

JURISDICTION AND VENUE IN ADOPTIONS

Does North Carolina have jurisdiction? G.S. 48-2-100.

- North Carolina has jurisdiction over an adoption if at the time the adoption petition is filed (1) the adoptive parents have resided or been domiciled in NC for at least 6 consecutive months OR (2) the child has resided here for 6 months or from birth (even if for only one day) OR (3) the child is in the custody of a county DSS or licensed child placing agency.
- (1) above is the traditional jurisdiction requirement. Domicile is a person's permanent residence and can be different from his present residence. Adoptive parents who serve in the military, as missionaries, live abroad or in another state for other reasons, or are students may have a NC domicile while they reside elsewhere. Some evidence of domicile is the ownership of property, DMV registration, voter registration, payment of taxes, etc, but domicile must be determined on a case by case basis.
- (2) and (3) above are new jurisdiction rules added effective October 1, 2007. (2) is meant to apply to independent adoptions where the adoptive parents have not yet lived in NC for 6 months and thus do not meet (1) above, but the child has lived here for 6 months or from birth.
- (2) also applies where adoptive parents live out-of-state, want an interstate adoption of a child born in NC, and choose to complete the adoption here, rather than in their home state. They may file an adoption petition in NC IF they do so while the child is still here. They cannot take the child out of NC and then file here.
- (3) was added to help NC agencies place children for adoption in other states, but complete the adoption here, and thus avoid conflicts with the adoption laws of other states. For example, some states will not allow an adoption petition to be filed until all rights are terminated. Under NC law, a child is cleared, and a petition can be filed based on the relinquishments of parents even though the relinquishment does not terminate all parental rights until the final decree is entered.
- (3) allows adoptive parents, no matter where they live, to file an adoption petition here IF the child is in the custody of a county DSS or licensed child placing agency. The child does not have to be in North Carolina when the petition is filed as long as the child is still in the legal custody of a NC agency at that time.

If North Carolina has jurisdiction, where is the appropriate venue? G.S. 48-2-101.

- If the jurisdictional requirements of G.S. 48-2-100 are met, venue lies in the county where the (a) petitioner lives, or is domiciled, at the time of filing OR (b) the adoptee lives OR (c) an office of the agency placing the adoptee is located. The placing agency is the agency that clears the child for adoption and consents to the adoption.
- Under the traditional jurisdiction requirement (1), where the adoptive parents have resided or been domiciled in North Carolina for at least 6 months, the adoptive parents can choose venue (a), (b) or (c), if it is an agency adoption.
- Under the new jurisdiction requirement (2), where the child has lived here for 6 months or from birth, the adoptive parents in an independent adoption can choose venue (a) or (b), if they now live here, but have not been here for 6 months. If they are non-NC residents, they must choose (b), the county where the adoptee lives.
- Under the new jurisdiction requirement (3), where the child is in agency custody, the out-of-state adoptive parents would choose (c), the county where the placing agency's office is located.

What procedures are used when the adoptive parents are not NC residents?

- Since 1996, G.S. 48-1-109(c) has allowed adoptions to proceed when the adoptive parents lived here, filed their petition here, and then moved to another state before the final decree was issued.
- Similar procedures will be used to complete an adoption when the adoptive parents have never resided in North Carolina.
- G.S. 48-1-109(b) allows a preplacement assessment prepared in another state to be used here if the adoptive parents resided in that state and it was prepared by someone authorized in that state. If its content does not meet the requirements of G.S. 48-3-303(c)-(h), it must be amended to meet those requirements.
- The order for report to the court (DSS-1807) will be sent to the county DSS or agency already involved with the family who will send it to the receiving state supervising agency listed on the ICPC 100A form for completion.

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AGENCY ADOPTIONS

- Petition for Adoption (DSS-1800) Spouse must join in or waiver by clerk
Date of Petition: _____
Child's DOB: _____
Placement Date: _____
- Report on Proposed Adoption (DSS-1808)
Date Report Signed by Clerk: _____ Agency Completing: _____
- Affidavit of Parentage (DSS-1809) *Required unless BOTH parents rights are terminated by the court.*
- Agency's Consent to Adoption (DSS-1801)
Date Signed: _____ Agency Signing the Consent: _____
- Any Relinquishments (DSS-1804) *use date signed*
Mom: _____ Dad: _____
- Certified copy of TPR *use date file stamped*
Mom: _____ Dad: _____
- Be sure to check for clearance if there is a legal dad as well as bio dad.***
- Consent of Minor Child (DSS-1803) *if 12 or over before the decree is issued*
Date Signed: _____
- Certified copy of background information on birth parents (DSS-5102 and 5103) or affidavit stating why not available *Need a separate one for each birth parent*
- Copy of pre-placement assessment *Must be within 18 months of placement or updated*

- Affidavit of Fees (DSS-5191)
- Final Decree of Adoption (DSS-1814) *use date file stamped*

- Report to Vital Records (DSS-1815) *Be sure that state where child is born is "authorized" on page one; be sure that adoptive mother's maiden name is on page 2*

CORRECTIONS NEEDED:

STEPPARENT ADOPTIONS

Petition for Adoption (DSS-5162) *This is different from the usual minor child petition. It cannot be filed until the parents have been married at least 6 months unless the clerk waives this requirement.*

Date of Petition: _____

Child's DOB: _____

Placement Date: _____ *Must be later than the marriage date listed on page 2*

Report on Proposed Adoption (DSS-1808)

Date Report Signed by Clerk: _____ Agency Completing: _____

The clerk can choose to waive this report BUT the parents must have been married at least two years prior to the date of the petition to do so.

Consent by Spouse of Stepparent (DSS-5189) *Use date signed* _____

Consent of Biological Parent (DSS-5190) *Use date signed* _____

Certified copy of TPR *use date file stamped*

Mom: _____ Dad: _____

Be sure to check for clearance if there is a legal dad as well as bio dad.

Consent of Minor Child (DSS-5169) *if 12 or over before the decree is issued. This is different from the child's consent in other minor child adoptions.*

Date Signed: _____

Affidavit of Fees (DSS-5191)

Final Decree of Adoption (DSS-1814) *use date file stamped. Will only have ONE petitioner and should not include the biological parent as a petitioner* _____

Report to Vital Records (DSS-1815) *Be sure that state where child is born is "authorized" on page one; be sure that adoptive mother's maiden name is on page 2; be sure that the biological parents information is entered on page 2 even though they are not listed as a petitioner on page 1.*

CORRECTIONS NEEDED:

RELATIVE ADOPTIONS

The adoption is ONLY a relative adoption if the relationship of petitioner to adoptee is grandparent, sibling, first cousin, aunt, uncle, great aunt, great uncle or great grandparent. If it is any other degree, it would be an independent adoption.

Petition for Adoption (DSS-1800) Spouse must join in or waiver by clerk

Date of Petition: _____

Child's DOB: _____

Placement Date: _____

Report on Proposed Adoption (DSS-1808)

Date Report Signed by Clerk: _____ Agency Completing: _____

Affidavit of Parentage (DSS-1809) *Required unless BOTH parents rights are terminated by the court.*

Any Consents (DSS-1802) *use date signed*

Mom: _____ Dad: _____

Certified copy of TPR *use date file stamped*

Mom: _____ Dad: _____

Be sure to check for clearance if there is a legal dad as well as bio dad.

Consent of Minor Child (DSS-1803) *if 12 or over before the decree is issued*

Date Signed: _____

Certified copy of background information on birth parents (DSS-5102 and 5103) or affidavit stating why not available *Need a separate one for each birth parent*

Affidavit of Fees (DSS-5191)

Final Decree of Adoption (DSS-1814) *use date file stamped*

Report to Vital Records (DSS-1815) *Be sure that state where child is born is "authorized" on page one; be sure that adoptive mother's maiden name is on page 2*

CORRECTIONS NEEDED:

INDEPENDENT ADOPTIONS

- Petition for Adoption (DSS-1800) Spouse must join in or waiver by clerk
Date of Petition: _____
Child's DOB: _____
Placement Date: _____ *The date that the primary caregiver signed the consent to adoption, transferring legal and physical custody*
- Report on Proposed Adoption (DSS-1808)
Date Report Signed by Clerk: _____ Agency Completing: _____
- Affidavit of Parentage (DSS-1809) *Required unless BOTH parents rights are terminated by the court.*
- Certificate of Delivery of Preplacement Assessment (DSS-5219)
Date Pre-Placement Assessment Delivered to Parents: _____
- Any Consents (DSS-1802) *use date signed*
Mom: _____ Dad: _____
- Certified copy of TPR *use date file stamped*
Mom: _____ Dad: _____
- Be sure to check for clearance if there is a legal dad as well as bio dad.***
- Consent of Minor Child (DSS-1803) *if 12 or over before the decree is issued*
Date Signed: _____
- Certified copy of background information on birth parents (DSS-5102 and 5103) or affidavit stating why not available *Need a separate one for each birth parent*
- Copy of pre-placement assessment *Must be within 18 months of placement or updated*

- Affidavit of Fees (DSS-5191)
- Final Decree of Adoption (DSS-1814) *use date file stamped*

- Report to Vital Records (DSS-1815) *Be sure that state where child is born is "authorized" on page one; be sure that adoptive mother's maiden name is on page 2*

CORRECTIONS NEEDED:

FOREIGN ADOPTIONS

Petition for Adoption (DSS-1800) Spouse must join in or waiver by clerk

Date of Petition: _____

Child's DOB: _____

Placement Date: _____

Report on Proposed Adoption (DSS-1808)

Date Report Signed by Clerk: _____ Agency Completing: _____

Consent of Minor Child (DSS-1803) *if 12 or over before the decree is issued*

Date Signed: _____

Certified copy of foreign adoption decree with translation

Certified copy of foreign birth certificate with translation

Copy of pre-placement assessment *Must be within 18 months of original placement*

Affidavit of Fees (DSS-5191)

Final Decree of Adoption (DSS-1814) *use date file stamped*

Report to Vital Records (DSS-1815) *Be sure that the North Carolina is the "authorized" be sure that adoptive mother's maiden name is on page 2*

CORRECTIONS NEEDED:

ADULT ADOPTIONS

- Petition for Adult Adoption (DSS-5163) Spouse must join in or waiver by clerk
Date of Petition: _____ *Use date of file stamped*
- Consent of Adult Adoptee (DSS-5164) Date Signed: _____
- Consent of Spouse – if Stepparent (DSS-Consent to Adoption by Spouse of Petitioner
(Stepparent Adoption Only) (DSS-5165) Date Signed: _____
- Proof of service to adult children of adoptive parent and any parent, spouse, or adult child of
adoptee or waiver by the clerk *Clerk CAN ONLY waive notice to the biological parents*
- Affidavit of Fees (DSS-5191)
- Final Decree of Adoption (DSS-5166) *use date file stamped* _____
- Report to Vital Records (DSS-5167)

If the adoptee is married, all documents should be completed with the maiden name ONLY.

CORRECTIONS NEEDED:

ADOPTION QUESTIONS AND ANSWERS

ARTICLE 1

- (1) Under 48-1-106(f), what are rights of biological grandparents to visit adoptive child?

G.S. 48-1-106(f) refers to statutes in Chapter 50 concerning the rights of biological grandparent's to visit children adopted by a stepparent or relative where a substantial relationship exists between grandparent and child and the court finds such visitation is in the child's best interest. Adoption by unrelated persons are specifically excluded from these statutes. Thus, in adoptions by unrelated persons, biological grandparents have no visitation rights.

- (2) If a person is in this country illegally or is not a U.S. citizen, can he/she petition to adopt a child? If the child is here illegally or is not a U.S. citizen, can he/she be adopted?

These types of questions are becoming more frequent. The short answer to each question is yes. 48-1-103 and 104 provide that an adult may adopt another individual (except a spouse) and any individual may be adopted. Former Chapter 48 provided that "any minor child, irrespective of place of birth or place of residence and whether or not a citizen of the U.S." may be adopted. But it may not be in a child's best interest to be adopted by petitioners who are at risk of deportation or about whom adequate information cannot be obtained.

It is important to remember that completion of an adoption in North Carolina does not automatically change or improve a person's immigration status. State adoption law and federal immigration laws both must be followed.

ARTICLE 2

Death of Joint Petitioner

- (1) Does 48-2-204 cover only agency and independent adoptions or does it also cover stepparent adoptions – where stepparent dies before final decree?

Article 2 covers general adoption procedures but 48-2-204 applies only when spouses have petitioned jointly. In Article 4 governing stepparent adoptions, only the stepparent petitions. Thus if the stepparent dies, no joint petitioner survives to finish adoption.

Divorce of Joint Petitioner

- (1) A couple petitions to adopt a child but divorces before the petition is finalized. If the husband no longer wishes to proceed with the adoption, can the wife amend the petition and proceed to adopt singly? Are the consents given to both adoptive parents still valid?

This issue came up under former Chapter 48. In re Kasim, 58 N.C. App. 36, 293 S.E.2d 247, cert. denied 306 N.C. 742, 295 S.E.2d 478 (1982). The adoptive parents divorced and the trial court found that the birthmother's consent to the couple was not sufficient for just the adoptive mother to complete the adoption and thus dismissed the petition. The Court of Appeals held that withdrawal of one petitioner does not, by itself, require dismissal of the petition and ordered a determination by the Clerk of whether, in the best interest of the child, the adoptive mother's petition should be dismissed or allowed to continue to final order.

Marriage of Single Petitioner

- (1) A single woman petitions to adopt a child but marries before the final decree is entered. The husband wants to join in as a petitioner and adopt the child. Are new consents necessary?

48-3-202 requires that the parent personally select the adoptive parent and be given a preplacement assessment on that adoptive parent. 48-3-606 requires the consent to state that the adoption will be by a specific named adoptive parent. 48-3-607 provides that the consent empowers the individual to petition to adopt the child. None of these requirements were met as to the husband, thus new consents should be obtained from the birthparents. If not, the petition should proceed with the wife as a single petitioner with a waiver from the Clerk of the joinder of spouse requirement. 48-2-301(b). When the requirements of 48-4-101 are met, the husband could later complete a stepparent adoption.

Report to the Court

- (1) If we do not receive sufficient cooperation in any kind of an adoption to make a favorable recommendation in our report or proposed adoption, do we file an incomplete report or withhold approval of the adoption? E.g. family does not make itself available or follow through with requested information. Does DSS move to Dismiss a petition for any valid reason?

48-2-503 requires that a written report should be filed within 60 days after receipt of the clerk's order. This report should include information on the lack of cooperation and thus the agency's inability to file a complete report or make a favorable recommendation on the proposed adoption. 48-3-502(b) clearly allows the agency to petition to dismiss petitions filed for agency placements. The Clerk could dismiss other petitions on his or her own initiative based on the agency's court report.

- (2) Are two visits required for Report on Proposed Adoption in stepparent adoptions? Can one be an office visit?

48-2-502 requires at least two interviews for any adoption. One could be an office visit. One must be a home visit.

- (3) What comprises an "interim report" under 48-2-503(b) and are there any guidelines for this report?

No guidelines exist for an "interim report", but the statute provides for this only where a specific concern about the suitability of the petitioner or petitioner's home should be immediately raised with the Clerk, rather than waiting the usual 60 day period.

- (4) Will there be any "easing" of requirements for documents to be submitted with DSS-1808 in stepparent/relative adoptions?

48-2-501(d) provides the clerk may waive the DSS-1808 report when the petitioning stepparent and birth parent have been married for at least two years and the child has lived with them during that time. But if the DSS-1808 is ordered, all the information must be provided.

- (5) What is the reason the "medical exam of child" form (DSS-1811) has been reinstated as part of Report to the Court?

This report form continues to be optional. It was included because many counties continue to use it, in order to satisfy 48-2-502(b)(2), which requires information on the physical, mental and emotional condition of adoptee.

- (6) Can the agency's adoptive study be attached to Report to Court (DSS-1808) or must separate summary be written on last page of 1808?

Adoption study can be attached to DSS-1808 but last page should still contain conclusion (supported by study) that adoptive home is suitable for child.

- (7) If an agency completes a preplacement assessment for an independent adoption, is the same agency responsible for the Report to the Court after the petition is filed?

The agency who completed the preplacement assessment should be asked to prepare the Report to the Court, but 48-2-501 would allow another agency to be ordered to do it. A copy of the petition and attached documents is sent to the agency ordered to prepare the report. Proposed changes to administrative rules will require agencies to let adoptive parents know whether they will provide post placement reports.

- (8) In adoptions, such as stepparent and relative, where no preplacement assessment is required, must the Clerk order the county DSS to prepare the Report to the Court?

No. 48-2-501 would allow the Clerk to order a licensed child placing agency to prepare the Report to the Court.

Filing Petition / Attachments to Petition

- (1) Under 48-2-302 if a petition is not filed within the mandated time and DSS is notified, is this taken as a CPS report or just information for Report to the Court?

This information, without additional specific concerns about care of child, would not be taken as CPS report. Petitioner could be notified to request extension of time to file under 48-2-302(a) and if a petition is later filed, this information could be included in Report to the Court if appropriate.

- (2) A petition is filed after child's placement, but the placing agency in international adoption will not give its consent to adoption until after 6 months of supervision by NC agency. Is this a problem?

No. Clerk should be notified of reason for delay in agency's consent when the petition is filed and an extension of time to finalize adoption can be requested. 48-2-601.

- (3) Is there a time frame in which foster parents must petition to adopt? What is 30 days after "placement" where child has been in their home prior to being free for adoption?

The agency and adoptive parents should agree on the date the child is considered "placed for adoption," which is a date after the child is free for adoption.

- (4) If couple has final decree of adoption from foreign country and wants to readopt in NC, does couple have to submit their home study (preplacement assessment) along with petition? What about affidavit of parentage?

The preplacement assessment prepared for the foreign adoption is required under 48-2-305. The final order of adoption from foreign country filed pursuant to 48-2-205 would satisfy consent requirement, and no affidavit of parentage would be needed.

- (5) Does information that must be attached to petition (48-2-305) have to get to clerk at same time petition filed? Any penalties if not filed with petition? What if ICPC-100A is not received from State Office for several months after placement? What if background information is not available?

48-2-306 allows necessary information not available or not filed with petition to be filed at later time. An affidavit explaining why a required document is not available should always be attached to petition. If information will never be available, Clerk should be notified of reason. 48-2-306(b) provides that after final decree, omission of any information does not invalidate decree.

- (6) What is done with information that is filed with adoption petition?

48-9-102(d) provides that it is sent to State Office within 10 days after decree of adoption is entered.

- (7) Can consents that must be attached to adoption petition be copies or certified copies rather than originals? E.g. order of adoption from foreign country?

Original consents should be attached except that certified copies of foreign adoption orders should be allowed.

- (8) How do we create affidavit of parentage (48-3-206) for petition when child and birthparents live out of state in interstate adoptions?

The responsibility in an agency adoption is on the agency who obtains the relinquishment to have at least one parent provide the information and sign the form (which a NC agency could provide to an out of state agency). The responsibility in an independent placement would be on the petitioner to secure the affidavit. If this affidavit is impossible to obtain, explain to the Clerk and provide information on parents on separate document. The purpose of affidavit is to let Clerk know who parents are so Clerk can make sure consents, etc. are obtained from them.

Notice of Adoption Proceedings

- (1) In adult adoptions, is notice still given by posting it "at the courthouse door" for 10 days?

No. 48-2-401(d) requires notice pursuant to Rule 4 of the Rules of Civil Procedure (personal service, certified mail or publication) to the following: any adult children of the prospective adoptive parent and any parent, spouse or adult child of the adoptee, except the clerk can waive the notice to the parent of the adoptee. The petition to adopt an adult must list these persons. 48-2-304(e).

48-2-405 makes it clear these persons are entitled to appear and present evidence only as to whether the adoption is in the best interest of the adoptee since their consent to the adoption is not required.

- (2) If notice is given to a parent whose whereabouts or identity are unknown and no response is received within 30 days after service of that notice, can the adoption proceed without that parent's consent?

48-3-603(a)(7) states that the consent of a parent who is noticed but does not respond within 30 days is not required, much like former 48-6(a)(1). The best practice has been to enter an order to that effect, and effective for adoptions filed on or after 10/01/05, the clerk must do so under new 48-2-207.

Affidavit of Expenses

- (1) If fees and expenses for the adoption will be reimbursed, does an affidavit on these still need to be filed with the Clerk?

48-2-602 requires the filing of an affidavit by petitioners at least 10 days before disposition accounting for any payment made or agreed to be made by or on behalf of the petitioner. The fact that the fees paid will be reimbursed is not relevant to the reason for the affidavit – whether the payments violate 48-10-103 and what action the court should take if they do.

Decree of Adoption

- (1) Is the decree of adoption the same as a final order of adoption?

Yes.

- (2) In an agency adoption, is there a minimum amount of time following placement and the filing of a petition before the final decree of adoption may be entered?

48-2-603(a) provides that a final decree may be entered if at least 90 days have elapsed since the filing of the petition and child has been in physical custody of petitioner for at least 90 days, but the clerk may waive either of these for cause. The purpose of the 90 days is to allow time for any required notice under 48-2-401 to be given and parents cleared, if needed. It is also meant to insure the placement appears successful. In many agency adoptions there is no need for notice to anyone, the parents are cleared, and the child has been in the placement prior to the filing of the petition. Those adoptions are good candidates for a waiver of the 90 days, especially with older children who want to know the adoption is finalized and use their adoptive name.

- (3) Once the decree of adoption is entered, must DSS notify district juvenile court of this fact? Is a final review required?

7B-908 and 909 govern "adoption reviews" in juvenile court. These reviews end after the child is placed and adoption petition filed. District court jurisdiction continues, however, until the final order of adoption, unless waived by court. 48-2-102. It would thus be good practice to notify the district court of the entry of the final order. No review hearing is required to accomplish this.

- (4) Can adoptions still be held open for three years or only six months?

New Chapter 48 has no maximum time limits on adoption proceedings. 48-2-601(c) provides that disposition is to take place no later than 6 months after the petition is filed, but may be extended for cause by the clerk.

- (5) What is the time frame for the entry of a decree of adoption in an adult adoption?

48-2-605 provides for a decree of adoption to be entered if at least 30 days have elapsed since the filing of the petition (unless waived by the clerk) and notice to the appropriate persons has been given under 48-2-401(d). The Clerk is required by 48-2-605(a) to have an actual hearing before entry of the decree, at which the prospective adoptive parent and adoptee (or an attorney if allowed by the clerk) appear.

ARTICLE 3

Preplacement Assessments

- (1) Will preplacement assessments need to be certified as a true, complete copy of the agency prepared document at the time it is given to the prospective adoptive parents?

This issue is not addressed in 48-3-306, but 48-2-305 requires the copy attached to the petition be certified by the agency. Good practice would dictate that the copy given to the prospective adoptive parents also be certified as a true copy, preferably on the last or summary page of the assessment rather than as a separate page so as to prevent any possible alteration of the assessment.

- (2) Can a county DSS cross the county line to prepare an assessment for a family living in a county where DSS there won't prepare an assessment?

Yes. The county preparing the assessment may want to notify home county DSS as a courtesy.

- (3) Can DSS and licensed child placing agency check with State Office to see if unfavorable assessment is on file for an adoptive applicant?

Permission should be obtained from the applicant to check with the State Office for prior assessments.

- (4) Can DSS charge families desiring to adopt children in DSS custody for a preplacement assessment?

The fee policy does not apply to families who have identified an adoptee who is in the custody and placement responsibility of DSS. DSS will prepare preplacement assessment at no charge for families it deems appropriate for its children. If a family wishes a preplacement assessment from DSS and has not identified a DSS child or expressed an interest in adopting a DSS child, then DSS may charge up to \$1500 for a preplacement assessment.

- (5) Are birthparents who relinquish to an agency entitled to copy of preplacement assessment under 48-3-203 as birthparents in direct adoption are entitled under 48-3-202?

48-3-202 specifically requires that a preplacement assessment be provided to a birthparent in independent adoptions. 48-3-203 states that an agency may notify a birthparent when an adoptive placement has occurred and must select an adoptive parent on the basis of a preplacement assessment. A birthparent who has relinquished a child to an agency, however, does not receive copy of the preplacement assessment on the adoptive parents.

- (6) In independent placements, must putative fathers who did not place the child for adoption get a copy of the preplacement assessment?

If the father signs a consent, prebirth or not, he is entitled to a copy of the preplacement assessment on the adoptive parents to whom he gave the consent pursuant to 48-3-202. Note that providing this information after placement of the child does not give the father extra time to revoke under 48-3-608(b) because he was not the parent placing the minor.

- (7) Does the preplacement assessment need to be attached to all adoption petitions except relative adoptions?

Preplacement assessments must be attached to all adoption petitions, except stepparent and certain relative adoptions as designated in 48-3-301(b).

- (8) Are preplacement assessments required when children in DSS custody are placed for adoption with relative listed in 48-3-301(b)?

Yes. 48-3-301(b) applies only when parent places directly with a designated relative. All DSS adoptions must have preplacement assessments.

- (9) May DSS contract with private social worker to prepare preplacement assessments and to prepare reports to the court on relative and stepparent adoptions?

Yes, but agency remains ultimately responsible for preparation and completion of assessment and the social worker completes the assessment or report as an agent of DSS.

- (10) What is meant by "updated" assessments? May prior "home studies" be used? Will fees be available to DSS for these updates?

48-3-301(a) provides that preplacement assessments must be updated every 18 months. Information from prior "home studies" may be used to prepare a preplacement assessment that meets the requirements of 48-3-303. 48-1-109 provides that out-of-state assessments that do not meet NC requirements in 48-3-303 must be updated as well. A county DSS may charge a fee for both types of updated assessments.

- (11) Are preplacement assessments for independent adoptions to be consistent with preplacement assessment for agency adoptions? May agencies require more for their own adoptions?

Preplacement assessments must contain at least the specific information required in 48-3-303. Agencies may require additional information or have additional requirements such as MAPP training for its own adoptions. See 48-3-302(d) and 48-3-303(c)(11).

- (12) If agency turns down adoptive family after preplacement assessment, must that assessment be sent to State Office? What if the assessment is not completed because serious problem with adoptive family comes up early that stops assessment? What should be sent to State Office?

48-3-305 requires that assessment containing "not suitable" finding should be sent to the State Office. If a serious problem comes up early and precludes a "suitable" finding, then the assessment should be written with an explanation of the problem and why no further work with the family will allow a "suitable" finding at this time, 48-3-303(g). The purpose of sending these "not suitable" preplacement assessments to State Office is to allow tracking of any adoption by a family which has an unfavorable assessment, 48-3-308(d). The family and the State Office can be told that a later assessment may be favorable in the future if the problem is corrected.

- (13) Are there sample guidelines for an agreement to charge a fee for preplacement assessment that must be signed prior to doing assessment? Must agency's acceptance of request for preplacement assessment be in writing?

There are no samples available from the State Office at this time. No fee for a preplacement assessment may be charged unless a written agreement is signed in advance 48-3-304. The same agreement which sets out the fee to be charged could also contain the agency's acceptance of the request for a preplacement assessment.

Consents / Relinquishments

- (1) What is meant by a "designated" adoption in 48-3-703(a)(5)? What happens if a child is relinquished and for some reason cannot be placed with the "designated" family?

48-3-703(a)(5) provides that an individual signing a relinquishment to an agency may agree to the adoption of the child with 1) a prospective adoptive parent selected by the agency or 2) an adoptive parent selected by the agency and agreed upon by the individual executing the relinquishment.

Form DSS-1804 provides check blocks for these two options. There are 3 types of these "designated" adoptions:

- (1) The birthparent reviews nonidentifying assessments or summaries of approved adoptive homes and chooses one for her child. The confidentiality provisions of Article 9 do not allow identified placements except in (2) and (3).
- (2) The birthparent wishes the child, who is already in DSS custody, to be adopted by certain foster parents or relatives, who have already been approved to adopt the child.
- (3) The birthparent has already chosen an adoptive family, but they wish to use the services of an agency and the birthparent signs a relinquishment to the agency for that family.

Agencies should require that birthparents have chosen a specific, approved family before checking the "designated" box on the DSS-1804. This will prevent the problem of a birthparent who checks the "designated" box whose "designated" relative cannot later be approved.

Note that Form DSS-1804 also has blocks on the back of the form for the birthparent to indicate whether she 1) wants to be notified if the designated adoption cannot be finalized in order to revoke within 10 days or 2) is willing for her designated relinquishment to turn into a general relinquishment in that event.

- (2) Who can sign acceptance for agency on DSS-1804? Must it be done at same time as relinquishment signed by birthparent? What if relinquishment is mailed to agency by birthparent?

Generally, the director or his designee signs the acceptance. 48-3-702 requires that an agency accepting a relinquishment furnish each parent a letter or other writing indicating the agency's willingness to accept the relinquishment.

This could be accomplished by the signing of the DSS-1804 acceptance form or a separate statement indicating the acceptance will be signed by the agency. When a relinquishment is mailed to a birthparent, the letter itself can serve as that statement of intent to accept.

- (3) Can notice of revocation on the DSS-1802 be to adoptive parents' attorney or directly to adoptive parents at their address?

In independent adoptions 48-3-608(a) requires that notice be given to the "person specified in the consent". (DSS-1802). This person could be the adoptive parents or an attorney, who would obviously be responsible for immediately notifying the adoptive parents.

- (4) If revocation by mail is effective upon deposit in mail, how long does agency or adoptive parent wait to see if mail containing revocation arrives?

48-3-608(a) and 48-3-706(a) make revocation by mail or overnight delivery service effective upon deposit in such. Thus, the revocation could be mailed on the 7th day and not reach the agency or adoptive parent until several days later, but the revocation was effective on the day mailed, and thus is a valid revocation. There is no definite time frame to wait, except to allow sufficient time for such mail to arrive. Obviously, overnight mail should arrive the next day.

- (5) Will a GAL be appointed to give consent if both parents are deceased and grandmother is petitioning to adopt?

No. Under new Chapter 48, a GAL will only be appointed where a parent has been adjudicated incompetent (48-3-602). 48-3-603(a)(6) simply states that the consent of a deceased parent is not required and makes no provision for a substitute consent.

- (6) What is the duty to support a child after a relinquishment is signed?

From July 1, 1996, until July 31, 1997, the execution of a relinquishment terminated that parent's duty to support the child, except for child support arrears. 48-3-706 was then amended effective August 1, 1997, to delete that provision. Since August 1, 1997, the duty to support continues until the entry of the final decree. If, however, a parent's rights are terminated in district court, the duty to support ends at the time of the TPR order.

- (7) If one parent revokes a consent or relinquishment, what effect does this have on the consent or relinquishment signed by the other parent? Must the agency or adoptive parents return the child immediately to the revoking parent?

48-3-608(c) states that if a person who has physical custody and placed the child then revokes the consent, the adoptive parent must, immediately upon request, return the child to that parent. If a parent who did not have physical custody and place the child for adoption (usually the father) revokes, no duty to return the child exists but, obviously, another consent must be obtained or TPR done before the adoption can proceed.

The same rules apply to revocation of relinquishments. 48-3-706.

The revocation of a consent or relinquishment by one parent does not automatically void the other consent or relinquishment. A consent can be voided after the revocation period has expired if the prospective adoptive parent and individual executing the consent mutually agree in writing to set it aside before the final decree. 48-6-609. A relinquishment can be voided if the agency and individual agree to rescind it before placement with an adoptive parent occurs. 48-7-707.

- (8) Does the relinquishment or consent have to be read in front of notary? What will notary need to have done or ask in order to sign certification on DSS-1802 and 1804?

48-3-605(c) requires that notary certify "to the best of her knowledge or belief" that the consent or relinquishment was read and understood, etc. The notary must ask appropriate questions of the agency, birthparent or adoptive parent and get answers that satisfy this standard.

- (9) If a relinquishment is revoked, must agency provide transportation for parent to get child back?

48-3-706(d) provides that upon revocation by parent with prior physical custody, "the agency shall upon request return the minor to that birthparent". If transportation is a problem, the agency should assist with transportation.

- (10) Can a hospital get a copy of a birthmother's consent for its records when the adoptive parent wants to remove child from the hospital?

48-3-402 provides that a hospital may release a child to prospective adoptive parents if the parent signs an authorization of transfer of physical custody for the purpose of adoption. Thus the hospital does not need a copy of the consent, and 48-9-102 does not allow the disclosure of this document.

- (11) Does agency still need to give consent to adoption where the birthparents' rights have been terminated?

Yes. 7B-1112 provides that following a TPR custody is given to DSS along with the authority to consent to the child's adoption.

- (12) Can foreign final orders of adoption still be used in lieu of consent when adoptive family wants to readopt in NC?

Yes. 48-2-205.

- (13) What recommendations does the State Office have when birthparents have not been adjudicated mentally incompetent but are very limited (I.Q. of 70 or below) and wish to sign relinquishment to agency? What about parents who are mentally ill, but there is no adjudication of incompetency?

It is important to proceed cautiously in these cases. Attorneys who represent any parents in juvenile court must always be notified if a relinquishment is being discussed with the birth parent. That would be especially important in these cases. Mental health professionals should also be consulted for an opinion on the parent's level of understanding about releasing a child for adoption and also their ability to parent. A termination of parental rights action could be brought in cases of either mental retardation or mental illness where the parents are unable to properly care for their children under 7B-1111(6).

- (15) Must GAL for incompetent parent under 48-3-602 be an attorney?

The adoption law does not require the GAL to be an attorney, nor does Rule 17 of the Rules of Civil Procedure on appointment of GAL for incompetent persons. The complexity of the investigation required, however, may warrant the appointment of an attorney as the GAL.

- (15) If birthfather signs prebirth relinquishment and birthmother does not release child, must he be notified by agency? Can birthmother get child support from him?

An agency should consider discussing the optional voiding provision set out in 48-3-707(a)(2) that would allow the birthfather and agency to mutually agree to void his relinquishment before placement with a prospective adoptive parent occurs, i.e. if the birthmother does not release the child. If the birthmother does not release the child and the birthfather's revocation period has not expired, the agency should notify the birthfather, if possible, of these circumstances.

- (16) What if birthmother revokes a relinquishment to child placing agency (not DSS) but does not take custody of child? What action should child placing agency take?

A licensed child placing agency should provide an opportunity for the birthmother to pick up the child or arrange to return the child. A protective services referral for dependency and/or neglect should be made to the county DSS if the birthmother does not take custody of the child or make an appropriate alternative placement.

- (17) Under 48-3-601 must we now get consents from husbands who are not fathers when the child is born during the marriage or after the divorce?

Yes. 48-3-601(2)(b) defines a legal father as one who is or was married to the mother of the child if the child was born during the marriage or within 280 days after 1) written separation agreement, 2) Chapter 50 or 50B order of separation or 3) termination of marriage. The husband's consent would be required if a child was born within 280 days of the written separation agreement, separation order or entry of the divorce decree. Remember, legal fathers cannot sign a denial of paternity.

- (18) Are consents or relinquishments signed prior to 7/1/96 still valid?

Yes.

- (19) If an alleged father denies paternity, should there be service by publication on an unknown father?

48-3-603(a)(4) provides that the consent of a man who has executed a denial of paternity is not required. When an alleged father denies paternity, the agency or adoptive parents needs to carefully consider whether the evidence strongly indicates this man is actually the father, but will only sign a denial.

If there is a question as to the actual paternity of the child, the safer course would be for the agency to terminate an unknown father's rights or for the adoptive parents in an independent adoption to terminate an unknown father's rights or give notice under 48-2-401 by publication and then have the Clerk find his consent is not necessary pursuant to 48-3-603(a)(7) to eliminate future challenges to the adoption under 48-2-607(c).

- (20) A father relinquishes to DSS which had already removed custody from the mother in a juvenile case. The child is temporarily placed with relatives until suitable adoptive parents can be found. Mom consents directly to the relatives to adopt the child. Can she legally do this since DSS has custody and placement responsibility?

The mother still retains her parental rights unless they have been terminated and has the right to consent to the adoption of her child by relatives although DSS has custody. However, by doing so she cannot remove custody from the agency. 48-3-501 provides that when a parent places an adoptee directly with an adoptive parent, that adoptive parent acquires the parent's right to legal and physical custody of the child. In this scenario the parent has lost her right to custody so she does not have that to transfer.

In addition, if the relatives desired to file an adoption petition, notice must be given to DSS pursuant to 48-2-401(4). DSS can file a motion to dismiss the petition and have a hearing on that issue pursuant to 48-2-604. If DSS supports adoption by the relatives, DSS can consent to the adoption on behalf of the father. If there is no juvenile court order to the contrary, DSS can also make another placement for the child. 48-2-102(b) provides that juvenile court retains jurisdiction after an adoption petition is filed. In any event, juvenile court should immediately be notified of this adoption attempt by the mother.

Medical History / Background Information

- (1) Are agencies required to contact biological parents for this background information in direct relative or stepparent adoptions?

Since no preplacement assessments are required in these adoptions, an agency will not be involved until a Report to the Court is ordered. If no background document is attached, the agency should remind the adoptive parents and court of the need for that information. It is not agency's responsibility to contact birthparents to get it.

ARTICLE 4

- (1) In a stepparent situation, if the natural parent dies or the couple gets a divorce and then the stepparent files an adoption proceeding, is it considered an independent or stepparent adoption?

If the natural parent is deceased, 48-4-101 provides that the stepparent may file a petition of the natural parent, before dying, had legal and physical custody of the child and the child had resided primarily with the stepparent during the six months immediately preceding the filing of the petition. In that case, the adoption would proceed as a stepparent adoption, and no preplacement assessment would be required.

If the couple is divorced, the stepparent ceases to be the child's stepparent, and any later adoption would be an independent adoption and would require a preplacement assessment. In addition, the mother will lose her parental rights if she consents to this adoption.

- (2) Does the natural parent join in a stepparent adoption as a co-petitioner?

48-2-301 and 48-4-401 do not require or provide for the natural parent to join in the petition. 48-4-102 and 103 do mandate the consent of the natural parent and the requirements for that consent.

- (3) If a mother lives with a man for 2 years and then they marry, can a stepparent petition be filed and the report to the court waived?

No. 48-4-101 provides that the child must reside primarily with the natural parent and stepparent for six months before a petition is filed. The man is not the child's stepparent until he is married to the mother so a petition could not be filed for six months after the marriage unless this requirement is waived by the court for cause. The fact that the couple had lived together with the child prior to marriage could be a factor in that waiver decision. Similarly, 48-2-501, allowing the Clerk to waive a report to the court where the child has lived with the stepparent for at least two consecutive years, requires two years of marriage.

ARTICLE 5

- (1) Can an adult adoptee accomplish an adoption where one or both adoptive parents are deceased? Adult may have been raised by these "parents" who never adopted him or he thought he was adopted but was not.

It is not possible for an adult to be adopted by a deceased person. The N.C. Supreme Court has recognized the doctrine of "equitable adoption", but this doctrine does not create a legal adoption. It simply recognizes inheritance rights when certain facts exist, including an express or implied agreement to adopt, a reliance on that agreement by the "adoptee" and the "foster" parents treating the child as their own and dying without a will.

- (2) If an adoptee turns 18 years old prior to a final decree, can the adoption be completed or must it be dismissed and refiled as an adult adoption?

Hopefully, good planning will avoid this problem. However, if it occurs, an adult petition would need to be filed so that the requirements of Article 5 are met now that the adoptee is an adult.

ARTICLE 6

- (1) A child is adopted by an unrelated couple. Now they are consenting for biological mom to adopt. What type of placement is this? Will a preplacement assessment be required?

Article 6 applies to adoptions by a former parent and provides that these follow Article 3 procedures. This would be considered an independent placement, and a preplacement assessment would be required.

ARTICLE 9

- (1) In an agency placement is the adoptive parent entitled to identifying information on birthparents?

48-9-109 allows the birth parents and adoptive parents to sign the DSS-5218 form authorizing the agency and themselves to share nonidentifying information. This form must be signed prior to the entry of the final decree.

- (2) How is the confidentiality requirement met in an agency adoption in light of documents which must be attached to petition?

48-2-305 lists documents that shall be filed with the petition, but there is not requirement that they be shared with the adoptive family. 48-2-503 does require that a copy of the court report be given to the petitioner and pursuant to 48-2-502 it could contain identifying information about the birthfamily from court orders.

However, 48-2-502 also provides that in an agency adoption the report shall be written in a way to exclude identifying information, including redacting attached court orders so that names of birthparents or relatives are removed.

- (3) Can information from sealed adoption records be shared with Child Fatality Prevention Team?

G.S. 143-578 provides that a Child Fatality Prevention Team has access to records maintained by the state or any local agency that are necessary to carry out its purposes. Any records obtained must be kept confidential by the team. On its face this statute appears to cover adoption records, but given the specific confidentiality provisions of Article 9, any such sharing should be discussed in advance with the agency's attorney.

- (4) Can the adoptee's county of birth now be revealed to adoptive parents in agency adoptions? Will it be on the petition and new birth certificate?

Only the adoptee's state or country of birth is listed on the petition. 48-2-304(a). 48-9-107 states that the new birth certificate contain the state of birth except in stepparent adoptions. Form DSS-1814, the final decree of adoption, and DSS-1815, Report to Vital Records, should include adoptee's county of birth only when prepared for a stepparent adoption.

- (5) Are the special proceedings indexes maintained by the Clerks in which the adoptive names are indexed and file number confidential?

48-9-102 provides that neither the final decree of adoption nor the special proceedings index by which a final decree of adoption may be found are confidential.

- (6) Can information under 48-3-205 (disclosure of background information) be given about adoptions completed prior to 7/1/96?

Yes. Adoptees may contact agencies after 7/1/96 and request information under 48-3-205.

- (7) When agency is asked by birthparent or birth sibling about present circumstances of adoptee, what, if any, actions should agency take to learn of those circumstances if no current information known to agency?

48-9-103(f) now provides that an agency may disclose nonidentifying information about an adoptee's present circumstances to a birthparent or sibling. An agency can encourage adoptive families to provide updates to the agency.

- (8) Will preplacement assessment be retained with petition in Clerk's file?

No. The Clerk's file will retain only the petition and the final decree.

- (9) In international adoptions, when readopting, is country of birth put on Report to Vital Records instead of county of adoptive parents' residence?

Yes. 48-2-304(a) provides that the country or state of birth be put on petition. 48-2-606(b) gives procedure for determining the date and the place of birth of an adoptee born outside the United States, including the country of birth which goes on final order and Report to Vital Records.

- (10) If a biological mother is searching for a child she released many years ago, can DHHS tell her the county where the adoption was finalized or only the name of the agency to which she released child?

48-9-109 provides that the name of the court as well as the agency may be disclosed to an individual described in 48-9-104 who can verify his/her identity. 48-9-104 lists adoptee, adoptive parent, adoptee's birth sibling or birth grandparent and birthparent. The name of the court is necessary for the filing of a petition to open an adoption record pursuant to 48-9-105; the specific date the final decree was entered should not be given.

- (11) If an adoptee is searching, may DHHS give him the name of both the placing and supervising agency in order to facilitate that search?

48-9-109 refers only to "placing agency", but the supervising agency may also have nonidentifying information that can be requested pursuant to 48-9-103. 48-9-103(b) specifically refers to the agency that place the adoptee or prepared the report to the court, and in my opinion both agencies can be shared with the adoptee.

ARTICLE 10

- (1) Can a family with an approved preplacement assessment advertise in newspaper for child to adopt?

Yes. 48-10-101(b1) allows a person with a current, approved preplacement assessment to advertise.

- (2) Can a birthmother advertise in a newspaper for adoptive family?

No. Under 48-10-101(a) she could "solicit potential adoptive parents for a child in need of adoption" assuming she would have both legal and physical custody of the child when born, i.e. she would have the authority to place the child for adoption. 48-3-201. "Solicitation" does not include advertising in the public medium.

- (3) Can licensed child placing agency's contract be submitted to Clerk as a disclosure of fees and charges?

Yes, if it meets requirements of 48-2-602.

- (4) Is it a criminal offense for a birthmother to lie or withhold information about birthfather's identity to agency preparing background information statement?

No. This is not addressed in Chapter 48.

- (5) When agency believes birthmother has been offered illegal payment for her child, what should be done? What if birthmother lives in NC but adoptive parents out-of-state?

48-10-102 prohibits the payment of money or anything of value, directly or indirectly, for the placement of a minor for adoption, except for authorized payments under 48-10-103. A first violation of 48-10-102 is a misdemeanor. Subsequent violations are felonies including a \$10,000 fine. The agency should include this information in its court report and may report it to the district attorney or law enforcement. Concerns in interstate adoptions should be referred to the state where the adoptive parents reside.

Miscellaneous

- (1) Are 48-1-106(b) and 48-2-204 inconsistent regarding inheritance rights and adoption?

No. Both indicate that adoptees will inherit from adoptive parents from the date of the final decree of adoption. 48-2-204 simply allows that inheritance from a deceased joint petitioner who is entered as one of the adoptive parents.

- (2) What type of verification of identity is recommended before sharing information with birthparents, adoptees, etc.?

Agencies should consider a photo ID or some other descriptive identification procedure.

- (3) Does specific authority of DSS under 48-3-201(d) to make legal risk placements affect or change adoption assistance rules?

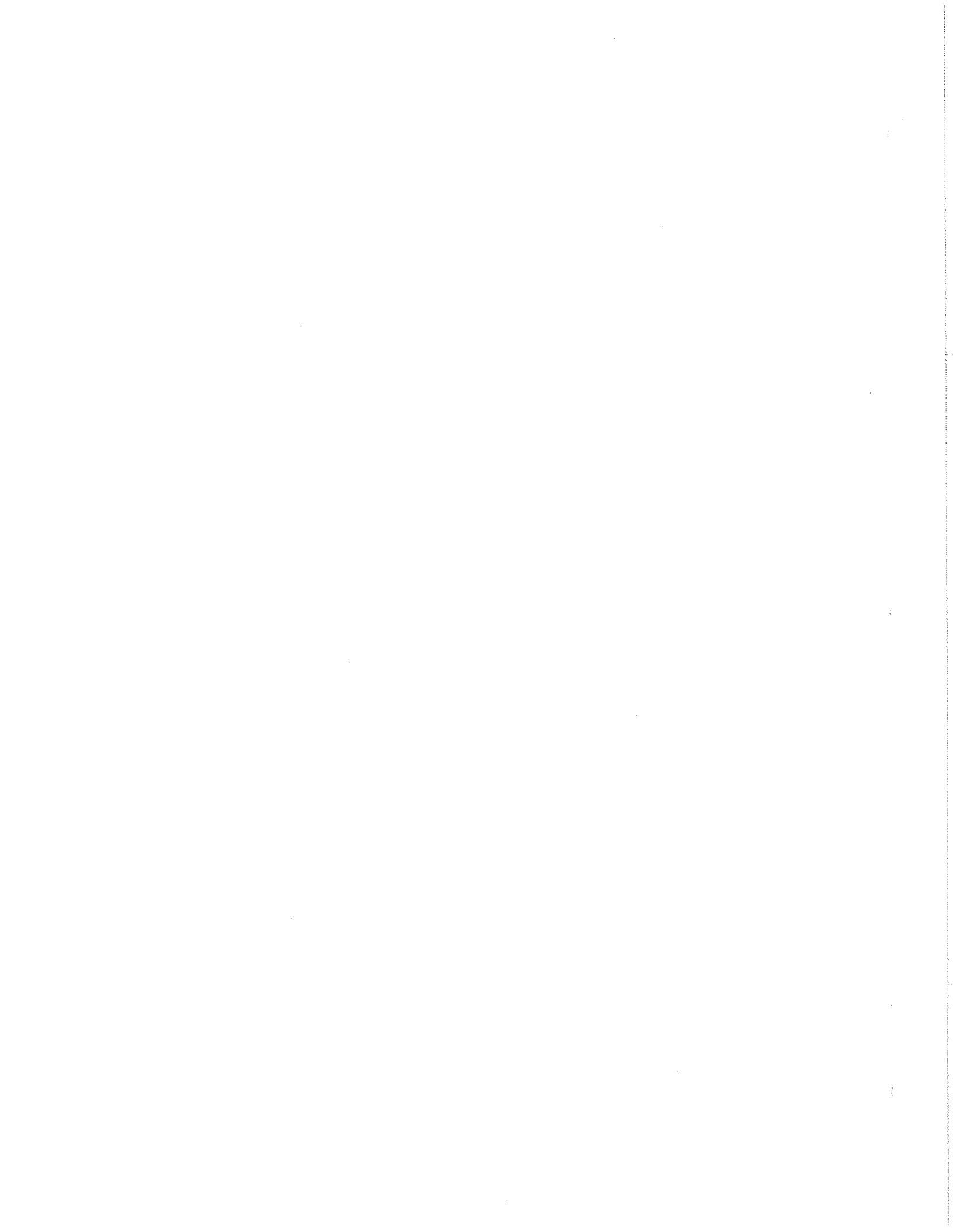
No. Adoption assistance begins after final decree. Eligibility for adoption assistance should be established when the plan of adoption is made for the child. Policy requires that adoption assistance agreements be signed before the final order.

- (4) When a child is released to a private agency, placed with family and adoption subsidy is applied for from county of residence of birthmother, some county DSS take months to make decision and will deny subsidy if petition has been filed. Is this appropriate? Can 30 day requirement to file adoption petition under 48-2-302 be waived to wait for subsidy decision?

The agency should apply for subsidy as soon as the child is released. Filing of the petition should not affect the eligibility determination, which is based on the special needs of the child. A waiver of the 30 day requirement can be requested but should not be necessary for adoption assistance purposes. If there are problems or undue delays with this issue, agencies should call the State Office.

- (5) Is it appropriate for the Clerk's office to return adoption documents to attorney or DSS and have attorney or DSS send documents to DHHS?

48-9-102(d) clearly makes it the Clerk's responsibility to transmit all appropriate documents to the Division.



IMPORTANT TIME FRAMES IN ADOPTIONS

Affidavit of Fees (DSS-5191):

The Affidavit of Fees must be received no less than **10 days** prior to the issuance of the Final Decree of Adoption (DSS-1814).

Certificate of Delivery of Preplacement Assessment (DSS-5219):

In an independent adoption where one or both of the birth parents has signed a consent for adoption before the Pre-Placement Assessment is completed, the birth parent must be served with a copy of the Pre-Placement Assessment. Once they are served a copy, they have a new **5 day** revocation period. The petitioners must include proof of service and/or affidavit of service of the Pre-Placement Assessment before the Final Decree of Adoption (DSS-1814) is issued.

Child's Consent:

A child's consent is required in any adoption where the child will be **12 years** of age prior to the issuance of the Final Decree of Adoption (DSS-1814) unless the clerk determines that it is in the child's best interest to waive this requirement.

Final Decree of Adoption (DSS-1814):

Minor Adoption: The Final Decree of Adoption (DSS-1814) cannot be issued prior to **90 days** from the date of the petition unless the clerk waives this requirement. The Final Decree of Adoption (DSS-1814) must be issued no later than **6 months** from the date of the petition unless the time is extended for cause.

Adult Adoption: The Decree of Adult Adoption (DSS-5166) must be issued no sooner than **30 days** of the filing of the petition unless the clerk waives this requirement.

Designated Relinquishment of Minor for Adoption by Parent or Guardian (DSS-1804):

If a parent designates a specific adoptive parent(s) when signing a Relinquishment of Minor for Adoption by Parent or Guardian (DSS-1804) and that adoption does not occur, the parent must receive notice and has an additional **10 day** revocation period before the agency can proceed with placement with another petitioner, unless they check the box on page 2 of the form stating they do NOT desire to be noticed.

Dismissal of Adoption:

All parties to an adoption must receive a **5 day** notice from the clerk prior to a hearing on dismissal.

Indexing Requirements:

Within **10 days** of the issuance of a Final Decree of Adoption (DSS-1814) the clerk must mail the adoption packet to the NC Division of Social Services for review and indexing.

Legal Father:

The legal father is the man who is or was married to the mother and the child was born during the marriage or within **280 days** after they divorced or after they separated pursuant to a written separation agreement or court order. His consent to the adoption would be required unless he was judicially determined NOT to be the father and/or another man has been judicially determined to be the father.

Notice of Filing of Petition:

Within **30 days** of the filing of the petition, the petitioner must make attempts to serve anyone requiring notice. If personal service is accomplished, the person noticed has **30 days** to respond. If service is accomplished via publication, the person noticed has **40 days** to respond.

Order for Report on Proposed Adoption (DSS-1807):

The clerk should issue the Order for the Report on Proposed Adoption within **5 days** of the filing of the adoption petition. If a Pre-Placement Assessment is required and has not been completed, the clerk must wait **30 days** from receipt of the Pre-Placement Assessment to issue the Order for Report on Proposed Adoption (DSS-1807).

Petition for Adoption of a Minor Child:

A petition for adoption must be filed within **30 days** of the child's placement for the purpose of adoption unless the clerk waives this requirement for cause.

Placement Dates:

Agency Adoption: The placement date in agency adoptions would be after all legal clearances have been obtained which includes the **30 days** for appeal on termination of parental rights (TPR) and the agency has approved the adoptive family's pre-placement assessment and the child's placement for the purpose of adoption.

Independent Adoption: The placement date in independent adoptions would be the date that the primary caregiver signed the Consent to Adoption, which is the date of transfer of legal and physical custody.

Relative Adoption: The placement date in relative adoptions would be **the date the primary caregiver signed** the Consent to Adoption, which is the date of transfer of legal and physical custody.

Stepparent Adoption: The placement date in stepparent adoptions must be *the date of marriage or after*. The stepparent may file the petition if 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 **6 months** immediately preceding the filing of the petition. The petitioner cannot be a stepparent until married.

Pre-Birth Consents (Father ONLY):

A birth mother (or an agency or adoptive parents if given permission) may file a motion to determine if the consent of an unwed alleged father is necessary no less than **6 months** from the determined date of conception. The alleged father has **15 days** to respond. If he does not respond in the time allowed, the court must then enter an order that his consent is not needed.

Pre-Placement Assessments:

An agency must complete a Pre-Placement Assessment within **90 days** of the request for a Pre-Placement Assessment by the prospective adoptive family. The Pre-Placement Assessment must be current within **18 months** of the child's placement for the purpose of adoption and must be certified by the agency that prepared it. If the Pre-Placement Assessment has been updated for this adoption, the agency should include a certified copy of the original Pre-Placement Assessment that is being updated.

Relinquishment of Minor for Adoption by Parent or Guardian (DSS-1804):

A birth parent who signs a Relinquishment of Minor for Adoption by Parent or Guardian (DSS-1804) has a **7 day** revocation period that begins the day after the relinquishment is signed and includes weekends and holidays.

Report on Proposed Adoption (DSS-1808):

The Report on Proposed Adoption (DSS-1808) must be completed within **60 days** of receipt of the Order for Report on Proposed Adoption (DSS-1807) unless an extension is granted by the clerk for cause. The Report on Proposed Adoption (DSS-1808) is required on every adoption except adult adoptions. The clerk can choose to waive the requirement for a Report on Proposed Adoption (DSS-1808) in a stepparent adoption where the child has resided with the stepparent for more than **two consecutive years** immediately preceding the filing of the petition or in a grandparent adoption if all requirements are met.

Service by Process of Publication:

When an alleged birth parent is served by process of publication, the advertisement must run **1 time per week for 3 consecutive weeks**. The Order that their consent is not required cannot be issued until at least **40 days** after the first publication date.

