

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1224*

Short Title: Expand Magistrates' Authority.

(Public)

Sponsors: Representatives Baddour; Culpepper, Daughtry, and McMahan (Primary Sponsors).

Referred to: Judiciary IV.

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE ADDITIONAL AUTHORITY FOR MAGISTRATES WHO
3 ARE LICENSED TO PRACTICE LAW.

4 The General Assembly of North Carolina enacts:

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

6 **"§ 7A-273. Powers of magistrates in infractions or criminal actions.**

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

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

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

1 offenses and fines or penalties promulgated by the Conference of Chief
2 District Judges pursuant to G.S. 7A-148, and in such cases, to enter
3 judgment and collect the fines or penalties and costs;

- 4 (3) To issue arrest warrants valid throughout the State;
5 (4) To issue search warrants valid throughout the county;
6 (5) To grant bail before trial for any noncapital offense;
7 (6) Notwithstanding the provisions of subdivision (1) of this section, to hear
8 and enter judgment as the chief district judge shall direct in all worthless
9 check cases brought under G.S. 14-107, when the amount of the check
10 is two thousand dollars (\$2,000) or less. Provided, however, that under
11 this section magistrates may not impose a prison sentence longer than
12 30 days;
13 (7) To conduct an initial appearance as provided in G.S. 15A-511; and
14 (8) To accept written appearances, waivers of trial and pleas of guilty in
15 violations of G.S. 14-107 when the amount of the check is two thousand
16 dollars (\$2,000) or less, restitution, including service charges and
17 processing fees allowed by G.S. 14-107, is made, and the warrant does
18 not charge a fourth or subsequent violation of this statute, and in these
19 cases to enter judgments as the chief district judge directs.
20 (9) Repealed by Session Laws 1991 (Regular Session, 1992), c. 900, s.
21 118(d).

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

- 25 (1) To hear, decide, and enter judgment in all infractions cases, regardless
26 of penalty or offense;
27 (2) To accept binding waivers of counsel in criminal contempt cases."

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

29 "**§ 7A-292. Additional powers of magistrates.**

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

- 33 (1) To administer oaths;
34 (2) To punish for direct criminal contempt subject to the limitations
35 contained in Chapter 5A of the General Statutes of North Carolina;
36 (3) When authorized by the chief district judge, to take depositions and
37 examinations before trial;
38 (4) To issue subpoenas and capiases valid throughout the county;
39 (5) To take affidavits for the verification of pleadings;
40 (6) To issue writs of habeas corpus ad testificandum, as provided in G.S.
41 17-41;

- 1 (7) To assign a year's allowance to the surviving spouse and a child's
2 allowance to the children as provided in Chapter 30, Article 4, of the
3 General Statutes;
- 4 (8) To take acknowledgments of instruments, as provided in G.S. 47-1;
- 5 (9) To perform the marriage ceremony, as provided in G.S. 51-1;
- 6 (10) To take acknowledgment of a written contract or separation agreement
7 between husband and wife; and
- 8 (11) Repealed by Session Laws 1973, c. 503, s. 9.
- 9 (12) To assess contribution for damages or for work done on a dam, canal, or
10 ditch, as provided in G.S. 156-15.
- 11 (13) Repealed by Session Laws 1973, c. 503, s. 9.
- 12 (b) In addition to the jurisdiction and powers assigned in this Chapter to the
13 magistrate in civil and criminal actions, a magistrate who is licensed to practice law in
14 this State has the additional authority, if so assigned by the chief district court judge and
15 subject to any limitations imposed by the chief district court judge:
- 16 (1) To hear, decide, and enter judgment in civil actions within the monetary
17 limits determined by the Chief Justice of the Supreme Court;
- 18 (2) To issue temporary restraining orders and preliminary injunctions in
19 civil cases within the magistrate's jurisdiction;
- 20 (3) To grant uncontested divorces;
- 21 (4) To determine and issue orders establishing child support and issue show
22 cause orders in child support proceedings;
- 23 (5) To order blood tests in paternity cases and take acknowledgements of
24 paternity;
- 25 (6) To determine and issue orders for the emancipation of minors;
- 26 (7) To authorize in forma pauperis divorce actions by prisoners under G.S.
27 1-110;
- 28 (8) To accept binding waivers of counsel in civil contempt cases; and
- 29 (9) To hear, decide, and enter judgment in any civil action with the consent
30 of the parties."

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

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

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