



# HOUSE BILL 239: Reduce Court of Appeals to 12 Judges.

2017-2018 General Assembly

<b>Committee:</b> Senate Rules and Operations of the Senate	<b>Date:</b> April 5, 2017
<b>Introduced by:</b> Reps. Burr, Lewis, Stevens	<b>Prepared by:</b> Bill Patterson
<b>Analysis of:</b> Third Edition	Staff Attorney

### OVERVIEW: House Bill 239 would:

- Reduce the size of the Court of Appeals from 15 to 12.
- Permit appeals of right to the Supreme Court from orders regarding class action certification and termination of parental rights.
- Permit review by the Supreme Court before Court of Appeals determination when the subject matter is important in overseeing the jurisdiction and integrity of the court system.

**CURRENT LAW:** The North Carolina Court of Appeals consists of 15 judges pursuant to G.S. 7A-16. G.S. 7A-27 provides a right of appeal directly to the Supreme Court from:

- First degree murder convictions in which the defendant is sentenced to death.
- Final judgments in cases designated as complex business cases.
- Certain interlocutory orders of a Business Court Judge.
- Court orders or judgments holding an act of the General Assembly to be facially invalid under the North Carolina constitution or federal law.

G.S. 7A-31 permits discretionary review by the Supreme Court before a case has been determined by the Court of Appeals when in the opinion of the Supreme Court:

- The subject matter of the appeal has significant public interest;
- The case involves legal principles of major significance to the jurisprudence of the State;
- Delay in final adjudication causing substantial harm will likely result from failure to certify; or
- The appellate workload requires certification for the expeditious administration of justice.

### BILL ANALYSIS:

**Section 1** of the bill would reduce the Court of Appeals from 15 to 12 judges by abolishing the first three seats held by incumbent judges that become vacant on or after January 1, 2017 and before the expiration of the judges' terms.

**Section 2** would allow an appeal of right to the Supreme Court from a trial court decision regarding class action certification under Rule 23 of the NC Rules of Civil Procedure and from an order granting or denying a petition or motion to terminate parental rights.

**Section 3** would allow the Supreme Court to certify a case for review before its determination by the Court of Appeals when the Supreme Court concludes that the subject matter of the appeal is important in overseeing the jurisdiction and integrity of the court system.

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**EFFECTIVE DATE:** G.S. 7A-27(a)(5), as enacted by Section 2 of this act, and Section 4 of this act, which provide a right of direct appeal to the Supreme Court of from an order granting or denying a motion or petition to terminate parental rights, become effective January 1, 2019, and apply to appeals filed on or after that date. The remainder of this act is effective when it becomes law.

*Kara McCraw, counsel to House Judiciary IV, substantially contributed to this summary.*