



# HOUSE BILL 688: Certain Appeals Allowed/Clarify Disp. Orders.

2017-2018 General Assembly

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<b>Committee:</b>		<b>Date:</b>	August 6, 2018
<b>Introduced by:</b>		<b>Prepared by:</b>	Shawn Middlebrooks Staff Attorney
<b>Analysis of:</b>	S.L. 2018-86		

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**OVERVIEW:** *S.L. 2018-86 allows orders or judgments pertaining to the validity of a premarital agreement to be immediately appealed. The act also clarifies when the court must make findings of fact in ceasing parental reunification efforts in juvenile cases.*

*The act became effective on June 25, 2018, and applies to appeals filed on or after that date and dispositions effective on or after that date.*

## **CURRENT LAW:**

The final judgment of a claim may not be appealed until all claims within the action are resolved, unless: (1) the judge finds that there is "no just reason for delay"; or (2) an immediate appeal is expressly provided by rule or statute. G.S. 1A-1, Rule 54(b).

G.S. 50-19.1 expressly authorizes immediate appeal of a final judgment, even if there are other pending claims in the action, in the following circumstances: absolute divorce; divorce from bed and board; child custody; child support; alimony; and equitable distribution.

G.S. 7B-901(c) applies to child abuse, neglect, and dependency matters and provides that reasonable efforts for reunification are not required and may be ceased at the disposition hearing if:

1. A court has determined aggravated circumstances exist because the parent has committed or encouraged the commission of, or allowed the continuation of, any of the following upon the child:
  - Sexual abuse
  - Chronic physical or emotional abuse
  - Torture
  - Abandonment
  - Chronic or toxic exposure to alcohol or controlled substances that causes impairment of or addiction in the juvenile
  - Any other act, practice, or conduct that increased the enormity or added to the injurious consequences of the abuse or neglect
2. A court has involuntarily terminated the parental rights of the parent to another child of the parent.
3. A court has determined that (i) the parent has committed murder or voluntary manslaughter of another child of the parent; (ii) has aided, abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of the child or another child of the parent; (iii) has committed a felony assault resulting in serious bodily injury to the child or another child of the parent; (iv) has committed sexual abuse against the child or another child of the parent; or (v) has been required to register as a sex offender on any government-administered registry.

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Further, when a court ceases reunification efforts at the disposition hearing they must include written findings of fact pertaining to these circumstances.

**Background:** In a recent opinion the North Carolina Supreme Court affirmed a decision by the North Carolina Court of Appeals to reverse a disposition order that ceased reunification efforts with a juvenile's parents. The Court held G.S. 7B-901(c) as currently written required a prior adjudication or disposition order making the appropriate findings of fact before a court could order reunification efforts be ceased. The courts based their opinion on the contrasting verb tense in current law. *In re G.T.*, 791 S.E.2d 274 (2016), *aff'd per curiam*, 808 S.E. 2d. 142 (2017).

## **BILL ANALYSIS:**

The act amends G.S. 50-19.1 to include an order or judgment pertaining to the *validity of a premarital agreement* among those rulings that may be immediately appealed.

The act also amends the verb tense in G.S. 7B-901(c) clarifying that written findings of fact pertaining to ceasing reunification efforts under certain circumstances (i) *may be made in any disposition order* and (ii) *does not require relevant findings of fact be included in a prior hearing or prior order*.

## **EFFECTIVE DATE:**

The act became effective on June 25, 2018, and applies to appeals filed on or after that date and to dispositions effective on or after that date.

*Tawanda Foster, Staff Attorney, Legislative Analysis Division substantially contributed to this summary.*