

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 159

Short Title: Adoptions Rewrite.

(Public)

Sponsors: Senators Hartsell, Winner; Cochrane, Allran, and Plexico.

Referred to: Judiciary I/Constitution.

February 8, 1995

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

5 The General Assembly of North Carolina enacts:

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 Chapter 48 of the General Statutes is repealed.

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

8 **"CHAPTER 48.**

9 **"ADOPTIONS.**

10 **"ARTICLE 1.**

11 **"GENERAL PROVISIONS.**

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

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

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

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

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

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

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

20 **"§ 48-1-101. Definitions.**

21 In this Chapter, the following definitions apply:

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

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

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

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

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

33 (6) 'Department' means the North Carolina Department of Human
34 Resources.

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

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

- 1 (9) 'Legal custody' of an individual means the general right to exercise
2 continuing care of and control over the individual as authorized by law,
3 with or without a court order, and:
4 a. Includes the right and the duty to protect, care for, educate, and
5 discipline the individual;
6 b. Includes the right and the duty to provide the individual with
7 food, shelter, clothing, and medical care; and
8 c. May include the right to have physical custody of the individual.
9 (10) 'Minor' means an individual under 18 years of age who is not an adult.
10 (11) 'Party' means a petitioner, adoptee, or any person whose
11 consent to an adoption is necessary under this Chapter but has not
12 been obtained.
13 (12) 'Physical custody' means the physical care of and control over an
14 individual.
15 (13) 'Placement' means transfer of physical custody of a minor to the selected
16 prospective adoptive parent. Placement may be either:
17 a. Direct placement by a parent or the guardian of the minor; or
18 b. Placement by an agency.
19 (14) 'Preplacement assessment' means a document, whether prepared before
20 or after placement, that contains the information required by G.S. 48-3-
21 303 and any rules adopted by the Social Services Commission.
22 (15) 'Relinquishment' means the voluntary surrender of a minor to an agency
23 for the purpose of adoption.
24 (16) 'Report to the court' means a document prepared in accordance with
25 G.S. 48-2-501, et seq.
26 (17) 'State' means a state of the United States, the District of Columbia, the
27 Commonwealth of Puerto Rico, or any territory or insular possession of
28 the United States.
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. 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) A biological grandparent may be entitled to visitation rights with an adopted
31 minor as provided in 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 an agency
2 licensed by the Department or a county department of social services in this State 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 that prepared it was authorized by the law of that state to
10 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) of this section be updated by an agency licensed
13 by the Department or a county department of social services in this State before being
14 used in this State.

15 (c) An order for a report to the court must be sent to an agency licensed by the
16 Department or a county department of social services in this State. If the petitioner
17 moves to a different state before the agency completes the report, the agency shall request
18 a report 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 1 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 5 and 8 of this Chapter, a petition for adoption must be filed no later than 30 days after a minor is placed with the petitioner or this State acquires jurisdiction to hear the petition, whichever is later, unless the court extends the time for filing.

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

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

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

The caption of the petition shall be substantially as follows:

STATE OF NORTH CAROLINA

IN THE SUPERIOR COURT

COUNTY)

BEFORE THE CLERK

(Full name of petitioning father) and

(Full name of petitioning mother)

FOR THE ADOPTION OF

(Full name of adoptee as used in proceeding).

PETITION FOR ADOPTION

"§ 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 lived or been domiciled in this State for the six months immediately preceding the filing of the petition;
- (2) The marital status of each petitioner;
- (3) The sex and, if known, the date and state or country of birth of the adoptee;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (2) Any agency that placed the adoptee;

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

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

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

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

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

1 **"§ 48-2-402. Manner of service.**

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

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

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

9 **"§ 48-2-404. Notice of proceedings by court to alleged father.**

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

14 **"§ 48-2-405. Rights of persons entitled to notice.**

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

17 **"§ 48-2-406. Waiver of notice; effect.**

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

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

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

27 **"§ 48-2-407. Filing proof of service.**

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

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

32 **"§ 48-2-501. Report to the court during proceeding for adoption of a minor.**

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

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

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

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

40 (3) By another agency.

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

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

43 **"§ 48-2-502. Preparation and content of report.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 **"§ 48-2-504. Fee for report.**

42 (a) An agency that prepares a report to the court may charge the petitioner a
43 reasonable fee for preparing and writing the report. No fee may be charged except

1 pursuant to a written fee agreement which must be signed by the parties to be charged
2 prior to the beginning of the preparation. The fee agreement may not be based on the
3 outcome of the report or the adoption proceeding.

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

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

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

13 **"§ 48-2-601. Hearing on, or disposition of, adoption petition; timing.**

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

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

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

20 **"§ 48-2-602. Disclosure of fees and charges.**

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

28 **"§ 48-2-603. Hearing on, or disposition of, petition to adopt a minor.**

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

32 (1) At least 90 days have elapsed since the filing of the petition for
33 adoption, unless the court for cause waives this requirement;

34 (2) The adoptee has been in the physical custody of the petitioner for at
35 least 90 days, unless the court for cause waives this requirement;

36 (3) Notice of the filing of the petition has been served on any person
37 entitled to receive notice under Part 4 of this Article;

38 (4) Each necessary consent, relinquishment, waiver, or judicial order
39 terminating parental rights, has been obtained and filed with the court
40 and the time for revocation has expired;

41 (5) Any assessment required by this Chapter has been filed with and
42 considered by the court;

- 1 (6) If applicable, the requirements of the Interstate Compact on the
2 Placement of Children, G.S. 110-57.1, et seq., have been met;
- 3 (7) Any motion to dismiss the proceeding has been denied;
- 4 (8) Each petitioner is a suitable adoptive parent;
- 5 (9) Any accounting and affidavit required under G.S. 48-2-602 has been
6 reviewed by the court, and the court has denied, modified, or ordered
7 reimbursement of any payment or disbursement that violates Article 10
8 or is unreasonable when compared with the expenses customarily
9 incurred in connection with an adoption;
- 10 (10) The petitioner has received information about the adoptee and the
11 adoptee's biological family if required by G.S. 48-3-205; and
- 12 (11) There has been substantial compliance with the provisions of this
13 Chapter.

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

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

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

23 **"§ 48-2-604. Denying petition to adopt a minor.**

24 If the court denies a petition to adopt a minor, the custody of the minor shall revert to
25 the agency having custody immediately before the filing of the petition. If the placement
26 of the child was a direct placement, the court shall notify the director of social services of
27 the county in which the petition was filed of the dismissal, and the director of social
28 services shall be responsible for taking appropriate action for the protection of the child.

29 **"§ 48-2-605. Hearing on petition to adopt an adult.**

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

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

- 36 (1) At least 30 days have elapsed since the filing of the petition for
37 adoption, but the court for cause may waive this requirement;
- 38 (2) Notice of the petition has been served on any person entitled to receive
39 notice under Part 4 of this Article;
- 40 (3) Each necessary consent, waiver, document, or judicial order has been
41 obtained and filed with the court;
- 42 (4) The adoption is entered into freely and without duress or undue
43 influence for the purpose of creating the relation of parent and child

1 between each petitioner and the adoptee, and each petitioner and the
2 adoptee understand the consequences of the adoption; and

3 (5) There has been substantial compliance with the provisions of this
4 Chapter.

5 **"§ 48-2-606. Decree of adoption.**

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

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

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

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

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

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

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

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

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

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

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

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

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

31 **"§ 48-2-607. Appeals.**

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

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

1 locating or evaluating a prospective adoptive parent, subject to the limitations of Article
2 10 of this Chapter.

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

8 **"§ 48-3-203. Agency placement adoption.**

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

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

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

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

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

27 **"§ 48-3-204. Recruitment of adoptive parents.**

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

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

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

35 **"§ 48-3-205. Disclosure of background information.**

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

- 40 (1) The date of the birth of the minor and his weight at birth and any other
41 reasonably available nonidentifying information about the minor that is
42 relevant to the adoption decision or to the minor's development and
43 well-being;

- 1 (2) Age of the biological parents in years at the time of the minor's birth;
2 (3) Heritage of the biological parents, which shall consist of nationality,
3 ethnic background, and race;
4 (4) Education of the biological parents, which shall be the number of years
5 of school completed by the biological parents at the time of the minor's
6 birth; and
7 (5) General physical appearance of the biological parents.

8 In addition, the written document must also include all reasonably available
9 nonidentifying information about the health of the minor, the biological parents, and
10 other members of the biological parents' families that is relevant to the adoption decision
11 or to the minor's health and development. This health-related information shall include
12 each such individual's present state of physical and mental health, health and genetic
13 histories, and information concerning any history of emotional, physical, sexual, or
14 substance abuse. This health-related information shall also include an account of the
15 prenatal and postnatal care received by the minor. The information described in this
16 subsection, if known, shall, upon written request of the minor, be made available to the
17 minor upon his reaching age 18 or upon his marriage or emancipation.

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

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

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

30 **"§ 48-3-206. Affidavit of parentage.**

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

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

38 **"§ 48-3-207. Interstate placements.**

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

41 **"PART 3. PREPLACEMENT ASSESSMENT.**

42 **"§ 48-3-301. Preplacement assessment required.**

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

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

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

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

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

12 (1) The prospective adoptive parent shall request any preplacement
13 assessment already commenced to be expedited, and if none has been
14 commenced, shall obtain a preplacement assessment from an agency as
15 authorized by G.S. 48-1-108; in either case, the assessment shall include
16 the fact and date of placement;

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

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

24 **"§ 48-3-302. Request for preplacement assessment.**

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

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

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

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

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

41 **"§ 48-3-303. Content and timing of preplacement assessment.**

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

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

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

6 **(1)** Age and date of birth, nationality, race, or ethnicity, and any religious
7 preference;

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

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

12 **(4)** Educational and employment history and any special skills;

13 **(5)** Property and income, and current financial information provided by the
14 individual;

15 **(6)** Reason for wanting to adopt;

16 **(7)** Any previous request for an assessment or involvement in an adoptive
17 placement and the outcome of the assessment or placement;

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

22 **(9)** Whether the individual has ever been convicted of a crime other than a
23 minor traffic violation;

24 **(10)** Whether the individual has located a parent interested in placing a child
25 with the individual for adoption and a brief description of the parent and
26 the child; and

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

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

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

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

38 **(f)** If the agency determines that the individual is suitable to be an adoptive parent,
39 the preplacement assessment shall include specific factors which support that
40 determination.

41 **(g)** If the agency determines that the individual is not suitable to be an adoptive
42 parent, the replacement assessment shall state the specific concerns which support that
43 determination. A specific concern is one that reasonably indicates that placement of any

1 minor, or a particular minor, in the home of the individual would pose a significant risk
2 of harm to the well-being of the minor.

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

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

8 **"§ 48-3-304. Fees for preplacement assessment.**

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

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

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

22 **"§ 48-3-305. Agency disposition of preplacement assessments.**

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

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

29 **"§ 48-3-306. Favorable preplacement assessments.**

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

34 **"§ 48-3-307. Assessments completed after placement.**

35 (a) If a placement occurs before a preplacement assessment is completed, the
36 prospective adoptive parent shall deliver a copy of the assessment when completed,
37 whether favorable or unfavorable, to the parent or guardian who placed the minor. A
38 prospective adoptive parent, who cannot after the exercise of due diligence personally
39 locate the parent or guardian who placed the minor, may deposit a copy of the
40 preplacement assessment in the United States mail, return receipt requested, addressed to
41 the address of the parent or guardian given in the consent, and the date of receipt by the
42 parent or guardian for purposes of G.S. 48-3-608 shall be deemed to be the date of
43 delivery or last attempted delivery.

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

5 **"§ 48-3-308. Response to unfavorable preplacement assessment.**

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

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

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

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

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

23 **"PART 4. TRANSFER OF PHYSICAL CUSTODY OF MINOR**
24 **BY HEALTH CARE FACILITY OR ATTENDING**
25 **PRACTITIONER FOR PURPOSES OF ADOPTION.**

26 **"§ 48-3-401. 'Health Care Facility' and 'Attending Practitioner' defined.**

27 As used in this Article:

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

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

31 **"§ 48-3-402. Authorization required to transfer physical custody.**

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

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

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

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

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

42 **"§ 48-3-501. Petitioner entitled to custody in direct placement adoptions.**

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

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

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

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

11 **"§ 48-3-502. Agency entitled to custody in placement by agency.**

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

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

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

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

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

23 **"§ 48-3-601. Persons whose consent to adoption is required.**

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

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

27 (2) In a direct placement, by:

28 a. The mother of the minor;

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

31 1. Is or was married to the mother of the minor if the minor
32 was born during the marriage or within 280 days after the
33 marriage is terminated or the parties have separated
34 pursuant to a written separation agreement or an order of
35 separation entered under Chapters 50 or 50B of the
36 General Statutes or a similar order of separation entered
37 by a court in another jurisdiction;

38 2. Attempted to marry the mother of the minor before the
39 minor's birth, by a marriage solemnized in apparent
40 compliance with law, although the attempted marriage is
41 or could be declared invalid, and the minor is born during
42 the attempted marriage, or within 280 days after the
43 attempted marriage is terminated by annulment,

1 declaration of invalidity, divorce, or, in the absence of a
2 judicial proceeding, by the cessation of cohabitation;

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

5 4. Before the filing of the petition has acknowledged his
6 paternity of the minor, and

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

9 II. Has provided, in accordance with his financial
10 means, reasonable and consistent payments for the
11 support of the minor and has regularly visited or
12 communicated with the minor; or

13 III. After the minor's birth but before the minor's
14 placement for adoption or the mother's
15 relinquishment, has married or attempted to marry
16 the mother of the minor by a marriage solemnized
17 in apparent compliance with law, although the
18 attempted marriage is or could be declared invalid;
19 or

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

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

24 c. A guardian of the minor; and

25 (3) In an agency placement by:

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

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

30 **"§ 48-3-602. Consent of incompetent parents.**

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

40 **"§ 48-3-603. Persons whose consent is not required.**

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

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

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

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

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

- 38 (a) A consent executed by a parent or guardian or by a minor to be adopted who is
39 12 years of age or older must conform substantially to the requirements in G.S. 48-3-606
40 and must be signed and acknowledged under oath before an individual authorized to
41 administer oaths or take acknowledgments.

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

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

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

8 (2) Signed the consent voluntarily;

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

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

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

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

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

21 **"§ 48-3-606. Content of consent; mandatory provisions.**

22 A consent required from a minor to be adopted, a parent, or a guardian under G.S. 48-
23 3-601 must be in writing and state:

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

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

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

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

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

34 (6) That the individual executing the document understands that after the
35 consent is signed and acknowledged in accord with the procedures set
36 forth in G.S. 48-3-605, it may be revoked in accord with G.S. 48-3-608,
37 but that after that time it is final and irrevocable and may not be
38 withdrawn or set aside except under a circumstance set forth in G.S. 48-
39 3-609;

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

- 1 (8) That the individual executing the consent has not received or been
2 promised any money or anything of value for the consent, and has not
3 received or been promised any money or anything of value in relation to
4 the adoption of the child except for lawful payments that are itemized
5 on a schedule attached to the consent;
- 6 (9) That the individual executing the consent understands that when the
7 adoption is final, all rights and obligations of the adoptee's former
8 parents or guardian with respect to the adoptee will be extinguished, and
9 every aspect of the legal relationship between the adoptee and the
10 former parent or guardian will be terminated;
- 11 (10) The name and address of the court, if known, in which the petition for
12 adoption has been or will be filed;
- 13 (11) That the individual executing the consent waives notice of any
14 proceeding for adoption;
- 15 (12) If the individual executing the document is the minor to be adopted or
16 the person placing the minor for adoption, a statement that the adoption
17 shall be by a specific named adoptive parent;
- 18 (13) If the individual executing the document is the person placing the minor
19 for adoption, that the individual executing the consent has provided the
20 prospective adoptive parent, or his or her attorney, with the written
21 document required by G.S. 48-3-205; and
- 22 (14) That the person executing the consent has:
- 23 a. Received or been offered an unsigned copy of the consent;
24 b. Been advised that counselling services may be available through
25 county departments of social services or licensed child-placing
26 agencies; and
27 c. Been advised of the right to employ independent legal counsel.

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

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

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

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

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

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

13 (b) In a direct placement, if:

14 (1) A preplacement assessment is required, and

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

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

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

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

37 **"§ 48-3-609. Challenges to validity of consent.**

38 (a) A consent shall be void if:

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

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

- 1 (3) The petition to adopt is voluntarily dismissed with prejudice; or
2 (4) The court dismisses the petition to adopt and no appeal has been taken,
3 or the dismissal has been affirmed on appeal and all appeals have been
4 exhausted.

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

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

18 **"§ 48-3-610. Collateral agreements.**

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

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

25 **"§ 48-3-701. Individuals who may relinquish minor; timing.**

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

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

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

34 **"§ 48-3-702. Procedures for relinquishment.**

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

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

43 **"§ 48-3-703. Content of relinquishment; mandatory provisions.**

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

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

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

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

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

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

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

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

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

(c) A relinquishment terminates:

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

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

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

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

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

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

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

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

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

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

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

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

38 **"ARTICLE 4.**

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

40 **"§ 48-4-100. Application of Article.**

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

42 **"§ 48-4-101. Who may file a petition to adopt a minor stepchild.**

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

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

12 **"§ 48-4-102. Consent to adoption of stepchild.**

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

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

18 The consent of an incompetent parent may be given pursuant to the procedures in G.S.
19 48-3-602.

20 **"§ 48-4-103. Execution and content of consent to adoption by stepparent.**

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

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

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

- 42 (1) Must be signed and acknowledged before an individual authorized to
43 administer oaths or take acknowledgments; and

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

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

6 **"§ 48-4-104. Report to the court.**

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

10 **"§ 48-4-105. Visitation awards to grandparents pursuant to Chapter 50 of the**
11 **General Statutes.**

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

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

16 **"ARTICLE 5.**

17 **"ADOPTION OF ADULTS.**

18 **"§ 48-5-100. Application of Article.**

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

21 **"§ 48-5-101. Who may file for a petition to adopt an adult.**

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

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

27 **"§ 48-5-102. Consent to adoption.**

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

29 (1) The adult being adopted; and

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

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

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

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

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

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

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

1 **"§ 48-6-101. Readoption under other Articles.**

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

5 **"§ 48-6-102. Readoption after a stepparent adoption.**

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

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

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

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

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

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

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

15 (5) Any guardian of the adoptee.

16 (d) The consent executed by the adoptee shall conform to the requirements of G.S.
17 48-4-103(e).

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

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

22 (g) The consent of the adoptee's parent who was the spouse of the adoptive parent
23 shall conform to the requirements of G.S. 48-4-103(a) except for those required by G.S.
24 48-4-103(a)(2)b.

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

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

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

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

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

33 **"ARTICLE 9.**

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

35 **"§ 48-9-101. Records defined.**

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

42 **"§ 48-9-102. Records confidential and sealed.**

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

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

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

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

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

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

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

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

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

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

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

1 (b) If a request under this section is made to the agency that placed the adoptee or
2 prepared the report to the court, the agency shall furnish the individual making the
3 request or the treating physician named by a minor making the request with a copy of any
4 relevant report or information that is included in the sealed records of the agency. If a
5 request under this section is made to the court that issued the decree of adoption, the
6 court shall refer the individual to the Division, or, if known to the court, the agency that
7 placed the adoptee or prepared the report to the court. The Division may refer the
8 individual to the agency that prepared the report to the court. If the agency no longer
9 exists, the Division may furnish the information to an agency convenient to the
10 requesting party.

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

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

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

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

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

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

34 **"§ 48-9-104. Release of identifying information.**

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

40 **"§ 48-9-105. Action for release of identifying and other nonidentifying information.**

41 (a) Any information necessary for the protection of the best interest of the adoptee
42 or the public in or derived from the records, including medical information not otherwise
43 obtainable, may be disclosed to an individual who files a written motion in the cause

1 before the clerk of original jurisdiction. In hearing the petition, the court shall give
2 primary consideration to the best interest of the adoptee, but shall also give due
3 consideration to the interests of the members of the adoptee's original and adoptive
4 family.

5 (b) The movant must serve a copy of the motion, with written proof of service,
6 upon the Department and the agency that prepared the report for the court. The clerk
7 shall give at least five days' notice to the Department and the agency of every hearing on
8 this motion, whether the hearing is before the clerk or a judge of the superior court; and
9 the Department and the agency shall be entitled to appear and be heard in response to the
10 motion.

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

13 (1) The reason the information is sought;

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

18 (3) Whether the individual about whom identifying information is sought is
19 alive;

20 (4) The preference, to the extent known of the adoptee, the adoptive
21 parents, the adoptee's parents at birth, and other members of the
22 adoptee's original and adoptive families, and the likely effect of
23 disclosure on these individuals;

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

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

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

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

33 **"§ 48-9-106. Release of original certificate of birth.**

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

39 **"§ 48-9-107. New birth certificates.**

40 (a) Upon receipt of a report of the adoption of a minor from the Division, or the
41 documents required by G.S. 48-9-102(g) from the clerk of superior court in the adoption
42 of an adult, or a report of an adoption from another state, the State Registrar shall prepare
43 a new birth certificate for the adoptee that shall contain the adoptee's full adoptive name,

1 sex, state of birth, and date of birth; the full name of the adoptive father, if applicable; the
2 full maiden name of the adoptive mother, if applicable; and any other pertinent
3 information consistent with this section as may be determined by the State Registrar. The
4 new certificate shall contain no reference to the adoption of the adoptee and shall not
5 refer to the adoptive parents in any way other than as the adoptee's parents.

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

8 (1) The adoptive parent and the parent whose relation with the adoptee
9 remains unchanged shall be listed as the parents on the new birth
10 certificate; and

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

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

21 (c) The State Registrar shall seal the original certificate of birth and all records in
22 the possession of that office pertaining to the adoption. These records shall not be
23 unsealed except as provided in this Article. The State Registrar shall provide certified
24 typed copies or abstracts of the new certificate of birth of an adoptee prepared pursuant to
25 subsection (a) of this section to the adoptee, the adoptive parents, and the adoptee's
26 spouse, brothers, and sisters. For purposes of this subsection, 'parent', 'brother', and
27 'sister' shall mean the adoptee's adoptive parent, brother, or sister and shall not mean a
28 former parent, brother, or sister.

29 (d) At the time of preparing the new birth certificate pursuant to subsection (a) of
30 this section, the State Registrar shall notify the register of deeds in the county of the
31 adoptee's birth to remove the adoptee's birth certificate from the records and forward it to
32 the State Registrar for retention under seal with the original certificate of birth in the Sate
33 Registrar's office. The register of deeds shall also delete all index entries for that birth
34 certificate. The State Registrar shall not issue copies of birth certificates for adoptees to
35 registers of deeds. Only the State Registrar shall issue certified copies of such records,
36 and these copies shall be prepared as prescribed in subsection (c) of this section.

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

39 **§ 48-9-108. Restoration of original birth certificates if a decree of adoption is set**
40 **aside.**

41 If a final decree of adoption is set aside, the court shall send a copy of the order within
42 10 days after it becomes final to the State Registrar if the adoptee was born in this State
43 or to the appropriate official responsible for issuing birth certificates or their equivalent if

1 the adoptee was not born in this State. The court shall also send a copy to the Division.
2 Upon receipt of such an order, the State Registrar shall seal the certificate issued under
3 this section and restore the adoptee's original certificate of birth.

4 **"§ 48-9-109. Certain disclosures authorized.**

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

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

20 **"ARTICLE 10.**

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

22 **"§ 48-10-101. Prohibited activities in placement.**

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

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

33 (c) A person who violates subsections (a) or (b) of this section is guilty of a Class
34 3 misdemeanor for the first violation and of a Class J felony for each subsequent
35 violation.

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

37 **"§ 48-10-102. Unlawful payments related to adoption.**

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

- 41 (1) The placement of a minor for adoption;
42 (2) The consent of a parent, a guardian, or an agency to the adoption of a
43 minor;

- 1 (3) The relinquishment of a minor to an agency for purposes of adoption; or
2 (4) Assisting a parent or guardian in locating or evaluating a potential
3 adoptive parent or in transferring custody of a minor to the adoptive
4 parent.

5 (b) A person who violates this section is guilty of a Class 1 misdemeanor for the
6 first violation and of a Class H felony for each subsequent violation.

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

8 **"§ 48-10-103. Lawful payments related to adoption.**

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

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

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

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

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

23 (5) Expenses incurred in ascertaining the information required under G.S.
24 48-3-205 about an adoptee and the adoptee's biological family;

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

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

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

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

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

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

5 **"§ 48-10-104. Failure to disclose nonidentifying information.**

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

11 **"§ 48-10-105. Unauthorized disclosure of information.**

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

17 (b) A person who knowingly makes an unauthorized disclosure of identifying
18 information is guilty of a Class 3 misdemeanor.

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

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

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

26 **"§ 7A-289.23. Jurisdiction.**

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

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

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

40 The fees of the guardian ad litem shall be borne by the Administrative Office of the
41 Courts when the court finds that the respondent is indigent. In other cases the fees of the
42 court appointed guardian ad litem shall be a proper charge against the respondent, if the
43 respondent does not secure private legal counsel. Provided that, before exercising

1 jurisdiction under this Article the court shall find that it would have jurisdiction to make a
2 child custody determination under the provisions of G.S. 50A-3. Provided further, that
3 the clerk of superior court shall have jurisdiction for adoptions under the provisions of
4 ~~G.S. 48-12~~ G.S. 48-2-100 and Chapter 48 of the General Statutes generally."

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

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

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

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

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

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

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

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

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

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

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

40 **"§ 130A-108. Certificate of identification for child of foreign birth.**

41 In the case of an adopted child born in a foreign country and having legal settlement
42 in this State, the State Registrar shall, upon the presentation of a certified copy of the
43 original birth certificate from the country of birth and a copy of the final order of

1 adoption signed by the clerk of court or other appropriate official, prepare a certificate of
2 identification for the child. The certificate shall contain the same information required by
3 G.S. ~~48-29(a)~~48-9-107(a) for children adopted in this State, except that the country of
4 birth shall be specified in lieu of the state of birth."

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

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

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

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

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