

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 159

Judiciary I/Constitution Committee Substitute Adopted 5/1/95

House Committee Substitute Favorable 6/12/95

House Committee Substitute #2 Favorable 6/29/95

Short Title: Adoption Rewrite.

(Public)

Sponsors:

Referred to:

February 8, 1995

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

The General Assembly of North Carolina enacts:

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 Chapter 48 of the General Statutes is repealed.

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

"CHAPTER 48.

"ADOPTIONS.

"ARTICLE 1.

"GENERAL PROVISIONS.

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

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

1 the needs and protect the interests of all parties to an adoption, particularly adopted
2 minors.

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

5 (1) The primary purpose of this Chapter is to advance the welfare of minors
6 by (i) protecting minors from unnecessary separation from their original
7 parents, (ii) facilitating the adoption of minors in need of adoptive
8 placement by persons who can give them love, care, security, and
9 support, (iii) protecting minors from placement with adoptive parents
10 unfit to have responsibility for their care and rearing, and (iv) assuring
11 the finality of the adoption; and

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

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

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

24 **"§ 48-1-101. Definitions.**

25 In this Chapter, the following definitions apply:

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

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

30 (3) 'Adult' means an individual who has attained 18 years of age, or if under
31 the age of 18, is either married or has been emancipated under the
32 applicable State law.

33 (3a) 'Adoption facilitator' means an individual or a nonprofit entity that
34 assists biological parents in locating and evaluating prospective
35 adoptive parents without charge.

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

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

41 (6) 'Department' means the North Carolina Department of Human
42 Resources.

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

- 1 (8) 'Guardian' means an individual, other than a parent, appointed by a clerk
2 of court in North Carolina to exercise all of the powers conferred by
3 G.S. 35A-1241; and also means an individual, other than a parent,
4 appointed in another jurisdiction according to the law of that jurisdiction
5 who has the power to consent to adoption under the law of that
6 jurisdiction.
- 7 (9) 'Legal custody' of an individual means the general right to exercise
8 continuing care of and control over the individual as authorized by law,
9 with or without a court order, and:
- 10 a. Includes the right and the duty to protect, care for, educate, and
11 discipline the individual;
- 12 b. Includes the right and the duty to provide the individual with
13 food, shelter, clothing, and medical care; and
- 14 c. May include the right to have physical custody of the individual.
- 15 (10) 'Minor' means an individual under 18 years of age who is not an adult.
- 16 (11) 'Party' means a petitioner, adoptee, or any person whose
17 consent to an adoption is necessary under this Chapter but has not
18 been obtained.
- 19 (12) 'Physical custody' means the physical care of and control over an
20 individual.
- 21 (13) 'Placement' means transfer of physical custody of a minor to the selected
22 prospective adoptive parent. Placement may be either:
- 23 a. Direct placement by a parent or the guardian of the minor; or
24 b. Placement by an agency.
- 25 (14) 'Preplacement assessment' means a document, whether prepared before
26 or after placement, that contains the information required by G.S. 48-3-
27 303 and any rules adopted by the Social Services Commission.
- 28 (15) 'Relinquishment' means the voluntary surrender of a minor to an agency
29 for the purpose of adoption.
- 30 (16) 'Report to the court' means a document prepared in accordance with
31 G.S. 48-2-501, et seq.
- 32 (17) 'State' means a state as defined in G.S. 12-3(11).
- 33 (18) 'Stepparent' means an individual who is the spouse of a parent of a child,
34 but who is not a legal parent of the child.

35 **"§ 48-1-102. Parent includes adoptive parent.**

36 As used in this Article, the term 'parent' includes one who has become a parent by
37 adoption.

38 **"§ 48-1-103. Who may adopt.**

39 Any adult may adopt another individual as provided in this Chapter, but spouses may
40 not adopt each other.

41 **"§ 48-1-104. Who may be adopted.**

42 Any individual may be adopted as provided in this Chapter.

43 **"§ 48-1-105. Name of adoptee after adoption.**

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

3 **"§ 48-1-106. Legal effect of decree of adoption.**

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

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

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

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

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

33 (f) Nothing in this Chapter deprives a biological grandparent of any visitation
34 rights with an adopted minor available under G.S. 50-13.2(b1), 50-13.2A, and 50-13.5(j).

35 **"§ 48-1-107. Other rights of adoptee.**

36 A decree of adoption does not divest any vested property interest owned by the
37 adoptee immediately prior to the decree of adoption including any public assistance
38 benefit or child support payment due on or before the date of the decree. An adoption
39 divests any property interest, entitlement, or other interest contingent on an ongoing
40 family relationship with the adoptee's former family.

41 **"§ 48-1-108. Adoptees subject to Indian Child Welfare Act.**

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

4 **"§ 48-1-109. Which agencies may prepare assessments and reports to the court.**

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

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

11 (1) The prospective adoptive parent resided in the state where it was
12 prepared; and

13 (2) The person or entity that prepared it was authorized by the law of that
14 state to gather the necessary information.

15 An assessment prepared in another state that does not meet the requirements of this
16 section and G.S. 48-3-303(c) through (h) must be updated by a county department of
17 social services in this State or an agency licensed by the Department before being used in
18 this State.

19 (c) An order for a report to the court must be sent to a county department of social
20 services in this State or an agency licensed by the Department. If the petitioner moves to
21 a different state before the agency completes the report, the agency shall request a report
22 from an agency authorized to prepare such reports in the petitioner's new state of
23 residence pursuant to the Interstate Compact on the Placement of Children, G.S. 110-
24 57.1, et seq.

25 **"ARTICLE 2.**

26 **"GENERAL ADOPTION PROCEDURE.**

27 **"PART 1. JURISDICTION AND VENUE.**

28 **"§ 48-2-100. Jurisdiction.**

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

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

33 (1) The adoptee has lived in this State for at least the six consecutive
34 months immediately preceding the filing of the petition or from birth,
35 and the prospective adoptive parent is domiciled in this State; or

36 (2) The prospective adoptive parent has lived in or been domiciled in this
37 State for at least the six consecutive months immediately preceding the
38 filing of the petition.

39 (c) The courts of this State shall not exercise jurisdiction under this Chapter if at
40 the time the petition for adoption is filed, a court of any other state is exercising
41 jurisdiction substantially in conformity with the Uniform Child Custody Jurisdiction Act,
42 G.S. 50A-1, et seq.

43 **"§ 48-2-101. Venue.**

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

- 3 (1) A petitioner lives, or is domiciled, at the time of filing;
4 (2) The adoptee lives; or
5 (3) An office of the agency that placed the adoptee is located.

6 **"§ 48-2-102. Transfer, stay, or dismissal.**

7 (a) If the court, on its own motion or on motion of a party, finds in the interest of
8 justice that the matter should be heard in another county where venue lies under G.S. 48-
9 2-101, the court may transfer, stay, or dismiss the proceeding.

10 (b) If an adoptee is also the subject of a pending proceeding under Subchapter XI
11 of Chapter 7A of the General Statutes, then the district court having jurisdiction under
12 Chapter 7A shall retain jurisdiction until the final order of adoption is entered. The
13 district court may waive jurisdiction for good cause.

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

15 **"§ 48-2-201. Appointment of attorney or guardian ad litem.**

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

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

22 **"§ 48-2-202. No right to jury.**

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

24 **"§ 48-2-203. Confidentiality of proceedings under Chapter.**

25 A judicial hearing in any proceeding pursuant to this Chapter shall be held in closed
26 court.

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

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

33 **"§ 48-2-205. Recognition of adoption decrees from other jurisdictions.**

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

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

40 **"§ 48-2-301. Petition for adoption; who may file.**

41 (a) A prospective adoptive parent may file a petition for adoption pursuant to
42 Article 3 of this Chapter only if a minor has been placed with the prospective adoptive

parent pursuant to Part 2 of Article 3 of this Chapter unless the requirement of placement is waived by the court for cause.

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

(c) If the individual who files the petition is unmarried, no other individual may join in the petition.

"§ 48-2-302. Time for filing petition.

(a) Except for petitions filed pursuant to Articles 4 and 6 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 DISTRICT COURT	
.....COUNTY	
BEFORE THE CLERK	
.....	
(Full name of petitioning father)	
and	
.....	
(Full name of petitioning mother)	PETITION FOR ADOPTION
and	
FOR THE ADOPTION OF	
.....	
(Full name of adoptee as used in proceeding).	

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

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

- (1) Each petitioner's full name, current address, place of domicile if different from current address, and whether each petitioner has resided or been domiciled in this State for the six months immediately preceding the filing of the petition;
- (2) The marital status and gender of each petitioner;
- (3) The sex and, if known, the date and state or country of birth of the adoptee;

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

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

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

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

8 **"§ 48-2-305. Petition for adoption; additional documents.**

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

11 (1) Any required affidavit of parentage executed pursuant to G.S.
12 48-3-206;

13 (2) Any required consent or relinquishment that has been
14 executed;

15 (3) A certified copy of any court order terminating the rights and
16 duties of a parent or a guardian of the adoptee;

17 (4) A certified copy of any court order or pleading in a pending
18 proceeding concerning custody of or visitation with the adoptee;

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

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

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

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

36 (9) In an adoption pursuant to Article 4 of this Chapter, a copy of
37 any agreement to release past-due child support payments.

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

40 **"§ 48-2-306. Omission of required information.**

41 (a) Before entry of a decree of adoption, the court may require or allow the filing
42 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 required to
7 receive notice under subsections (b), (c), and (d) of this 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 on:

21 (1) A minor whose consent is dispensed with under G.S. 48-3-603(b)(2);

22 (2) Any agency that placed the adoptee;

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

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

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

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

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

1 **"§ 48-2-402. Manner of service.**

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

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

18 (c) In an agency placement under Article 3, the agency or other proper person
19 shall file a petition to terminate the parental rights of an unknown parent or possible
20 parent instead of serving notice under this subsection, and the court shall stay any
21 adoption proceeding already filed.

22 **"§ 48-2-403. Notice of proceedings by clerk.**

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

27 **"§ 48-2-404. Notice of proceedings by court to alleged father.**

28 If, at any time in the proceeding, it appears to the court that there is an alleged father
29 of a minor adoptee as described in G.S. 48-2-401(c)(3) who has not been given notice,
30 the court shall require notice of the proceeding to be given to him pursuant to G.S. 48-2-
31 402.

32 **"§ 48-2-405. Rights of persons entitled to notice.**

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

35 **"§ 48-2-406. Waiver of notice; effect.**

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

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

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

4 **"§ 48-2-407. Filing proof of service.**

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

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

9 **"§ 48-2-501. Report to the court during proceeding for adoption of a minor.**

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

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

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

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

17 (3) By another agency.

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

19 (i) the petition to adopt; and (ii) the documents filed with it.

20 **"§ 48-2-502. Preparation and content of report.**

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

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

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

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

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

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

41 (5) Any fact or circumstance known to the agency that raises a specific
42 concern about whether the proposed adoption is contrary to the best

1 interest of the adoptee because it poses a significant risk of harm to the
2 well-being of the adoptee;

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

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

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

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

10 **"§ 48-2-503. Timing and filing of report.**

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

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

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

19 **"§ 48-2-504. Fee for report.**

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

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

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

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

34 **"§ 48-2-601. Hearing on, or disposition of, adoption petition; timing.**

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

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

39 (c) The hearing or disposition must take place no later than six months after the
40 petition is filed, but the court for cause may extend the time for the hearing or disposition.

41 **"§ 48-2-602. Disclosure of fees and charges.**

42 At least 10 days before the date of the hearing or disposition, each petitioner shall file
43 with the court an affidavit accounting for any payment or disbursement of money or

1 anything of value made or agreed to be made by or on behalf of each petitioner in
2 connection with the adoption, or pursuant to Article 10, including the amount of each
3 payment or disbursement made or to be made and the name and address of each recipient.
4 The court in its discretion may request a more specific statement of any fees, charges, or
5 payments made or to be made by any petitioner in connection with the adoption.

6 **"§ 48-2-603. Hearing on, or disposition of, petition to adopt a minor.**

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

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

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

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

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

43 **"§ 48-2-604. Denying petition to adopt a minor.**

1 If the court denies a petition to adopt a minor, the custody of the minor shall revert to
2 any agency or person having custody immediately before the filing of the petition. If the
3 placement of the child was a direct placement under Article 3, the court shall notify the
4 director of social services of the county in which the petition was filed of the dismissal,
5 and the director of social services shall be responsible for taking appropriate action for
6 the protection of the child.

7 **"§ 48-2-605. Hearing on petition to adopt an adult.**

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

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

- 14 (1) At least 30 days have elapsed since the filing of the petition for
15 adoption, but the court for cause may waive this requirement;
16 (2) Notice of the petition has been served on any person entitled to receive
17 notice under Part 4 of this Article;
18 (3) Each necessary consent, waiver, document, or judicial order has been
19 obtained and filed with the court;
20 (4) The adoption is entered into freely and without duress or undue
21 influence for the purpose of creating the relation of parent and child
22 between each petitioner and the adoptee, and each petitioner and the
23 adoptee understand the consequences of the adoption; and
24 (5) There has been substantial compliance with the provisions of this
25 Chapter.

26 **"§ 48-2-606. Decree of adoption.**

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

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

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

- 40 (1) Enter the date and place of birth as stated in the certificate of birth from
41 the country of origin, the United States Department of State's report of
42 birth abroad, or the documents of the United States Immigration and
43 Naturalization Service;

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

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

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

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

16 **"§ 48-3-202. Direct placement for adoption.**

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

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

26 **"§ 48-3-203. Agency placement adoption.**

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

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

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

39 (d) The selection of a prospective adoptive parent for a minor shall be made by the
40 agency on the basis of a preplacement assessment. The selection may not be delegated,
41 but may be based on criteria requested by a parent who relinquishes the child to the
42 agency.

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

4 **"§ 48-3-204. Recruitment of adoptive parents.**

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

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

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

12 **"§ 48-3-205. Disclosure of background information.**

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

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

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

22 (3) Heritage of the biological parents, which shall consist of nationality,
23 ethnic background, and race;

24 (4) Education of the biological parents, which shall be the number of years
25 of school completed by the biological parents at the time of the minor's
26 birth; and

27 (5) General physical appearance of the biological parents.

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

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

1 provider or against an individual described in subsection (a) of this section who is the
2 subject of the information in any other action or proceeding.

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

6 (d) The Division shall develop and make available forms designed to collect the
7 information described in subsection (a) of this section.

8 **"§ 48-3-206. Affidavit of parentage.**

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

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

16 **"§ 48-3-207. Interstate placements.**

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

19 **"PART 3. PREPLACEMENT ASSESSMENT.**

20 **"§ 48-3-301. Preplacement assessment required.**

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

23 (1) Has been completed or updated within the 12 months immediately
24 preceding the placement; and

25 (2) Contains a finding that the individual who is the subject of the
26 assessment is suitable to be an adoptive parent, either in general or for a
27 specific minor.

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

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

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

37 (2) The court may not enter a decree of adoption until both a favorable
38 preplacement assessment and a report to the court have been completed
39 and filed, and the court may not order a report to the court for at least 30
40 days after the preplacement assessment has been completed; and

41 (3) If the person who placed the minor executes a consent before receiving
42 a copy of the preplacement assessment, G.S. 48-3-608 shall determine
43 the time within which that person may revoke.

1 **"§ 48-3-302. Request for preplacement assessment.**

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

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

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

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

12 (e) If an individual requesting a preplacement assessment has identified a
13 prospective adoptive child and has otherwise been unable to obtain a preplacement
14 assessment, the county department of social services must, upon request, prepare or
15 contract for the preparation of the preplacement assessment. Except as provided in this
16 subsection, no agency is required to conduct a preplacement assessment unless it agrees
17 to do so.

18 **"§ 48-3-303. Content and timing of preplacement assessment.**

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

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

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

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

28 (2) Marital and family status and history, including the presence of any
29 children born to or adopted by the individual and any other children in
30 the household;

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

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

33 (5) Property and income, and current financial information provided by the
34 individual;

35 (6) Reason for wanting to adopt;

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

38 (8) Whether the individual has ever been a respondent in a domestic
39 violence proceeding or a proceeding concerning a minor who was
40 allegedly abused, dependent, neglected, abandoned, or delinquent, and
41 the outcome of the proceeding;

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

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

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

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

10 (d) The agency shall conduct an investigation for any criminal record as permitted
11 by law.

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

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

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

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

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

29 **"§ 48-3-304. Fees for preplacement assessment.**

30 (a) An agency that prepares a preplacement assessment may charge a reasonable
31 fee for doing so, even if the individual being assessed requests that it not be completed.
32 No fee may be charged except pursuant to a written agreement which must be signed by
33 the individual to be charged prior to the beginning of the assessment. The fee agreement
34 may not be based on the outcome of the assessment or any adoption.

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

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

43 **"§ 48-3-305. Agency disposition of preplacement assessments.**

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

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

7 **"§ 48-3-306. Favorable preplacement assessments.**

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

12 **"§ 48-3-307. Assessments completed after placement.**

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

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

26 **"§ 48-3-308. Response to unfavorable preplacement assessment.**

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

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

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

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

41 (e) An unfavorable preplacement assessment and any response filed with the
42 Division under this section shall not be public records as set forth in Chapter 132 of the
43 General Statutes.

1 **"PART 4. TRANSFER OF PHYSICAL CUSTODY OF MINOR**
2 **BY HEALTH CARE FACILITY OR ATTENDING**
3 **PRACTITIONER FOR PURPOSES OF ADOPTION.**

4 **"§ 48-3-401. 'Health care facility' and 'attending practitioner' defined.**

5 As used in this Article:

- 6 (1) 'Health care facility' includes a hospital and maternity home; and
7 (2) 'Attending practitioner' includes a physician, licensed nurse, or other
8 licensed professional provider of health care who assists in a birth.

9 **"§ 48-3-402. Authorization required to transfer physical custody.**

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

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

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

19 **"PART 5. CUSTODY OF MINORS PENDING FINAL DECREE OF ADOPTION.**

20 **"§ 48-3-501. Petitioner entitled to custody in direct placement adoptions.**

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

- 25 (1) The execution of consent by the parent or guardian who placed the
26 adoptee;
27 (2) The filing of a petition for adoption by the petitioner; or
28 (3) The execution of a document by a parent or guardian having legal and
29 physical custody of a minor temporarily transferring custody to the
30 petitioner, pending the execution of a consent.

31 **"§ 48-3-502. Agency entitled to custody in placement by agency.**

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

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

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

42 **"PART 6. CONSENT TO ADOPTION.**

43 **"§ 48-3-601. Persons whose consent to adoption is required.**

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

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

4 (2) In a direct placement, by:

5 a. The mother of the minor;

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

8 1. Is or was married to the mother of the minor if the minor
9 was born during the marriage or within 280 days after the
10 marriage is terminated or the parties have separated
11 pursuant to a written separation agreement or an order of
12 separation entered under Chapters 50 or 50B of the
13 General Statutes or a similar order of separation entered
14 by a court in another jurisdiction;

15 2. Attempted to marry the mother of the minor before the
16 minor's birth, by a marriage solemnized in apparent
17 compliance with law, although the attempted marriage is
18 or could be declared invalid, and the minor is born during
19 the attempted marriage, or within 280 days after the
20 attempted marriage is terminated by annulment,
21 declaration of invalidity, divorce, or, in the absence of a
22 judicial proceeding, by the cessation of cohabitation;

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

25 4. Before the filing of the petition, has acknowledged his
26 paternity of the minor and

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

29 II. Has provided, in accordance with his financial
30 means, reasonable and consistent payments for the
31 support of the biological mother during or after the
32 term of pregnancy, or the support of the minor, or
33 both, which may include the payment of medical
34 expenses, living expenses, or other tangible means
35 of support, and has regularly visited or
36 communicated, or attempted to visit or
37 communicate with the biological mother during or
38 after the term of pregnancy, or with the minor, or
39 with both; or

40 III. After the minor's birth but before the minor's
41 placement for adoption or the mother's
42 relinquishment, has married or attempted to marry
43 the mother of the minor by a marriage solemnized

1 in apparent compliance with law, although the
2 attempted marriage is or could be declared invalid;

3 or

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

7 6. Is the adoptive father of the minor; and

8 c. A guardian of the minor; and

9 (3) In an agency placement by:

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

11 b. Each individual described in subdivision (2) of this section who
12 has not relinquished the minor pursuant to Part 7 of Article 3 of
13 this Chapter.

14 **"§ 48-3-602. Consent of incompetent parents.**

15 If a parent as described in G.S. 48-3-601 has been adjudicated incompetent, then the
16 court shall appoint a guardian ad litem for that parent and a guardian ad litem for the
17 child to make a full investigation as to whether the adoption should proceed. The
18 investigation shall include an evaluation of the parent's current condition and any
19 reasonable likelihood that the parent will be restored to competency, the relationship
20 between the child and the incompetent parent, alternatives to adoption, and any other
21 relevant fact or circumstance. If the court determines after a hearing on the matter that it
22 will be in the best interest of the child for the adoption to proceed, the court shall order
23 the guardian ad litem of the parent to execute a consent for that parent.

24 **"§ 48-3-603. Persons whose consent is not required.**

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

27 (1) An individual whose parental rights and duties have been terminated
28 under Article 24B of Chapter 7A of the General Statutes or by a court of
29 competent jurisdiction in another state;

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

34 (3) A parent for whose minor child a guardian has been appointed;

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

38 (5) A man who is not married to the minor's birth mother and who, after the
39 conception of the minor, has executed a notarized statement denying
40 paternity or disclaiming any interest in the minor;

41 (6) A deceased parent or the personal representative of a deceased parent's
42 estate; or

1 (7) An individual listed in G.S. 48-3-601 who has not executed a consent or
2 a relinquishment and who fails to respond to a notice of the adoption
3 proceeding within 30 days after the service of the notice.

4 (b) The court may issue an order dispensing with the consent of:

5 (1) A guardian or an agency that placed the minor upon a finding that the
6 consent is being withheld contrary to the best interest of the minor; or

7 (2) A minor 12 or more years of age upon a finding that it is not in the best
8 interest of the minor to require the consent.

9 **"§ 48-3-604. Execution of consent: timing.**

10 (a) A man whose consent is required under G.S. 48-3-601 may execute a consent
11 to adoption either before or after the child is born.

12 (b) The mother of a minor child may execute a consent to adoption at any time
13 after the child is born but not sooner.

14 (c) A guardian of a minor to be adopted may execute a consent to adoption at any
15 time.

16 (d) An agency licensed by the Department or a county department of social
17 services in this State that places a minor for adoption shall execute its consent no later
18 than 30 days after being served with notice of the proceeding for adoption.

19 (e) A minor to be adopted who is 12 years of age or older may execute a consent
20 at any time.

21 **"§ 48-3-605. Execution of consent: procedures.**

22 (a) A consent executed by a parent or guardian or by a minor to be adopted who is
23 12 years of age or older must conform substantially to the requirements in G.S. 48-3-606
24 and must be signed and acknowledged under oath before an individual authorized to
25 administer oaths or take acknowledgments.

26 (b) A parent who has not reached the age of 18 years shall have legal capacity to
27 give consent to adoption and to release that parent's rights in a child, and shall be as fully
28 bound as if the parent had attained 18 years of age.

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

32 (1) Read, or had read to him or her, and understood the consent;

33 (2) Signed the consent voluntarily;

34 (3) Received or was offered a copy of the consent; and

35 (4) Was advised that counselling services may be available through county
36 departments of social services or licensed child-placing agencies.

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

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

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

4 **"§ 48-3-606. Content of consent; mandatory provisions.**

5 A consent required from a minor to be adopted, a parent, or a guardian under G.S. 48-
6 3-601 must be in writing and state:

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

- 1 prospective adoptive parent, or the prospective adoptive parent's
2 attorney, with the written document required by G.S. 48-3-205; and
3 (14) That the person executing the consent has:
4 a. Received or been offered an unsigned copy of the consent;
5 b. Been advised that counselling services may be available through
6 county departments of social services or licensed child-placing
7 agencies; and
8 c. Been advised of the right to employ independent legal counsel.

9 **"§ 48-3-607. Consequences of consent.**

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

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

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

23 **"§ 48-3-608. Revocation of consent.**

24 (a) A consent to the adoption of an infant who is in utero or is three months old or
25 less at the time the consent is given may be revoked within 21 days following the day on
26 which it is executed, inclusive of weekends and holidays. A consent to the adoption of
27 any other minor may be revoked within seven days following the day on which it is
28 executed, inclusive of weekends and holidays. If the final day of the revocation period
29 falls on a weekend or North Carolina or federal holiday, then the revocation period
30 extends to the next business day. The individual who gave the consent may revoke by
31 giving written notice to the person specified in the consent. Notice may be given by
32 personal delivery, overnight delivery service, or registered or certified mail, return receipt
33 requested. If notice is given by mail, notice is deemed complete when it is deposited in
34 the United States mail, postage prepaid, addressed to the person to whom consent was
35 given at the address specified in the consent.

36 (b) In a direct placement, if:

37 (1) A preplacement assessment is required, and

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

40 then that individual's time under subsection (a) of this section to revoke any consent
41 previously given shall be either five business days after the date the individual receives
42 the preplacement assessment or the remainder of the time provided in subsection (a) of

1 this section, whichever is longer. The date of receipt is the earlier of the date of actual
2 receipt or the date established pursuant to G.S. 48-3-307.

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

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

18 (e) A second consent to adoption by the same adoptive parents is irrevocable.

19 **"§ 48-3-609. Challenges to validity of consent.**

20 (a) A consent shall be void if:

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

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

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

27 (4) The court dismisses the petition to adopt and no appeal has been taken,
28 or the dismissal has been affirmed on appeal and all appeals have been
29 exhausted.

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

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

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

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

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

7 **"§ 48-3-701. Individuals who may relinquish minor; timing.**

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

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

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

16 **"§ 48-3-702. Procedures for relinquishment.**

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

20 (b) The provisions of G.S. 48-3-605(b), (c), (e), and (f), also apply to a
21 relinquishment executed under this Part, except that an individual before whom a
22 relinquishment is signed and acknowledged shall also certify that an employee of the
23 agency to which the minor is being relinquished signed a statement indicating the
24 agency's willingness to accept the relinquishment.

25 **"§ 48-3-703. Content of relinquishment; mandatory provisions.**

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

28 (1) The date and place of the execution of the relinquishment;

29 (2) The name, date of birth, and permanent address of the individual
30 executing the relinquishment;

31 (3) The date of birth or the expected delivery date, the sex, and the name of
32 the minor, if known;

33 (4) The name and address of the agency to whom the minor is being
34 relinquished;

35 (5) That the individual voluntarily consents to the permanent transfer of
36 legal and physical custody of the minor to the agency for the purposes
37 of adoption, and

38 a. The placement of the minor for adoption with a prospective
39 adoptive parent selected by the agency; or

40 b. The placement of the minor for adoption with a prospective
41 adoptive parent selected by the agency and agreed upon by the
42 individual executing the relinquishment;

- 1 (6) That the individual executing the relinquishment understands that after
2 the relinquishment is signed and acknowledged in the manner provided
3 in G.S. 48-3-702, it may be revoked in accord with G.S. 48-3-706 but
4 that it is otherwise final and irrevocable except under the circumstances
5 set forth in G.S. 48-3-707;
- 6 (7) That the relinquishment shall be valid and binding and shall not be
7 affected by any oral or separate written agreement between the
8 individual executing the consent and the agency;
- 9 (8) That the individual executing the relinquishment understands that when
10 the adoption is final, all rights and duties of the individual executing the
11 relinquishment with respect to the minor will be extinguished and all
12 other aspects of the legal relationship between the minor child and the
13 parent will be terminated;
- 14 (9) That the individual executing the relinquishment has not received or
15 been promised any money or anything of value for the relinquishment of
16 the minor, and has not received or been promised any money or
17 anything of value in relation to the relinquishment or the adoption of the
18 minor except for lawful payments that are itemized on a schedule
19 attached to the relinquishment;
- 20 (10) That the individual executing the relinquishment waives notice of any
21 proceeding for adoption;
- 22 (11) That the individual executing the relinquishment has provided the
23 agency with the written document required by G.S. 48-3-205, or that the
24 individual has provided the agency with signed releases that will permit
25 the agency to compile the information required by G.S. 48-3-205; and
- 26 (12) That the individual executing the relinquishment has:
- 27 a. Received or been offered an unsigned copy of the
28 relinquishment;
- 29 b. Been advised that counseling services are available through the
30 agency to which the relinquishment is given; and
- 31 c. Been advised of the right to employ independent legal counsel.

32 **"§ 48-3-704. Content of relinquishment; optional provisions.**

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

39 **"§ 48-3-705. Consequences of relinquishment.**

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

1 (b) Upon execution, a relinquishment by a parent or guardian entitled under G.S.
2 48-3-201 to place a minor for adoption:

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

4 (2) Empowers the agency to place the minor for adoption with a prospective
5 adoptive parent selected in the manner specified in the relinquishment.

6 (c) A relinquishment terminates:

7 (1) Any right and duty of the individual who executed the relinquishment
8 with respect to the legal and physical custody of the minor;

9 (2) The right to consent to the minor's adoption; and

10 (3) The duty to support the minor.

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

18 **"§ 48-3-706. Revocation of relinquishments.**

19 (a) A relinquishment of an infant who is in utero or is three months old or less at
20 the time the relinquishment is executed may be revoked within 21 days following the day
21 on which it is executed, inclusive of weekends and holidays. A relinquishment of any
22 other minor may be revoked within seven days following the day on which it is executed,
23 inclusive of weekends and holidays. If the final day of the period falls on a weekend or a
24 North Carolina or federal holiday, then the revocation period extends to the next business
25 day. The individual who gave the relinquishment may revoke by giving written notice to
26 the agency to which the relinquishment was given. Notice may be given by personal
27 delivery, overnight delivery service, or registered or certified mail, return receipt
28 requested. If notice is given by mail, notice is deemed complete when it is deposited in
29 the United States mail, postage prepaid, addressed to the agency at the agency's address
30 as given in the relinquishment.

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

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

1 person who revoked the relinquishment is not thereby entitled to physical custody of the
2 minor.

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

7 **"§ 48-3-707. Challenges to validity of relinquishments.**

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

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

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

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

26 **"ARTICLE 4.**

27 **"ADOPTION OF A MINOR STEPCHILD BY STEPPARENT.**

28 **"§ 48-4-100. Application of Article.**

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

30 **"§ 48-4-101. Who may file a petition to adopt a minor stepchild.**

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

33 (1) The parent who is the spouse has legal and physical custody of the
34 child, and the child has resided primarily with this parent and the
35 stepparent during the six months immediately preceding the filing of the
36 petition;

37 (2) The spouse is deceased or incompetent but, before dying or being
38 adjudicated incompetent, had legal and physical custody of the child,
39 and the child has resided primarily with the stepparent during the six
40 months immediately preceding the filing of the petition; or

41 (3) For cause, the court permits a stepparent who does not meet the
42 requirements of subdivisions (1) and (2) of this section to file a petition.

43 **"§ 48-4-102. Consent to adoption of stepchild.**

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

4 (1) The adoptee's parents as described in G.S. 48-3-601; or

5 (2) Any guardian of the adoptee.

6 The consent of an incompetent parent may be given pursuant to the procedures in G.S.
7 48-3-602.

8 **"§ 48-4-103. Execution and content of consent to adoption by stepparent.**

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

10 (1) Must be signed and acknowledged before an individual authorized to
11 administer oaths or take acknowledgments;

12 (2) Must be in writing and state or contain:

13 a. The statements required by G.S. 48-3-606, except for those
14 required by subdivisions (4), (9), (12), and (13) of that section;

15 b. That the parent executing the consent has legal and physical
16 custody of the child and is voluntarily consenting to the adoption
17 of the child by the stepparent;

18 c. That the adoption will not terminate the legal relation of parent
19 and child between the parent executing the consent and the child;
20 and

21 d. That the adoption will terminate the legal relation of parent and
22 child between the adoptee and the adoptee's other parent,
23 including all right of the adoptee to inherit as a child from or
24 through the other parent, and will extinguish any existing court
25 order of custody, visitation, or communication with the adoptee,
26 except that the other parent will remain liable for past-due child
27 support payments unless legally released from this obligation.

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

30 (1) Must be signed and acknowledged before an individual authorized to
31 administer oaths or take acknowledgments; and

32 (2) Must be in writing and state or contain:

33 a. The statements required by G.S. 48-3-606, except for those
34 required by subdivisions (4), (9), (12), and (13) of that section;

35 b. That the parent executing the consent is voluntarily consenting
36 to:

37 1. The transfer of any right the parent has to legal or physical
38 custody of the child to the child's other parent and
39 stepparent, and

40 2. The adoption of the child by the stepparent; and

41 c. That the adoption will terminate the legal relation of parent and
42 child between the adoptee and the parent executing the consent,
43 including all rights of the adoptee to inherit as a child from or

1 through the parent, and will extinguish any court order of
2 custody, visitation, or communication with the adoptee, except
3 that the parent executing the consent will remain liable for past-
4 due child support payments unless legally released from this
5 obligation.

6 (c) A consent executed by the guardian of a minor stepchild:

7 (1) Must be signed and acknowledged before an individual authorized to
8 administer oaths or take acknowledgments; and

9 (2) Must be in writing and state or contain:

10 a. The statements required by G.S. 48-3-606, except for those
11 required by subdivisions (4), (9), (12), and (13) of that section;

12 b. A statement that the guardian is voluntarily consenting to:

13 1. The transfer of any right the guardian has to legal or
14 physical custody of the adoptee to the adoptive stepparent;
15 and

16 2. The adoption of the adoptee by the stepparent;

17 c. That the adoption will not terminate the legal relation of parent
18 and child between a parent who is or was the stepparent's spouse
19 and the adoptee;

20 d. That the adoption will terminate the legal relation of parent and
21 child between the adoptee and a parent who is not or has not been
22 the stepparent's spouse, including all right of the adoptee to
23 inherit from or through that parent, and will extinguish any court
24 order of custody, visitation, or communication with the adoptee,
25 except that a parent whose relation to the adoptee is terminated
26 by the adoption will remain liable for past-due child support
27 payments unless legally released from this obligation.

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

31 (e) A consent executed by an adoptee in a proceeding for adoption by a stepparent
32 must be signed and acknowledged under oath before an individual authorized to
33 administer oaths or take acknowledgments. The minor may revoke the consent at any
34 time before the decree is entered by filing written notice with the court in which the
35 petition is pending.

36 **"§ 48-4-104. Report to the court.**

37 Whenever a petition is filed for adoption of a minor stepchild by a stepparent, the
38 court shall order an agency to prepare a report to the court as provided in Part 5 of Article
39 2 of this Chapter to determine if the adoption will be in the adoptee's best interest.

40 **"§ 48-4-105. Visitation awards to grandparents pursuant to Chapter 50 of the**
41 **General Statutes.**

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

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

3 **"ARTICLE 5.**

4 **"ADOPTION OF ADULTS.**

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

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

8 **"§ 48-5-101. Who may file for a petition to adopt an adult.**

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

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

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

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

16 (1) The adult being adopted; and

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

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

20 (1) Be in writing and be signed and acknowledged before an individual
21 authorized to administer oaths or take acknowledgments;

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

25 (3) State that the adult understands the consequences the adoption may have
26 for rights of inheritance, property, or support, including the loss of
27 nonvested inheritance rights which existed prior to the adoption and the
28 acquisition of new inheritance rights.

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

30 (1) Must be in writing and be signed and acknowledged before an
31 individual authorized to administer oaths or take acknowledgments; and

32 (2) Must state that the spouse:

33 a. Consents to the proposed adoption;

34 b. Understands that the adoption may diminish the amount the
35 spouse might take from the petitioner through intestate
36 succession or by dissenting to the petitioner's will and may also
37 diminish the amount of other entitlements that may become due
38 the spouse and any other children of the petitioner through the
39 petitioner; and

40 c. Believes the adoption will be in the best interest of the adult
41 being adopted and the prospective adoptive parent.

42 (d) Anyone who gives a consent under this Article may revoke the consent at any
43 time before the entry of the decree of adoption by delivering a written notice of

1 revocation to the individual to whom the consent was given. If a petition to adopt has
2 been filed, the notice of revocation shall also be filed with the clerk of court in the county
3 where the petition is pending.

4 **"§ 48-5-103. Adoption of incompetent adults.**

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

7 (b) The consent of the guardian must:

8 (1) Be in writing and signed and acknowledged before an individual
9 authorized to administer oaths or take acknowledgments;

10 (2) State that the guardian understands that the adoption will terminate the
11 legal relationship of parent and child between the adult being adopted
12 and the adult's former parents, including all rights of the adult to inherit
13 as a child from or through the former parents, unless the adoption is by a
14 stepparent, in which case the adoption will terminate the legal
15 relationship of parent and child between the adult and the parent who is
16 not married to the stepparent but will have no effect on the relationship
17 between the adult and the parent who is married to the stepparent;

18 (3) State that the guardian understands that the adoption will create the legal
19 relationship of parent and child between the adult and the petitioner,
20 including the right of inheritance by, from, and through each other;

21 (4) State that the guardian consents to the proposed adoption and believes
22 the adoption will be in the best interest of the adult; and

23 (5) State that the guardian understands that the adoption will not terminate
24 the guardian's rights, duties, and powers.

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

28 **"ARTICLE 6.**

29 **"ADOPTION BY A FORMER PARENT.**

30 **"§ 48-6-100. Application of Article.**

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

32 **"§ 48-6-101. Readoption under other Articles.**

33 A former parent may readopt a minor adoptee pursuant to Article 3 of this Chapter or,
34 if applicable, Article 4 of this Chapter. A former parent may readopt an adult adoptee
35 pursuant to Article 5 of this Chapter.

36 **"§ 48-6-102. Readoption after a stepparent adoption.**

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

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

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

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

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

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

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

3 (5) Any guardian of the adoptee.

4 (d) The consent executed by the adoptee shall conform to the requirements of G.S.
5 48-4-103(e).

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

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

10 (g) The consent of the adoptee's parent who was the spouse of the adoptive parent
11 shall conform to the requirements of G.S. 48-4-103(a) except for those required by G.S.
12 48-4-103(a)(2)b.

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

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

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

19 "ARTICLE 7. [RESERVED]

20 "ARTICLE 8. [RESERVED]

21 "ARTICLE 9.

22 "CONFIDENTIALITY OF RECORDS AND DISCLOSURE OF INFORMATION.

23 "§ 48-9-101. Records defined.

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

30 "§ 48-9-102. Records confidential and sealed.

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

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

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

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

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

5 (2) Within 10 days after the decree of adoption is entered, the clerk must
6 file with the Division the additional documents filed pursuant to G.S.
7 48-2-305, any report to the court, any additional documents submitted
8 and orders entered, and a copy of the final order.

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

11 (f) The Division shall transmit a report of the adoption of a minor and any name
12 change to the State Registrar if the minor was born in this State, or to the appropriate
13 official responsible for issuing birth certificates or their equivalent if the minor was not
14 born in this State.

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

22 **"§ 48-9-103. Release of nonidentifying information.**

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

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

40 (c) Any report or information released under this section shall be edited by the
41 sender to exclude the name, address, or other information that could reasonably be
42 expected to lead directly to the identity of an adoptee at birth or an adoptee's parent at the

1 adoptee's birth or other member of the adoptee's original family and shall contain an
2 express reference to the confidentiality provisions of this Chapter.

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

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

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

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

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

21 **"§ 48-9-104. Release of identifying information.**

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

27 **"§ 48-9-105. Action for release of identifying and other nonidentifying information.**

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

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

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

42 (1) The reason the information is sought;

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

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

20 **"§ 48-9-106. Release of original certificate of birth.**

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

26 **"§ 48-9-107. New birth certificates.**

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

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

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

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

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

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

26 (e) The State Registrar may by rule prescribe requirements for reports of adoptions
27 from other states.

28 **"§ 48-9-108. Restoration of original birth certificates if a decree of adoption is set**
29 **aside.**

30 If a final decree of adoption is set aside, the court shall send a certified copy of the
31 order within 10 days after it becomes final to the State Registrar if the adoptee was born
32 in this State or to the appropriate official responsible for issuing birth certificates or their
33 equivalent if the adoptee was not born in this State. The court shall also send a copy to
34 the Division. If the adoptee desires to have the adoptive name shown on the original
35 birth certificate when it is restored, the order must include this directive. Upon receipt of
36 such an order, the State Registrar shall seal the certificate issued under this section and
37 restore the adoptee's original certificate of birth. This sealed file may subsequently be
38 opened only by direction of a valid court order pursuant to G.S. 48-9-105 and G.S. 48-9-
39 106.

40 **"§ 48-9-109. Certain disclosures authorized.**

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

- 1 (1) Inspecting permanent, confidential, or sealed records, other than records
2 maintained by the State Registrar, for the purpose of discharging any
3 obligation under this Chapter;
- 4 (2) Disclosing the name of the court where a proceeding for adoption
5 occurred, or the name of an agency that placed an adoptee, to an
6 individual described in G.S. 48-9-104 who can verify his or her identity;
7 or
- 8 (3) Disclosing or using information contained in permanent and sealed
9 records, other than records maintained by the State Registrar, for
10 statistical or other research purposes as long as the disclosure will not
11 result in identification of a person who is the subject of the information
12 and subject to any further conditions the Department may reasonably
13 impose.

"ARTICLE 10.

"PROHIBITED PRACTICES IN CONNECTION WITH ADOPTION.

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

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

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

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

30 (d) The district court may enjoin any person from violating this section.

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

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

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

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

4 (c) The district court may enjoin any person or entity from violating this section.
5 **"§ 48-10-103. Lawful payments related to adoption.**

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

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

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

12 (3) Counseling services for a parent or the adoptee that are directly related
13 to the adoption and are provided by a licensed psychiatrist,
14 psychologist, marital and family therapist, registered practicing
15 counselor, certified social worker, fee-based practicing pastoral
16 counselor or other licensed professional counselor, or an employee of an
17 agency;

18 (4) Ordinary living expenses of a mother during the pregnancy and for no
19 more than six weeks after the birth;

20 (5) Expenses incurred in ascertaining the information required under G.S.
21 48-3-205 about an adoptee and the adoptee's biological family;

22 (6) Legal services, court costs, and traveling or other administrative
23 expenses connected with an adoption, including any legal service
24 connected with the adoption performed for a parent who consents to the
25 adoption of a minor or relinquishes the minor to an agency; and

26 (7) Preparation of the preplacement assessment and the report to the court.

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

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

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

41 (e) An agency may charge or accept a reasonable fee or other compensation from
42 prospective adoptive parents. In assessing a fee or charge, the agency may take into

1 account the income of adoptive parents and may use a sliding scale related to income in
2 order to provide services to persons of all incomes.

3 **"§ 48-10-104. Failure to disclose nonidentifying information.**

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

9 **"§ 48-10-105. Unauthorized disclosure of information.**

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

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

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

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

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

24 **"§ 7A-289.23. Jurisdiction.**

25 The district court shall have exclusive original jurisdiction to hear and determine any
26 petition relating to termination of parental rights to any child who resides in, is found in,
27 or is in the legal or actual custody of a county department of social services or licensed
28 child-placing agency in the district at the time of filing of the petition. The court shall
29 have jurisdiction to terminate the parental rights of any parent irrespective of the age of
30 the parent. The parent has the right to counsel and to appointed counsel in cases of
31 indigency unless the parent waives the right. The fees of appointed counsel shall be
32 borne by the Administrative Office of the Courts. In addition to the right to appointed
33 counsel set forth above, a guardian ad litem shall be appointed in accordance with the
34 provisions of G.S. 1A-1, Rule 17, to represent a parent in the following cases:

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

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

38 The fees of the guardian ad litem shall be borne by the Administrative Office of the
39 Courts when the court finds that the respondent is indigent. In other cases the fees of the
40 court appointed guardian ad litem shall be a proper charge against the respondent, if the
41 respondent does not secure private legal counsel. Provided that, before exercising
42 jurisdiction under this Article the court shall find that it would have jurisdiction to make a
43 child custody determination under the provisions of G.S. 50A-3. Provided further, that

1 the clerk of superior court shall have jurisdiction for adoptions under the provisions of
2 ~~G.S. 48-12~~G.S. 48-2-100 and Chapter 48 of the General Statutes generally."

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

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

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

9 "(1) If the child had been placed in the custody of or released for adoption by
10 one parent to, a county department of social services or licensed child-
11 placing agency and is in the custody of ~~such~~the agency at the time of
12 ~~such~~the filing of the petition, including a petition filed pursuant to G.S.
13 7A-289.24(6), that agency shall, upon entry of the order terminating
14 parental rights, acquire all of the rights for placement of ~~said~~the child as
15 ~~such~~the agency would have acquired had the parent whose rights are
16 terminated released the child to that agency pursuant to the provisions of
17 ~~G.S. 48-9(a)(1);~~ Part 7 of Article 3 of Chapter 48 of the General
18 Statutes, including the right to consent to the adoption of ~~such~~the
19 child."

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

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

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

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

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

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

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

38 "**§ 130A-108. Certificate of identification for child of foreign birth.**

39 In the case of an adopted child born in a foreign country and having legal settlement
40 in this State, the State Registrar shall, upon the presentation of a certified copy of the
41 original birth certificate from the country of birth and a certified copy of the final order of
42 adoption signed by the clerk of court or other appropriate official, prepare a certificate of
43 identification for the child. The certificate shall contain the same information required by

1 G.S. ~~48-29(a)~~48-9-107(a) for children adopted in this State, except that the country of
2 birth shall be specified in lieu of the state of birth."

3 Sec. 9. G.S. 163-82.16(a) reads as rewritten:

4 "(a) Registrant's Duty to Report. – If the name of a registrant is changed in
5 accordance with G.S. ~~48-36,~~48-1-104, G.S. 50-12, or Chapter 101 of the General
6 Statutes, or if a married registrant assumes the last name of the registrant's spouse, the
7 registrant shall not be required to re-register, but shall report the change of name to the
8 county board not later than the last day for applying to register to vote for an election in
9 G.S. 163-82.6. The registrant shall report the change on a form described in G.S. 163-
10 82.3 or on a voter registration card described in G.S. 163-82.8 or in another written
11 statement that is signed, contains the registrant's names, old and new, and the registrant's
12 current residence address."

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

15 Sec. 11. Nothing in this act shall affect the validity of an adoption completed
16 or validated under any prior law.

17 Sec. 12. This act becomes effective July 1, 1996. Any petition for adoption
18 filed prior to and still pending on the effective date of this act shall be completed in
19 accordance with the law in effect immediately prior to the effective date of this act.