

§ 7A-39.14. Recall by Chief Justice of retired or emergency justices or judges for temporary vacancy.

(a) In addition to the authority granted to the Chief Justice under G.S. 7A-39.5 to recall emergency justices and under G.S. 7A-39.13 to recall retired justices, the Chief Justice may recall not more than one retired or emergency justice or retired emergency judge of the Court of Appeals, including an emergency justice or judge whose commission has expired because he has reached the mandatory retirement age, in the following circumstances:

- (1) If a vacancy exists on the Supreme Court, he may recall an emergency or retired justice to serve on that court until the vacancy is filled in accordance with law.
- (2) If a vacancy exists on the Court of Appeals, he may recall an emergency or retired justice of the Supreme Court or judge of the Court of Appeals to serve on the Court of Appeals until the vacancy is filled in accordance with law.
- (3) With the concurrence of a majority of the Supreme Court, he may recall an emergency or retired justice to serve on the Supreme Court in place of a sitting justice who, as determined by the Chief Justice, is temporarily unable to perform all of the duties of his office.
- (4) With the concurrence of a majority of the Supreme Court, he may recall an emergency or retired justice of the Supreme Court or judge of the Court of Appeals to serve on the Court of Appeals in place of a sitting judge who, as determined by the Chief Justice, is temporarily unable to perform all of the duties of his office.

(b) No judge or justice may be recalled unless he consents to the recall. Orders of recall issued pursuant to this section must be in writing and entered on the minutes of the court. In addition, if the judge or justice is recalled pursuant to subdivision (a)(3) or (a)(4), the order shall contain a finding by the Chief Justice setting out, in detail, the reason for the recall.

(c) A judge or justice recalled pursuant to subdivision (a)(1) or (a)(2) of this section:

- (1) Has the same authority and jurisdiction granted to emergency justices and judges under G.S. 7A-39.7;
- (2) Is subject to rules adopted pursuant to G.S. 7A-39.8 regarding filing of opinions and other matters; and
- (3) Is compensated as are other retired or emergency justices or judges recalled for service pursuant to G.S. 7A-39.5 or G.S. 7A-39.13.

(d) A judge or justice recalled pursuant to subdivision (a)(3) or (a)(4) of this section:

- (1) Has the same authority and jurisdiction granted to emergency justices and judges under G.S. 7A-39.7;
- (2) Is subject to rules adopted pursuant to G.S. 7A-39.8 regarding filing of opinions and other matters;
- (3) May, after the return of the judge or justice in whose place he was sitting, complete the duties assigned to him before the return of that judge or justice; and
- (4) Is compensated as are other retired or emergency justices or judges recalled for service pursuant to G.S. 7A-39.5 or G.S. 7A-39.13.

(e) A retired or emergency justice or judge may serve on the Supreme Court or Court of Appeals pursuant to subdivision (a)(3) or (a)(4) only if he is recalled to serve temporarily in place of a sitting justice or judge who is not temporarily incapacitated under circumstances that would permit temporary service of the retired or emergency justice or judge pursuant to G.S. 7A-39.5 or G.S. 7A-39.13. This section does not authorize more than seven justices to serve on

the Supreme Court at any given time, nor does it authorize more than 15 justices and judges to serve on the Court of Appeals at any given time. In no case may more than one emergency justice or emergency judge serve on one panel of the Court of Appeals at any given time.

(f) Repealed by Session Laws 1989, c. 795, s. 27.1. (1985, c. 698, s. 15(a), (b); 1985 (Reg. Sess., 1986), c. 851, s. 3; c. 1014, s. 225; 1987, c. 703, s. 5; c. 738, ss. 131(a), (b); 1989, c. 795, s. 27.1; 2009-570, s. 1.)