

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 771

Short Title: Reallocate Certain Judicial Branch Resources. (Public)

Sponsors: Representatives Brody, Arp, and Horn (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary, if favorable, Finance, if favorable, Appropriations, Justice and Public Safety, if favorable, Rules, Calendar, and Operations of the House

April 16, 2019

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE MAXIMUM AMOUNT OF EMERGENCY SUPERIOR AND SPECIAL SUPERIOR COURT JUDGES THAT MAY BE LISTED AS ACTIVE, TO INCREASE THE MAXIMUM AMOUNT OF EMERGENCY DISTRICT COURT JUDGES THAT MAY BE LISTED AS ACTIVE, TO EXPAND THE REASONS THAT AN EMERGENCY JUDGE MAY BE ASSIGNED, AND TO REALLOCATE CERTAIN DISTRICT COURT JUDGESHIPS TO MAKE MORE EFFICIENT USE OF COURT RESOURCES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-52 reads as rewritten:

"§ 7A-52. Retired district and superior court judges may become emergency judges subject to recall to active service; compensation for emergency judges on recall.

(a) Judges of the district court and judges of the superior court who have not reached the mandatory retirement age specified in G.S. 7A-4.20, but who have retired under the provisions of G.S. 7A-51, or under the Uniform Judicial Retirement Act after having completed five years of creditable service, may apply as provided in G.S. 7A-53 to become emergency judges of the court from which they retired. From the commissioned emergency district, superior, and special superior court judges, the Chief Justice of the Supreme Court shall create two lists of active emergency judges and two lists of inactive emergency judges. For emergency superior and special superior court judges, the active list shall be limited to a combined total of ~~40~~15 emergency judges; all other emergency superior and special superior court judges shall be on an inactive list. For emergency district court judges, the active list shall be limited to ~~25~~35 emergency judges; all other emergency district court judges shall be on an inactive list. There is no limit to the number of emergency judges on either inactive list. In the Chief Justice's discretion, emergency judges may be added or removed from their respective active and inactive lists, as long as the respective numerical limits on the active lists are observed. The Chief Justice is requested to consider geographical distribution in assigning emergency judges to an active list but may utilize any factor in determining which emergency judges are assigned to an active list. The Chief Justice of the Supreme Court may order any emergency district, superior, or special superior court judge on an active list who, in his opinion, is competent to perform the duties of a judge, to hold regular or special sessions of the court from which the judge retired, as needed. Order of assignment shall be in writing and entered upon the minutes of the court to which such emergency judge is assigned. An emergency judge shall only be assigned in the event of a:

(1) Death of a sitting judge.



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- (2) Disability of a sitting judge.
- (3) Recall to active military duty of a sitting judge.
- (4) Retirement or removal of a sitting judge.
- (5) Court case-management emergency.
- (6) Assignment by the Chief Justice of a Rule 2.1 exceptional case to an emergency judge.
- (7) Court coverage need created by holdover sessions, conflict case sessions, or judicial administrative or educational responsibilities.

(a) ~~An~~ Notwithstanding subsection (a) of this section, an emergency judge of the superior court may be recalled to active service by the Chief Justice and assigned to hear and decide complex business cases if, at the time of the judge's retirement, all of the following conditions are met:

- (1) The judge is a special superior court judge who is retiring from a term to which the judge was appointed pursuant to G.S. 7A-45.1.
- (2) The judge is retiring from a term for which the judge was assigned by the Chief Justice to hear and decide complex business cases as a business court judge pursuant to G.S. 7A-45.3.
- (3) The judge's nomination to serve a successive term in the same office is pending before the General Assembly, or was not acted upon by the General Assembly prior to adjournment sine die.
- (4) If confirmed and appointed to the successive term of office for which nominated, the judge would reach mandatory retirement age before completing that term of office.

An emergency judge assigned to hear and decide complex business cases pursuant to this subsection shall be designated by the Chief Justice as a senior business court judge and shall be eligible to serve in that capacity for five years from the issuance date of the judge's commission under G.S. 7A-53 or until the judge's commission expires, whichever occurs first. Order of assignment shall be in writing and entered upon the minutes of the court to which such emergency judge is assigned. An emergency judge assigned to hear and decide complex business cases shall not be counted in the combined total of active emergency superior and special superior court judges described in subsection (a) of this section.

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SECTION 2. G.S. 7A-133(a) reads as rewritten:

"§ 7A-133. Numbers of judges by districts; numbers of magistrates and additional seats of court, by counties.

(a) Each district court district shall have the numbers of judges as set forth in the following table:

<u>District</u>	<u>Judges</u>	<u>County</u>
1	<u>5</u> 4	Camden Chowan Currituck Dare Gates Pasquotank Perquimans
2	4	Martin Beaufort Tyrrell Hyde Washington
3A	5	Pitt

1	3B	6	Craven
2			Pamlico
3			Carteret
4	4	<u>89</u>	Sampson
5			Duplin
6			Jones
7			Onslow
8	5	<u>98</u>	New Hanover
9			Pender
10	6	4	Northampton
11			Bertie
12			Hertford
13			Halifax
14	7	7	Nash
15			Edgecombe
16			Wilson
17	8	6	Wayne
18			Greene
19			Lenoir
20	9	5	Granville
21			(part of Vance
22			see subsection
23			(b))
24			Franklin
25			Person
26	9B	2	Warren
27			(part of Vance
28			see subsection (b))
29	10A	3	(part of Wake
30			see subsection (b))
31	10B	3	(part of Wake
32			see subsection (b))
33	10C	3	(part of Wake
34			see subsection (b))
35	10D	6	(part of Wake
36			see subsection (b))
37	10E	3	(part of Wake
38			see subsection (b))
39	10F	3	(part of Wake
40			see subsection (b))
41	11	11	Harnett
42			Johnston
43			Lee
44	12	10	Cumberland
45	13	6	Bladen
46			Brunswick
47			Columbus
48	14	7	Durham
49	15A	4	Alamance
50	15B	5	Orange
51			Chatham

1	16A	4	Scotland
2			Anson
3			Richmond
4	16B	5	Robeson
5	17A	4	Caswell
6			Rockingham
7	17B	4	Stokes
8			Surry
9	18	14	Guilford
10	19A	5	Cabarrus
11	19B	5	Randolph
12	19C	5	Rowan
13	19D	4	Hoke, Moore
14	20A	3	Montgomery, Stanly
15	20B	4 <u>2</u>	(part of Union
16			see subsection
17			(b))
18	20C	2	(part of Union
19			see subsection
20			(b))
21	20D	1	Union
22	21	11	Forsyth
23	22A	5	Alexander
24			Iredell
25	22B	6	Davidson
26			Davie
27	23	4	Alleghany
28			Ashe
29			Wilkes
30			Yadkin
31	24	4	Avery
32			Madison
33			Mitchell
34			Watauga
35			Yancey
36	25	9	Burke
37			Caldwell
38			Catawba
39	26A	3	(part of
40			Mecklenburg
41			see subsection (b))
42	26B	3	(part of
43			Mecklenburg
44			see subsection (b))
45	26C	2	(part of
46			Mecklenburg
47			see subsection (b))
48	26D	2	(part of
49			Mecklenburg
50			see subsection (b))
51	26E	3	(part of

1			Mecklenburg
2			see subsection (b))
3	26F	3	(part of
4			Mecklenburg
5			see subsection (b))
6	26G	2	(part of
7			Mecklenburg
8			see subsection (b))
9	26H	3	(part of
10			Mecklenburg
11			see subsection (b))
12	27A	7	Gaston
13	27B	6	Cleveland
14			Lincoln
15	28	7	Buncombe
16	29A	3	McDowell
17			Rutherford
18	29B	4	Henderson
19			Polk
20			Transylvania
21	30	6	Cherokee
22			Clay
23			Graham
24			Haywood
25			Jackson
26			Macon
27			Swain.

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29 (b8) Subject to the provisions of this subsection, the qualified voters of District 4 shall
 30 elect all nine judges established for District 4 in subsection (a) of this section, but only persons
 31 who reside in Sampson County and otherwise meet the requirements to hold the office of district
 32 court judge may be candidates for the one judgeship added to District 4 that begins on January
 33 1, 2021, following elections in November of 2020.

34 (b9) Subject to the provisions of this subsection, the qualified voters of Union County shall
 35 elect the one judgeship added to District 20B that begins on January 1, 2021, following elections
 36 in November 2020."

37 **SECTION 3.** The district court judgeship taken from District 1 under Section 2 of
 38 this act shall be transferred to District 4 to compose the judgeship added to District 4 under
 39 Section 2 of this act. The judgeship transferred from District 1 to District 4 shall be the judgeship
 40 currently held by Judge Barnes in District 1.

41 **SECTION 4.** The district court judgeship taken from District 5 under Section 2 of
 42 this act shall be transferred to District 20B under Section 2 of this act. The judgeship transferred
 43 from District 5 to District 20B shall be the judgeship currently held by Judge Ray in District 5.

44 **SECTION 5.** Section 1 of this act becomes effective October 1, 2019. Section 2 of
 45 this act becomes effective January 1, 2021, and elections conducted in 2020 shall be conducted
 46 in accordance with the judgeships transferred in Section 2 of this act. The remainder of this act
 47 is effective when it becomes law.