

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 159

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

Short Title: Adoption Rewrite.

(Public)

Sponsors:

Referred to: Finance

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 Chapter 48 of the General Statutes is repealed.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 the needs and protect the interests of all parties to an adoption, particularly adopted minors.

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

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

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

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

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

22 **"§ 48-1-101. Definitions.**

23 In this Chapter, the following definitions apply:

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

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

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

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

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

36           (6) 'Department' means the North Carolina Department of Human  
37 Resources.

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

39           (8) 'Guardian' means an individual, other than a parent, appointed by a clerk  
40 of court in North Carolina to exercise all of the powers conferred by  
41 G.S. 35A-1241; and also means an individual, other than a parent,  
42 appointed in another jurisdiction according to the law of that jurisdiction

1           who has the power to consent to adoption under the law of that  
2           jurisdiction.

3           (9) 'Legal custody' of an individual means the general right to exercise  
4           continuing care of and control over the individual as authorized by law,  
5           with or without a court order, and:

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

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

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

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

12          (11) 'Party' means a petitioner, adoptee, or any person whose  
13          consent to an adoption is necessary under this Chapter but has not  
14          been obtained.

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

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

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

20          b. Placement by an agency.

21          (14) 'Preplacement assessment' means a document, whether prepared before  
22          or after placement, that contains the information required by G.S. 48-3-  
23          303 and any rules adopted by the Social Services Commission.

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

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

28          (17) 'State' means a state as defined in G.S. 12-3(11).

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

31 **"§ 48-1-102. Parent includes adoptive parent.**

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

34 **"§ 48-1-103. Who may adopt.**

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

37 **"§ 48-1-104. Who may be adopted.**

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

39 **"§ 48-1-105. Name of adoptee after adoption.**

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

42 **"§ 48-1-106. Legal effect of decree of adoption.**

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

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

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

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

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

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

32 **"§ 48-1-107. Other rights of adoptee.**

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

38 **"§ 48-1-108. Adoptees subject to Indian Child Welfare Act.**

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

42 **"§ 48-1-109. Which agencies may prepare assessments and reports to the court.**

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

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

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

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

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

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

## 21 "ARTICLE 2.

### 22 "GENERAL ADOPTION PROCEDURE.

#### 23 "PART 1. JURISDICTION AND VENUE.

##### 24 "§ 48-2-100. Jurisdiction.

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

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

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

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

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

##### 39 "§ 48-2-101. Venue.

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

42 (1) A petitioner lives, or is domiciled, at the time of filing;

43 (2) The adoptee lives; or

1           (3) An office of the agency that placed the adoptee is located.

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

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

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

7 **"§ 48-2-201. Appointment of attorney or guardian ad litem.**

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

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

14 **"§ 48-2-202. No right to jury.**

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

16 **"§ 48-2-203. Confidentiality of proceedings under Chapter.**

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

19 **"§ 48-2-204. Death of a joint petitioner pending final decree.**

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

25 **"§ 48-2-205. Recognition of adoption decrees from other jurisdictions.**

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

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

32 **"§ 48-2-301. Petition for adoption; who may file.**

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

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

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

42 **"§ 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;

(4) The full name by which the adoptee is to be known if the petition is granted;

(5) That the petitioner desires and agrees to adopt and treat the adoptee as the petitioner's lawful child; and

(6) A description and estimate of the value of any property of the adoptee.

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

(1) The length of time the adoptee has been in the physical custody of the petitioner;

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

42   "**§ 48-2-305. Petition for adoption; additional documents.**"



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

3           (1) Any required affidavit of parentage executed pursuant to G.S.  
4 48-3-206;

5           (2) Any required consent or relinquishment that has been  
6 executed;

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

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

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

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

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

23           (8) A writing that states the name of any individual whose  
24 consent is or may be required, but who has not executed a consent or a  
25 relinquishment or whose parental rights have not been legally  
26 terminated, and any fact or circumstance that may excuse the lack of  
27 consent or relinquishment; and

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

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

32 **"§ 48-2-306. Omission of required information.**

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

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

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

38 **"§ 48-2-401. Notice by petitioner.**

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

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

- 1           (1) Any individual whose consent to the adoption is required but has not  
2 been obtained, has been revoked in accord with this Chapter, or has  
3 become void as provided in this Chapter;
- 4           (2) The spouse of the petitioner if that spouse is required to join in the  
5 petition and petitioner is requesting that the joinder requirement be  
6 waived;
- 7           (3) Any individual who has executed a consent or relinquishment, but who  
8 the petitioner has actually been informed has filed an action to set it  
9 aside for fraud or duress; and
- 10          (4) Any other person designated by the court who can provide information  
11 relevant to the proposed adoption.
- 12          (c) In the adoption of a minor, the petitioner shall also serve notice of the filing on:
- 13               (1) A minor whose consent is dispensed with under G.S. 48-3-603(b)(2);
- 14               (2) Any agency that placed the adoptee;
- 15               (3) A man who to the actual knowledge of the petitioner claims to be or is  
16 named as the biological or possible biological father of the minor, and  
17 any biological or possible biological fathers who are unknown or whose  
18 whereabouts are unknown, but notice need not be served upon a man  
19 who has executed a consent, a relinquishment, or a notarized statement  
20 denying paternity or disclaiming any interest in the minor, or a man  
21 whose parental rights have been legally terminated or who has been  
22 judicially determined not to be the minor's parent; and
- 23               (4) Any individual who the petitioner has been actually informed has legal  
24 or physical custody of the minor or who has a right of visitation or  
25 communication with the minor under an existing court order issued by a  
26 court in this State or another state.
- 27          (d) In the adoption of an adult, the petitioner shall also serve notice of the filing on  
28 any children of the prospective adoptive parent and any parent, spouse, or child of the  
29 adoptee who are listed in the petition to adopt.
- 30          (e) Only those persons identified in subsections (b), (c), and (d) of this section are  
31 entitled to notice of the proceeding.
- 32          (f) A notice required under this section must state that the person served must file  
33 a response to the petition within 30 days after service in order to participate in and to  
34 receive further notice of the proceeding, including notice of the time and place of any  
35 hearing.
- 36          **§ 48-2-402. Manner of service.**
- 37               (a) Service of the notice required under G.S. 48-2-401 must be made as provided  
38 by G.S. 1A-1, Rule 4, for service of process.
- 39               (b) In the event that the identity of a biological or possible biological parent cannot  
40 be ascertained and notice is required, the parent or possible parent shall be served by  
41 publication pursuant to G.S. 1A-1, Rule 4 (j1). The time for response shall be the time  
42 provided in the rule. The words 'In re Doe' may be substituted for the title of the action in  
43 the notice as long as the notice contains the correct docket number. The notice shall be

1 directed to 'the unknown father [or mother] of the adoptee, and the adoptee shall be  
2 described by sex, date of birth, and place of birth. The notice shall contain any  
3 information known to the petitioner that would allow an unknown parent or possible  
4 parent to identify himself or herself as the individual being addressed, such as the  
5 approximate date and place of conception, any name by which the other biological parent  
6 was known to the unknown parent or possible parent, and any fact about the unknown  
7 parent or possible parent known to or believed by the other biological parent. The notice  
8 shall also state that any parental rights the unknown parent or possible parent may have  
9 will be terminated upon entry of the order of adoption.

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

14 **"§ 48-2-403. Notice of proceedings by clerk.**

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

19 **"§ 48-2-404. Notice of proceedings by court to alleged father.**

20 If, at any time in the proceeding, it appears to the court that there is an alleged father  
21 of a minor adoptee as described in G.S. 48-2-401(c)(3) who has not been given notice,  
22 the court shall require notice of the proceeding to be given to him pursuant to G.S. 48-2-  
23 402.

24 **"§ 48-2-405. Rights of persons entitled to notice.**

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

27 **"§ 48-2-406. Waiver of notice; effect.**

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

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

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

37 **"§ 48-2-407. Filing proof of service.**

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

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

42 **"§ 48-2-501. Report to the court during proceeding for adoption of a minor.**

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

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

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

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

8 (3) By another agency.

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

11 **"§ 48-2-502. Preparation and content of report.**

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

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

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

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

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

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

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

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

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

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

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

43 **"§ 48-2-503. Timing and filing of report.**

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

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

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

9 **"§ 48-2-504. Fee for report.**

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

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

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

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

24 **"§ 48-2-601. Hearing on, or disposition of, adoption petition; timing.**

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

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

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

31 **"§ 48-2-602. Disclosure of fees and charges.**

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

39 **"§ 48-2-603. Hearing on, or disposition of, petition to adopt a minor.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (6) The effect of the decree of adoption as set forth in G.S. 48-1-106; and

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

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

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

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

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

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

43 **"§ 48-2-607. Appeals.**

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

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

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

### **"ARTICLE 3.**

#### **"ADOPTION OF MINORS.**

##### **"PART 1. GENERAL PROVISIONS.**

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

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

##### **"PART 2. PLACEMENT OF MINORS FOR ADOPTION.**

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

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

31           (1) An agency,

32           (2) A guardian,

33           (3) Both parents acting jointly, if

34               a. Both parents are married to each other and living together, or

35                       b. One parent has legal custody of a minor and the other  
36 has physical custody but neither has both, or

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

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

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



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

9 **"§ 48-3-202. Direct placement for adoption.**

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

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

19 **"§ 48-3-203. Agency placement adoption.**

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

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

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

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

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

38 **"§ 48-3-204. Recruitment of adoptive parents.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 **"§ 48-3-206. Affidavit of parentage.**

42 (a) To assist the court in determining that a direct placement was valid and all  
43 necessary consents have been obtained, the parent or guardian who placed the minor shall

1 execute an affidavit setting out names, last known addresses, and marital status of the  
2 minor's parents or possible parents.

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

6 **"§ 48-3-207. Interstate placements.**

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

9 **"PART 3. PREPLACEMENT ASSESSMENT.**

10 **"§ 48-3-301. Preplacement assessment required.**

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

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

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

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

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

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

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

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

34 **"§ 48-3-302. Request for preplacement assessment.**

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

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

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

41 (d) If an individual is seeking to adopt a minor from a particular agency, the  
42 agency may require the individual to be assessed by its own employee, even if the

1 individual has already had a favorable preplacement assessment completed by another  
2 agency.

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

9 **"§ 48-3-303. Content and timing of preplacement assessment.**

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

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

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

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

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

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

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

24 (5) Property and income, and current financial information provided by the  
25 individual;

26 (6) Reason for wanting to adopt;

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

29 (8) Whether the individual has ever been a respondent in a domestic  
30 violence proceeding or a proceeding concerning a minor who was  
31 allegedly abused, dependent, neglected, abandoned, or delinquent, and  
32 the outcome of the proceeding;

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

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

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

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

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

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

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

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

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

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

20 **"§ 48-3-304. Fees for preplacement assessment.**

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

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

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

34 **"§ 48-3-305. Agency disposition of preplacement assessments.**

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

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

41 **"§ 48-3-306. Favorable preplacement assessments.**

42       An individual who receives a preplacement assessment containing a finding that the  
43 individual is suitable to be an adoptive parent shall provide a copy of the assessment to

1 any person or agency considering the placement of a minor with the individual for  
2 adoption and shall also attach a copy of the assessment to any petition to adopt.

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

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

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

17 **"§ 48-3-308. Response to unfavorable preplacement assessment.**

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

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

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

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

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

35 **"PART 4. TRANSFER OF PHYSICAL CUSTODY OF MINOR**  
36 **BY HEALTH CARE FACILITY OR ATTENDING**  
37 **PRACTITIONER FOR PURPOSES OF ADOPTION.**

38 **"§ 48-3-401. 'Health care facility' and 'attending practitioner' defined.**

39 As used in this Article:

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

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

43 **"§ 48-3-402. Authorization required to transfer physical custody.**

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

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

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

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

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

11 **"§ 48-3-501. Petitioner entitled to custody in direct placement adoptions.**

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

16 (1) The execution of consent by the parent or guardian who placed the  
17 adoptee;

18 (2) The filing of a petition for adoption by the petitioner; or

19 (3) The execution of a document by a parent or guardian having legal and  
20 physical custody of a minor temporarily transferring custody to the  
21 petitioner, pending the execution of a consent.

22 **"§ 48-3-502. Agency entitled to custody in placement by agency.**

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

25 (1) The agency retains legal but not physical custody of the adoptee until  
26 the adoption decree becomes final; but

27 (2) The agency may delegate to the petitioner responsibility for the care and  
28 support of the adoptee.

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

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

34 **"§ 48-3-601. Persons whose consent to adoption is required.**

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

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

38 (2) In a direct placement, by:

39 a. The mother of the minor;

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

42 1. Is or was married to the mother of the minor if the minor  
43 was born during the marriage or within 280 days after the

1 marriage is terminated or the parties have separated  
2 pursuant to a written separation agreement or an order of  
3 separation entered under Chapters 50 or 50B of the  
4 General Statutes or a similar order of separation entered  
5 by a court in another jurisdiction;

6 2. Attempted to marry the mother of the minor before the  
7 minor's birth, by a marriage solemnized in apparent  
8 compliance with law, although the attempted marriage is  
9 or could be declared invalid, and the minor is born during  
10 the attempted marriage, or within 280 days after the  
11 attempted marriage is terminated by annulment,  
12 declaration of invalidity, divorce, or, in the absence of a  
13 judicial proceeding, by the cessation of cohabitation;

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

16 4. Before the filing of the petition, has acknowledged his  
17 paternity of the minor and

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

20 II. Has provided, in accordance with his financial  
21 means, reasonable and consistent payments for the  
22 support of the minor and has regularly visited or  
23 communicated with the minor; or

24 III. After the minor's birth but before the minor's  
25 placement for adoption or the mother's  
26 relinquishment, has married or attempted to marry  
27 the mother of the minor by a marriage solemnized  
28 in apparent compliance with law, although the  
29 attempted marriage is or could be declared invalid;

30 or

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

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

35 c. A guardian of the minor; and

36 (3) In an agency placement by:

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

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

41 **"§ 48-3-602. Consent of incompetent parents.**

42 If a parent as described in G.S. 48-3-601 has been adjudicated incompetent, then the  
43 court shall appoint a guardian ad litem for that parent and a guardian ad litem for the



1 child to make a full investigation as to whether the adoption should proceed. The  
2 investigation shall include an evaluation of the parent's current condition and any  
3 reasonable likelihood that the parent will be restored to competency, the relationship  
4 between the child and the incompetent parent, alternatives to adoption, and any other  
5 relevant fact or circumstance. If the court determines after a hearing on the matter that it  
6 will be in the best interest of the child for the adoption to proceed, the court shall order  
7 the guardian ad litem of the parent to execute a consent for that parent.

8 **"§ 48-3-603. Persons whose consent is not required.**

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

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

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

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

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

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

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

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

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

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

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

34 **"§ 48-3-604. Execution of consent: timing.**

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

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

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

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

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

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

4 (a) A consent executed by a parent or guardian or by a minor to be adopted who is  
5 12 years of age or older must conform substantially to the requirements in G.S. 48-3-606  
6 and must be signed and acknowledged under oath before an individual authorized to  
7 administer oaths or take acknowledgments.

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

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

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

15 (2) Signed the consent voluntarily;

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

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

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

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

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

28 **"§ 48-3-606. Content of consent; mandatory provisions.**

29 A consent required from a minor to be adopted, a parent, or a guardian under G.S. 48-  
30 3-601 must be in writing and state:

31 (1) The date and place of the execution of the consent;

32 (2) The name, date of birth, and permanent address of the individual  
33 executing the consent;

34 (3) The date of birth or the expected delivery date, the sex, and the name of  
35 the minor to be adopted, if known;

36 (4) That the individual executing the document is voluntarily consenting to  
37 the transfer of legal and physical custody to, and the adoption of the  
38 minor to be adopted by, the identified prospective adoptive parent;

39 (5) The name of a person and an address where any notice of revocation  
40 may be sent;

41 (6) That the individual executing the document understands that after the  
42 consent is signed and acknowledged in accord with the procedures set  
43 forth in G.S. 48-3-605, it may be revoked in accord with G.S. 48-3-608,

1 but that it is otherwise final and irrevocable and may not be withdrawn  
2 or set aside except under a circumstance set forth in G.S. 48-3-609;

3 (7) That the consent shall be valid and binding and is not affected by any  
4 oral or separate written agreement between the individual executing the  
5 consent and the adoptive parent;

6 (8) That the individual executing the consent has not received or been  
7 promised any money or anything of value for the consent, and has not  
8 received or been promised any money or anything of value in relation to  
9 the adoption of the child except for lawful payments that are itemized  
10 on a schedule attached to the consent;

11 (9) That the individual executing the consent understands that when the  
12 adoption is final, all rights and obligations of the adoptee's former  
13 parents or guardian with respect to the adoptee will be extinguished, and  
14 every aspect of the legal relationship between the adoptee and the  
15 former parent or guardian will be terminated;

16 (10) The name and address of the court, if known, in which the petition for  
17 adoption has been or will be filed;

18 (11) That the individual executing the consent waives notice of any  
19 proceeding for adoption;

20 (12) If the individual executing the document is the minor to be adopted or  
21 the person placing the minor for adoption, a statement that the adoption  
22 shall be by a specific named adoptive parent;

23 (13) If the individual executing the document is the person placing the minor  
24 for adoption, that the individual executing the consent has provided the  
25 prospective adoptive parent, or the prospective adoptive parent's  
26 attorney, with the written document required by G.S. 48-3-205; and

27 (14) That the person executing the consent has:

28 a. Received or been offered an unsigned copy of the consent;

29 b. Been advised that counselling services may be available through  
30 county departments of social services or licensed child-placing  
31 agencies; and

32 c. Been advised of the right to employ independent legal counsel.

33 **"§ 48-3-607. Consequences of consent.**

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

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

41 (c) Any other parental right and duty of a parent who executed a consent is not  
42 terminated until either the decree of adoption becomes final or the relationship of parent  
43 and child is otherwise terminated, whichever comes first. Until termination, the minor

1 remains the child of a parent who executed a consent for purposes of any inheritance,  
2 succession, insurance, arrears of child support, and other benefit or claim that the minor  
3 may have from, through, or against the parent.

4 **"§ 48-3-608. Revocation of consent.**

5 (a) A consent to the adoption of an infant who is in utero or is three months old or  
6 less at the time the consent is given may be revoked within 21 days following the day on  
7 which it is executed, inclusive of weekends and holidays. A consent to the adoption of  
8 any other minor may be revoked within seven days following the day on which it is  
9 executed, inclusive of weekends and holidays. If the final day of the revocation period  
10 falls on a weekend or North Carolina or federal holiday, then the revocation period  
11 extends to the next business day. The individual who gave the consent may revoke by  
12 giving written notice to the person specified in the consent. Notice may be given by  
13 personal delivery, overnight delivery service, or registered or certified mail, return receipt  
14 requested. If notice is given by mail, notice is deemed complete when it is deposited in  
15 the United States mail, postage prepaid, addressed to the person to whom consent was  
16 given at the address specified in the consent.

17 (b) In a direct placement, if:

18 (1) A preplacement assessment is required, and

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

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

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

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

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

42 **"§ 48-3-609. Challenges to validity of consent.**

43 (a) A consent shall be void if:

- 1           (1) Before the entry of the adoption decree, the individual who executed the  
2 consent establishes by clear and convincing evidence that it was  
3 obtained by fraud or duress;  
4           (2) The prospective adoptive parent and the individual who executed the  
5 consent mutually agree in writing to set it aside;  
6           (3) The petition to adopt is voluntarily dismissed with prejudice; or  
7           (4) The court dismisses the petition to adopt and no appeal has been taken,  
8 or the dismissal has been affirmed on appeal and all appeals have been  
9 exhausted.

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

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

23 **"§ 48-3-610. Collateral agreements.**

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

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

30 **"§ 48-3-701. Individuals who may relinquish minor; timing.**

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

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

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

39 **"§ 48-3-702. Procedures for relinquishment.**

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

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

6 **"§ 48-3-703. Content of relinquishment; mandatory provisions.**

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

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

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

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

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

16          (5) That the individual voluntarily consents to the permanent transfer of  
17 legal and physical custody of the minor to the agency for the purposes  
18 of adoption, and

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

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

24          (6) That the individual executing the relinquishment understands that after  
25 the relinquishment is signed and acknowledged in the manner provided  
26 in G.S. 48-3-702, it may be revoked in accord with G.S. 48-3-706 but  
27 that it is otherwise final and irrevocable except under the circumstances  
28 set forth in G.S. 48-3-707;

29          (7) That the relinquishment shall be valid and binding and shall not be  
30 affected by any oral or separate written agreement between the  
31 individual executing the consent and the agency;

32          (8) That the individual executing the relinquishment understands that when  
33 the adoption is final, all rights and duties of the individual executing the  
34 relinquishment with respect to the minor will be extinguished and all  
35 other aspects of the legal relationship between the minor child and the  
36 parent will be terminated;

37          (9) That the individual executing the relinquishment has not received or  
38 been promised any money or anything of value for the relinquishment of  
39 the minor, and has not received or been promised any money or  
40 anything of value in relation to the relinquishment or the adoption of the  
41 minor except for lawful payments that are itemized on a schedule  
42 attached to the relinquishment;

- 1           (10) That the individual executing the relinquishment waives notice of any  
2 proceeding for adoption;
- 3           (11) That the individual executing the relinquishment has provided the  
4 agency with the written document required by G.S. 48-3-205, or that the  
5 individual has provided the agency with signed releases that will permit  
6 the agency to compile the information required by G.S. 48-3-205; and
- 7           (12) That the individual executing the relinquishment has:
- 8           a. Received or been offered an unsigned copy of the  
9 relinquishment;
- 10           b. Been advised that counseling services are available through the  
11 agency to which the relinquishment is given; and
- 12           c. Been advised of the right to employ independent legal counsel.

13 **"§ 48-3-704. Content of relinquishment; optional provisions.**

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

20 **"§ 48-3-705. Consequences of relinquishment.**

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

24           (b) Upon execution, a relinquishment by a parent or guardian entitled under G.S.  
25 48-3-201 to place a minor for adoption:

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

29           (c) A relinquishment terminates:

- 30           (1) Any right and duty of the individual who executed the relinquishment  
31 with respect to the legal and physical custody of the minor;  
32           (2) The right to consent to the minor's adoption; and  
33           (3) The duty to support the minor.

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

41 **"§ 48-3-706. Revocation of relinquishments.**

42           (a) A relinquishment of an infant who is in utero or is three months old or less at  
43 the time the relinquishment is executed may be revoked within 21 days following the day

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

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

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

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

30 **§ 48-3-707. Challenges to validity of relinquishments.**

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

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

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



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

7 **"ARTICLE 4.**

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

9 **"§ 48-4-100. Application of Article.**

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

11 **"§ 48-4-101. Who may file a petition to adopt a minor stepchild.**

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

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

24 **"§ 48-4-102. Consent to adoption of stepchild.**

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

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

30 The consent of an incompetent parent may be given pursuant to the procedures in G.S.  
31 48-3-602.

32 **"§ 48-4-103. Execution and content of consent to adoption by stepparent.**

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

- 34 (1) Must be signed and acknowledged before an individual authorized to  
35 administer oaths or take acknowledgments;  
36 (2) Must be in writing and state or contain:  
37 a. The statements required by G.S. 48-3-606, except for those  
38 required by subdivisions (4), (9), (12), and (13) of that section;  
39 b. That the parent executing the consent has legal and physical  
40 custody of the child and is voluntarily consenting to the adoption  
41 of the child by the stepparent;

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

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

4           d.       That the adoption will terminate the legal relation of parent and  
5                   child between the adoptee and a parent who is not or has not been  
6                   the stepparent's spouse, including all right of the adoptee to  
7                   inherit from or through that parent, and will extinguish any court  
8                   order of custody, visitation, or communication with the adoptee,  
9                   except that a parent whose relation to the adoptee is terminated  
10                  by the adoption will remain liable for past-due child support  
11                  payments unless legally released from this obligation.

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

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

20       **"§ 48-4-104. Report to the court.**

21       Whenever a petition is filed for adoption of a minor stepchild by a stepparent, the  
22       court shall order an agency to prepare a report to the court as provided in Part 5 of Article  
23       2 of this Chapter to determine if the adoption will be in the adoptee's best interest.

24       **"§ 48-4-105. Visitation awards to grandparents pursuant to Chapter 50 of the**  
25       **General Statutes.**

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

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

30                                   **"ARTICLE 5.**

31                                   **"ADOPTION OF ADULTS.**

32       **"§ 48-5-100. Application of Article.**

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

35       **"§ 48-5-101. Who may file for a petition to adopt an adult.**

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

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

41       **"§ 48-5-102. Consent to adoption.**

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

43           (1)       The adult being adopted; and

- 1           (2)    The spouse of the petitioner in an adoption by the adult's stepparent,  
2           unless the court waives this requirement for cause.
- 3       (b)    The consent of the adult being adopted must:
- 4           (1)    Be in writing and be signed and acknowledged before an individual  
5           authorized to administer oaths or take acknowledgments;
- 6           (2)    State that the adult agrees to assume toward the adoptive parent the  
7           legal relation of parent and child and to have all of the rights and be  
8           subject to all of the duties of that relationship; and
- 9           (3)    State that the adult understands the consequences the adoption may have  
10           for rights of inheritance, property, or support, including the loss of  
11           nonvested inheritance rights which existed prior to the adoption and the  
12           acquisition of new inheritance rights.
- 13       (c)    The consent of the spouse of the petitioner in a stepparent adoption:
- 14           (1)    Must be in writing and be signed and acknowledged before an  
15           individual authorized to administer oaths or take acknowledgments; and
- 16           (2)    Must state that the spouse:
- 17               a.    Consents to the proposed adoption;
- 18               b.    Understands that the adoption may diminish the amount the  
19               spouse might take from the petitioner through intestate  
20               succession or by dissenting to the petitioner's will and may also  
21               diminish the amount of other entitlements that may become due  
22               the spouse and any other children of the petitioner through the  
23               petitioner; and
- 24               c.    Believes the adoption will be in the best interest of the adult  
25               being adopted and the prospective adoptive parent.
- 26       (d)    Anyone who gives a consent under this Article may revoke the consent at any  
27       time before the entry of the decree of adoption by delivering a written notice of  
28       revocation to the individual to whom the consent was given. If a petition to adopt has  
29       been filed, the notice of revocation shall also be filed with the clerk of court in the county  
30       where the petition is pending.

31    **"§ 48-5-103. Adoption of incompetent adults.**

- 32       (a)    If an adult being adopted has been adjudicated incompetent, then that adult's  
33       guardian shall have authority to consent in place of that adult.
- 34       (b)    The consent of the guardian must:
- 35           (1)    Be in writing and signed and acknowledged before an individual  
36           authorized to administer oaths or take acknowledgments;
- 37           (2)    State that the guardian understands that the adoption will terminate the  
38           legal relationship of parent and child between the adult being adopted  
39           and the adult's former parents, including all rights of the adult to inherit  
40           as a child from or through the former parents, unless the adoption is by a  
41           stepparent, in which case the adoption will terminate the legal  
42           relationship of parent and child between the adult and the parent who is

1 not married to the stepparent but will have no effect on the relationship  
2 between the adult and the parent who is married to the stepparent;

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

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

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

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

### 13 "ARTICLE 6.

#### 14 "ADOPTION BY A FORMER PARENT.

##### 15 "§ 48-6-100. Application of Article.

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

##### 17 "§ 48-6-101. Readoption under other Articles.

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

##### 21 "§ 48-6-102. Readoption after a stepparent adoption.

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

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

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

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

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

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

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

31 (5) Any guardian of the adoptee.

32 (d) The consent executed by the adoptee shall conform to the requirements of G.S.  
33 48-4-103(e).

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

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

38 (g) The consent of the adoptee's parent who was the spouse of the adoptive parent  
39 shall conform to the requirements of G.S. 48-4-103(a) except for those required by G.S.  
40 48-4-103(a)(2)b.

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

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

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

5 **"ARTICLE 7. [RESERVED]"**

6 **"ARTICLE 8. [RESERVED]"**

7 **"ARTICLE 9.**

8 **"CONFIDENTIALITY OF RECORDS AND DISCLOSURE OF INFORMATION.**

9 **"§ 48-9-101. Records defined.**

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

16 **"§ 48-9-102. Records confidential and sealed.**

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

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

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

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

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

34 (2) Within 10 days after the decree of adoption is entered, the clerk must  
35 file with the Division the additional documents filed pursuant to G.S.  
36 48-2-305, any report to the court, any additional documents submitted  
37 and orders entered, and a copy of the final order.

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

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

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

8 **"§ 48-9-103. Release of nonidentifying information.**

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

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

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

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

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

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

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

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

7 **"§ 48-9-104. Release of identifying information.**

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

13 **"§ 48-9-105. Action for release of identifying and other nonidentifying information.**

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

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

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

28           (1) The reason the information is sought;

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

33           (3) Whether the individual about whom identifying information is sought is  
34 alive;

35           (4) To the extent known, the preference of the adoptee, the adoptive  
36 parents, the adoptee's parents at birth, and other members of the  
37 adoptee's original and adoptive families, and the likely effect of  
38 disclosure on these individuals;

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

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



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

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

7           **"§ 48-9-106. Release of original certificate of birth.**

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

13           **"§ 48-9-107. New birth certificates.**

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

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

25           (1) The adoptive parent and the parent whose relation with the adoptee  
26           remains unchanged shall be listed as the adoptee's mother and father on  
27           the new birth certificate; and

28           (2) The city and county of birth of the adoptee shall be the same on the new  
29           birth certificate as on the original certificate.

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

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

1 'sister' shall mean the adoptee's adoptive parent, brother, or sister and shall not mean a  
2 former parent, brother, or sister.

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

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

14 **"§ 48-9-108. Restoration of original birth certificates if a decree of adoption is set**  
15 **aside.**

16 If a final decree of adoption is set aside, the court shall send a certified copy of the  
17 order within 10 days after it becomes final to the State Registrar if the adoptee was born  
18 in this State or to the appropriate official responsible for issuing birth certificates or their  
19 equivalent if the adoptee was not born in this State. The court shall also send a copy to  
20 the Division. If the adoptee desires to have the adoptive name shown on the original  
21 birth certificate when it is restored, the order must include this directive. Upon receipt of  
22 such an order, the State Registrar shall seal the certificate issued under this section and  
23 restore the adoptee's original certificate of birth. This sealed file may subsequently be  
24 opened only by direction of a valid court order pursuant to G.S. 48-9-105 and G.S. 48-9-  
25 106.

26 **"§ 48-9-109. Certain disclosures authorized.**

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

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

42 **"ARTICLE 10.**

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

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

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

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

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

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

15 **"§ 48-10-102. Unlawful payments related to adoption.**

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

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

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

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

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

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

29 (c) The district court may enjoin any person or entity from violating this section.

30 **"§ 48-10-103. Lawful payments related to adoption.**

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

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

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

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

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

3           (5) Expenses incurred in ascertaining the information required under G.S.  
4 48-3-205 about an adoptee and the adoptee's biological family;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 **"§ 7A-289.23. Jurisdiction.**

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

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

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

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

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

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

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

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

1           Statutes, including the right to consent to the adoption of such the  
2           child."

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

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

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

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

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

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

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

21           "**§ 130A-108. Certificate of identification for child of foreign birth.**

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

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

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

39           Sec. 10. G.S. 1-272 reads as rewritten:

40           "**§ 1-272. Appeal from clerk to judge.**

41           Except for appeals from judgments of the clerk of superior court in adoption  
42           proceedings, Appeals ~~appeals~~ lie to the judge of the superior court having jurisdiction,  
43           either in session or vacation, from judgments of the clerk of the superior court in all

1 matters of law or legal inference. Appeals from judgments of the clerk of superior court  
2 in adoption proceedings lie to the judge of the district court having jurisdiction, either in  
3 session or vacation. In case of such transfer or appeal neither party need give an  
4 undertaking for costs; and the clerk shall transmit, on the transfer or appeal, to the  
5 ~~superior court~~, or to the judge thereof, the pleadings, or other papers, on which the issues  
6 of fact or of law arise. An appeal must be taken within 10 days after the entry of the order  
7 or judgment of the clerk upon due notice in writing to be served on the appellee and a  
8 copy of which shall be filed with the clerk of the superior court. But an appeal can only  
9 be taken by a party aggrieved, who appeared and moved for, or opposed, the order or  
10 judgment appealed from, or who, being entitled to be heard thereon, had no opportunity  
11 of being heard, which fact may be shown by affidavit or other proof."

12 Sec. 11. G.S. 1-273 reads as rewritten:

13 **"§ 1-273. Clerk to transfer issues of fact to civil issue docket.**

14 (a) Except as provided in subsection (b) of this section, if issues of law and of  
15 fact, or of fact only, are raised before the clerk, ~~he~~ the clerk shall transfer the case to the  
16 civil issue docket for trial of the issues at the next ensuing session of the superior court.

17 (b) If issues of law and of fact, or of fact only, are raised before the clerk in  
18 adoption proceedings, then the clerk shall transfer the case to the civil issue docket for  
19 trial of the issues at the next ensuing session of the district court."

20 Sec. 12. G.S. 7A-246 reads as rewritten:

21 **"§ 7A-246. Special proceedings; ~~exception; exceptions; guardianship and trust~~**  
22 **~~administration.~~**

23 The superior court division is the proper division, without regard to the amount in  
24 controversy, for the hearing and trial of all special proceedings except proceedings under  
25 the Protection of the Abused, Neglected or Exploited Disabled Adult Act (Chapter 108A,  
26 Article 6, of the General Statutes), ~~except~~ proceedings for involuntary commitment to  
27 treatment facilities (Chapter ~~122, 122C, Article 5A, 5,~~ of the General Statutes) ~~Statutes~~,  
28 adoption proceedings (Chapter 48 of the General Statutes) and of all proceedings  
29 involving the appointment of guardians and the administration by legal guardians and  
30 trustees of express trusts of the estates of their wards and beneficiaries, according to the  
31 practice and procedure provided by law for the particular proceeding."

32 Sec. 13. G.S. 7A-251 reads as rewritten:

33 **"§ 7A-251. Appeal from clerk to judge.**

34 (a) In all matters properly cognizable in the superior court division which are  
35 heard originally before the clerk of superior court, appeals lie to the judge of superior  
36 court having jurisdiction from all orders and judgments of the clerk for review in all  
37 matters of law or legal inference, in accordance with the procedure provided in Chapter 1  
38 of the General Statutes.

39 (b) In all matters properly cognizable in the district court division which are heard  
40 originally before the clerk of superior court, appeals lie to the judge of district court  
41 having jurisdiction from all orders and judgments of the clerk for review in all matters of  
42 law or legal inference, in accordance with the procedure provided in Chapter 1 of the  
43 General Statutes."

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

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

5           Sec. 16. This act becomes effective July 1, 1996. Any petition for adoption  
6 filed prior to and still pending on the effective date of this act shall be completed in  
7 accordance with the law in effect immediately prior to the effective date of this act.