

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL 113
Judiciary Committee Substitute Adopted 3/2/21
Third Edition Engrossed 3/9/21
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Short Title: Modify Termination of Parental Rights Appeals.

(Public)

Sponsors:

Referred to:

February 18, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY THE RIGHT TO APPEAL IN TERMINATION OF PARENTAL
3 RIGHTS CASES.

4 The General Assembly of North Carolina enacts:

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

6 "(a) Appeal lies of right directly to the Supreme Court in any of the following cases:

7 ...

8 (5) ~~Any order that terminates parental rights or denies a petition or motion to~~
9 ~~terminate parental rights."~~

10 **SECTION 2.** G.S. 7B-1001 reads as rewritten:

11 "**§ 7B-1001. Right to appeal.**

12 (a) In a juvenile matter under this Subchapter, only the following final orders may be
13 appealed directly to the Court of Appeals:

14 ...

15 (7) Any order that terminates parental rights or denies a petition or motion to
16 terminate parental rights.

17 (8) An order eliminating reunification as a permanent plan under
18 G.S. 7B-906.2(b), if all of the following conditions are satisfied:

19 a. The right to appeal the order eliminating reunification has been
20 preserved in writing within 30 days of entry and service of the order.

21 b. A motion or petition to terminate the parent's rights is filed within 65
22 days of entry and service of the order eliminating reunification and
23 both of the following occur:

24 1. The motion or petition to terminate rights is heard and granted.

25 2. The order terminating parental rights is appealed in a proper
26 and timely manner.

27 c. A separate notice of appeal of the order eliminating reunification is
28 filed within 30 days after entry and service of a termination of parental
29 rights order.

30 (a1) ~~In a juvenile matter under this Subchapter, only the following final orders may be~~
31 ~~appealed directly to the Supreme Court:~~

32 (1) ~~Any order that terminates parental rights or denies a petition or motion to~~
33 ~~terminate parental rights.~~



- (2) ~~An order eliminating reunification as a permanent plan under G.S. 7B-906.2(b), if all of the following conditions are satisfied:~~
- ~~a. The right to appeal the order eliminating reunification has been preserved in writing within 30 days of entry and service of the order.~~
 - ~~b. A motion or petition to terminate the parent's rights is filed within 65 days of entry and service of the order eliminating reunification and both of the following occur:~~
 - ~~1. The motion or petition to terminate rights is heard and granted.~~
 - ~~2. The order terminating parental rights is appealed in a proper and timely manner.~~
 - ~~c. A separate notice of appeal of the order eliminating reunification is filed within 30 days after entry and service of a termination of parental rights order.~~

(a2) In an appeal filed pursuant to subdivision ~~(a1)(2)~~ (a)(8) of this section, the ~~Supreme Court~~ Court of Appeals shall review the order eliminating reunification together with an appeal of the order terminating parental rights. If the order eliminating reunification is vacated or reversed, the order terminating parental rights shall be vacated.

...."

SECTION 3. G.S. 7A-30 reads as rewritten:

"§ 7A-30. Appeals of right from certain decisions of the Court of Appeals.

(a) Except as provided in G.S. 7A-28, G.S. 7A-28 and subsection (b) of this section, an appeal lies of right to the Supreme Court from any decision of the Court of Appeals rendered in a case one of the following:

- (1) ~~Which~~ A case which directly involves a substantial question arising under the Constitution of the United States or of this State, or State.
- (2) ~~In~~ A case in which there is a dissent when the Court of Appeals is sitting in a panel of three judges. An appeal of right pursuant to this subdivision is not effective until after the Court of Appeals sitting en banc has rendered a decision in the case, if the Court of Appeals hears the case en banc, or until after the time for filing a motion for rehearing of the cause by the Court of Appeals has expired or the Court of Appeals has denied the motion for rehearing.

(b) Decisions by the Court of Appeals upon review of any order appealed pursuant to G.S. 7B-1001(a) shall only be appealed to the Supreme Court pursuant to G.S. 7A-31."

SECTION 4. G.S. 7A-343 reads as rewritten:

"§ 7A-343. Duties of Director.

The Director is the Administrative Officer of the Courts, and the Director's duties include all of the following:

...

- (16) Prepare and submit an annual report on appeals of termination of parental rights cases and transmit by February 1 of each year to the Chief Justice and the General Assembly. The report shall include the following information:
 - a. The number of notices of appeal for termination of parental rights cases that were properly filed with the Court of Appeals.
 - b. The date on which each notice of appeal for a termination of parental rights case was filed with the Court of Appeals and the date that the record was filed with the Court of Appeals.
 - c. The date that the Court of Appeals issued a final opinion for each appeal for a termination of parental rights case.

- 1 d. For termination of parental rights cases heard by the Supreme Court,
2 the date that the record is received by the Supreme Court and the date
3 that the Supreme Court issued a final opinion.
4 e. For all appeals of termination of parental rights cases, the average age
5 of those cases measured from both (i) the date the notice of appeal was
6 filed with the court and (ii) the date the record was filed with the court.
7 This information shall be provided for both the Court of Appeals and
8 the Supreme Court."

9 **SECTION 5.** This act becomes effective July 1, 2021, and applies to appeals filed
10 on or after that date.