

Article 4.

Adoption of a Minor Stepchild by Stepparent.

§ 48-4-100. Application of Article.

This Article shall apply to the adoption of minors by their stepparents. (1995, c. 457, s. 2.)

§ 48-4-101. Who may file a petition to adopt a minor stepchild.

A stepparent may file a petition under this Article to adopt a minor who is the child of the stepparent's spouse if:

- (1) The parent who is the spouse has legal and physical custody of the child, and the child has resided primarily with this parent and the stepparent during the six months immediately preceding the filing of the petition;
- (2) The spouse is deceased or incompetent but, before dying or being adjudicated incompetent, had legal and physical custody of the child, and the child has resided primarily with the stepparent during the six months immediately preceding the filing of the petition; or
- (3) For cause, the court permits a stepparent who does not meet the requirements of subdivisions (1) and (2) of this section to file a petition. (1995, c. 457, s. 2.)

§ 48-4-102. Consent to adoption of stepchild.

Except under circumstances described in G.S. 48-3-603, a petition to adopt a minor stepchild may be granted only if consent to the adoption has been executed by the adoptee if 12 or more years of age; and

- (1) The adoptee's parents as described in G.S. 48-3-601; and
- (2) Any guardian of the adoptee.

The consent of an incompetent parent may be given pursuant to the procedures in G.S. 48-3-602. (1949, c. 300; 1957, c. 778, s. 5; 1969, c. 911, s. 6; 1971, c. 1093, s. 13; 1973, c. 1354, s. 5; 1983, c. 30; c. 454, ss. 2, 6; 1995, c. 457, s. 2; 1997-215, s. 11(c).)

§ 48-4-103. Execution and content of consent to adoption by stepparent.

- (a) A consent executed by a parent who is the stepparent's spouse:
 - (1) Must be signed and acknowledged before an individual authorized to administer oaths or take acknowledgments;
 - (2) Must be in writing and state or contain:
 - a. The statements required by G.S. 48-3-606, except for those required by subdivisions (4), (9), (12), and (13) of that section;
 - b. That the parent executing the consent has legal and physical custody of the child and is voluntarily consenting to the adoption of the child by the stepparent;
 - c. That the adoption will not terminate the legal relation of parent and child between the parent executing the consent and the child; and
 - d. That the adoption will terminate the legal relation of parent and child between the adoptee and the adoptee's other parent, including all right of the adoptee to inherit as a child from or through the other parent, and will extinguish any existing court order of custody, visitation, or communication with the adoptee, except that the other parent will

remain liable for past-due child support payments unless legally released from this obligation.

- (b) A consent executed by a minor stepchild's parent who is not the stepparent's spouse:
 - (1) Must be signed and acknowledged before an individual authorized to administer oaths or take acknowledgments; and
 - (2) Must be in writing and state or contain:
 - a. The statements required by G.S. 48-3-606, except for those required by subdivisions (4), (9), (12), and (13) of that section;
 - b. That the parent executing the consent is voluntarily consenting to:
 - 1. The transfer of any right the parent has to legal or physical custody of the child to the child's other parent and stepparent, and
 - 2. The adoption of the child by the stepparent; and
 - c. That the adoption will terminate the legal relation of parent and child between the adoptee and the parent executing the consent, including all rights of the adoptee to inherit as a child from or through the parent, and will extinguish any court order of custody, visitation, or communication with the adoptee, except that the parent executing the consent will remain liable for past-due child support payments unless legally released from this obligation.
- (c) A consent executed by the guardian of a minor stepchild:
 - (1) Must be signed and acknowledged before an individual authorized to administer oaths or take acknowledgments; and
 - (2) Must be in writing and state or contain:
 - a. The statements required by G.S. 48-3-606, except for those required by subdivisions (4), (9), (12), and (13) of that section;
 - b. A statement that the guardian is voluntarily consenting to:
 - 1. The transfer of any right the guardian has to legal or physical custody of the adoptee to the adoptive stepparent; and
 - 2. The adoption of the adoptee by the stepparent;
 - c. That the adoption will not terminate the legal relation of parent and child between a parent who is or was the stepparent's spouse and the adoptee;
 - d. That the adoption will terminate the legal relation of parent and child between the adoptee and a parent who is not or has not been the stepparent's spouse, including all right of the adoptee to inherit from or through that parent, and will extinguish any court order of custody, visitation, or communication with the adoptee, except that a parent whose relation to the adoptee is terminated by the adoption will remain liable for past-due child support payments unless legally released from this obligation.

(d) G.S. 48-3-608(a) applies to consents executed pursuant to subsections (a) through (c) of this section. Unless so revoked, the consent is final and irrevocable except under a circumstance set forth in G.S. 48-3-609.

(e) A consent executed by an adoptee in a proceeding for adoption by a stepparent must be signed and acknowledged under oath before an individual authorized to administer oaths or take acknowledgments. The minor may revoke the consent at any time before the decree is entered by

filing written notice with the court in which the petition is pending. (1949, c. 300; 1957, c. 778, s. 6; 1961, c. 186; 1969, c. 982; 1983, cc. 83, 688; 1985, c. 758, s. 12; 1987, c. 541, s. 1; 1991, c. 667, s. 1; 1995, c. 457, s. 2.)

§ 48-4-104: Repealed by Session Laws 1997-215, s. 12(b).

§ 48-4-105. Visitation awards to grandparents pursuant to Chapter 50 of the General Statutes.

(a) An adoption under this Article does not terminate or otherwise affect visitation rights awarded to a biological grandparent of a minor pursuant to G.S. 50-13.2.

(b) An adoption under this Article does not affect the right of a biological grandparent to petition for visitation rights pursuant to G.S. 50-13.2A or G.S. 50-13.5(j). (1949, c. 300; 1953, c. 824; 1955, c. 813, s. 5; 1963, c. 967; 1967, c. 619, s. 5; 1983, c. 454, s. 6; 1985, c. 67, ss. 1-4; c. 575, s. 1; 1995, c. 457, s. 2.)