



# HOUSE BILL 147: Amend Adoption Laws

2013-2014 General Assembly

<b>Committee:</b>	Senate Judiciary I	<b>Date:</b>	June 6, 2013
<b>Introduced by:</b>	Reps. Jordan, Stevens, Glazier	<b>Prepared by:</b>	Susan Sitze*
<b>Analysis of:</b>	Second Edition		Committee Counsel

**SUMMARY:** *House Bill 147 would amend various laws pertaining to adoption.*

## **BILL ANALYSIS:**

**Section 1** provides that the director of social services or the director of the licensed private child-placing agency must notify the clerk to calendar the case for review of the plan for the juvenile at a session of court to be held within 6 months of accepting a relinquishment of a juvenile for adoption unless one of the following is true:

- The juvenile has become the subject of a decree of adoption.
- If only one parent has relinquished for adoption, and it appears that the other parent's parental rights are not being terminated and his or her consent or relinquishment for adoption necessary for the juvenile to be adopted cannot be obtained.

Section 1 also provides that if a court finds that a consent or relinquishment for adoption cannot be obtained and no further steps are being taken to terminate the parental rights of the parent, the court may order that any relinquishment for adoption signed by a parent who has surrendered the child for adoption shall be voided. The court must find that this is in the juvenile's best interests. Before voiding any relinquishment, the county department of social services or licensed child placing agency must give at least 15 days' notice to the relinquishing parent whose rights will be restored. The relinquishing parent has the right to be heard on (i) whether the relinquishment should be voided and (ii) the parent's plan to provide for the juvenile if the relinquishment is voided. The notice of the hearing is sent by US mail, return receipt requested, to the address of the parent.

**Section 2** provides guidelines regarding the death of a stepparent seeking to adopt a juvenile prior to the entry of a final decree. In this instance, the adoption may proceed in the name of the petitioning stepparent if the court mails to any individual who executed a consent to adoption a notice advising that the petitioning stepparent has died and the individual may, within 15 days from the date the individual receives notice, request a hearing on the adoption. Notice is complete when mailed to the individual. Upon completion of the adoption, the name of the petitioning stepparent is entered as one of the adoptee's parents on the new birth certificate. For purposes of inheritance, the adoptee shall be treated as a child of the deceased stepparent.

**Section 3** provides that if a person whose consent to adoption is required under G.S. 48-3-601 is served with notice of the filing of the petition and fails to respond within the time specified in the notice, then the court shall enter an order that the individual's consent is not required for the adoption.

**Section 4** makes technical and conforming changes.

**Section 5** provides that the petitioner for adoption must file the following:



# House Bill 147

Page 2

- A certificate of service, as required by G.S. 48-3-307(c), if the person who placed the minor executes a consent before receiving a copy of the preplacement assessment.
- A certified copy of any judgment of conviction of first-degree rape, rape of a child, or second-degree rape establishing that an individual's consent to adoption is not required.

This section also provides that any document that must be filed with a petition for adoption that is available to the petitioner when the petition is filed shall be filed with the petition. Any required document that is not available when the petition is filed shall be filed as the document becomes available. (Current law requires all documents to be filed at the time the petition is filed.)

**Section 6** provides that in the adoption of a minor, notice does not need to be served to a man whose consent is not required due to his conviction of first-degree rape, rape of a child, or second-degree rape.

**Section 7** provides that consent to an adoption of a minor is not required of any person convicted of rape of a child and whose actions resulted in the conception of the child to be adopted.

**Section 8** provides that a person executing a consent document must be given an original or a copy of his or her fully executed consent (was "[r]eceived or was offered a copy of the consent"). This section also makes technical changes.

**Section 9** makes technical and conforming changes.

**Section 10** adds provisions to the statutes governing relinquishment. It provides that the person before whom a relinquishment is signed and acknowledged ( i.e. an individual who is authorized to administer oaths or take acknowledgements) must certify that to the best of his or her belief, the parent, guardian, or minor executing the relinquishment has met each of the following:

- Read, or had read to him or her, and understood the relinquishment.
- Signed the relinquishment voluntarily.
- Been given an original or copy of his or her fully executed relinquishment.
- Been advised that counseling services may be available through county departments of social services or licensed child-placing agencies.

**Section 11** makes technical and conforming changes.

**Section 12** provides that a relinquishment shall be voided based on a court order finding that another consent or relinquishment necessary for an adoption cannot be obtained and that no further steps are being taken to terminate the parental rights of the parent from whom the consent or relinquishment has not been obtained. A county department of social services or licensed child-placing agency must make this motion to the court.

**Section 13** provides that any person who is convicted of rape of a child and whose actions resulted in the conception of a child cannot claim the right of custody of that minor child.

**EFFECTIVE DATE:** This act is effective when it becomes law.

**BACKGROUND:** The first edition of House Bill 147 is a recommendation from the Family Law Section of the North Carolina Bar Association.

*\*Brad Krehely, Staff Attorney, contributed substantially to this summary.*