

3. Proposal F

Legislative Bill: Proposal F

Amend § 48-2-501 to allow for waiver of report to court as to adopting grandparent(s) who are already raising the child.

G.S. § 48-2-501 Report to the court during proceeding for adoption of a minor.

(a) Whenever a petition for adoption of a minor is filed, the court shall order a report to the court made to assist the court to determine if the proposed adoption of the minor by the petitioner is in the minor's best interest.

(b) Consistent with G.S. 48-1-109, the court shall order the report to be prepared:

(1) By the agency that placed the minor;

(2) By the agency that made the preplacement assessment pursuant to Part 3 of Article 3 of this Chapter; or

(3) By another agency.

(c) The court shall provide the individual who prepares the report with copies of:

(1) The petition to adopt; and

(2) The documents filed with it.

(d) As ~~an~~ exceptions to this section:

(1) in any stepparent adoption under Article 4 of this Chapter in which the minor has lived with the stepparent for at least the two consecutive years immediately preceding the filing of the petition, the court may order a report, but it is not required to order a report unless the minor's consent is to be waived, the minor has revoked a consent, or both of the minor's parents are dead, and

(2) in any adoption of a minor by the minor's grandparent in which the minor has lived with the grandparent for at least the two consecutive years immediately preceding the filing of the petition, the court may order a report, but it is not required to order a report unless the minor's consent is to be waived or the minor has revoked a consent.

Detailed Analysis: Proposal F

Amend § 48-2-501 to allow for waiver of report to court as to adopting grandparent(s) who are already raising the child.

F-1. Need or Condition Addressed. The court should be allowed to waive a report to the court in adoptions by grandparents who are already raising their grandchildren.

With the exception of certain stepparent adoptions, current law requires that the court order an agency-prepared report to the court in adoptions of minors. The report to the court contains information intended to assist the court in determining whether the adoption is in the best interest of the minor, including any “fact or circumstance known to the agency that raises a specific concern about whether the proposed adoption is contrary to the best interest of the adoptee because it poses a significant risk of harm to the well-being of the adoptee”, a “finding by the agency concerning the suitability of the petitioner and the petitioner’s home for the adoptee”, and “a recommendation concerning the granting of the petition”. G.S. § 48-2-502.

A report to the court costs approximately \$500 to \$1000.

As is the case for stepparent adoptions, grandparent adoptions should be favorably viewed as meeting the needs of children.¹¹

In a grandparent adoption where the grandparent is already raising the child, the state’s interest in having an adoption agency examine the child’s circumstances in the adoptive home is diminished on account of the kinship between the grandparent and child and because the adoption does not change the minor’s living circumstances.

Many grandparents who are already raising their grandchildren delay or forgo adoption due to the cost of the report to the court.

F-2. How the Law would be Revised and Improved. The amendment would remove a financial barrier to the adoption of grandchildren by allowing the court to dispense with the report to the court in cases where the grandparent is already raising the child.

F-3. Constitutional Problems. None known.

F-4. Previous Association Position. None.

¹¹ If a grandparent adopts a grandchild and dies while the grandchild is still a minor, the grandchild becomes eligible for Social Security death benefits on the grandparent’s account. If at the time of the adoption the child is already receiving Social Security death benefits on account of his or her parent, the adoption does not cut off the child’s benefits.

F-5. Impact on Other Areas of Law. None known.

F-6. Drafters. See Schedule A attached.

F-7. Other Interested Groups. The American Academy of Adoption Attorneys and the NC Department of Health and Human Services are expected to express support for this proposal if asked.

Talking Points: Proposal F

Amend § 48-2-501 to allow for waiver of report to court as to adopting grandparent(s) who are already raising the child.

- Many grandparents who are already raising their grandchildren delay or forgo adopting them because of the cost of having an adoption agency prepare a report to the court on the status of the child in the adoptive home. This amendment allows the court to dispense with the report to the court as in the same manner that it can already do in stepparent adoptions.

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PARTICIPATED IN DISCUSSION OF 2009 ADOPTION/JUVENILE LEGISLATION**

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