

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

H

D

HOUSE BILL 122  
PROPOSED COMMITTEE SUBSTITUTE H122-PCS80061-TJ-3

Short Title: Amend Interlocutory Appeals/Family Law. (Public)

Sponsors:

Referred to:

February 20, 2013

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE LAWS PERTAINING TO INTERLOCUTORY APPEALS AS  
3 RELATED TO FAMILY LAW.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 7A-27 reads as rewritten:

6 "**§ 7A-27. Appeals of right from the courts of the trial divisions.**

7 (a) Appeal lies of right directly to the Supreme Court in all cases in which the  
8 defendant is convicted of murder in the first degree and the judgment of the superior court  
9 includes a sentence of death.

10 (b) Appeal lies of right directly to the Court of Appeals in any of the following cases:

11 (1) From any final judgment of a superior court, other than the one described in  
12 subsection (a) of this section, or one based on a plea of guilty or nolo  
13 contendere, including any final judgment entered upon review of a decision  
14 of an administrative agency, except for a final judgment entered upon review  
15 of a court-martial under G.S. 127A-62.

16 (2) From any final judgment of a district court in a civil action.

17 (3) From any interlocutory order or judgment of a superior court or district court  
18 in a civil action or proceeding which does any of the following:

19 a. Affects a substantial right.

20 b. In effect determines the action and prevents a judgment from which  
21 an appeal might be taken.

22 c. Discontinues the action.

23 d. Grants or refuses a new trial.

24 e. Determines a claim prosecuted under G.S. 50-19(a).

25 (4) From any other order or judgment of the superior court from which an  
26 appeal is authorized by statute.

27 ~~(b) From any final judgment of a superior court, other than the one described in~~  
28 ~~subsection (a) of this section, or one based on a plea of guilty or nolo contendere, including any~~  
29 ~~final judgment entered upon review of a decision of an administrative agency, except for a final~~  
30 ~~judgment entered upon review of a court martial under G.S. 127A-62, appeal lies of right to the~~  
31 ~~Court of Appeals.~~

32 (c) ~~From any final judgment of a district court in a civil action appeal lies of right~~  
33 ~~directly to the Court of Appeals.~~

34 (d) ~~From any interlocutory order or judgment of a superior court or district court in a~~  
35 ~~civil action or proceeding which~~

36 (1) ~~Affects a substantial right, or~~



\* H 1 2 2 - P C S 8 0 0 6 1 - T J - 3 \*

- 1           (2)    ~~In effect determines the action and prevents a judgment from which appeal~~  
2                   ~~might be taken, or~~  
3           (3)    ~~Discontinues the action, or~~  
4           (4)    ~~Grants or refuses a new trial, appeal lies of right directly to the Court of~~  
5                   ~~Appeals.~~

6       (e)    ~~From any other order or judgment of the superior court from which an appeal is~~  
7 ~~authorized by statute, appeal lies of right directly to the Court of Appeals."~~

8           **SECTION 2.** Article 1 of Chapter 50 of the General Statutes is amended by adding  
9 the following new section to read:

10 **"§ 50-19.1. Maintenance of certain appeals allowed.**

11       Notwithstanding any other pending claims filed in the same action, a party may appeal from  
12 an order or judgment adjudicating a claim for absolute divorce, divorce from bed and board,  
13 child custody, child support, alimony, or equitable distribution, if the order or judgment would  
14 otherwise be a final order or judgment within the meaning of G.S. 1A-1, Rule 54(b), but for the  
15 other pending claims in the same action. A party does not forfeit the right to appeal under this  
16 section if the party fails to immediately appeal from an order or judgment described in this  
17 section. An appeal from an order or judgment under this section shall not deprive the trial court  
18 of jurisdiction over any other claims pending in the same action."

19       **SECTION 3.** This act is effective when it becomes law.