



HOUSE BILL 131: Motions for Appropriate Relief.

2017-2018 General Assembly

Committee:	House Judiciary III	Date:	April 25, 2017
Introduced by:	Reps. Destin Hall, Rogers, Duane Hall, John	Prepared by:	Brad Krehely
Analysis of:	First Edition		Committee Co-Counsel

OVERVIEW: *House Bill 131 would make various changes in the law relating to motions for appropriate relief under Chapter 15A of the General Statutes, as recommended by the North Carolina Courts Commission, and would make clarifying and technical changes to G.S. 7A-451 regarding the entitlement of an indigent person to services of counsel. The act would become effective December 1, 2017, and would apply to all motions for appropriate relief filed on or after that date.*

BACKGROUND: Article 89 of Chapter 15A of the General Statutes governs motions for appropriate relief. A motion for appropriate relief (MAR) is a motion made after judgment in a criminal case to correct any errors that occurred before, during, or after a criminal trial or proceeding, including errors related to the entry of a guilty plea. *See, Motions for Appropriate Relief*, by Jessica Smith, 2013, at [http://benchbook.sog.unc.edu/sites/benchbook.sog.unc.edu/files/pdf/Motions for Appropriate Relief.pdf](http://benchbook.sog.unc.edu/sites/benchbook.sog.unc.edu/files/pdf/Motions%20for%20Appropriate%20Relief.pdf).

BILL ANALYSIS:

Section 1 would provide that, upon the filing of an MAR in superior court, the senior resident superior court judge must enter a scheduling order for disclosure of certain expert witness information for expert witnesses who are reasonably expected to be called at a hearing on the motion.

Section 2 would clarify the procedure to be followed by a judge assigned to a motion that was filed with the clerk of superior court, as follows:

- Requires the assigned judge to review the motion and to deny it upon a determination that all the claims are frivolous.
- Requires the judge to appoint counsel for an unrepresented indigent defendant upon a determination that a hearing is warranted or the interests of justice so require.
- Requires appointed counsel to review the motion and to adopt it or to file an amended motion.
- Allows the judge to require the State to file an answer to the motion.
- Allows the State to request leave to file a limited answer.

Section 3 would clarify that an indigent person is entitled to services of counsel in proceedings on a motion for appropriate relief under Chapter 15A if the defendant has been convicted of a felony, has been fined \$500 or more, or has been sentenced to a term of imprisonment *and* the judge has reviewed the motion and determined that counsel should be appointed in accordance with Chapter 15A. This section also makes technical (formatting) changes.

EFFECTIVE DATE: The bill would become effective December 1, 2017, and apply to all motions for appropriate relief filed on or after that date.

*Janice Paul, Former Attorney for the Legislative Analysis Division, contributed substantially to this summary.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578