

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 1139

Short Title: Appeals From Contempt.

(Public)

Sponsors: Representative Hackney.

Referred to: Judiciary I.

April 12, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE APPELLATE PROCEDURE FOR CRIMINAL
3 CONTEMPT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 5A-17 reads as rewritten:

6 "**§ 5A-17. Appeals.**

7 A person found in criminal contempt may appeal in the manner provided for appeals
8 in criminal actions, except appeal from a ~~finding of contempt by a judicial official~~
9 ~~inferior to a superior court judge is by hearing de novo before a superior court judge.~~
10 district court judge or a superior court judge is to the Court of Appeals, and appeal from
11 a magistrate or a clerk of superior court is by hearing de novo before a superior court
12 judge."

13 **SECTION 2.** G.S. 97-80(h) reads as rewritten:

14 "(h) The Commission or any member or deputy thereof shall also have the same
15 power as a judicial officer pursuant to Chapter 5A of the General Statutes to punish for
16 criminal contempt, subject to the limitations thereunder, (i) for wilful behavior
17 committed during the sitting of the commissioner or deputy commissioner and directly
18 tending to interrupt the proceedings; (ii) for wilful disobedience of a lawful order of the
19 Commission or a member or deputy thereof; or (iii) for wilful refusal to be sworn or
20 affirmed as a witness, or, when so sworn or affirmed, wilful refusal to answer any legal
21 and proper question when refusal is not legally justified. The Commission or any
22 member or deputy thereof may issue an order of arrest as provided by G.S. 15A-305
23 when authorized by G.S. 5A-16 in connection with contempt proceedings. When the
24 commissioner or deputy commissioner chooses not to proceed summarily pursuant to
25 G.S. 5A-14, the proceedings shall be before a district court judge, and venue lies
26 throughout the district where the order was issued directing the person charged to
27 appear. A person found in criminal contempt may appeal in the manner provided for
28 appeals in criminal actions to the ~~superior court of the district in which the order of~~

1 ~~contempt was issued, and the appeal is by hearing de novo before a superior court~~
2 ~~judge.~~ Court of Appeals."
3 **SECTION 3.** This act becomes effective December 1, 2001, and applies to
4 offenses committed on or after that date.