

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 469
Committee Substitute Favorable 4/8/19
Senate Judiciary Committee Substitute Adopted 6/12/19
PROPOSED SENATE COMMITTEE SUBSTITUTE H469-PCS30483-TVp-36

Short Title: Various Family Law Changes. (Public)

Sponsors:

Referred to:

March 28, 2019

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

5 The General Assembly of North Carolina enacts:

6
7 **PART I. REVISE EQUITABLE DISTRIBUTION LAWS**

8 **SECTION 1.** G.S. 50-20.1 reads as rewritten:

9 "**§ 50-20.1. ~~Pension and retirement~~ Pension, retirement, and deferred compensation**
10 **benefits.**

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

13 (1) As a lump sum ~~by agreement~~; from the plan, program, system, or fund for
14 those benefits subject to subsection (d1) of this section.

15 (2) Over a period of time in fixed amounts ~~by agreement~~; from the plan, program,
16 system, or fund for those benefits subject to subsection (d1) of this section.

17 (3) ~~By appropriate domestic relations order as~~ As a prorated portion of the
18 benefits made to the designated ~~recipient~~ recipient, if permitted by the plan,
19 program, system, or fund (i) at the time the party against whom the award is
20 made-participant-spouse is eligible to receive the benefits, (ii) at the time the
21 participant-spouse actually begins to receive the benefits; or benefits, or (iii) at
22 the participant-spouse's earliest retirement age. For purposes of this section,
23 "participant-spouse" means the spouse who is a participant in the plan,
24 program, system, or fund.

25 (4) By awarding a larger portion of other assets to the party not receiving the
26 benefits and a smaller share of other assets to the party entitled to receive the
27 benefits.

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

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

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

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

33 (3) ~~By appropriate domestic relations order as~~ As a prorated portion of the
34 benefits made to the designated ~~recipient~~ recipient, if permitted by the plan,



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1 program, system, or fund (i) at the time the party against whom the award is
2 made-participant-spouse is eligible to receive the benefits, (ii) at the time the
3 participant-spouse actually begins to receive the benefits-benefits, or (iii) at
4 the participant-spouse's earliest retirement age.

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

10 (d) ~~The award~~ When the amount of the benefit payable by the plan, program, system, or
11 fund to the participant-spouse is determined in whole or part by the length of time of the
12 participant-spouse's employment, the marital portion shall be determined using the proportion of
13 time the marriage existed (up to the date of separation of the ~~parties~~), parties) simultaneously
14 with the total time of the employment which earned the vested and nonvested pension, retirement,
15 or deferred compensation benefit, benefit subject to equitable distribution, to the total amount of
16 time of ~~employment~~ employment that earned the benefit subject to equitable distribution. The
17 ~~award determination~~ shall be based on the vested and nonvested accrued benefit, as provided by
18 the ~~plan or plan~~, program, system, or fund, calculated as of the date of separation, and shall not
19 include contributions, years of service, or compensation which may accrue after the date of
20 separation. The award shall include gains and losses on the prorated portion of the benefit vested
21 at the date of ~~separation~~ separation and cost-of-living adjustments and similar enhancements to
22 the participant's benefit. Notwithstanding any other provision of this Chapter, if the court makes
23 the award payable pursuant to subdivision (a)(3) or (b)(3) of this section and the court divides
24 the marital portion of the benefit equally between the participant-spouse and nonparticipant
25 spouse, the court shall not be required to determine the total value of the marital benefits before
26 classifying and distributing the benefits. However, neither party shall be prohibited from
27 presenting evidence of the total value of any marital benefits or of any benefits that are separate
28 property of either spouse. When a pension, retirement, or deferred compensation plan, program,
29 system, or fund, or an applicable statute limits or restricts the amount of the benefit subject to
30 equitable distribution by a State court, the award shall be determined using the proportion of time
31 the marriage existed (up to the date of separation of the parties) simultaneously with the total
32 time of the employment which earned the benefit subject to equitable distribution to the total
33 time of employment, as limited or restricted by the plan, program, system, fund, or statute that
34 earned the benefit subject to equitable distribution.

35 (d1) When the amount of the benefit payable by the plan, program, system, or fund is not
36 determined in whole or part by the length of time of the participant-spouse's employment, but is
37 instead based on contributions and held in one or more accounts with readily determinable
38 balances, including, but not limited to, individual retirement accounts and defined contribution
39 plans, such as those within the definitions of Internal Revenue Code section 401(k), 403(b), 408,
40 408A, or 457, the court shall not determine the award using the fraction described in subsection
41 (d) of this section. The court instead shall determine the marital portion of the benefit by
42 determining the amount of the account balance that is due to contributions made or earned during
43 the marriage and before separation, together with the income, gains, losses, appreciation, and
44 depreciation accrued on those contributions. If sufficient evidence is not presented to the court
45 to allow the court to make this determination, the court shall then determine the marital portion
46 of the benefit by using the fraction described in subsection (d) of this section, namely, by using
47 the proportion of time the marriage existed (up to the date of separation of the parties)
48 simultaneously with the employment which earned the benefit subject to equitable distribution
49 to the total amount of time of employment. In either event, the award shall be based on the vested
50 and nonvested accrued benefit as of the date of separation, together with the income, gains,
51 losses, appreciation, and depreciation accrued after the date of separation on the

1 date-of-separation benefits. However, the award shall not include contributions that may accrue
2 or be made after the date of separation, or any income, gains, losses, appreciation, and
3 depreciation accrued on those contributions.

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

15 (f) In the event the person receiving the award dies, the unpaid balance, if any, of the
16 award shall pass to the beneficiaries of the recipient by will, if any, or by intestate succession, or
17 by beneficiary designation with the ~~plan~~ plan, program, system, or fund consistent with the terms
18 of the ~~plan~~ plan, program, system, or fund unless the ~~plan~~ plan, program, system, or fund prohibits
19 such designation. In the event the person against whom the award is made dies, the award to the
20 recipient shall remain payable to the extent permitted by the pension or retirement system or
21 deferred compensation ~~plan~~ plan, program, system, or fund involved.

22 (f1) Whenever the award is made payable pursuant to subdivision (a)(3) or (b)(3) of this
23 section, and the pension or retirement or deferred compensation plan, program, system, or fund
24 permits the use of a "separate interest" approach in the order, there shall be a presumption,
25 rebuttable by the greater weight of the evidence, that the "separate interest" approach shall be
26 used to divide the benefit in question. For purposes of this section, the phrase "separate interest"
27 approach means any method of dividing pension or retirement system or deferred compensation
28 benefits in which the nonparticipant spouse, the spouse not a participant in the plan, program,
29 system, or fund in question, receives an interest that allows the nonparticipant spouse to receive
30 benefits in a manner independent, in whole or part, of the benefits received by the
31 participant-spouse, or to make elections concerning the receipt of benefits independently of the
32 elections made by the participant-spouse.

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

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

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

47 (g) The court may require distribution of the award by means of a qualified domestic
48 relations order, or as defined in section 414(p) of the Internal Revenue Code of 1986, or by
49 domestic relations order or other appropriate order. To facilitate the calculating and payment of
50 distributive awards, the administrator of the plan, program, system, ~~plan,~~ or fund may be ordered

1 to certify the total contributions, years of service, and pension, retirement, or other deferred
2 compensation benefits payable.

3 (h) This section and G.S. 50-21 shall apply to all vested and nonvested pension,
4 retirement, and other deferred compensation plans and plans, programs, systems, or funds,
5 including vested and nonvested military pensions eligible under the federal Uniform Services
6 Former Spouses Protection Act, and including funds administered by the State pursuant to
7 Articles 84 through 88 of Chapter 58 and Chapters 120, 127A, 128, 135, 143, 143B, and 147 of
8 the General Statutes, to the extent of a member's accrued benefit at the date of separation, as
9 determined by the court, including, but not limited to, uniformed services retirement programs,
10 federal government plans, State government plans, local government plans, Railroad Retirement
11 Act pensions, executive benefit plans, church plans, charitable organization plans, individual
12 retirement accounts within the definitions of Internal Revenue Code sections 408 and 408A, and
13 accounts within the definitions of Internal Revenue Code section 401(k), 403(b), or 457.

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

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

25 **SECTION 1.1** G.S. 135-9(a) reads as rewritten:

26 "(a) Except for the applications of the provisions of G.S. 110-136, and G.S. 110-136.3 et
27 seq., and in connection with a court-ordered equitable distribution under G.S. 50-20, the right of
28 a person to a pension, or annuity, or a retirement allowance, to the return of contributions, the
29 pension, annuity or retirement allowance itself, any optional benefit or any other right accrued or
30 accruing to any person under the provisions of this Chapter, and the moneys in the various funds
31 created by this Chapter, are exempt from levy and sale, garnishment, attachment, or any other
32 process whatsoever, and shall be unassignable except as in this Chapter specifically otherwise
33 provided. ~~Application~~ Notwithstanding any provisions to the contrary, application for System
34 approval of a domestic relations order dividing a person's interest under the Retirement System
35 shall be accompanied by an order consistent with the system-designed template order provided
36 on the System's Web site. ~~For~~ Notwithstanding any provisions to the contrary, the Retirement
37 System shall only make payment of a share of the member's retirement benefits to the member's
38 former spouse based upon a domestic relations order, and the former spouse shall not be
39 permitted to receive a share of the member's retirement benefits until the member begins to
40 receive the benefits, consistent with the system-designed template order. Notwithstanding any
41 provisions to the contrary, the former spouse shall not be entitled to any type or form of benefit
42 or any option not otherwise available to the member. Notwithstanding any provisions to the
43 contrary, for orders entered on or after January 1, 2015, payment to a member's former spouse
44 pursuant to any such domestic relations order shall be limited to the lifetime of that former spouse
45 and, upon the death of that former spouse, the former spouse's share shall revert to the member."

46 **SECTION 1.2** G.S. 128-31(a) reads as rewritten:

47 "(a) Except for the applications of the provisions of G.S. 110-136, and G.S. 110-136.3 et
48 seq., and in connection with a court-ordered equitable distribution under G.S. 50-20, the right of
49 a person to a pension, an annuity, or a retirement allowance, to the return of contributions, the
50 pension, annuity or retirement allowance itself, any optional benefit or any other right accrued or
51 accruing to any person under the provisions of this Article, and the moneys in the various funds

1 created by this Article, are exempt from levy and sale, garnishment, attachment, or any other
2 process whatsoever, and shall be unassignable except as in this Article specifically otherwise
3 provided. ~~Application~~ Notwithstanding any provisions to the contrary, application for System
4 approval of a domestic relations order dividing a person's interest under the Retirement System
5 shall be accompanied by an order consistent with the system-designed template order provided
6 on the System's Web site. ~~For~~ Notwithstanding any provisions to the contrary, the Retirement
7 System shall only make payment of a share of the member's retirement benefits to the member's
8 former spouse based upon a domestic relations order, and the former spouse shall not be
9 permitted to receive a share of the member's retirement benefits until the member begins to
10 receive the benefits, consistent with the system-designed template order. Notwithstanding any
11 provisions to the contrary, the former spouse shall not be entitled to any type or form of benefit
12 or any option not otherwise available to the member. Notwithstanding any provisions to the
13 contrary, for orders entered on or after January 1, 2015, payment to a member's former spouse
14 pursuant to any such domestic relations order shall be limited to the lifetime of that former spouse
15 and, upon the death of that former spouse, the former spouse's share shall revert to the member."
16

17 PART II. REVISE PARENTING COORDINATOR LAWS

18 SECTION 2. Article 5 of Chapter 50 of the General Statutes reads as rewritten:

19 "Article 5.

20 "Parenting Coordinator.

21 "§ 50-90. Definitions.

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

23 ...

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

26 "§ 50-91. Appointment of parenting coordinator.

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

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

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

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

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

44 (c) The order appointing a parenting coordinator shall specify the terms of the
45 appointment and the issues the parenting coordinator is directed to assist the parties in resolving
46 and deciding. The order may also incorporate any agreement regarding the role of the parenting
47 coordinator made by the parties under subsection (a) of this section. The court shall give a copy
48 of the appointment order to the parties prior to the appointment conference. Notwithstanding the
49 appointment of a parenting coordinator, the court shall retain exclusive jurisdiction to determine
50 fundamental issues of custody, visitation, and support, and the authority to exercise management
51 and control of the case.

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

8 **"§ 50-92. Authority of parenting coordinator.**

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

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

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

50 (b1) ~~Any party or attorney for the party may file a motion for the court to review a~~
51 ~~parenting coordinator's decision. The parties shall comply with the parenting coordinator's~~

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

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

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

13 **"§ 50-93. Qualifications.**

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

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

24 ...

25 **"§ 50-94. Appointment conference.**

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

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

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

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

48 **"§ 50-95. Fees.**

49 (a) The parenting coordinator shall be entitled to reasonable compensation from the
50 parties for services rendered and to a reasonable retainer. ~~The parenting coordinator may request~~
51 ~~a hearing in the event of a fee dispute.~~ If a dispute arises regarding the payment of fees or the

1 retainer, the parenting coordinator may file a fee report and request a hearing. If a party disputes
2 the parenting coordinator's fees or the allocation of those fees, the party may file a motion with
3 the court requesting that the court review the fees. The district court retains jurisdiction to resolve
4 disputes regarding the parenting coordinator's fees after the conclusion of the parenting
5 coordinator's term so long as the parenting coordinator's fee report was filed in a timely manner.

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

9 **"§ 50-96. Meetings and communications.**

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

19 **"§ 50-97. Reports.**

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

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

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

42 ~~(c) If the parties agree to any fundamental change in the child custody order, the parenting~~
43 ~~coordinator shall send the agreement to the parties' attorneys for preparation of a consent~~
44 ~~order.~~An expedited hearing shall be granted and shall occur within four weeks of the filing of the
45 report unless the parenting coordinator requests a longer length of time or the court has already
46 issued an order directing a party to show cause why the party shall not be held in contempt.

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

49 **"§ 50-98. Parenting coordinator records.**

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

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

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

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

16 **"§ 50-99. Modification or termination of parenting coordinator appointment.**

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

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

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

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

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

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

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

35 (1) The lack of reasonable progress.

36 (2) A determination that the parties no longer need the assistance of a parenting
 37 coordinator.

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

40 (4) The inability or unwillingness of the parenting coordinator to continue to
 41 serve.

42"

43
 44 **PART III. ADOPTION LAW CHANGES**

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

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

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

(2) 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.(a) G.S. 48-2-205 reads as rewritten:

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

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

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

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

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

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

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

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

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

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

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

...

(12) The agency preparing the preplacement assessment may redact from the preplacement assessment provided to a placing parent or guardian detailed information reflecting the prospective adoptive parent's ~~income and financial~~

1 ~~account balances~~ income, expenditures, assets, liabilities, and social security
2 numbers, and detailed information about the prospective adoptive parent's
3 extended family members, including surnames, names of employers, names
4 of schools attended, social security numbers, telephone numbers and
5 addresses, and other similarly detailed information about extended family
6 members obtained under subsections (b) and (c) of this section."

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

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

11 ...

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

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

15 "**§ 48-3-606. Content of consent; mandatory provisions.**

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

18 ...

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

20 ...

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

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

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

28 ...

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

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

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

34 ...

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

36 ...

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

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

40 "**§ 48-9-102. Records confidential and sealed.**

41 ...

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

44 (f) The Division ~~shall~~ shall, within 40 days after receiving it from the court, transmit a
45 report of each adoption and any name change to the State Registrar if the adoptee was born in
46 this State. In the case of an adoptee who was not born in this State, the Division ~~shall~~ shall, within
47 40 days after receiving it from the court, transmit the report and any name change to the
48 appropriate official responsible for issuing birth certificates or their equivalent.

49"

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

51 "**§ 48-9-109. Certain disclosures authorized.**

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

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

3 ...

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

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

8 "**§ 1-597. Regulations for newspaper publication of legal notices, advertisements, etc.**

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

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

49 (c) Whenever a notice or any other paper, document, or legal advertisement of any kind
50 or description is required to be published in a jurisdiction outside of North Carolina where legal
51 notices are customarily published in specialized legal publications, any form of publication which

1 meets the requirements for legal notices under the law of the locality where it is published shall
2 be deemed sufficient under this section."

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

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

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

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

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

16 "**§ 7B-3807. Judicial proceedings.**

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

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

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

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

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

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

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

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

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

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

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

4 ...

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

8
9 **PART IV. EFFECTIVE DATE**

10 **SECTION 14.** Part II and Part III of this act become effective October 1, 2019. Part

11 I of this act becomes effective October 1, 2019, and applies to distributions on or after that date.

12 Except as otherwise provided, the act is effective when it becomes law.