

§ 48-3-707. Challenges to validity of relinquishments.

(a) A relinquishment shall become void if any of the following occur:

- (1) Before the entry of the adoption decree, the individual who executed the relinquishment establishes by clear and convincing evidence that it was obtained by fraud or duress.
- (2) Before placement with a prospective adoptive parent occurs, the agency and the person relinquishing the minor agree to rescind the relinquishment.
- (3) After placement with a prospective adoptive parent occurs, but before the entry of the adoption decree, the agency, the person relinquishing the minor, and the prospective adoptive parent agree to rescind the relinquishment.
- (4) Upon motion of a county department of social services or licensed child-placing agency under G.S. 7B-909, the court orders that the relinquishment shall be voided based on a 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.

(b) A relinquishment may be revoked upon the happening of a condition expressly provided for in the relinquishment pursuant to G.S. 48-3-704.

(c) If the relinquishment of an individual who previously had legal and physical custody of a minor is set aside under subsection (a) or (b) of this section and no grounds exist under G.S. 48-3-603 for dispensing with this individual's consent, the court shall order the return of the minor to the custody of that individual, and shall dismiss any pending proceeding for adoption. If the court has reasonable cause to believe that the return will be detrimental to the minor, the court shall not order the return of the minor but shall notify the county department of social services for appropriate action.

(d) If the relinquishment of an individual who did not previously have physical custody of a minor is set aside under subsection (a) or (b) of this section, and no grounds exist under G.S. 48-3-603 for dispensing with this individual's consent, the court shall dismiss any pending proceeding for adoption. If return of the minor is not ordered under subsection (c) of this section, the court shall notify the county department of social services for appropriate action. (1995, c. 457, s. 2; 1997-215, s. 19.1(c); 2012-16, s. 8; 2013-236, s. 12.)