

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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HOUSE BILL 759

Short Title: Modify Process/Appellate Court Vacancies. (Public)

Sponsors: Representatives K. Hall, D. Hall, Mills, and Saine (Primary Sponsors).

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

Referred to: Judiciary 1, if favorable, Election Law and Campaign Finance Reform, if favorable, Rules, Calendar, and Operations of the House

May 3, 2021

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO MODIFY THE  
PROCESS FOR FILLING VACANCIES ON THE NORTH CAROLINA SUPREME  
COURT AND THE NORTH CAROLINA COURT OF APPEALS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Section 6 of Article IV of the North Carolina Constitution reads as  
rewritten:

**"Sec. 6. Supreme Court, Court, vacancies.**

(1) **Membership.** The Supreme Court shall consist of a Chief Justice and six Associate Justices, but the General Assembly may increase the number of Associate Justices to not more than eight. In the event the Chief Justice is unable, on account of absence or temporary incapacity, to perform any of the duties placed upon him, the senior Associate Justice available may discharge those duties.

(2) **Sessions of the Supreme Court.** The sessions of the Supreme Court shall be held in the City of Raleigh unless otherwise provided by the General Assembly.

(3) **Vacancies.** If the office of a Justice is vacated by death, resignation, or otherwise, the Governor shall, no later than seven days after receipt of a list of three nominees submitted by the State executive committee of the political party with which the vacating Justice was affiliated when elected, appoint one person from the list to serve for the unexpired part of the term."

**SECTION 2.** Section 7 of Article IV of the North Carolina Constitution reads as  
rewritten:

**"Sec. 7. Court of Appeals, Appeals, vacancies.**

(1) **Membership.** The structure, organization, and composition of the Court of Appeals shall be determined by the General Assembly. The Court shall have not less than five members, and may be authorized to sit in divisions, or other than en banc. Sessions of the Court shall be held at such times and places as the General Assembly may prescribe.

(2) **Vacancies.** If the office of a judge serving under this section is vacated by death, resignation, or otherwise, the Governor shall, no later than seven days after receipt of a list of three nominees submitted by the State executive committee of the political party with which the vacating judge was affiliated when elected, appoint one person from the list to serve for the unexpired part of the term."

**SECTION 3.** The amendments set out in Sections 1 and 2 of this act shall be submitted to the qualified voters of the State at the general election in 2022, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or



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1 both may be used in accordance with Chapter 163 of the General Statutes. The question to be  
2 used in the voting systems and ballots shall be:

3 "  FOR  AGAINST

4 Constitutional amendment to fill vacancies on the Supreme Court and the Court of  
5 Appeals by having the Governor select from three nominees submitted by the State executive  
6 committee of the political party with which the vacating justice or judge was affiliated when  
7 elected."

8 **SECTION 4.** If a majority of the votes cast on the question are in favor of the  
9 amendments set out in this act, the State Board of Elections shall certify the amendments to the  
10 Secretary of State. The amendments set out in Sections 1 and 2 of this act become effective  
11 January 1, 2023, and apply to vacancies occurring on or after that date. The Secretary of State  
12 shall enroll the amendments so certified among the permanent records of that office.

13 **SECTION 5.** Except as otherwise provided, this act is effective when it becomes  
14 law.