

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

H.B. 771  
Apr 15, 2019  
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH30337-NDfa-39

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

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

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO INCREASE THE MAXIMUM AMOUNT OF EMERGENCY SUPERIOR AND  
3 SPECIAL SUPERIOR COURT JUDGES THAT MAY BE LISTED AS ACTIVE, TO  
4 INCREASE THE MAXIMUM AMOUNT OF EMERGENCY DISTRICT COURT  
5 JUDGES THAT MAY BE LISTED AS ACTIVE, TO EXPAND THE REASONS THAT  
6 AN EMERGENCY JUDGE MAY BE ASSIGNED, AND TO REALLOCATE CERTAIN  
7 DISTRICT COURT JUDGESHIPS TO MAKE MORE EFFICIENT USE OF COURT  
8 RESOURCES.

9 The General Assembly of North Carolina enacts:

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

11 "§ 7A-52. Retired district and superior court judges may become emergency judges subject  
12 to recall to active service; compensation for emergency judges on recall.

13 (a) Judges of the district court and judges of the superior court who have not reached the  
14 mandatory retirement age specified in G.S. 7A-4.20, but who have retired under the provisions  
15 of G.S. 7A-51, or under the Uniform Judicial Retirement Act after having completed five years  
16 of creditable service, may apply as provided in G.S. 7A-53 to become emergency judges of the  
17 court from which they retired. From the commissioned emergency district, superior, and special  
18 superior court judges, the Chief Justice of the Supreme Court shall create two lists of active  
19 emergency judges and two lists of inactive emergency judges. For emergency superior and  
20 special superior court judges, the active list shall be limited to a combined total of ~~10-15~~  
21 emergency judges; all other emergency superior and special superior court judges shall be on an  
22 inactive list. For emergency district court judges, the active list shall be limited to ~~25-35~~  
23 emergency judges; all other emergency district court judges shall be on an inactive list. There is  
24 no limit to the number of emergency judges on either inactive list. In the Chief Justice's  
25 discretion, emergency judges may be added or removed from their respective active and inactive  
26 lists, as long as the respective numerical limits on the active lists are observed. The Chief Justice  
27 is requested to consider geographical distribution in assigning emergency judges to an active list  
28 but may utilize any factor in determining which emergency judges are assigned to an active list.  
29 The Chief Justice of the Supreme Court may order any emergency district, superior, or special  
30 superior court judge on an active list who, in his opinion, is competent to perform the duties of a  
31 judge, to hold regular or special sessions of the court from which the judge retired, as needed.  
32 Order of assignment shall be in writing and entered upon the minutes of the court to which such  
33 emergency judge is assigned. An emergency judge shall only be assigned in the event of a:

- 34 (1) Death of a sitting judge.  
35 (2) Disability of a sitting judge.  
36 (3) Recall to active military duty of a sitting judge.



\* D R H 3 0 3 3 7 - N D F A - 3 9 \*

- 1 (4) Retirement or removal of a sitting judge.
- 2 (5) Court case-management emergency.
- 3 (6) Assignment by the Chief Justice of a Rule 2.1 exceptional case to an
- 4 emergency judge.
- 5 (7) Court coverage need created by holdover sessions, conflict case sessions, or
- 6 judicial administrative or educational responsibilities.
- 7 (a1) ~~An~~ Notwithstanding subsection (a) of this section, an emergency judge of the superior
- 8 court may be recalled to active service by the Chief Justice and assigned to hear and decide
- 9 complex business cases if, at the time of the judge's retirement, all of the following conditions
- 10 are met:
- 11 (1) The judge is a special superior court judge who is retiring from a term to which
- 12 the judge was appointed pursuant to G.S. 7A-45.1.
- 13 (2) The judge is retiring from a term for which the judge was assigned by the
- 14 Chief Justice to hear and decide complex business cases as a business court
- 15 judge pursuant to G.S. 7A-45.3.
- 16 (3) The judge's nomination to serve a successive term in the same office is
- 17 pending before the General Assembly, or was not acted upon by the General
- 18 Assembly prior to adjournment sine die.
- 19 (4) If confirmed and appointed to the successive term of office for which
- 20 nominated, the judge would reach mandatory retirement age before
- 21 completing that term of office.

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

30 ...."

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

32 **"§ 7A-133. Numbers of judges by districts; numbers of magistrates and additional seats of**  
 33 **court, by counties.**

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

<u>District</u>	<u>Judges</u>	<u>County</u>
36 1	54	Camden
37		Chowan
38		Currituck
39		Dare
40		Gates
41		Pasquotank
42		Perquimans
43		Martin
44 2	4	Beaufort
45		Tyrrell
46		Hyde
47		Washington
48		Pitt
49 3A	5	Craven
50 3B	6	Pamlico
51		

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

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

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

26 ...  
 27 (b8) Subject to the provisions of this subsection, the qualified voters of District 4 shall  
 28 elect all nine judges established for District 4 in subsection (a) of this section, but only persons  
 29 who reside in Sampson County and otherwise meet the requirements to hold the office of district  
 30 court judge may be candidates for the one judgeship added to District 4 that begins on January  
 31 1, 2021, following elections in November of 2020.

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

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

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

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