

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 161
SENATE BILL 707

AN ACT TO AMEND THE LAW RELATING TO THE SHARE OF AFTER-BORN
OR AFTER-ADOPTED CHILDREN, AS RECOMMENDED BY THE GENERAL
STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 31-5.5(a) reads as rewritten:

"(a) A will shall not be revoked by the subsequent birth of a child to the testator, or by the subsequent adoption of a child by the testator, or by the subsequent entitlement of an after-born illegitimate child to take as an heir of the testator pursuant to the provisions of G.S. 29-19(b), but any after-born, after-adopted or entitled after-born illegitimate child shall have the right to share in the testator's estate to the same extent he would have shared if the testator had died intestate unless:

- (1) The testator made some provision in the will for the child, whether adequate or ~~not, or not~~ adequate or not;
- (2) It is apparent from the will itself that the testator intentionally did not make specific provision therein for the ~~child~~ child;
- (3) The testator had children living when the will was executed, and none of the testator's children actually take under the will;
- (4) The surviving spouse receives all of the estate under the will;
- (5) The testator made provision for the child that takes effect upon the death of the testator, whether adequate or not."

Sec. 2. This act becomes effective October 1, 1995, and applies to estates of decedents dying on or after that date.

In the General Assembly read three times and ratified this the 5th day of June, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives