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SENATE BILL DRS35192-LU-87

Short Title: Adoption Law Changes. (Public)

Sponsors: Senator Britt (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE VARIOUS CHANGES UNDER THE LAWS PERTAINING TO  
3 ADOPTIONS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 48-2-100(c) reads as rewritten:

6 "(c) The courts of this State shall not exercise jurisdiction under this Chapter if at the time  
7 the petition for adoption is filed, a court of any other state is exercising jurisdiction substantially  
8 in conformity with the Uniform Child-Custody Jurisdiction and Enforcement Act, Article 2 of  
9 Chapter 50A of the General Statutes. However, this subsection shall not apply ~~if prior~~ and the  
10 courts of this State may exercise jurisdiction under this Chapter if either of the following apply:

11 (1) The matter in which the other state is exercising jurisdiction places custody of  
12 the adoptee in an agency, the petitioner, or another custodian expressly in  
13 support of an adoption plan that does not identify a specific prospective  
14 adoptive parent other than the petitioner.

15 (2) Prior to the decree of adoption being granted, the court of the other state  
16 dismisses its proceeding or releases its exclusive, continuing jurisdiction."

17 **SECTION 2.** G.S. 48-2-101 reads as rewritten:

18 "**§ 48-2-101. Venue.**

19 (a) A petition for adoption may be filed with the clerk of the superior court in the county  
20 ~~in which~~ which any of the following apply:

21 (1) A petitioner lives, or is domiciled, at the time of ~~filing~~ filing.

22 (2) The adoptee ~~lives; or~~ lives.

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

24 (4) The adoptee was born if the petition is filed before the adoptee is 6 months of  
25 age.

26 (b) A petition for adoption may be filed in any other county and the adoption may be  
27 completed in the other county unless a person or agency who is entitled to notice under  
28 G.S. 48-2-401(b) or (c) files a written objection to venue within the time allowed for the person  
29 or agency to file a response under G.S. 48-2-401.

30 (c) If an objection to venue is filed pursuant to subsection (b) of this section, the petitioner  
31 shall designate in writing a county identified in subsection (a) of this section, and the clerk with  
32 whom the petition was originally filed shall transmit all documents on file or thereafter filed to  
33 the clerk of the county designated by the petitioner. A change of venue shall not change the filing  
34 date of the petition for adoption or affect any time period provided for in this Chapter."

35 **SECTION 3.(a)** G.S. 48-2-205 reads as rewritten:

36 "**§ 48-2-205. Recognition of adoption decrees from other jurisdictions.**



\* D R S 3 5 1 9 2 - L U - 8 7 \*

1 A final adoption decree issued by any other state must be recognized in this State. Where a  
 2 minor child has been previously adopted in a foreign country by a petitioner or petitioners seeking  
 3 to readopt the child under the laws of North Carolina, the adoption order entered in the foreign  
 4 country may be accepted in lieu of the consent of the biological parent or parents or the guardian  
 5 of the child to the readoption. ~~A man and a woman~~ Two persons who adopted a minor child in a  
 6 foreign country while married to one another must readopt jointly, regardless of whether they  
 7 have since divorced. If either does not join in the petition, he or she must be joined as a necessary  
 8 party as provided in G.S. 1A-1, Rule 19. If two persons have adopted a minor child in a foreign  
 9 country while married to one another and one of them has died, then the survivor may petition  
 10 for readoption, and the court shall issue any decree of adoption in the names of both of the persons  
 11 who adopted the minor child in a foreign country."

12 **SECTION 3.(b)** G.S. 48-2-301(c) reads as rewritten:

13 "(c) If the individual who files the petition pursuant to Article 3 of this Chapter is  
 14 unmarried, no other individual may join in the petition, except that ~~a man and a woman~~ two  
 15 persons who jointly adopted a minor child in a foreign country while married to one another must  
 16 readopt jointly as provided in ~~G.S. 48-2-205~~ G.S. 48-2-205, and the survivor of two persons who  
 17 jointly adopted a minor child in a foreign country while married to one another may file to adopt  
 18 in the names of both, as provided in G.S. 48-2-205."

19 **SECTION 4.** G.S. 48-2-606(b) reads as rewritten:

20 "(b) In stating the date and place of birth of an adoptee born outside the United States, the  
 21 court ~~shall~~ shall do each of the following:

- 22 (1) Enter the date ~~and place~~ of birth as stated in the certificate of birth from the  
 23 country of origin, the United States Department of State's report of birth  
 24 abroad, or the documents of the United States Immigration and Naturalization  
 25 ~~Service~~ Service or a date of birth based upon medical evidence by affidavit or  
 26 testimony as to the probable chronological age of the adoptee and other  
 27 evidence the court finds appropriate to consider.
- 28 (2) ~~If~~ Enter the place of birth as stated in the certificate of birth from the country  
 29 of origin, the United States Department of State's report of birth abroad, or the  
 30 documents of the United States Immigration and Naturalization Service or, if  
 31 the exact place of birth is unknown, enter the information that is known,  
 32 including the country of ~~origin~~; and origin.
- 33 (3) ~~If the exact date of birth is unknown, determine and enter a date of birth based~~  
 34 ~~upon medical evidence by affidavit or testimony as to the probable~~  
 35 ~~chronological age of the adoptee and other evidence the court finds~~  
 36 ~~appropriate to consider."~~

37 **SECTION 5.** G.S. 48-3-303(c)(12) reads as rewritten:

38 "(c) The preplacement assessment shall, after a reasonable investigation, report on the  
 39 following about the individual being assessed:

- 40 ...
- 41 (12) The agency preparing the preplacement assessment may redact from the  
 42 preplacement assessment provided to a placing parent or guardian detailed  
 43 information reflecting the prospective adoptive parent's ~~income and financial~~  
 44 ~~account balances~~ income, expenditures, assets, liabilities, and social security  
 45 numbers, and detailed information about the prospective adoptive parent's  
 46 extended family members, including surnames, names of employers, names  
 47 of schools attended, social security numbers, telephone numbers and  
 48 addresses, and other similarly detailed information about extended family  
 49 members obtained under subsections (b) and (c) of this section."

50 **SECTION 6.(a)** G.S. 48-3-605(c) is amended by adding a new subdivision to read:

1 "(c) An individual before whom a consent is signed and acknowledged under subsection  
2 (a) of this section shall certify in writing that to the best of the individual's knowledge or belief,  
3 the parent, guardian, or minor to be adopted executing the consent has met each of the following:

4 ...

5 (5) Been advised of the right to seek the advice of legal counsel before executing  
6 the consent."

7 **SECTION 6.(b)** G.S. 48-3-606(14)c. reads as rewritten:

8 **"§ 48-3-606. Content of consent; mandatory provisions.**

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

11 ...

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

13 ...

14 c. Been advised of the right to ~~employ independent~~ seek the advice of  
15 legal counsel."

16 **SECTION 6.(c)** G.S. 48-3-702(b1) is amended by adding a new subdivision to read:

17 "(b1) An individual before whom a relinquishment is signed and acknowledged under  
18 subsection (a) of this section shall certify in writing that to the best of the individual's knowledge  
19 or belief, the parent, guardian, or minor to be adopted executing the relinquishment has met each  
20 of the following:

21 ...

22 (5) Been advised of the right to seek the advice of legal counsel before executing  
23 the relinquishment."

24 **SECTION 6.(d)** G.S. 48-3-703(a)(12)c. reads as rewritten:

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

27 ...

28 (12) That the individual executing the relinquishment has:

29 ...

30 c. Been advised of the right to ~~employ independent~~ seek the advice of  
31 legal counsel."

32 **SECTION 7.** G.S. 48-9-102 reads as rewritten:

33 **"§ 48-9-102. Records confidential and sealed.**

34 ...

35 (e) The Division ~~must~~ shall, without review, cause the papers and reports related to the  
36 proceeding to be permanently indexed and filed.

37 (f) The Division ~~shall~~ shall, within 40 days after receiving it from the court, transmit a  
38 report of each adoption and any name change to the State Registrar if the adoptee was born in  
39 this State. In the case of an adoptee who was not born in this State, the Division ~~shall~~ shall, within  
40 40 days after receiving it from the court, transmit the report and any name change to the  
41 appropriate official responsible for issuing birth certificates or their equivalent.

42 ...."

43 **SECTION 8.** G.S. 48-9-109(1) is amended by adding a new sub-subdivision to read:

44 **"§ 48-9-109. Certain disclosures authorized.**

45 Nothing in this Article shall be interpreted or construed to prevent:

46 (1) An employee of a court, agency, or any other person from:

47 ...

48 d. Giving a file-stamped copy of a document to a person, or to the legal  
49 representative of a person, who has filed the document in an adoption  
50 proceeding."

51 **SECTION 9.** G.S. 1-597 reads as rewritten:

1 **"§ 1-597. Regulations for newspaper publication of legal notices, advertisements, etc.**

2 (a) Whenever a notice or any other paper, document or legal advertisement of any kind  
3 or description shall be authorized or required by any of the laws of the State of North Carolina,  
4 heretofore or hereafter enacted, or by any order or judgment of any court of this State to be  
5 published or advertised in a newspaper, such publication, advertisement or notice shall be of no  
6 force and effect unless it shall be published in a newspaper with a general circulation to actual  
7 paid subscribers which newspaper at the time of such publication, advertisement or notice, shall  
8 have been admitted to the United States mails in the Periodicals class in the county or political  
9 subdivision where such publication, advertisement or notice is required to be published, and  
10 which shall have been regularly and continuously issued in the county in which the publication,  
11 advertisement or notice is authorized or required to be published, at least one day in each calendar  
12 week for at least 25 of the 26 consecutive weeks immediately preceding the date of the first  
13 publication of such advertisement, publication or notice; provided that in the event that a  
14 newspaper otherwise meeting the qualifications and having the characteristics prescribed by  
15 G.S. 1-597 to 1-599, should fail for a period not exceeding four weeks in any calendar year to  
16 publish one or more of its issues such newspaper shall nevertheless be deemed to have complied  
17 with the requirements of regularity and continuity of publication prescribed herein. Provided  
18 further, that where any city or town is located in two or more adjoining counties, any newspaper  
19 published in such city or town shall, for the purposes of G.S. 1-597 to 1-599, be deemed to be  
20 admitted to the mails, issued and published in all such counties in which such town or city of  
21 publication is located, and every publication, advertisement or notice required to be published in  
22 any such city or town or in any of the counties where such city or town is located shall be valid  
23 if published in a newspaper published, issued and admitted to the mails anywhere within any  
24 such city or town, regardless of whether the newspaper's plant or the post office where the  
25 newspaper is admitted to the mails is in such county or not, if the newspaper otherwise meets the  
26 qualifications and requirements of G.S. 1-597 to 1-599. This provision shall be retroactive to  
27 May 1, 1940, and all publications, advertisements and notices published in accordance with this  
28 provision since May 1, 1940, are hereby validated.

29 (b) Notwithstanding the provisions of G.S. 1-599, whenever a notice or any other paper,  
30 document or legal advertisement of any kind or description shall be authorized or required by  
31 any of the laws of the State of North Carolina, heretofore or hereafter enacted, or by any order or  
32 judgment of any court of this State to be published or advertised in a newspaper qualified for  
33 legal advertising in a county and there is no newspaper qualified for legal advertising as defined  
34 in this section in such county, then it shall be deemed sufficient compliance with such laws, order  
35 or judgment by publication of such notice or any other such paper, document or legal  
36 advertisement of any kind or description in a newspaper published in an adjoining county or in a  
37 county within the same district court district as defined in G.S. 7A-133 or superior court district  
38 or set of districts as defined in G.S. 7A-41.1, as the case may be; provided, if the clerk of the  
39 superior court finds as a fact that such newspaper otherwise meets the requirements of this section  
40 and has a general circulation in such county where no newspaper is published meeting the  
41 requirements of this section.

42 (c) Whenever a notice or any other paper, document, or legal advertisement of any kind  
43 or description is required to be published in a jurisdiction outside of North Carolina where legal  
44 notices are customarily published in specialized legal publications, any form of publication which  
45 meets the requirements for legal notices under the law of the locality where it is published shall  
46 be deemed sufficient under this section."

47 **SECTION 10.** G.S. 7B-200(a)(1) reads as rewritten:

48 "(a) The court has exclusive, original jurisdiction over any case involving a juvenile who  
49 is alleged to be abused, neglected, or dependent. This jurisdiction does not extend to cases  
50 involving adult defendants alleged to be guilty of abuse or neglect.

51 The court also has exclusive original jurisdiction of the following proceedings:

- 1 (1) Proceedings under the Interstate Compact on the Placement of Children set  
2 forth in Article 38 of this ~~Chapter~~Chapter, including proceedings for the  
3 return of a juvenile to this State and proceedings to review a refusal or failure  
4 of the Compact administrator for this State to forward a request for approval  
5 of a placement to the receiving state or find that a placement does not appear  
6 to be contrary to the interests of the child."

7 **SECTION 11.** Article 38 of Chapter 7B of the General Statutes is amended by adding  
8 a new section to read:

9 **"§ 7B-3807. Judicial proceedings.**

10 (a) The court shall have jurisdiction over proceedings under this Compact, as provided  
11 in G.S. 7B-200(a)(1).

12 (b) Review of a refusal or failure of the Compact administrator to forward a request for  
13 approval of a placement to the receiving state or find that a placement does not appear to be  
14 contrary to the interests of the child shall be initiated (i) by a motion in any court in this State in  
15 which an abuse, neglect, or dependency action or a termination of parental rights action is  
16 pending as to the juvenile or (ii) if no abuse, neglect, or dependency action or termination of  
17 parental rights action is pending as to the juvenile in a court of this State, by petition to the court.  
18 No motion or petition shall be filed under this section until the Compact administrator has  
19 communicated an intention to refuse either to forward a request for approval of a placement to  
20 the receiving state or to find that a placement does not appear to be contrary to the interests of  
21 the child or the matter has been before the Compact administrator for more than five business  
22 days.

23 (c) Notice of a motion or petition for review or a hearing under this section shall be given  
24 to the Compact administrator by any reasonable means, including by overnight delivery service  
25 or by sending a facsimile of the motion, petition, or notice of hearing to the Compact  
26 administrator.

27 (d) If no abuse, neglect, or dependency action or termination of parental rights action is  
28 pending as to the juvenile in a court of this State, then venue shall be in any county in which any  
29 of the following applies:

30 (1) The child is located at the time of filing a petition.

31 (2) A petition to adopt the child has been filed.

32 (3) The petitioner under G.S. 7B-200(1) lives, or is domiciled, at the time of  
33 filing.

34 (4) The office of an agency that has legal custody of the child is located.

35 (e) Review of a refusal or failure of the Compact administrator to forward a request for  
36 approval of a placement to the receiving state or find that a placement does not appear to be  
37 contrary to the interests of the child shall be an expedited proceeding. The court shall, within 10  
38 days from the date of filing of the petition, or during the next term of court in the county where  
39 the petition is filed if there is no court in the county in that 10-day period, conduct a hearing to  
40 review a refusal or failure of the Compact administrator to forward a request for approval of a  
41 placement to the receiving state or find that a placement does not appear to be contrary to the  
42 interests of the child, and the court may order the Compact administrator to take any action that  
43 the Compact administrator is permitted to do."

44 **SECTION 12.** G.S. 150B-1(e) is amended by adding a new subdivision to read:

45 "(e) Exemptions From Contested Case Provisions. – The contested case provisions of this  
46 Chapter apply to all agencies and all proceedings not expressly exempted from the Chapter. The  
47 contested case provisions of this Chapter do not apply to the following:

48 ...

49 (25) The Department of Health and Human Services in administering the Interstate  
50 Compact on the Placement of Children under Article 38 of Chapter 7B of the  
51 General Statutes."

1

**SECTION 13.** This act becomes effective October 1, 2019.