED PRACTICES IN CONNECTION WITH ADOPTION.**

1 **"§ 48-10-101. Prohibited activities in placement.**

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

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

12 (c) A person who violates subsections (a) or (b) of this section is guilty of a
13 misdemeanor for the first violation, and of a Class J felony for each subsequent
14 violation.

15 (d) The superior court may enjoin any person from violating this section.

16 **"§ 48-10-102. Unlawful payments related to adoption.**

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

20 (1) The placement of a minor for adoption;

21 (2) The consent of a parent, a guardian, or an agency to the adoption of a
22 minor;

23 (3) The relinquishment of a minor to an agency for purposes of adoption;
24 or

25 (4) Assisting a parent or guardian in locating or evaluating a potential
26 adoptive parent or in transferring custody of a minor to the adoptive
27 parent.

28 (b) A person who violates this section is guilty of a misdemeanor for the first
29 violation, and of a Class H felony for each subsequent violation.

30 (c) The superior court may enjoin any person from violating this section.

31 **"§ 48-10-103. Lawful payments related to adoption.**

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

34 (1) Services of an agency in connection with an adoption;

35 (2) Medical, hospital, nursing, pharmaceutical, traveling, or other similar
36 expenses incurred by a mother or her child incident to the pregnancy
37 and birth or any illness of the adoptee;

38 (3) Counseling services for a parent or the adoptee that are directly related
39 to the adoption and are provided by a licensed psychiatrist,
40 psychologist, marital and family therapist, registered practicing
41 counselor, certified social worker, fee-based practicing pastoral
42 counselor or other licensed professional counselor, or an employee of
43 an agency;

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

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

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

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

24 (e) An agency may charge or accept a reasonable fee or other compensation from
25 prospective adoptive parents. In assessing a fee or charge, the agency may take into
26 account the income of adoptive parents and may use a sliding scale related to income in
27 order to provide services to persons of all incomes.

28 **"§ 48-10-104. Failure to disclose nonidentifying information.**

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

34 **"§ 48-10-105. Unauthorized disclosure of information.**

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

40 (b) A person who knowingly makes an unauthorized disclosure of identifying or
41 nonidentifying information is guilty of a misdemeanor.

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

1 (d) Notwithstanding the penalties provided in subsection (b) of this section, an
2 individual who is the subject of any of this information may bring a civil action for
3 equitable or monetary relief or both against any person who makes an unauthorized
4 disclosure of the information."

5 Sec. 3. G.S. 7A-289.23 reads as rewritten:

6 "**§ 7A-289.23. Jurisdiction.**

7 The district court shall have exclusive original jurisdiction to hear and determine any
8 petition relating to termination of parental rights to any child who resides in, is found in,
9 or is in the legal or actual custody of a county department of social services or licensed
10 child-placing agency in the district at the time of filing of the petition. The court shall
11 have jurisdiction to terminate the parental rights of any parent irrespective of the age of
12 the parent. The parent has the right to counsel and to appointed counsel in cases of
13 indigency unless the parent waives the right. The fees of appointed counsel shall be
14 borne by the Administrative Office of the Courts. In addition to the right to appointed
15 counsel set forth above, a guardian **ad litem** shall be appointed in accordance with the
16 provisions of G.S. 1A-1, Rule 17, to represent a parent in the following cases:

17 (1) Where it is alleged that a parent's rights should be terminated pursuant
18 to G.S. 7A-289.32(7); or

19 (2) Where the parent is under the age of 18 years.

20 The fees of the guardian **ad litem** shall be borne by the Administrative Office of the
21 Courts when the court finds that the respondent is indigent. In other cases the fees of the
22 court appointed guardian **ad litem** shall be a proper charge against the respondent, if the
23 respondent does not secure private legal counsel. Provided that, before exercising
24 jurisdiction under this Article the court shall find that it would have jurisdiction to make
25 a child custody determination under the provisions of G.S. 50A-3. Provided further, that
26 the clerk of superior court shall have jurisdiction for adoptions under the provisions of
27 ~~G.S. 48-12~~ G.S. 48-2-100 and Chapter 48 of the General Statutes generally."

28 Sec. 4. G.S. 7A-289.27(a)(4) reads as rewritten:

29 "(4) Any county department of social services or licensed child-placing
30 agency to whom a child has been released by one parent pursuant to
31 ~~G.S. 48-9(a)(1); Part 7 of Article 3 of Chapter 48 of the General~~
32 ~~Statutes; and"~~

33 Sec. 5. G.S. 7A-289.33(1) reads as rewritten:

34 "(1) If the child had been placed in the custody of or released for adoption
35 by one parent to, a county department of social services or licensed
36 child-placing agency and is in the custody of such agency at the time
37 of such filing of the petition, including a petition filed pursuant to G.S.
38 7A- 289.24(6), that agency shall, upon entry of the order terminating
39 parental rights, acquire all of the rights for placement of said child as
40 such agency would have acquired had the parent whose rights are
41 terminated released the child to that agency pursuant to the provisions
42 of ~~G.S. 48-9(a)(1); Part 7 of Article 3 of Chapter 48 of the General~~
43 ~~Statutes,~~ including the right to consent to the adoption of such child."

44 Sec. 6. G.S. 7A-660(a) reads as rewritten:

1 "(a) The director of social services or the director of the licensed private child-
2 placing agency shall promptly notify the clerk to calendar the case for review of the
3 department's or agency's plan for the child at a session of court scheduled for the
4 hearing of juvenile matters in any case where:

5 (1) One parent has surrendered a child for adoption under the provisions
6 of ~~G.S. 48-9(a)(1)~~ Part 7 of Article 3 of Chapter 48 of the General
7 Statutes and the termination of parental rights proceedings have not
8 been instituted against the non-surrendering parent within six months
9 of the surrender by the other parent, or

10 (2) Both parents have surrendered a child for adoption under the
11 provisions of ~~G.S. 48-9(a)(1)~~ Part 7 of Article 3 of Chapter 48 of the
12 General Statutes and that child has not been placed for adoption within
13 six months from the date of the more recent parental surrender."

14 Sec. 7. G.S. 130A-93(d) reads as rewritten:

15 "(d) Copies, certified copies or abstracts of birth certificates of adopted persons
16 shall be provided in accordance with ~~G.S. 48-29~~ 48-9-107."

17 Sec. 8. G.S. 130A-108 reads as rewritten:

18 "**§ 130A-108. Certificate of identification for child of foreign birth.**

19 In the case of an adopted child born in a foreign country and having legal settlement
20 in this State, the State Registrar shall, upon the presentation of a certified copy of the
21 original birth certificate from the country of birth and a copy of the final order of
22 adoption signed by the clerk of court or other appropriate official, prepare a certificate
23 of identification for the child. The certificate shall contain the same information
24 required by ~~G.S. 48-29(a)~~ 48-9-107(a) for children adopted in this State, except that
25 the country of birth shall be specified in lieu of the state of birth."

26 Sec. 9. G.S. 163-69.1(a) reads as rewritten:

27 "(a) If the name of a voter is changed in accordance with ~~G.S. 48-36,~~
28 48-1-104, G.S. 50-12, or Chapter 101 of the General Statutes, or if a married voter
29 assumes the last name of her spouse, the voter shall not be required to re-register, but
30 shall report the change of name in accordance with subsection (b) of this section before
31 voting."

32 Sec. 10. The Revisor of Statutes shall cause to be printed with this act all
33 explanatory comments of the drafters of this act as the Revisor may deem appropriate.

34 Sec. 11. An adoption completed under any former adoption law in this State
35 is deemed to be valid under this act if the adoption was valid under the law as it existed
36 immediately prior to the effective date of this act.

37 Sec. 12. This act becomes effective July 1, 1994. Any petition for adoption
38 filed prior to and still pending on the effective date of this act shall be completed in
39 accordance with the law in effect immediately prior to the effective date of this act.