



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

2017-2018 General Assembly

Committee:		Date:	August 11, 2017
Introduced by:		Prepared by:	Bill Patterson Staff Attorney
Analysis of:	S.L. 2017-7		

OVERVIEW: S.L. 2017-7:

- *Reduces the Court of Appeals from 15 to 12 judges by abolishing the first three seats that become vacant on or after January 1, 2017, prior to expiration of the incumbent's term.*
- *Provides an appeal of right directly to the North Carolina Supreme Court from orders regarding class action certification and orders terminating parental rights or denying a motion or petition to terminate parental rights.*
- *Permits review by the North Carolina Supreme Court before determination by the Court of Appeals when the subject matter is important in overseeing the jurisdiction and integrity of the court system.*

The provisions of the act allowing appeals of right directly to the Supreme Court from orders relating to the termination of parental rights becomes effective January 1, 2019, and applies to appeals filed on or after that date. The remainder of the act became effective April 26, 2017.

CURRENT LAW:

The North Carolina Court of Appeals comprises 15 judges pursuant to G.S. 7A-16.

G.S. 7A-27 provides an appeal of right directly to the North Carolina 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 North Carolina 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.
- The appellate workload requires certification for the expeditious administration of justice.

BILL ANALYSIS:

Section 1 reduces 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 incumbent's term.

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Section 2 provides an appeal of right directly to the Supreme Court from a trial court decision regarding class action certification under Rule 23 of the North Carolina Rules of Civil Procedure and from an order terminating parental rights or denying a petition or motion to terminate parental rights.

Section 3 allows 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.

EFFECTIVE DATE: The act's provisions granting a right of appeal directly to the Supreme Court from orders relating to the termination of parental rights becomes effective January 1, 2019, and applies to appeals filed on or after that date. The remainder of the act became effective April 26, 2017.

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