

## 2019 Statutory Amendments to Adoption Laws

During the 2019 legislative session, various changes were made to the laws impacting adoptions in North Carolina. Last week, the North Carolina General Assembly passed a Joint Resolution ([Resolution 2020-1](#)) adjourning the long session of the 2019 Regular Session and designating the start of the short session as April 28, 2020. This post summarizes the amendments impacting adoption proceedings that were made during the long session, all of which are currently in effect.

### N.C. Jurisdiction when Another State Is Exercising Jurisdiction in a Child Custody Proceeding

G.S. 48-2-100 addresses subject matter jurisdiction in adoption proceedings, which are special proceedings before the clerk of superior court (unless a mandatory transfer to district court is required by G.S. 48-2-601(a1)). Effective October 1, 2019, Section 3 of [S.L. 2019-172](#) amends G.S. 48-2-100(c), which addresses when another state's court is exercising jurisdiction that is substantially in compliance with the Uniform Child-Custody Jurisdiction Enforcement (UCCJEA). See G.S. Chapter 50A. Subsection (c)(1) now provides that a North Carolina court has jurisdiction when the other state that is exercising jurisdiction places custody of the adoptee with an agency, the adoption petitioner, or another custodian that expressly supports a plan of adoption that does not identify a specific adoptive parent other than the adoption petitioner.

### Preplacement Assessments

A preplacement assessment involves a reasonable investigation of the prospective adoptive parent and determines whether that person is suitable to be an adoptive parent. See G.S. 48-3-302. Barring a statutory exemption for certain relatives in an independent adoption, a favorable preplacement assessment is required for an adoption of a minor. See G.S. 48-3-301. Two different 2019 session laws made amendments to the preplacement assessment statutes.

Section 17 of [S.L. 2019-240](#) amends G.S. 48-3-303, which addresses the content and timing of a preplacement assessment. Specifically, subsections (c)(1), (c)(3), and (e) are amended to limit the information the agency conducting the preplacement assessment considers when making a determination about the prospective parent's suitability to adopt by removing the consideration of that person's nationality, race, ethnicity, and religious preference. These changes, effective November 6, 2019, were made to comply with the federal Multi-Ethnic Placement Act (MEPA).\*

Section 6 of S.L. 2019-172 amends G.S. 48-3-303(c)(12), which also involves the content of a preplacement assessment and allows for certain financial information for the prospective adoptive to be redacted. Effective October 1, 2019, the amended law replaces the prospective adoptive parent's "financial account balances" with their "expenditures, assets, liabilities."

### The Interstate Compact of the Placement of Children (ICPC)\*\*

The ICPC applies to pre-adoptive placements that cross state lines, with limited exceptions for direct placement adoptions with certain relatives or a child's guardian. See G.S. 7B-3800. Compliance with the ICPC is required for adoptions. G.S. 48-3-207.

Effective October 1, 2019, Sections 11 and 12 of S.L. 2019-172 create two new statutes to the ICPC. G.S. 7B-3807 gives the ICPC regulations that are promulgated by the Association of Administrators the effect of law in North Carolina. Those regulations can be found [here](#). G.S. 7B-3808 addresses the need to provide all the necessary information to the state ICPC office at DHHS and refers to the ICPC regulations. Under G.S. 7B-3808, DHHS is authorized to request from the sending agency or receiving state written notice of information that is required when an incomplete request has been received. Upon receipt of the notice from DHHS, the sending agency has 10 business days to submit the requested information or withdraw its request. DHHS may treat the ICPC request as expired if the requested information is not timely received from the sending agency.

### Notice of Adoption Proceeding to Agency Making Preplacement Assessment or Report to the Court

Section 18 of [S.L. 2019-243](#) amends G.S. 48-2-403 by changing who must provide notice of the adoption proceeding to an agency that is completing a preplacement assessment and an agency that is ordered to make a report. Effective November 6, 2019, the adoption petitioner and not the clerk of superior court is required to mail or otherwise deliver that notice. Additionally, the petitioner must provide proof of service of the notice to the court.

### Consents and Relinquishments

Effective October 1, 2019, section 7 of S.L. 2019-172 amends G.S. 48-3-605(c) and 48-3-702(b1), which address the requirements of what must be certified in writing by the individual who is authorized to administer oaths/take acknowledgments and before whom the parent's or guardian's consent to or relinquishment for adoption is signed and acknowledged. A new subdivision (5) is added to each statute, which requires the individual certify that to the best of his or her knowledge or belief the person executing the consent or relinquishment has been advised of the right to seek legal counsel before executing the consent or relinquishment. Further, G.S. 48-3-606(14)c. and 48-3-703(a)(12)c. are amended to require that the consent or relinquishment state that the individual executing the consent or relinquishment has been advised of the right to "seek the advice of" legal counsel (rather than the right to "employ" legal counsel). DHHS amended their consent and relinquishment forms in November 2019 to incorporate these changes. See [DSS-1803](#) (consent) and [DSS-1804](#) (relinquishment). These statutory amendments appear to correspond with the enactment of G.S. 7B-909.1 by [S.L. 2019-33](#), Section 13, also effective October 1, 2019. That relinquishment statute applies when a parent is represented by an attorney in an underlying abuse, neglect, dependency or termination of parental rights action. See my earlier blog post discussing the 2019 changes to the Juvenile Code [here](#).

## Foreign Adoptions

A minor child who has been adopted in a foreign country may be readopted under North Carolina law. Effective October 1, 2019, S.L. 2019-172 amends various statutes in G.S. Chapter 48 that address a minor child's readoption in North Carolina.

Section 4 amends G.S. 48-2-205 and 48-2-301(c) to address when a married couple has adopted the child in the foreign country and one of the spouses has died. The surviving spouse may petition for the child's readoption in both spouses' names, and the adoption decree must name both spouses who adopted the child in the foreign country. See G.S. 12-3(16) (statutory construction of "husband" and "wife").

Section 5 amends G.S. 48-2-606(b), which addresses what must be stated in an adoption decree and reorganizes the subsection into two subdivisions instead of three. The statute authorizes the court to enter a date of birth based on medical evidence and other evidence the court finds to be credible, and the amendment removes the reference to when "the exact date of birth is unknown."

## Confidentiality of Records, Review by the Division of Social Services, Disclosure of Information

Article 9 of G.S. Chapter 48 addresses the confidentiality and permitted disclosure of adoption records. After a designated period of time, G.S. 48-9-102 requires the clerk of superior court to send the records that are filed in connection with an adoption proceeding to the Division of Social Services at DHHS. The Division permanently indexes and files the records related to the proceeding. The Division must also forward the Report and any name change to the State Registrar if the child was born in North Carolina or to the equivalent official responsible for issuing birth certificates in the state where the child was born so that a new birth certificate can be prepared. See G.S. 48-9-107. Effective October 1, 2019, Section 8 of S.L. 2019-172 enacts G.S. 48-9-102(d1), which limits the Division's review of the record sent by the clerk of superior court to the Report to Vital Records. See [DSS-1815](#) Report to Vital Records (Nov. 2019). The "sole purpose" of the review is for "identifying any obvious error on the report to vital records... and to notify the clerk of the error." Upon receiving a notice of obvious error on the Report from the Division, the clerk must correct the report and return it to the Division within ten days. This statutory amendment appears to resolve the issues raised by my colleague, Meredith Smith, in an earlier blog post [here](#), where the Division was conducting a more comprehensive review of the record without the statutory authority to do so. Further amendments to G.S. 48-9-102(e) and (f) by S.L. 2019-172 impose a 40-day time period on the Division to conduct the limited review and transmit the Report to the State Registrar or other state's equivalent.

Section 9 of S.L. 2019-172 adds G.S. 48-9-109(1)d., which authorizes an employee of a court, agency, or any other person to give a file-stamped copy of a document to a person or that person's legal representative who has filed a document in the adoption proceeding.

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\*For more information about MEPA, see Chapter 13.3 of Abuse, Neglect, Dependency and Termination of Parental Rights Proceedings in North Carolina (“A/N/D TPR Manual”), [here](#).

\*\* For additional information about the ICPC, see Chapter 7.4.H of the A/N/D TPR Manual.

Note a Dec. 31, 2019 edition of the A/N/D TPR Manual is forthcoming.