

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 293
Senate Judiciary II Committee Substitute Adopted 5/12/15

Short Title: Adoption Law Changes.

(Public)

Sponsors:

Referred to:

March 19, 2015

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS CHANGES UNDER THE LAWS PERTAINING TO
ADOPTION.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 48 of the General Statutes is amended by adding a new section to read:

"§ 48-1-108A. Adoptees subject to the Hague Adoption Convention.

If the adoption of the adoptee is subject to the Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption (Hague Adoption Convention), the provisions of the Hague Adoption Convention shall control the individual's adoption. Documentation establishing whether the Hague Adoption Convention applies to an adoptee may be filed and copies thereof may be certified by the court before or after the decree of adoption has been granted."

SECTION 2. G.S. 48-1-109(c) reads as rewritten:

"(c) An order for a report to the court must be sent to a county department of social services in this State, an agency licensed by the Department, or a person or entity authorized to prepare home assessments for the purpose of adoption proceedings under the laws of the petitioner's state of residence. If the petitioner moves to a different state before the agency completes the report, the agency shall request a report pursuant to the ~~Interstate Compact on the Placement of Children under Article 38 of Chapter 7B of the General Statutes~~ from a person or entity authorized to prepare home assessments for the purpose of adoption proceedings under the laws of the petitioner's new state residence."

SECTION 3. G.S. 48-2-100(c) reads as rewritten:

"(c) The courts of this State shall not exercise jurisdiction under this Chapter if at the time the petition for adoption is filed, a court of any other state is exercising jurisdiction substantially in conformity with the Uniform Child-Custody Jurisdiction and Enforcement Act, Article 2 of Chapter 50A of the General Statutes. However, this subsection shall not apply if ~~within 60 days after the date the petition for adoption is filed,~~ prior to the decree of adoption being granted the court of the other state dismisses its proceeding or releases its exclusive, continuing jurisdiction."

SECTION 4. G.S. 48-2-206 reads as rewritten:

"§ 48-2-206. Prebirth determination of right to consent.

(a) At any time after ~~six~~ approximately three months from the date of conception as reasonably determined by a physician, the biological mother, agency, or adoptive parents chosen by the biological mother may file a special proceeding with the clerk requesting the court to determine whether consent of the biological father is required. The biological father



1 shall be served with notice of the intent of the biological mother to place the child for adoption,
2 allowing the biological father ~~45~~30 days after service to assert a claim that his consent is
3 required.

4 (b) The notice required under subsection (a) of this section shall contain the special
5 proceeding case caption and file number and shall be substantially similar to the following
6 language:

7 "[Name of the biological mother], the biological mother, is expected to give birth to a child
8 on or about [birth due date]. You have been identified as the biological father. It is the intention
9 of the biological mother to place the child for adoption. It is her belief that your consent to the
10 adoption is not required. If you believe your consent to the adoption of this child is required
11 pursuant to G.S. 48-3-601, you must notify the court in writing no later than ~~45~~30 days from
12 the date you received this notice that you believe your consent is required. A copy of your
13 notice to the court must also be sent to the person or agency that sent you this notice. If you fail
14 to notify the court within ~~45~~30 days that you believe your consent is required, the court will
15 rule that your consent is not required."

16 (c) If the biological father fails to respond within the time required, the court shall enter
17 an order that the biological father's consent is not required for the adoption. A biological father
18 who fails to respond within the time required under this section is not entitled to notice under
19 G.S. 48-2-401(c) of an adoption petition filed within three months of the birth of the minor or
20 to participate in the adoption proceeding.

21 (d) If the biological father notifies the court within ~~45~~30 days of his receipt of the
22 notice required by subsection (a) of this section that he believes his consent to the adoption is
23 required, on motion of the petitioner, the court shall hold a hearing to determine whether the
24 consent of the biological father is required. Promptly on receipt of the petitioner's motion, the
25 court shall set a date for the hearing no earlier than 60 days nor later than 70 days after the
26 biological father received the notice required by subsection (a) of this section and shall notify
27 the petitioner and the biological father of the date, time, and place of the hearing. The notice of
28 hearing to the biological father shall include a statement substantially similar to the following:

29 "To the biological father named above: You have told the court that you believe your
30 consent is necessary for the adoption of the child described in the notice sent to you earlier.
31 This hearing is being held to decide whether your consent is in fact necessary. Before the date
32 of the hearing, you must have taken steps under G.S. 48-3-601 to establish that your consent is
33 necessary or this court will decide that your consent is not necessary and the child can be
34 adopted without it."

35 During the hearing, the court may take such evidence as necessary and enter an order
36 determining whether or not the consent of the biological father is necessary. If the court
37 determines that the consent of the biological father is not required, that individual is not entitled
38 to receive notice under G.S. 48-2-401(c) of an adoption petition filed within three months of
39 the birth of the minor or to participate in the adoption proceeding.

40 (e) The manner of service under this section shall be the same as set forth in
41 G.S. 48-2-402.

42 (f) The jurisdiction provisions of Article 6A of Chapter 1 of the General Statutes and
43 the venue provisions of Article 7 of Chapter 1 of the General Statutes rather than the provisions
44 of Part 1 of this Article apply to proceedings under this section.

45 (g) Computation of periods of time provided for in this section shall be calculated as set
46 forth in G.S. 1A-1, Rule 6.

47 (h) Transfer under G.S. 1-301.2 and appeal under G.S. 1-279.1 shall be as for an
48 adoption proceeding.

49 (i) A determination by the court under this section that the consent of the biological
50 father is not required shall only apply to an adoption petition filed within three months of the
51 birth of the minor."

1 **SECTION 5.** G.S. 48-2-401(f) reads as rewritten:

2 "(f) A notice required under this section must state that the person served must file a
3 response to the petition within 30 days after service or, if service is by publication, 40 days
4 after first publication of the notice, in order to participate in and to receive further notice of the
5 proceeding, including notice of the time and place of any hearing."

6 **SECTION 6.** G.S. 48-3-202(b) reads as rewritten:

7 "(b) Information about a prospective adoptive parent shall be provided to a prospective
8 placing parent or guardian by the prospective adoptive parent, the prospective adoptive parent's
9 attorney, or a person or entity assisting the parent or guardian. Except as otherwise provided in
10 this subsection, this information shall include the preplacement assessment prepared pursuant
11 to Part 3 of this Article, and may include additional information requested by the parent or
12 guardian. The agency preparing the preplacement assessment may redact from the
13 preplacement assessment ~~provided to a placing parent or guardian detailed information~~
14 ~~reflecting the prospective adoptive parent's financial account balances and detailed information~~
15 ~~about the prospective adoptive parent's extended family members, including surnames, names~~
16 ~~of employers, names of schools attended, social security numbers, telephone numbers and~~
17 ~~addresses, and other similarly detailed information about extended family members obtained~~
18 ~~under G.S. 48-3-303.~~ the information described in G.S. 48-3-303(c)(12)."

19 **SECTION 7.** G.S. 48-3-301(b) reads of rewritten:

20 "(b) A preplacement assessment is not required in an independent adoption when a
21 ~~parent or guardian places a minor directly with~~ prospective adoptive parent is a grandparent, full
22 or half sibling, first cousin, aunt, uncle, great-aunt, great-uncle, or great-grandparent of the
23 minor."

24 **SECTION 8.** G.S. 48-3-603(a)(7) reads as rewritten:

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

27 ...

28 (7) An individual listed in G.S. 48-3-601 who has not executed a consent or a
29 relinquishment and who fails to respond to a notice of the adoption
30 proceeding within 30 days after the service of the notice or, if service is by
31 publication, 40 days from the first publication of the notice.

32 "

33 **SECTION 9.** G.S. 48-3-605(b) reads as rewritten:

34 "(b) A parent who has not reached the age of 18 years shall have legal capacity to give
35 consent to adoption and to release that parent's rights in a child, and shall be as fully bound as if
36 the parent had attained 18 years of age. In addition to other methods of identification permitted
37 by Chapter 10B of the General Statutes or other applicable law, a parent who has not reached
38 the age of 18 years may be identified to an individual authorized to administer oaths or take
39 acknowledgements by an affidavit of an adult relative of the minor parent, a teacher, a licensed
40 professional social worker, or a health service provider."

41 **SECTION 10.** G.S. 48-3-606(2) reads as rewritten:

42 "**§ 48-3-606. Content of consent; mandatory provisions.**

43 A consent required from a minor to be adopted, a parent, or a guardian under G.S. 48-3-601
44 must be in writing and state each of the following:

45 ...

46 (2) The name, date of birth, and permanent ~~address~~ address, if any, and if none,
47 the current mailing address, of the individual executing the consent."

48 **SECTION 11.** G.S. 48-3-703(a)(2) reads as rewritten:

49 "(a) A relinquishment executed by a parent or guardian under G.S. 48-3-701 must be in
50 writing and state the following:

51 ...

1 (2) The name, date of birth, and permanent ~~address~~-address, if any, and if none,
2 the current mailing address, of the individual executing the relinquishment."
3 **SECTION 12.** Sections 4, 5, and 8 of this act are effective when they become law
4 and apply to proceedings filed after that date. The remainder of this act is effective when it
5 becomes law.