

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 707
Second Edition Engrossed 5/11/95

Short Title: Share of After-Born/Adopted Children.

(Public)

Sponsors: Senator Hartsell.

Referred to: Judiciary II/Election Laws

April 13, 1995

A BILL TO BE ENTITLED

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~~;
- (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;

- 1 (5) The testator made provision for the child that takes effect upon the death
2 of the testator, whether adequate or not; or
3 (6) It is apparent from clear, strong, and convincing extrinsic evidence that
4 the testator intentionally did not make provision in the will for the
5 child."

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