

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 256

Short Title: Indigent Appeal Changes.

(Public)

Sponsors: Senators Gulley and Blackmon.

Referred to: Judiciary II/Election Laws.

February 23, 1995

A BILL TO BE ENTITLED

AN ACT TO REMOVE LANGUAGE REQUIRING AN ATTORNEY'S OPINION
AND WRITTEN STATEMENT IN APPEALS BY INDIGENTS OF A JUDGMENT
IN A CIVIL ACTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-288 reads as rewritten:
"§ 1-288. Appeals by indigents; clerk's fees.

When any party to a civil action tried and determined in the superior or district court at the time of trial or special proceeding desires an appeal from the judgment rendered in the action to the Appellate Division, and is unable, by reason of poverty, to make the deposit or to give the security required by law for the appeal, it shall be the duty of the judge or clerk of said court to make an order allowing the party to appeal from the judgment to the Appellate Division as in other cases of appeal, without giving security therefor. The party desiring to appeal from the judgment or order in a civil action or special proceeding shall, within 30 days after the entry of the judgment or order, make affidavit that he or she is unable by reason of poverty to give the security required by law, and that he or she is advised by a practicing attorney that there is error in a matter of law in the decision of the court in the action. ~~The affidavit must be accompanied by a written statement from a practicing attorney of the court that the attorney has examined the affiant's case, and is of opinion that the decision of the court, in the action, is contrary to law.~~ law. Nothing contained

1 in this section deprives the clerk of the superior court of the right to demand the fees for
2 the certificate and seal as now allowed by law in such cases. Provided, that where the
3 judge or the clerk has made an order allowing the appellant to appeal as an indigent and
4 the appeal has been filed in the Appellate Division, and an error or omission has been
5 made in the affidavit or certificate of counsel, and the error is called to the attention of the
6 court before the hearing of the argument of the case, the court shall permit an amended
7 affidavit or certificate to be filed correcting the error or omission."

8 Sec. 2. This act becomes effective October 1, 1995, and applies to all appeals
9 by indigents from a judgment or order entered on or after that date.