

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 14

Short Title: Assignment of Year's Allowance.

(Public)

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Sponsors: Representatives Stam; Blue, Pope, and Flaherty.

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Referred to: Judiciary.

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January 13, 1989

A BILL TO BE ENTITLED

1 AN ACT TO SIMPLIFY THE ASSIGNMENT OF THE YEAR'S ALLOWANCE TO  
2 THE SURVIVING SPOUSE AND CERTAIN SURVIVING CHILDREN OF THE  
3 DECEASED, WHEN THE ALLOWANCE IS ASSIGNED BY A MAGISTRATE.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 30-19 reads as rewritten:

6 **"§ 30-19. Value of property ascertained.**

7 The value of the personal property assigned to the surviving spouse and children  
8 shall be ascertained by a magistrate ~~and two persons qualified to act as jurors~~ of the county  
9 in which administration was granted or the will probated."  
10

11 Sec. 2. G.S. 30-20 reads as rewritten:

12 **"§ 30-20. Procedure for assignment.**

13 Upon the application of the surviving spouse, ~~or whenever it shall appear that a child~~  
14 ~~is entitled to an allowance as provided by G.S. 30-17, the personal representative of the~~  
15 ~~deceased shall apply to a child by his guardian or next friend, or the personal~~  
16 representative of the deceased, the clerk of superior court of the county in which the  
17 deceased resided ~~to~~ shall assign the inquiry to a magistrate of the county. The magistrate  
18 ~~shall summon two persons qualified to act as jurors, who, having been sworn by the~~  
19 ~~magistrate to act impartially as commissioners shall, with him,~~ ascertain the person or  
20 persons entitled to an allowance according to the provisions of this Article, and  
21 determine the money or other personal property of the estate, and pay over to or assign  
22 to the surviving spouse and to the children, if any, so much thereof as they shall be  
23 entitled to as provided in this Article. Any deficiencies shall be made up from any of the  
24 personal property of the deceased, and if the personal property of the estate shall be

1 insufficient to satisfy such allowance, the clerk of the superior court shall enter  
2 judgment against the personal representative for the amount of such deficiency, to be  
3 paid when a sufficiency of such assets shall come into his hands."

4 Sec. 3. G.S. 30-21 reads as rewritten:

5 **"§ 30-21. Report of ~~commissioners~~magistrate.**

6 The ~~commissioners~~magistrate shall make and sign three lists of the money or other  
7 personal property assigned to each person, stating their quantity and value, and the  
8 deficiency to be paid by the personal representative. Where the allowance is to the  
9 surviving spouse, one of these lists shall be delivered to him. Where the allowance is to  
10 a child, one of these lists shall be delivered to the surviving parent with whom the child  
11 is living; or to the child's guardian or next friend if the child is not living with said  
12 surviving parent; or to the child if said child is not living with the surviving parent and  
13 has no guardian or next friend. One list shall be delivered to the personal representative.  
14 One list shall be returned by the magistrate, within 20 days after the assignment, to the  
15 superior court of the county in which administration was granted or the will probated,  
16 and the clerk shall file and record the same, together with any judgment entered  
17 pursuant to G.S. 30-20."

18 Sec. 4. This act is effective upon ratification and applies to applications to a  
19 magistrate for the assignment of a year's allowance that are made on or after this date.