

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1023

Short Title: Expand Magistrates' Authority.

(Public)

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Sponsors: Senators Clodfelter, Odom; Cooper, Gulley, Kinnaird, Rand, and Warren.

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Referred to: Judiciary I.

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April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE ADDITIONAL AUTHORITY FOR MAGISTRATES WHO  
ARE LICENSED TO PRACTICE LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-273 reads as rewritten:

**"§ 7A-273. Powers of magistrates in infractions or criminal actions.**

(a) In criminal actions or infractions, any magistrate has power:

(1) In infraction cases in which the maximum penalty that can be imposed is not more than fifty dollars (\$50.00), exclusive of costs, or in Class 3 misdemeanors, other than the types of infractions and misdemeanors specified in subdivision (2) of this ~~section~~, subsection, to accept guilty pleas or admissions of responsibility and enter judgment;

(2) In misdemeanor or infraction cases involving alcohol offenses under Chapter 18B of the General Statutes, traffic offenses, hunting, fishing, State park and recreation area rule offenses under Chapter 113 of the General Statutes, boating offenses under Chapter 75A of the General Statutes, and littering offenses under G.S. 14-399(c), to accept written appearances, waivers of trial or hearing and pleas of guilty or admissions of responsibility, in accordance with the schedule of offenses and fines or penalties promulgated by the Conference of Chief

1 District Judges pursuant to G.S. 7A-148, and in such cases, to enter  
2 judgment and collect the fines or penalties and costs;

3 (3) To issue arrest warrants valid throughout the State;

4 (4) To issue search warrants valid throughout the county;

5 (5) To grant bail before trial for any noncapital offense;

6 (6) Notwithstanding the provisions of subdivision (1) of this section, to hear  
7 and enter judgment as the chief district judge shall direct in all worthless  
8 check cases brought under G.S. 14-107, when the amount of the check  
9 is two thousand dollars (\$2,000) or less. Provided, however, that under  
10 this section magistrates may not impose a prison sentence longer than  
11 30 days;

12 (7) To conduct an initial appearance as provided in G.S. 15A-511; and

13 (8) To accept written appearances, waivers of trial and pleas of guilty in  
14 violations of G.S. 14-107 when the amount of the check is two thousand  
15 dollars (\$2,000) or less, restitution, including service charges and  
16 processing fees allowed by G.S. 14-107, is made, and the warrant does  
17 not charge a fourth or subsequent violation of this statute, and in these  
18 cases to enter judgments as the chief district judge directs.

19 (9) Repealed by Session Laws 1991 (Regular Session, 1992), c. 900, s.  
20 118(d).

21 (b) In criminal actions or infractions, a magistrate who is licensed to practice law in  
22 this State has the additional authority, if so assigned by the chief district court judge and  
23 subject to any limitations imposed by the chief district court judge:

24 (1) To hear, decide, and enter judgment in all infractions cases, regardless  
25 of penalty or offense;

26 (2) To accept binding waivers of counsel in criminal contempt cases."

27 Section 2. G.S. 7A-292 reads as rewritten:

28 "**§ 7A-292. Additional powers of magistrates.**

29 (a) In addition to the jurisdiction and powers assigned in this Chapter to the  
30 magistrate in civil and criminal actions, each magistrate has the following additional  
31 powers:

32 (1) To administer oaths;

33 (2) To punish for direct criminal contempt subject to the limitations  
34 contained in Chapter 5A of the General Statutes of North Carolina;

35 (3) When authorized by the chief district judge, to take depositions and  
36 examinations before trial;

37 (4) To issue subpoenas and capiases valid throughout the county;

38 (5) To take affidavits for the verification of pleadings;

39 (6) To issue writs of habeas corpus ad testificandum, as provided in G.S.  
40 17-41;

41 (7) To assign a year's allowance to the surviving spouse and a child's  
42 allowance to the children as provided in Chapter 30, Article 4, of the  
43 General Statutes;

- 1 (8) To take acknowledgments of instruments, as provided in G.S. 47-1;
- 2 (9) To perform the marriage ceremony, as provided in G.S. 51-1;
- 3 (10) To take acknowledgment of a written contract or separation agreement
- 4 between husband and wife; and
- 5 (11) Repealed by Session Laws 1973, c. 503, s. 9.
- 6 (12) To assess contribution for damages or for work done on a dam, canal, or
- 7 ditch, as provided in G.S. 156-15.
- 8 (13) Repealed by Session Laws 1973, c. 503, s. 9.

9 (b) In addition to the jurisdiction and powers assigned in this Chapter to the  
10 magistrate in civil and criminal actions, a magistrate who is licensed to practice law in  
11 this State has the additional authority, if so assigned by the chief district court judge and  
12 subject to any limitations imposed by the chief district court judge:

- 13 (1) To hear, decide, and enter judgment in civil actions within the monetary  
14 limits determined by the Chief Justice of the Supreme Court;
- 15 (2) To issue temporary restraining orders and preliminary injunctions in  
16 civil cases within the magistrate's jurisdiction;
- 17 (3) To grant uncontested divorces;
- 18 (4) To determine and issue orders establishing child support and issue show  
19 cause orders in child support proceedings;
- 20 (5) To order blood tests in paternity cases and take acknowledgements of  
21 paternity;
- 22 (6) To determine and issue orders for the emancipation of minors;
- 23 (7) To authorize in forma pauperis divorce actions by prisoners under G.S.  
24 1-110;
- 25 (8) To accept binding waivers of counsel in civil contempt cases; and
- 26 (9) To hear, decide, and enter judgment in any civil action with the consent  
27 of the parties."

28 Section 3. G.S. 15A-1115 reads as rewritten:

29 "(a) Appeal of District Court Decision. – A person who denies responsibility and is  
30 found responsible for an infraction in the district ~~court,~~ court or before a magistrate  
31 pursuant to G.S. 7A-273(b)(1), within 10 days of the hearing, may appeal the decision to  
32 the criminal division of the superior court for a hearing de novo. Upon appeal, the  
33 defendant is entitled to a jury trial unless he consents to have the hearing conducted by  
34 the judge. The State must prove beyond a reasonable doubt that the person charged is  
35 responsible for the infraction unless the person admits responsibility. Unless otherwise  
36 provided by law, the procedures applicable to misdemeanors disposed of in the superior  
37 court apply to those infraction hearings. In the superior court, a prosecutor must represent  
38 the State. Appeal from the judgment in the superior court is as provided for other criminal  
39 actions in superior court, and the Attorney General must represent the State in an appeal  
40 of such actions."

41 Section 4. This act is effective when it becomes law.