

1 **Chapter 51.**

2 **Marriage.**

3 **Article 1.**

4 **General Provisions.**

5 **§ 51-1. Requisites of marriage; solemnization.**

6 A valid and sufficient marriage is created by the consent of a male and female person who  
7 may lawfully marry, presently to take each other as husband and wife, freely, seriously and  
8 plainly expressed by each in the presence of the other, either:

- 9 (1) a. In the presence of an ordained minister of any religious  
10 denomination, a minister authorized by a church, or a magistrate; and  
11 b. With the consequent declaration by the minister or magistrate that the  
12 persons are husband and wife; or  
13 (2) In accordance with any mode of solemnization recognized by any religious  
14 denomination, or federally or State recognized Indian Nation or Tribe.

15 Marriages solemnized before March 9, 1909, by ministers of the gospel licensed, but not  
16 ordained, are validated from their consummation. (1871-2, c. 193, s. 3; Code, s. 1812; Rev., s.  
17 2081; 1908, c. 47; 1909, c. 704, s. 2; c. 897; C.S., s. 2493; 1945, c. 839; 1965, c. 152; 1971, c.  
18 1185, s. 26; 1977, c. 592, s. 1; 2000-58, ss. 1, 2; 2001-14, ss. 1, 2; 2001-62, ss. 1, 17; 2002-115,  
19 ss. 5, 6; 2002-159, s. 13(a); 2003-4, s. 1; 2005-56, s. 1; 2007-61, s. 1; 2009-13, s. 1.)  
20

21 **§ 51-1.1. Certain marriages performed by ministers of Universal Life Church validated.**

22 Any marriages performed by ministers of the Universal Life Church prior to July 3, 1981,  
23 are validated, unless they have been invalidated by a court of competent jurisdiction, provided  
24 that all other requirements of law have been met and the marriages would have been valid if  
25 performed by an official authorized by law to perform wedding ceremonies. (1981, c. 797.)  
26

27 **§ 51-1.2. Marriages between persons of the same gender not valid.**

28 Marriages, whether created by common law, contracted, or performed outside of North  
29 Carolina, between individuals of the same gender are not valid in North Carolina. (1995 (Reg.  
30 Sess., 1996), c. 588, s. 1.)  
31

32 **§ 51-2. Capacity to marry.**

33 (a) All unmarried persons of 18 years, or older, may lawfully marry, except as  
34 hereinafter forbidden.

35 (a1) Persons over 16 years of age and under 18 years of age may marry, and the register  
36 of deeds may issue a license for the marriage, only after there shall have been filed with the  
37 register of deeds a written consent to the marriage, said consent having been signed by the  
38 appropriate person as follows:

- 39 (1) By a parent having full or joint legal custody of the underage party; or  
40 (2) By a person, agency, or institution having legal custody or serving as a  
41 guardian of the underage party.

42 Such written consent shall not be required for an emancipated minor if a certificate of  
43 emancipation issued pursuant to Article 35 of Chapter 7B of the General Statutes or a certified  
44 copy of a final decree or certificate of emancipation from this or any other jurisdiction is filed  
45 with the register of deeds.

46 (b) Persons over 14 years of age and under 16 years of age may marry as provided in  
47 G.S. 51-2.1.

48 (b1) It shall be unlawful for any person under 14 years of age to marry.

49 (c) When a license to marry is procured by any person under 18 years of age by fraud  
50 or misrepresentation, a parent of the underage party, a person, agency, or institution having  
51 legal custody or serving as a guardian of the underage party, or a guardian ad litem appointed to

1 represent the underage party pursuant to G.S. 51-2.1(b) is a proper party to bring an action to  
2 annul the marriage. (R.C., c. 68, s. 14; 1871-2, c. 193; Code, s. 1809; Rev., s. 2082; C.S., s.  
3 2494; 1923, c. 75; 1933, c. 269, s. 1; 1939, c. 375; 1947, c. 383, s. 2; 1961, c. 186; 1967, c. 957,  
4 s. 1; 1969, c. 982; 1985, c. 608; 1998-202, s. 13(s); 2001-62, s. 2; 2001-487, s. 60.)  
5

6 **§ 51-2.1. Marriage of certain underage parties.**

7 (a) If an unmarried female who is more than 14 years of age, but less than 16 years of  
8 age, is pregnant or has given birth to a child and the unmarried female and the putative father of  
9 the child, either born or unborn, agree to marry, or if an unmarried male who is more than 14  
10 years of age, but less than 16 years of age, is the putative father of a child, either born or  
11 unborn, and the unmarried male and the mother of the child agree to marry, the register of  
12 deeds is authorized to issue to the parties a license to marry; and it shall be lawful for them to  
13 marry in accordance with the provisions of this Chapter, only after a certified copy of an order  
14 issued by a district court authorizing the marriage is filed with the register of deeds. A district  
15 court judge may issue an order authorizing a marriage under this section only upon finding as  
16 fact and concluding as a matter of law that the underage party is capable of assuming the  
17 responsibilities of marriage and the marriage will serve the best interest of the underage party.  
18 In determining whether the marriage will serve the best interest of an underage party, the  
19 district court shall consider the following:

- 20 (1) The opinion of the parents of the underage party as to whether the marriage  
21 serves the best interest of the underage party.
- 22 (2) The opinion of any person, agency, or institution having legal custody or  
23 serving as a guardian of the underage party as to whether the marriage serves  
24 the best interest of the underage party.
- 25 (3) The opinion of the guardian ad litem appointed to represent the best interest  
26 of the underage party pursuant to G.S. 51-2.1(b) as to whether the marriage  
27 serves the best interest of the underage party.
- 28 (4) The relationship between the underage party and the parents of the underage  
29 party, as well as the relationship between the underage party and any person  
30 having legal custody or serving as a guardian of the underage party.
- 31 (5) Any evidence that it would find useful in making its determination.

32 There shall be a rebuttable presumption that the marriage will not serve the best interest of  
33 the underage party when all living parents of the underage party oppose the marriage. The fact  
34 that the female is pregnant, or has given birth to a child, alone does not establish that the best  
35 interest of the underage party will be served by the marriage.

36 (b) An underage party seeking an order granting judicial authorization to marry  
37 pursuant to this section shall file a civil action in the district court requesting judicial  
38 authorization to marry. The clerk shall collect court costs from the underage party in the  
39 amount set forth in G.S. 7A-305 for civil actions in district court. Upon the filing of the  
40 complaint, summons shall be issued in accordance with G.S. 1A-1, Rule 4, and the underage  
41 party shall be appointed a guardian ad litem in accordance with the provisions of G.S. 1A-1,  
42 Rule 17. The guardian ad litem appointed shall be an attorney and shall be governed by the  
43 provisions of subsection (d) of this section. The underage party shall serve a copy of the  
44 summons and complaint, in accordance with G.S. 1A-1, Rule 4, on the father of the underage  
45 party; the mother of the underage party; and any person, agency, or institution having legal  
46 custody or serving as a guardian of the underage party. The underage party also shall serve a  
47 copy of the complaint, either in accordance with G.S. 1A-1, Rule 4, or G.S. 1A-1, Rule 5, on  
48 the guardian ad litem appointed pursuant to this section. A party responding to the underage  
49 party's complaint shall serve his response within 30 days after service of the summons and  
50 complaint upon that person. The underage party may participate in the proceedings before the  
51 court on his or her own behalf. At the hearing conducted pursuant to this section, the court shall

1 consider evidence, as provided in subsection (a) of this section, and shall make written findings  
2 of fact and conclusions of law.

3 (c) Any party to a proceeding under this section may be represented by counsel, but no  
4 party is entitled to appointed counsel, except as provided in this section.

5 (d) The guardian ad litem appointed pursuant to subsection (b) of this section shall  
6 represent the best interest of the underage party in all proceedings under this section and also  
7 has standing to institute an action under G.S. 51-2(c). The appointment shall terminate when  
8 the last judicial ruling rendering the authorization granted or denied is entered. Payment of the  
9 guardian ad litem shall be governed by G.S. 7A-451(f). The guardian ad litem shall make an  
10 investigation to determine the facts, the needs of the underage party, the available resources  
11 within the family and community to meet those needs, the impact of the marriage on the  
12 underage party, and the ability of the underage party to assume the responsibilities of marriage;  
13 facilitate, when appropriate, the settlement of disputed issues; offer evidence and examine  
14 witnesses at the hearing; and protect and promote the best interest of the underage party. In  
15 fulfilling the guardian ad litem's duties, the guardian ad litem shall assess and consider the  
16 emotional development, maturity, intellect, and understanding of the underage party. The  
17 guardian ad litem has the authority to obtain any information or reports, whether or not  
18 confidential, that the guardian ad litem deems relevant to the case. No privilege other than  
19 attorney-client privilege may be invoked to prevent the guardian ad litem and the court from  
20 obtaining such information. The confidentiality of the information or reports shall be respected  
21 by the guardian ad litem, and no disclosure of any information or reports shall be made to  
22 anyone except by order of the court or unless otherwise provided by law.

23 (e) If the last judicial ruling in this proceeding denies the underage party judicial  
24 authorization to marry, the underage party shall not seek the authorization of any court again  
25 under this section until after one year from the date of the entry of the last judicial ruling  
26 rendering the authorization denied.

27 (f) Except as otherwise provided in this section, the rules of evidence in civil cases  
28 shall apply to proceedings under this section. All hearings pursuant to this section shall be  
29 recorded by stenographic notes or by electronic or mechanical means. Notwithstanding any  
30 other provision of law, no appeal of right lies from an order or judgment entered pursuant to  
31 this section. (2001-62, s. 3.)  
32

### 33 **§ 51-2.2. Parent includes adoptive parent.**

34 As used in this Article, the terms "parent", "father", or "mother" includes one who has  
35 become a parent, father, or mother, respectively, by adoption. (2001-62, s. 4.)  
36

### 37 **§ 51-3. Want of capacity; void and voidable marriages.**

38 All marriages between any two persons nearer of kin than first cousins, or between double  
39 first cousins, or between a male person under 16 years of age and any female, or between a  
40 female person under 16 years of age and any male, or between persons either of whom has a  
41 husband or wife living at the time of such marriage, or between persons either of whom is at  
42 the time physically impotent, or between persons either of whom is at the time incapable of  
43 contracting from want of will or understanding, shall be void. No marriage followed by  
44 cohabitation and the birth of issue shall be declared void after the death of either of the parties  
45 for any of the causes stated in this section except for bigamy. No marriage by persons either of  
46 whom may be under 16 years of age, and otherwise competent to marry, shall be declared void  
47 when the girl shall be pregnant, or when a child shall have been born to the parties unless such  
48 child at the time of the action to annul shall be dead. A marriage contracted under a  
49 representation and belief that the female partner to the marriage is pregnant, followed by the  
50 separation of the parties within 45 days of the marriage which separation has been continuous  
51 for a period of one year, shall be voidable unless a child shall have been born to the parties

1 within 10 lunar months of the date of separation. (R.C., c. 68, ss. 7, 8, 9; 1871-2, c. 193, s. 2;  
2 Code, s. 1810; 1887, c. 245; Rev., s. 2083; 1911, c. 215, s. 2; 1913, c. 123; 1917, c. 135; C.S.,  
3 s. 2495; 1947, c. 383, s. 3; 1949, c. 1022; 1953, c. 1105; 1961, c. 367; 1977, c. 107, s. 1.)  
4

5 **§ 51-3.1. Interracial marriages validated.**

6 All interracial marriages that were declared void by statute or a court of competent  
7 jurisdiction prior to March 24, 1977, are hereby validated. The parties to such interracial  
8 marriages are deemed to be lawfully married, provided that the provisions of this Chapter have  
9 been complied with. (1977, c. 107, s. 2.)  
10

11 **§ 51-3.2. Marriage licensed and solemnized by a federally recognized Indian Nation or**  
12 **Tribe.**

13 (a) Subject to the restriction provided in subsection (b), a marriage between a man and  
14 a woman licensed and solemnized according to the law of a federally recognized Indian Nation  
15 or Tribe shall be valid and the parties to the marriage shall be lawfully married.

16 (b) When the law of a federally recognized Indian Nation or Tribe allows persons to  
17 obtain a marriage license from the register of deeds and the parties to a marriage do so, Chapter  
18 51 of the General Statutes shall apply and the marriage shall be valid only if the issuance of the  
19 license and the solemnization of the marriage is conducted in compliance with this Chapter.  
20 (2001-62, s. 5.)  
21

22 **§ 51-4. Prohibited degrees of kinship.**

23 When the degree of kinship is estimated with a view to ascertain the right of kinspeople to  
24 marry, the half-blood shall be counted as the whole-blood: Provided, that nothing herein  
25 contained shall be so construed as to invalidate any marriage heretofore contracted in case  
26 where by counting the half-blood as the whole-blood the persons contracting such marriage  
27 would be nearer of kin than first cousins; but in every such case the kinship shall be ascertained  
28 by counting relations of the half-blood as being only half so near kin as those of the same  
29 degree of the whole-blood (1879, c. 78; Code, s. 1811; Rev., s. 2084; C.S., s. 2496.)  
30

31 **§ 51-5. Marriages between slaves validated.**

32 Persons, both or one of whom were formerly slaves, who have complied with the provisions  
33 of section five, Chapter 40, of the acts of the General Assembly, ratified March 10, 1866, shall  
34 be deemed to have been lawfully married. (1866, c. 40, s. 5; Code, s. 1842; Rev., s. 2085; C.S.,  
35 s. 2497.)