

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 479
Senate Judiciary II Committee Substitute Adopted 6/24/91

Short Title: Adoption Consent.

(Public)

Sponsors:

Referred to:

April 1, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT CONSENT TO ADOPTION IS NOT REVOCABLE
3 AFTER A CERTAIN PERIOD OF TIME AND TO AMEND THE PROCEDURES
4 REGARDING LEGITIMATION OF CHILDREN.

5 The General Assembly of North Carolina enacts:

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

7 "**§ 48-11. Consent not revocable.**

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

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

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

22 (b) Revocation of a consent to adoption must be made in writing and must be
23 signed by the person revoking consent before any person empowered to take

1 acknowledgements of signatures pursuant to Chapter 47 of the General Statutes of
2 North Carolina. If the petition for adoption and the consent have been filed according to
3 G.S. 48-7(a), the person revoking consent shall deliver the revocation to the clerk of
4 court in the county in which the petition for adoption and the consent are filed. If the
5 person revoking consent is unable to determine the county in which the petition for
6 adoption and the consent have been filed or if the petition for adoption has not been
7 filed, then and in that event said person is responsible for delivering the revocation in
8 person or by registered or certified mail, return receipt requested, to the person or to the
9 director of social services to whom the consent was given or to the duly licensed child-
10 placing agency to which the consent for adoption was given. The person, the director of
11 social services, or the duly licensed child-placing agency shall immediately deliver the
12 revocation to the clerk of court in the county in which the petition for adoption and the
13 consent are filed or, if a petition for adoption has not been filed by the prospective
14 adoptive parents, revocation of the consent shall prohibit the filing of such petition."

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

17 **"§ 49-12.1. Legitimation when mother married.**

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

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

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

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

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

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