

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

SESSION LAW 1998-120
HOUSE BILL 1405

AN ACT TO AMEND SMALL CLAIMS PROCEDURE TO CLARIFY THAT THE DISTRICT COURT HAS AUTHORITY TO HEAR CERTAIN MOTIONS FOR RELIEF FROM MAGISTRATES' JUDGMENTS, AND TO PROVIDE THAT A DISTRICT COURT JUDGE WHO WAS FORMERLY AN ASSISTANT DISTRICT ATTORNEY OF THE THIRTEENTH JUDICIAL DISTRICT MAY PERFORM THE MARRIAGE CEREMONY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-228(a) reads as rewritten:

"(a) ~~With the consent of the chief district court judge, a magistrate may~~ The chief district court judge may authorize magistrates to hear motions to set aside an order or judgment for mistake or excusable neglect pursuant to G.S. 1A-1, Rule 60(b)(1) and order a new trial before a magistrate. The exercise of the authority of the chief district court judge in allowing magistrates to hear Rule 60(b)(1) motions shall not be construed to limit the authority of the district court to hear motions pursuant to Rule 60(b)(1) through (6) of the Rules of Civil Procedure for relief from a judgment or order entered by a magistrate and, if granted, to order a new trial before a magistrate. After final disposition before the magistrate, the sole remedy for an aggrieved party is appeal for trial de novo before a district court judge or a jury. Notice of appeal may be given orally in open court upon announcement or after entry of judgment. If not announced in open court, written notice of appeal must be filed in the office of the clerk of superior court within 10 days after entry of judgment. The appeal must be perfected in the manner set out in subsection (b). Upon announcement of the appeal in open court or upon receipt of the written notice of appeal, the appeal shall be noted upon the judgment. If the judgment was mailed to the parties, then the time computations for appeal of such judgment shall be pursuant to G.S. 1A-1, Rule 6."

Section 2. G.S. 51-1 reads as rewritten:

"§ 51-1. Requisites of marriage; solemnization.

The consent of a male and female person who may lawfully marry, presently to take each other as husband and wife, freely, seriously and plainly expressed by each in the presence of the other, and in the presence of an ordained minister of any religious denomination, minister authorized by his church, or of a district court judge or magistrate, and the consequent declaration by such minister or officer that such persons are husband and wife, shall be a valid and sufficient marriage: Provided, that the rite of marriage among the Society of Friends, according to a form and custom peculiar to

themselves, shall not be interfered with by the provisions of this Chapter: Provided further, that marriages solemnized and witnessed by a local spiritual assembly of the Baha'is, according to the usage of their religious community, shall be valid; provided further, marriages solemnized before March 9, 1909, by ministers of the gospel licensed, but not ordained, are validated from their consummation."

Section 3. This act is effective when it becomes law. Section 2 of this act shall apply only to district court judges, who were formerly assistant district attorneys of the Thirteenth Judicial District, and shall expire on July 31, 1999.

In the General Assembly read three times and ratified this the 19th day of August, 1998.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 1:02 p.m. this 27th day of August, 1998