

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

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SENATE BILL 75

Short Title: Restore Ct. of Appeals Membership. (Public)

Sponsors: Senators Hise, Daniel, and Bishop (Primary Sponsors).

Referred to: Judiciary

February 19, 2019

A BILL TO BE ENTITLED

AN ACT TO RESTORE THE NUMBER OF JUDGES ON THE NORTH CAROLINA COURT
OF APPEALS TO FIFTEEN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-16 reads as rewritten:

"§ 7A-16. Creation and organization.

The Court of Appeals is created effective January 1, 1967. It shall consist initially of six judges, elected by the qualified voters of the State for terms of eight years. The Chief Justice of the Supreme Court shall designate one of the judges as Chief Judge, to serve in such capacity at the pleasure of the Chief Justice. Before entering upon the duties of his office, a judge of the Court of Appeals shall take the oath of office prescribed for a judge of the General Court of Justice.

The Governor on or after July 1, 1967, shall make temporary appointments to the six initial judgeships. The appointees shall serve until January 1, 1969. Their successors shall be elected at the general election for members of the General Assembly in November, 1968, and shall take office on January 1, 1969, to serve for the remainder of the unexpired term which began on January 1, 1967.

Upon the appointment of at least five judges, and the designation of a Chief Judge, the court is authorized to convene, organize, and promulgate, subject to the approval of the Supreme Court, such supplementary rules as it deems necessary and appropriate for the discharge of the judicial business lawfully assigned to it.

Effective January 1, 1969, the number of judges is increased to nine, and the Governor, on or after March 1, 1969, shall make temporary appointments to the additional judgeships thus created. The appointees shall serve until January 1, 1971. Their successors shall be elected at the general election for members of the General Assembly in November, 1970, and shall take office on January 1, 1971, to serve for the remainder of the unexpired term which began on January 1, 1969.

Effective January 1, 1977, the number of judges is increased to 12; and the Governor, on or after July 1, 1977, shall make temporary appointments to the additional judgeships thus created. The appointees shall serve until January 1, 1979. Their successors shall be elected at the general election for members of the General Assembly in November, 1978, and shall take office on January 1, 1979, to serve the remainder of the unexpired term which began on January 1, 1977.

On or after December 15, 2000, the Governor shall appoint three additional judges to increase the number of judges to 15.

~~On or after January 1, 2017, whenever the seat of an incumbent judge becomes vacant prior to the expiration of the judge's term due to the death, resignation, retirement, impeachment, or~~



1 ~~removal pursuant to G.S. 7A-374.2(8) of the incumbent judge, that seat is abolished until the~~
2 ~~total number of Court of Appeals seats is decreased to 12.~~

3 The Court of Appeals shall sit in panels of three judges each and may also sit en banc to hear
4 or rehear any cause upon a vote of the majority of the judges of the court. The Chief Judge insofar
5 as practicable shall assign the members to panels in such fashion that each member sits a
6 substantially equal number of times with each other member, shall preside when a member of a
7 panel, and shall designate the presiding judge of the other panel or panels.

8 Except as may be provided in G.S. 7A-32, three judges shall constitute a quorum for the
9 transaction of the business of the court when sitting in panels of three judges, and a majority of
10 the then sitting judges on the Court of Appeals shall constitute a quorum for the transaction of
11 the business of the court when sitting en banc.

12 In the event the Chief Judge is unable, on account of absence or temporary incapacity, to
13 perform the duties placed upon him as Chief Judge, the Chief Justice shall appoint an acting
14 Chief Judge from the other judges of the Court, to temporarily discharge the duties of Chief
15 Judge."

16 **SECTION 2.** This act is effective when it becomes law.