

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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SENATE BILL 490  
PROPOSED COMMITTEE SUBSTITUTE S490-PCS45285-TV-25

Short Title: Various Family Law Changes. (Public)

Sponsors:

Referred to:

April 3, 2019

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE LAWS PERTAINING TO PARENTING COORDINATORS,  
3 REVISE THE LAWS PERTAINING TO EQUITABLE DISTRIBUTION, AND TO MAKE  
4 VARIOUS CHANGES UNDER THE LAWS PERTAINING TO ADOPTIONS.

5 The General Assembly of North Carolina enacts:

6  
7 **PART I. REVISE PARENTING COORDINATOR LAWS**

8 **SECTION 1.** Article 5 of Chapter 50 of the General Statutes reads as rewritten:

9 "Article 5.

10 "Parenting Coordinator.

11 **"§ 50-90. Definitions.**

12 As used in this Article, the following terms mean:

13 ...

14 (4) Party. – Any person granted legal or physical custodial rights to a child in a  
15 child custody action.

16 **"§ 50-91. Appointment of parenting coordinator.**

17 (a) The court may appoint or reappoint a parenting coordinator at any time ~~during the~~  
18 ~~proceedings of in~~ a child custody action involving minor children brought under Article 1 of this  
19 Chapter ~~if all parties consent to the appointment. The parties may agree to limit the parenting~~  
20 ~~coordinator's decision making authority to specific issues or areas on or after the entry of a~~  
21 custody order, other than an ex parte order, or upon entry of a contempt order involving a custody  
22 issue pursuant to any of the following:

23 (1) All parties consent to the appointment and the scope of the parenting  
24 coordinator's authority.

25 (2) Upon motion of a party requesting the appointment of a parenting coordinator.

26 (3) Upon the court's own motion.

27 (b) ~~The court may appoint a parenting coordinator without the consent of the parties upon~~  
28 ~~entry of a custody order other than an ex parte order, or upon entry of a parenting plan only if~~  
29 ~~the parties have not consented to the appointment of a parenting coordinator, the court also makes~~  
30 shall make specific findings that the action is a high-conflict case, that the appointment of the  
31 parenting coordinator is in the best interests of any minor child in the case, and that the parties  
32 are able to pay for the cost of the parenting coordinator. The court does not have to find a  
33 substantial change of circumstance has occurred to appoint a parenting coordinator.

34 (c) The order appointing a parenting coordinator shall specify the terms of the  
35 appointment and the issues the parenting coordinator is directed to assist the parties in resolving  
36 and deciding. The order may also incorporate any agreement regarding the role of the parenting



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1 coordinator made by the parties under subsection (a) of this section. The court shall give a copy  
2 of the appointment order to the parties prior to the appointment conference. Notwithstanding the  
3 appointment of a parenting coordinator, the court shall retain exclusive jurisdiction to determine  
4 fundamental issues of custody, visitation, and support, and the authority to exercise management  
5 and control of the case.

6 (d) ~~The court shall select a parenting coordinator~~ shall be selected from a list maintained  
7 by the district court. Prior to the ~~appointment conference, the court must complete and give to~~  
8 ~~the parenting coordinator a referral form listing contact information for the parties and their~~  
9 ~~attorneys, the court's findings in support of the appointment, and any agreement by the~~  
10 ~~parties.~~ appointment, the court, the parties' attorneys, or the parties shall contact the parenting  
11 coordinator to determine if the parenting coordinator is willing and able to accept the  
12 appointment.

13 **"§ 50-92. Authority of parenting coordinator.**

14 (a) The authority of a parenting coordinator shall be specified in the court order  
15 appointing the parenting coordinator and shall be limited to matters that will aid the  
16 ~~parties;~~ parties in complying with the court's custody order, resolving disputes regarding issues  
17 that were not specifically addressed in the custody order, or ambiguous or conflicting terms in  
18 the custody order. The parenting coordinator's scope of authority may include, but is not limited  
19 to, any of the following areas:

- 20 (1) ~~Identify disputed issues.~~ Transition time, pick up, or delivery.
- 21 (2) ~~Reduce misunderstandings.~~ Sharing of vacations and holidays.
- 22 (3) ~~Clarify priorities.~~ Method of pickup and delivery.
- 23 (4) ~~Explore possibilities for compromise.~~ Transportation to and from visitation.
- 24 (5) ~~Develop methods of collaboration in parenting.~~ Participation in child or day  
25 care and babysitting.
- 26 (6) ~~Comply with the court's order of custody, visitation, or guardianship.~~ Bed time.
- 27 (7) Diet.
- 28 (8) Clothing.
- 29 (9) Recreation.
- 30 (10) Before- and after-school activities.
- 31 (11) Extracurricular activities.
- 32 (12) Discipline.
- 33 (13) Health care management.
- 34 (14) Alterations in schedule that do not substantially interfere with the basic  
35 time-share agreement.
- 36 (15) Participation in visitation, including significant others or relatives.
- 37 (16) Telephone contact.
- 38 (17) Alterations to appearance, including tattoos or piercings.
- 39 (18) The child's passport.
- 40 (19) Education.
- 41 (20) Other areas of specific authority as designated by the court or the parties.

42 (b) ~~Notwithstanding subsection (a) of this section, the court may authorize a parenting~~  
43 ~~coordinator to decide issues regarding the implementation of the parenting plan that are not~~  
44 ~~specifically governed by the court order and which the parties are unable to resolve. The parties~~  
45 ~~must comply with the parenting coordinator's decision until the court reviews the decision. The~~  
46 ~~parenting coordinator, any party, or the attorney for any party may request an expedited hearing~~  
47 ~~to review a parenting coordinator's decision. Only the judge presiding over the case may~~  
48 ~~subpoena the parenting coordinator to appear and testify at the hearing.~~ The parenting coordinator  
49 shall decide any issue within the scope of the parenting coordinator's authority and the decision  
50 shall be enforceable as an order of the court. The decision shall be in writing and provided to the  
51 parties and their attorneys. So long as the custody order under which the decision is made is in

1 effect, the decision shall remain binding after the expiration of the parenting coordinator's term  
2 unless the parenting coordinator or a subsequent parenting coordinator modifies the decision or  
3 the court reviews and modifies the decision.

4 (b1) Any party or attorney for the party may file a motion for the court to review a  
5 parenting coordinator's decision. The parties shall comply with the parenting coordinator's  
6 decision unless the court, after a review hearing, determines that (i) the parenting coordinator's  
7 decision is not in the child's best interests or (ii) the decision exceeded the scope of the parenting  
8 coordinator's authority. The moving party or the attorney for the moving party shall cause a  
9 subpoena to be issued for the parenting coordinator's attendance at the review hearing. At the  
10 conclusion of the review hearing, the court shall determine how the parenting coordinator's fees,  
11 as related to the review hearing, shall be apportioned between the parties. The court may review  
12 and modify a parenting coordinator's decision after the expiration of a parenting coordinator's  
13 term.

14 (c) The parenting coordinator shall not provide any professional services or counseling  
15 to ~~either parent any party~~ or any of the minor children.

16 (d) The parenting coordinator shall refer financial issues related to the parenting  
17 coordinator's decisions to the parties'-parties or their attorneys.

18 **"§ 50-93. Qualifications.**

19 (a) To be eligible to be included on the district court's list of parenting coordinators, a  
20 person must meet all of the following requirements:

- 21 (1) Hold a masters or doctorate degree in psychology, law, social work,  
22 ~~counseling, medicine, or a related subject area or counseling.~~
- 23 (2) Have at least five years of related professional post-degree experience.
- 24 (3) Hold a current North Carolina license in the parenting coordinator's area of  
25 ~~practice, if applicable.~~ practice.
- 26 (4) Participate in 24 hours of training in topics related to the developmental stages  
27 of children, the dynamics of high-conflict families, the stages and effects of  
28 divorce, problem solving techniques, mediation, and legal issues.

29 ...  
30 **"§ 50-94. Appointment conference.**

31 (a) The parties, their attorneys, and the proposed parenting coordinator must all attend  
32 the appointment conference. ~~However, no appointment conference is required if (i) the parenting~~  
33 ~~coordinator's term is later extended, (ii) a subsequent parenting coordinator is appointed in the~~  
34 ~~same matter, or (iii) the parties, their attorneys, and the proposed parenting coordinator consent~~  
35 ~~to a waiver of the appointment conference by signing the proposed appointment order. The court~~  
36 ~~shall not enter an order appointing a parenting coordinator or conduct an appointment conference~~  
37 ~~unless a custody order has already been entered or is being simultaneously entered.~~

38 (b) At the time of the appointment conference, the court shall do all of the following:

- 39 (1) Explain to the parties the parenting coordinator's role, authority, and  
40 responsibilities as specified in the appointment order and any agreement  
41 entered into by the parties.
- 42 (2) ~~Determine the information each party must provide to the parenting~~  
43 ~~coordinator.~~
- 44 (3) Determine financial arrangements for the parenting coordinator's fee to be  
45 paid by each party and authorize the parenting coordinator to charge any party  
46 separately for individual contacts made necessary by that party's behavior.
- 47 (4) Inform the parties, their attorneys, and the parenting coordinator of the rules  
48 regarding communications among them and with the court.
- 49 (5) Enter the appointment ~~order~~ order if the order has not yet been entered.

1 (c) ~~The parenting coordinator and any guardians ad litem shall bring to the appointment~~  
2 ~~conference all necessary releases, contracts, and consents. The parenting coordinator must also~~  
3 ~~schedule the first sessions with the parties.~~

4 **"§ 50-95. Fees.**

5 (a) The parenting coordinator shall be entitled to reasonable compensation from the  
6 parties for services rendered and to a reasonable retainer. ~~The parenting coordinator may request~~  
7 ~~a hearing in the event of a fee dispute.~~If a dispute arises regarding the payment of fees or the  
8 retainer, the parenting coordinator may file a fee report and request a hearing. If a party disputes  
9 the parenting coordinator's fees or the allocation of those fees, the party may file a motion with  
10 the court requesting that the court review the fees. The district court retains jurisdiction to resolve  
11 disputes regarding the parenting coordinator's fees after the conclusion of the parenting  
12 coordinator's term so long as the parenting coordinator's fee report was filed in a timely manner.

13 (b) ~~The court may make the appointment of a parenting coordinator contingent upon the~~  
14 ~~parties' payment of a specific fee to the parenting coordinator. The parenting coordinator shall~~  
15 ~~not begin any duties until the fee has been paid.~~

16 **"§ 50-96. Meetings and communications.**

17 Meetings and communications between the parenting coordinator and the parties-parties, the  
18 attorneys for the parties, or any other person with information that assists the parenting  
19 coordinator in the coordinator's duties may be informal and ex parte. Communications between  
20 the parties and the parenting coordinator are not confidential. The parenting coordinator and the  
21 court shall not engage in any ex parte communications. Upon request of the parenting  
22 coordinator, the parties shall timely execute any releases necessary to facilitate communication  
23 with any person having information that assists the parenting coordinator in the coordinator's  
24 duties. The parenting coordinator, in the coordinator's discretion, may meet or communicate with  
25 the minor children.

26 **"§ 50-97. Reports.**

27 (a) ~~The parenting coordinator shall promptly provide written notification to the court, the~~  
28 ~~parties, and attorneys for the parties if the parenting coordinator makes any of the following~~  
29 ~~determinations:~~The parenting coordinator may file a report with the court regarding any of the  
30 following:

- 31 (1) The parenting coordinator's belief that the existing custody order is not in the  
32 best interests of the child.
- 33 (2) The parenting coordinator-coordinator's determination that the parenting  
34 coordinator is not qualified to address or resolve certain issues in the case.
- 35 (3) A party's noncompliance with a decision of the parenting coordinator or the  
36 terms of the custody order.
- 37 (4) The parenting coordinator's fees as set forth in G.S. 50-95.
- 38 (5) The parenting coordinator's request that the parenting coordinator's  
39 appointment be modified or terminated.

40 (b) ~~The court shall schedule a hearing and review the matter no later than two weeks~~  
41 ~~following receipt of the report. The parenting coordinator shall remain involved in the case until~~  
42 ~~the hearing.~~Upon the filing of a verified report by the parenting coordinator alleging that a party  
43 is not complying with a decision of the parenting coordinator, not complying with the terms of  
44 the custody order, or not paying the parenting coordinator's fees, the court may issue an order  
45 directing a party to appear at a specified reasonable time and show cause why the party shall not  
46 be held in contempt. Nothing in this section prevents a party from filing the party's own motion  
47 regarding noncompliance with a parenting coordinator's decision or noncompliance with the  
48 terms of the custody order.

49 (c) ~~If the parties agree to any fundamental change in the child custody order, the parenting~~  
50 ~~coordinator shall send the agreement to the parties' attorneys for preparation of a consent~~  
51 ~~order.~~An expedited hearing shall be granted and shall occur within four weeks of the filing of the

1 report unless the parenting coordinator requests a longer length of time or the court has already  
2 issued an order directing a party to show cause why the party shall not be held in contempt.

3 (d) The court, after a hearing on the parenting coordinator's report, shall be authorized to  
4 issue temporary custody orders as may be required for a child's best interests.

5 **"§ 50-98. Parenting coordinator records.**

6 ~~(a) The parenting coordinator shall provide the following to the attorneys for the parties~~  
7 ~~and to the parties: In the parenting coordinator's discretion, the parenting coordinator may release~~  
8 ~~any records held by the parenting coordinator to the parties or the attorneys for the parties.~~

9 ~~(1) A written summary of the developments in the case following each meeting~~  
10 ~~with the parties.~~

11 ~~(2) Copies of any other written communications.~~

12 ~~(b) The parenting coordinator shall maintain records of each meeting. These records may~~  
13 ~~only be subpoenaed by order of the judge presiding over the case. The court must review the~~  
14 ~~records in camera and may release the records to the parties and their attorneys only if the court~~  
15 ~~determines release of the information contained in the records will assist the parties with the~~  
16 ~~presentation of their case at trial. Any party may apply to the judge presiding for the issuance of~~  
17 ~~a subpoena to compel production of the parenting coordinator's records. Any party who submits~~  
18 ~~an application for a subpoena shall provide reasonable notice to the parenting coordinator and~~  
19 ~~the parties so that any objection to the release of information or the manner of the release of~~  
20 ~~information may be considered prior to the issuance of a subpoena.~~

21 **"§ 50-99. Modification or termination of parenting coordinator appointment.**

22 ~~(a) For good cause shown, the court may terminate or modify the parenting coordinator~~  
23 ~~appointment upon motion of either party at the request of the parenting coordinator, any party,~~  
24 ~~upon the agreement of the parties and the parenting coordinator, parties, or by the court on its~~  
25 ~~own motion. Good cause includes any of the following:~~

26 ~~(1) Lack of reasonable progress over a significant period of time despite the best~~  
27 ~~efforts of the parties and the parenting coordinator.~~

28 ~~(2) A determination that the parties no longer need the assistance of a parenting~~  
29 ~~coordinator.~~

30 ~~(3) Impairment on the part of a party that significantly interferes with the party's~~  
31 ~~participation in the process.~~

32 ~~(4) The parenting coordinator is unable or unwilling to continue to serve.~~

33 ~~(b) If the parties agreed to the appointment of the parenting coordinator under~~  
34 ~~G.S. 50-91(a), the court may terminate or modify the appointment according to that agreement~~  
35 ~~or according to a subsequent agreement by the parties. For good cause shown, the court may~~  
36 ~~modify or terminate the parenting coordinator's appointment upon request of the parenting~~  
37 ~~coordinator as set forth in G.S. 50-97(a)(5).~~

38 ~~(c) For purposes of termination or modification of the parenting coordinator's~~  
39 ~~appointment, good cause may include, but is not limited to, any of the following:~~

40 ~~(1) The lack of reasonable progress.~~

41 ~~(2) A determination that the parties no longer need the assistance of a parenting~~  
42 ~~coordinator.~~

43 ~~(3) Impairment on the part of a party that significantly interferes with the party's~~  
44 ~~participation in the process.~~

45 ~~(4) The inability or unwillingness of the parenting coordinator to continue to~~  
46 ~~serve.~~

47 ...."

48  
49 **PART II. REVISE EQUITABLE DISTRIBUTION LAWS**

50 **SECTION 2. G.S. 50-20.1 reads as rewritten:**

1 "§ 50-20.1. Pension and retirement Pension, retirement, and deferred compensation  
2 benefits.

3 (a) ~~The award distribution of vested marital pension, retirement, or other deferred~~  
4 ~~compensation benefits may be made payable;~~ payable by any of the following means:

5 (1) ~~As a lump sum by agreement;~~ from the plan, program, system, or fund for  
6 those benefits subject to subdivision (d)(2) of this section.

7 (2) ~~Over a period of time in fixed amounts by agreement;~~ from the plan, program,  
8 system, or fund for those benefits subject to subdivision (d)(2) of this section.

9 (3) ~~By appropriate domestic relations order as~~ As a prorated portion of the  
10 benefits made to the designated recipient (i) at the time the party against whom  
11 the award is made participant-spouse is eligible to receive the benefits, (ii) at  
12 the time the participant-spouse actually begins to receive the benefits;  
13 ~~or~~ benefits, or (iii) at the participant-spouse's earliest retirement age, if  
14 permitted by the plan, program, system, or fund. For purposes of this section,  
15 "participant-spouse" means the spouse who is a participant in the plan,  
16 program, system, or fund.

17 (4) ~~By awarding a larger portion of other assets to the party not receiving the~~  
18 ~~benefits and a smaller share of other assets to the party entitled to receive the~~  
19 ~~benefits.~~

20 (5) As a lump sum, or over a period of time in fixed amounts, by agreement.

21 (b) ~~The award distribution of nonvested marital pension, retirement, or other deferred~~  
22 ~~compensation benefits may be made payable;~~ payable by any of the following means:

23 (1) ~~As a lump sum by agreement;~~ agreement.

24 (2) ~~Over a period of time in fixed amounts by agreement;~~ or agreement.

25 (3) ~~By appropriate domestic relations order as~~ As a prorated portion of the  
26 benefits made to the designated recipient (i) at the time the party against whom  
27 the award is made participant-spouse is eligible to receive the benefits, (ii) at  
28 the time the participant-spouse actually begins to receive the benefits;  
29 or (iii) at the participant-spouse's earliest retirement age, if permitted by the  
30 plan, program, system, or fund.

31 (c) ~~Notwithstanding the provisions of subsections (a) and (b) of this section, the court~~  
32 ~~shall not require the administrator of the fund or plan plan, program, system, or fund involved to~~  
33 ~~make any payments until the party against whom the award is made actually begins to receive~~  
34 ~~the benefits unless the plan permits an earlier distribution or distributions to the nonparticipant~~  
35 ~~spouse, except as permitted by the terms of the plan, program, system, or fund.~~

36 (d) ~~The award~~ When the amount of the benefit payable by the plan, program, system, or  
37 fund to the participant-spouse is determined in whole or part by the length of time of the  
38 participant-spouse's employment, the marital portion shall be determined using the proportion of  
39 time the marriage existed (up to the date of separation of the parties), parties) simultaneously  
40 with the total time of the employment which earned the vested and nonvested pension, retirement,  
41 ~~or deferred compensation benefit;~~ benefit subject to equitable distribution, to the total amount of  
42 time of employment employment, which earned the benefit subject to equitable distribution. The  
43 ~~award determination shall be based on the vested and nonvested accrued benefit, as provided by~~  
44 ~~the plan or plan, program, system, or fund, calculated as of the date of separation, and shall not~~  
45 ~~include contributions, years of service, or compensation which may accrue after the date of~~  
46 ~~separation. The award shall include gains and losses on the prorated portion of the benefit vested~~  
47 ~~at the date of separation separation and cost of living adjustments and similar enhancements to~~  
48 ~~the participant's benefit. Notwithstanding G.S. 50-20 or G.S. 50-21, if the court makes the award~~  
49 ~~payable pursuant to subdivision (a)(3) or (b)(3) of this section and the court divides the marital~~  
50 ~~portion of the benefit equally between the participant-spouse and non-participant spouse, the~~  
51 ~~court shall not be required to determine the total value of the marital benefits before classifying~~

1 and distributing the benefits. However, neither party shall be prohibited from presenting evidence  
2 of the total value of any marital benefits or of any benefits that are separate property of either  
3 spouse. When a pension, retirement, or deferred compensation plan, program, system or fund, or  
4 an applicable statute, limits or restricts the amount of the benefit subject to equitable distribution  
5 by a state court, the award shall be determined using the proportion of time the marriage existed  
6 (up to the date of separation of the parties) simultaneously with the total time of the employment  
7 which earned the benefit subject to equitable distribution to the total time of employment, as  
8 limited or restricted by the plan, program, system, fund, or statute that earned the benefit subject  
9 to equitable distribution.

10 (d1) When the amount of the benefit payable by the plan, program, system, or fund is not  
11 determined in whole or part by the length of time of the participant-spouse's employment, but is  
12 instead based on contributions and held in one or more accounts with readily determinable  
13 balances, including, but not limited to, individual retirement accounts and defined contribution  
14 plans, such as those within the definitions of Internal Revenue Code Sections 401(k), 403(b),  
15 408, 408A, or 457, the court shall not determine the award using the fraction described in  
16 subsection (d) of this section. The court instead shall determine the marital portion of the benefit  
17 by determining the amount of the account balance that is due to contributions made or earned  
18 during the marriage and before separation, together with the income, gains, losses, appreciation,  
19 and depreciation accrued on those contributions. If sufficient evidence is not presented to the  
20 court to allow the court to make this determination, the court shall then determine the marital  
21 portion of the benefit by using the fraction described in subsection (d) of this section, namely, by  
22 using the proportion of time the marriage existed (up to the date of separation of the parties)  
23 simultaneously with the employment which earned the benefit subject to equitable distribution  
24 to the total amount of time of employment. In either event, the award shall be based on the vested  
25 and nonvested accrued benefit as of the date of separation, together with the income, gains,  
26 losses, appreciation, and depreciation accrued after the date of separation on the  
27 date-of-separation benefits. However, the award shall not include contributions that may accrue  
28 or be made after the date of separation, or any income, gains, losses, appreciation, and  
29 depreciation accrued on those contributions.

30 (e) No award shall exceed fifty percent (50%) of the benefits the person against whom  
31 the award is made is entitled to receive as vested and nonvested pension, retirement, or ~~other~~  
32 deferred compensation benefits, except that an award may exceed fifty percent (50%) if (i) other  
33 assets subject to equitable distribution are insufficient; or (ii) there is difficulty in distributing  
34 any asset or any interest in a business, corporation, or profession; or (iii) it is economically  
35 desirable for one party to retain an asset or interest that is intact and free from any claim or  
36 interference by the other party; or (iv) more than one pension or retirement system or deferred  
37 compensation ~~plan~~ plan, program, system, or fund is involved, but the benefits award may not  
38 exceed fifty percent (50%) of the total benefits of all the plans added together; or (v) both parties  
39 consent. In no event shall an award exceed fifty percent (50%) if a ~~plan~~ plan, program, system,  
40 or fund prohibits an award in excess of fifty percent (50%).

41 (f) In the event the person receiving the award dies, the unpaid balance, if any, of the  
42 award shall pass to the beneficiaries of the recipient by will, if any, or by intestate succession, or  
43 by beneficiary designation with the ~~plan~~ plan, program, system, or fund consistent with the terms  
44 of the ~~plan~~ plan, program, system, or fund unless the ~~plan~~ plan, program, system, or fund prohibits  
45 such designation. In the event the person against whom the award is made dies, the award to the  
46 recipient shall remain payable to the extent permitted by the pension or retirement system or  
47 deferred compensation ~~plan~~ plan, program, system, or fund involved.

48 (f1) Whenever the award is made payable pursuant to subdivision (a)(3) or (b)(3) of this  
49 section, and the pension or retirement or deferred compensation plan, program, system, or fund  
50 permits the use of a "separate interest" approach in the order, there shall be a presumption,  
51 rebuttable by the greater weight of the evidence, that the "separate interest" approach shall be

1 used to divide the benefit in question. For purposes of this section, the phrase "separate interest"  
2 approach means any method of dividing pension or retirement system or deferred compensation  
3 benefits in which the nonparticipant spouse, the spouse not a participant in the plan, program,  
4 system or fund in question, receives an interest that allows the nonparticipant spouse to receive  
5 benefits in a manner independent, in whole or part, of the benefits received by the participant  
6 spouse, or to make elections concerning the receipt of benefits independently of the elections  
7 made by the participant spouse.

8 (f2) Whenever the pension or retirement or deferred compensation benefit is distributed  
9 pursuant to subdivision (a)(3) or (b)(3) of this section in an order that does not employ the  
10 "separate interest" approach, the court may, considering the length of the marriage and the ages  
11 of the parties, (i) award all or a portion of a survivor annuity to the nonparticipant spouse or  
12 former spouse and (ii) allocate the cost of providing the survivor annuity between the parties.  
13 The survivor annuity awarded by the court, if any, shall be allocated in accordance with the terms  
14 of the retirement plan, program, system, or fund.

15 (f3) Whenever the pension or retirement or deferred compensation plan, program, system,  
16 or fund does not automatically provide pre-retirement survivor annuity protection for the  
17 nonparticipant spouse, the court shall order pre-retirement survivor annuity protection for the  
18 nonparticipant spouse if permitted by the plan, program, system, or fund.

19 (f4) The court may allocate equally between the parties any fees assessed by a plan,  
20 program, system, or fund in order to process any domestic relations order or qualified domestic  
21 relations order.

22 (g) The court may require distribution of the award by means of a qualified domestic  
23 relations order, or as defined in section 414(p) of the Internal Revenue Code of 1986, or by  
24 domestic relations order or other appropriate order. To facilitate the calculating and payment of  
25 distributive awards, the administrator of the plan, program, system, ~~plan,~~ or fund may be ordered  
26 to certify the total contributions, years of service, and pension, retirement, or other deferred  
27 compensation benefits payable.

28 (h) This section and G.S. 50-21 shall apply to all vested and nonvested pension,  
29 retirement, and ~~other~~ deferred compensation plans and plans, programs, systems, or funds,  
30 including vested and nonvested military pensions eligible under the federal Uniform Services  
31 Former Spouses Protection Act, and including funds administered by the State pursuant to  
32 Articles 84 through 88 of Chapter 58 and Chapters 120, 127A, 128, 135, 143, 143B, and 147 of  
33 the General Statutes, to the extent of a member's accrued benefit at the date of separation, as  
34 determined by the court, including, but not limited to, uniformed services retirement programs,  
35 federal government plans, state government plans, local government plans, Railroad Retirement  
36 Act pensions, executive benefit plans, church plans, charitable organization plans, individual  
37 retirement accounts within the definitions of Internal Revenue Code Sections 408 and 408A, and  
38 accounts within the definitions of Internal Revenue Code Sections 403(b), 401(k), or 457.

39 (i) If a plan, program, system, or fund deems unacceptable an order providing for a  
40 distribution of pension, retirement, or deferred compensation benefits, then the court may upon  
41 motion of a party enter a subsequent order clarifying or correcting its prior order, as may be  
42 necessary to comply with the specific technical requirements of the plan, program, system, or  
43 fund.

44 (j) Notwithstanding any other provision of this Chapter, a claim may be filed, either as a  
45 separate civil action or as a motion in the cause in an action brought pursuant to this Chapter, for  
46 an order effectuating the distribution of pension, retirement, or deferred compensation benefits  
47 provided for in a valid written agreement, as defined in G.S. 50-20(d), whether or not a claim for  
48 equitable distribution has been filed or adjudicated. The court may enter an order effectuating the  
49 distribution provided for in the valid written agreement."

### 50 PART III. ADOPTION LAW CHANGES



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

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

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

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

13           **SECTION 4.(a)** G.S. 48-2-205 reads as rewritten:

14 **"§ 48-2-205. Recognition of adoption decrees from other jurisdictions.**

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

26           **SECTION 4.(b)** G.S. 48-2-301(c) reads as rewritten:

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

33           **SECTION 5.** G.S. 48-2-606(b) reads as rewritten:

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

36           (1) Enter the date ~~and place~~ of birth as stated in the certificate of birth from the  
37 country of origin, the United States Department of State's report of birth  
38 abroad, or the documents of the United States Immigration and Naturalization  
39 ~~Service~~ Service or a date of birth based upon medical evidence by affidavit or  
40 testimony as to the probable chronological age of the adoptee and other  
41 evidence the court finds appropriate to consider.

42           (2) ~~If~~ Enter the place of birth as stated in the certificate of birth from the country  
43 of origin, the United States Department of State's report of birth abroad, or the  
44 documents of the United States Immigration and Naturalization Service or, if  
45 the exact place of birth is unknown, enter the information that is known,  
46 including the country of ~~origin~~ origin.

47           (3) ~~If the exact date of birth is unknown, determine and enter a date of birth based~~  
48 ~~upon medical evidence by affidavit or testimony as to the probable~~  
49 ~~chronological age of the adoptee and other evidence the court finds~~  
50 ~~appropriate to consider."~~

51           **SECTION 6.** G.S. 48-3-303(c)(12) reads as rewritten:

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

3       ...

4       (12) The agency preparing the preplacement assessment may redact from the  
5 preplacement assessment provided to a placing parent or guardian detailed  
6 information reflecting the prospective adoptive parent's ~~income and financial~~  
7 ~~account balances~~ income, expenditures, assets, liabilities, and social security  
8 numbers, and detailed information about the prospective adoptive parent's  
9 extended family members, including surnames, names of employers, names  
10 of schools attended, social security numbers, telephone numbers and  
11 addresses, and other similarly detailed information about extended family  
12 members obtained under subsections (b) and (c) of this section."

13       **SECTION 7.(a)** G.S. 48-3-605(c) is amended by adding a new subdivision to read:

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

17       ...

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

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

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. 48-3-601  
23 must be in writing and state each of the following:

24       ...

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

26       ...

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

29       **SECTION 7.(c)** G.S. 48-3-702(b1) is amended by adding a new subdivision to read:

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

34       ...

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

37       **SECTION 7.(d)** G.S. 48-3-703(a)(12)c. reads as rewritten:

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

40       ...

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

42       ...

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

45       **SECTION 8.** G.S. 48-9-102 reads as rewritten:

46       "**§ 48-9-102. Records confidential and sealed.**

47       ...

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

50       (f) The Division ~~shall~~ shall, within 40 days after receiving it from the court, transmit a  
51 report of each adoption and any name change to the State Registrar if the adoptee was born in

1 this State. In the case of an adoptee who was not born in this State, the Division ~~shall~~shall, within  
2 40 days after receiving it from the court, transmit the report and any name change to the  
3 appropriate official responsible for issuing birth certificates or their equivalent.

4 ...."

5 **SECTION 9.** G.S. 48-9-109(1) is amended by adding a new sub-subdivision to read:  
6 "**§ 48-9-109. Certain disclosures authorized.**

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

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

9 ...

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

13 **SECTION 10.** G.S. 1-597 reads as rewritten:

14 "**§ 1-597. Regulations for newspaper publication of legal notices, advertisements, etc.**

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

42 (b) Notwithstanding the provisions of G.S. 1-599, whenever a notice or any other paper,  
43 document or legal advertisement of any kind or description shall be authorized or required by  
44 any of the laws of the State of North Carolina, heretofore or hereafter enacted, or by any order or  
45 judgment of any court of this State to be published or advertised in a newspaper qualified for  
46 legal advertising in a county and there is no newspaper qualified for legal advertising as defined  
47 in this section in such county, then it shall be deemed sufficient compliance with such laws, order  
48 or judgment by publication of such notice or any other such paper, document or legal  
49 advertisement of any kind or description in a newspaper published in an adjoining county or in a  
50 county within the same district court district as defined in G.S. 7A-133 or superior court district  
51 or set of districts as defined in G.S. 7A-41.1, as the case may be; provided, if the clerk of the

1 superior court finds as a fact that such newspaper otherwise meets the requirements of this section  
2 and has a general circulation in such county where no newspaper is published meeting the  
3 requirements of this section.

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

9 **SECTION 11.** G.S. 7B-200(a)(1) reads as rewritten:

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

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

14 (1) Proceedings under the Interstate Compact on the Placement of Children set  
15 forth in Article 38 of this Chapter. Chapter, including proceedings for the  
16 return of a juvenile to this State and proceedings to review a refusal or failure  
17 of the Compact administrator for this State to forward a request for approval  
18 of a placement to the receiving state or find that a placement does not appear  
19 to be contrary to the interests of the child."

20 **SECTION 12.** Article 38 of Chapter 7B of the General Statutes is amended by adding  
21 a new section to read:

22 "**§ 7B-3807. Judicial proceedings.**

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

25 (b) Review of a refusal or failure of the Compact administrator to forward a request for  
26 approval of a placement to the receiving state or find that a placement does not appear to be  
27 contrary to the interests of the child shall be initiated (i) by a motion in any court in this State in  
28 which an abuse, neglect, or dependency action or a termination of parental rights action is  
29 pending as to the juvenile or (ii) if no abuse, neglect, or dependency action or termination of  
30 parental rights action is pending as to the juvenile in a court of this State, by petition to the court.  
31 No motion or petition shall be filed under this section until the Compact administrator has  
32 communicated an intention to refuse either to forward a request for approval of a placement to  
33 the receiving state or to find that a placement does not appear to be contrary to the interests of  
34 the child or the matter has been before the Compact administrator for more than five business  
35 days.

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

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

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

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

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

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

48 (e) Review of a refusal or failure of the Compact administrator to forward a request for  
49 approval of a placement to the receiving state or find that a placement does not appear to be  
50 contrary to the interests of the child shall be an expedited proceeding. The court shall, within 10  
51 days from the date of filing of the petition, or during the next term of court in the county where

1 the petition is filed if there is no court in the county in that 10-day period, conduct a hearing to  
2 review a refusal or failure of the Compact administrator to forward a request for approval of a  
3 placement to the receiving state or find that a placement does not appear to be contrary to the  
4 interests of the child, and the court may order the Compact administrator to take any action that  
5 the Compact administrator is permitted to do."

6 **SECTION 13.** G.S. 150B-1(e) is amended by adding a new subdivision to read:

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

10 ...

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

14  
15 **PART IV. EFFECTIVE DATE**

16 **SECTION 14.** Part I and Part III of this act become effective October 1, 2019. Part  
17 II of this act becomes effective October 1, 2019, and applies to distributions on or after that date.