



HOUSE BILL 240: GA Appoint for District Court Vacancies.

2017-2018 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	April 26, 2018
Introduced by:	Reps. Burr, K. Hall, Saine, Bumgardner	Prepared by:	Bill Patterson
Analysis of:	Third Edition		Staff Attorney

OVERVIEW: *House Bill 240 would require vacancies in the office of district judge to be filled by appointment of the General Assembly.*

CURRENT LAW: Article IV, Section 10 of the North Carolina Constitution provides that vacancies in the office of district judge shall be filled for the unexpired term "in the manner provided by law." Pursuant to G.S. 7A-142, vacancies in the office of district judge are filled by appointment of the Governor. The bar of the judicial district in which the vacancy occurs is required to nominate five people who are residents of the judicial district and are duly authorized to practice law, unless it certifies that there were insufficient nominations to do so. The Governor must give "due consideration" to these nominees but is not required to appoint one of them. There currently is no time limit within which the district bar must submit nominations for the Governor's consideration.

BILL ANALYSIS: House Bill 240 would amend G.S. 7A-142 to require vacancies in the office of district judge to be filled by appointment of the General Assembly. The district bar would be required to submit its nominations to the General Assembly within 15 business days after the vacancy occurs. The General Assembly would not be bound by the district bar's nominations.

If the vacancy occurs when the General Assembly is in session, the appointment would be made by enactment of a bill stating the name of the person appointed, the office to which the appointment is being made, the effective date of the appointment, the date of expiration of the term, and the county of residence of the appointee.

If the vacancy occurs when the General Assembly is not in session, then the Speaker of the House of Representatives and the President Pro Tempore of the Senate could either:

1. Leave the vacancy unfilled until the reconvening of the General Assembly; or
2. Jointly submit the name of a nominee to the Governor, after receiving the district bar's nominations.

In the latter event, the Governor would be required to appoint the nominee within 10 days. The Governor's failure to act within this allotted time would be deemed to be approval of the nominee, who would be eligible to enter office in the same manner as if the Governor had appointed the nominee.

EFFECTIVE DATE: This act would be effective when it becomes law.

Brian Gwyn, counsel to House Judiciary IV, substantially contributed to this summary.

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