

GENERAL ASSEMBLY OF NORTH CAROLINA
1985 SESSION

CHAPTER 758
HOUSE BILL 760

AN ACT TO CONFORM THE ADOPTION STATUTES TO THE STATUTES
RELATING TO THE TERMINATION OF PARENTAL RIGHTS AS
RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-289.24 is amended by deleting the period at the end of subdivision (6) and substituting in lieu thereof the phrase "; or", and by adding a new subdivision (7) to read:

"(7) Any person who has filed a petition for adoption pursuant to Chapter 48 of the General Statutes when there has been a determination of abuse or neglect under Article 44 of Chapter 7A of the General Statutes."

Sec. 2. G.S. 7A-289.32 is amended by rewriting subdivision (4) to read:

"(4) The child has been placed in the custody of a county department of social services, a licensed child-placing agency, a child-caring institution, or a foster home, and the parent, for a continuous period of six months next preceding the filing of the petition, has willfully failed for such period to pay a reasonable portion of the cost of care for the child although physically and financially able to do so."

Sec. 3. G.S. 7A-289.32 is amended by adding a new subdivision (8) to read:

"(8) The parent has willfully abandoned the child for at least six consecutive months immediately preceding the filing of the petition. For the purpose of this subdivision, a child may be willfully abandoned by his or her natural father if the mother of the child had been willfully abandoned by and was living separate and apart from the father at the time of the child's birth, although the father may not have known of such birth; but in any event the child must be over the age of three months at the time of the filing of the petition."

Sec. 4. G.S. 48-2(1)a. and (1)b. are repealed.

Sec. 5. G.S. 48-5(c) is rewritten to read:

"(c) In all cases where a district court has heretofore entered an order terminating parental rights pursuant to former G.S. 7A-288 or Article 24B of Chapter 7A, the parent whose parental rights were terminated shall not be a necessary party to any proceeding under this Chapter nor shall the consent of such parent or parents be required."

Sec. 6. G.S. 48-5(d) is rewritten to read:

"(d) In the event that a district court has not heretofore entered an order terminating parental rights pursuant to former G.S. 7A-288 or Article 24B of Chapter 7A, the petitioner in the adoption proceeding, when there has been a determination of abuse or neglect under Article 44 of Chapter 7A, may file a petition in district court to

terminate the parental rights of either or both parents pursuant to Article 24B of Chapter 7A. In such case the court in the adoption proceeding, upon request of the petitioner, shall continue the adoption proceeding until a final disposition has been made on the petition to terminate parental rights."

Sec. 7. G.S. 48-5 is amended by adding a new subsection (d1) to read:

"(d1) In the event that there is a guardian of the person of the child, the petitioner in the adoption proceeding may file a petition with the clerk of superior court who appointed the guardian to remove him upon one or more of the grounds set forth in G.S. 7A-289.32(2), (4) and (8) for terminating parental rights. In such case the court in the adoption proceeding, upon request of the petitioner, shall continue the adoption proceeding until a final disposition has been made on the petition to remove the guardian."

Sec. 8. G.S. 48-5(e) is rewritten to read:

"(e) If the district court enters an order terminating parental rights pursuant to Article 24B of Chapter 7A or if the clerk of superior court enters an order removing the guardian of the person, the consent of the parent whose parental rights are terminated or the consent of the guardian who is removed shall not be required."

Sec. 9. G.S. 48-5(f) is rewritten to read:

"(f) A copy of the order terminating parental rights pursuant to former G.S. 7A-288 or Article 24B of Chapter 7A or a copy of the order removing the guardian of the person must be filed in the adoption proceeding, and consent must be given or withheld in accordance with G.S. 48-9(a)(2) or (a)(3)."

Sec. 10. G.S. 48-9(a)(2) is amended in lines 2 and 3 thereof by deleting the words "the child has been abandoned by one or both parents or by the guardian of the person of the child" and substituting in lieu thereof the words "an order terminating the parental rights of one or both parents under G.S. 48-5(d) and (e) has been entered by the district court or an order removing the guardian of the person of the child under G.S. 48-5(d1) and (e) has been entered by the clerk of superior court".

Sec. 11. G.S. 48-9(a)(3) is amended in line 2 thereof by adding after the reference "G.S. 7A-289.31" the words "(or former G.S. 7A-288) or when a clerk of superior court has entered an order removing the guardian of the person".

Sec. 12. G.S. 48-11(a) is amended by rewriting the first sentence to read:

"No consent described in G.S. 48-6, 48-7, or 48-9, shall be revocable by the consenting party after the entering of an interlocutory decree has been waived in accordance with the provisions of G.S. 48-21: Provided, no consent shall be revocable after three months from the date of the giving of the consent unless no adoption proceeding is instituted within eighteen months from the date of the giving of the consent in which case the consent may be revoked; provided further, that when the consent has been given generally to a director of social services or to a duly licensed child-placing agency, it shall not be revocable after 30 days from the date of the giving of the consent unless no adoption proceeding is instituted within eighteen months from the date of the giving of the consent in which case the consent may be revoked."

Sec. 13. This act shall become effective October 1, 1985, and shall apply to all petitions for adoption filed on or after that date.

In the General Assembly read three times and ratified, this the 15th day of July, 1985.