

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 945
HOUSE BILL 50

AN ACT TO IMPROVE THE STATUS AND EFFECTIVENESS OF MAGISTRATES IN THE NORTH CAROLINA SYSTEM OF JUSTICE, TO ESTABLISH A SALARY CLASSIFICATION PLAN FOR MAGISTRATES AND TO MAKE AN APPROPRIATION THEREFOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-146, as the same appears in the 1975 Cumulative Supplement to Volume 1B of the General Statutes, is amended by

(a) rewriting subsection (4) to read as follows:

"(4) Assigning matters to magistrates, and consistent with the salaries set by the Administrative Officer of the Courts, prescribing times and places at which magistrates shall be available for the performance of their duties; however, the chief district judge may in writing delegate his authority to prescribe times and places at which magistrates in a particular county shall be available for the performance of their duties to an employee of the General Court of Justice within that particular county, and the person to whom such authority is delegated shall make monthly reports to the chief district judge of the times and places actually served by each magistrate;" and

(b) by rewriting subsection (9) to read as follows:

"(9) Assigning magistrates during an emergency to temporary duty outside the county of their residence but within that district; and, upon the request of a chief district judge of an adjoining district and upon the approval of the Administrative Officer of the Courts, to temporary duty in the district of the requesting chief district judge; and".

Sec. 2. G.S. 7A-170 is rewritten to read as follows:

"§ 7A-170. **Nature of office and oath.** — A magistrate is an officer of the district court. Before entering upon the duties of his office, a magistrate shall take the oath of office prescribed for a magistrate of the General Court of Justice. A magistrate possesses all the powers of his office at all times during his term."

Sec. 3. The short title and subsections (a) and (b) of G.S. 7A-171 are rewritten to read as follows:

"§ 7A-171. **Numbers; appointment and terms; vacancies.** — (a) The General Assembly shall establish a minimum and a maximum quota of magistrates for each county. In no county shall the minimum quota be less than one.

(b) Not earlier than the Tuesday after the first Monday nor later than the third Monday in December of each even-numbered year, the clerk of the superior court shall submit to the senior regular resident superior court judge of his district the names of two (or more, if requested by the judge) nominees for each magisterial office in the minimum quota established for the county. Not later than the fourth Monday in December, the senior regular resident superior court judge shall, from the nominations submitted by the clerk of the superior court, appoint magistrates to fill the minimum quota established for each county of his district. The

term of a magistrate so appointed shall be two years, commencing on the first day in January of the calendar year next ensuing the calendar year of appointment."

Sec. 4. Subsections (c) and (d) of G.S. 7A-171 are rewritten to read as follows:

"(c) After the biennial appointment of the minimum quota of magistrates, additional magistrates in a number not to exceed, in total, the maximum quota established for each county may be appointed in the following manner. The chief district judge, with the approval of the Administrative Officer of the Courts, may certify to the clerk of superior court that the minimum quota is insufficient for the efficient administration of justice and that a specified additional number, not to exceed the maximum quota established for the county, is required. Within 15 days after the receipt of this certification the clerk of superior court shall submit to the senior regular resident superior court judge of his district the names of two (or more, if requested by the judge) nominees for each additional magisterial office. Within 15 days after receipt of the nominations the senior regular resident superior court judge shall from the nominations submitted appoint magistrates in the number specified in the certification. A magistrate so appointed shall serve a term commencing immediately and expiring on the same day as the terms of office of magistrates appointed to fill the minimum quota for the county.

(d) Within 30 days after a vacancy in the office of magistrate occurs the clerk of superior court shall submit to the senior regular resident superior court judge the names of two (or more, if so requested by the judge) nominees for the office vacated. Within 15 days after receipt of the nominations the senior regular resident superior court judge shall appoint from the nominations received a magistrate who shall take office immediately and shall serve for the remainder of the unexpired term."

Sec. 5. G.S. 7A-172 is repealed and a new section G.S. 7A-171.1 is inserted in Article 16 of Chapter 7 A of the General Statutes to read as follows:

"§ 7A-171.1. **Duty hours and salary.** — The Administrative Officer of the Courts, after consultation with the chief district judge and pursuant to the following provisions, shall set an annual salary for each magistrate.

- (1) A full-time magistrate, so designated by the Administrative Officer of the Courts, shall be paid the annual salary indicated in the table below according to the number of years he has served as a magistrate prior to the beginning of that term:

Table of Salaries of Full-Time Magistrates

| <u>Number of prior years of service</u> | <u>Annual salary</u> |
|---|----------------------|
| Less than 1 | \$ 8,172 |
| 1 or more but less than 3 | 8,892 |
| 3 or more but less than 5 | 9,720 |
| 5 or more but less than 7 | 10,596 |
| 7 or more but less than 9 | 11,580 |
| 9 or more | 12,672 |

A "full-time magistrate" is a magistrate who is assigned to work an average of not less than 40 hours a week during his term of office.

Notwithstanding any other provision of this subsection, a full-time magistrate, who was serving as a magistrate on December 31, 1978, and who was receiving an annual salary in excess of that which would ordinarily be allowed under the provisions of this subsection, shall not have the salary, which he was receiving reduced during any subsequent term as a full-time magistrate. That magistrate's salary shall be fixed at the salary level from the table above which is nearest and higher than the latest annual salary he was receiving on December 31, 1978, and, thereafter, shall advance in accordance with the schedule in the table above.

- (2) A part-time magistrate, so designated by the Administrative Officer of the Courts, shall receive an annual salary based on the following formula: The average number of hours a week that a part-time magistrate is assigned work during his term shall be multiplied by the annual salary payable to a full-time magistrate who has the same number of years of service prior to the beginning of that term as does the part-time magistrate and the product of that multiplication shall be divided by the number 40. The quotient shall be the annual salary payable to that part-time magistrate.

A 'part-time magistrate' is a magistrate who is assigned to work an average of less than 40 hours of work a week during his term. No magistrate may be assigned an average of less than 10 hours of work a week during his term.

Notwithstanding any other provision of this subsection, upon reappointment as a magistrate and being assigned to work the same or greater number of hours as he worked as a magistrate for a term of office ending on December 31, 1978, a person who received an annual salary in excess of that to which he would be entitled under the formula contained in this subsection shall receive an annual salary equal to that received during the prior term. That magistrate's salary shall increase in accordance with the salary formula contained in this subsection."

Sec. 6. A new section is added to Article 16 of Chapter 7A of the General Statutes to read as follows:

"§ 7A-171.2. Qualifications for Nomination or Renomination. — (a) In order to be eligible for nomination or for renomination as a magistrate an individual must be a resident of the county for which he is appointed.

(b) To be eligible for nomination as a magistrate, an individual must have successfully completed a high school education, or have qualified for a certificate of high school equivalency, or have successfully completed the course of basic training prescribed by G.S. 7A-177.

(c) In order to be eligible for renomination as a magistrate an individual must have successfully completed the course of basic training for magistrates prescribed by G.S. 7A-177.

(d) Notwithstanding any other provision of this subsection, an individual who holds the office of magistrate on July 1, 1977, shall not be required to have successfully completed the course of basic training for magistrates prescribed by G.S. 7A-177 in order to be eligible for renomination as a magistrate."

Sec. 7. There is appropriated from the General Fund to the Administrative Office of the Courts the sum of two hundred thousand dollars (\$200,000) for fiscal year 1978-1979. The sum appropriated shall be placed in a reserve entitled "Salary Classification Revisions for Magistrates" and shall be used exclusively for the salary changes for magistrates specified by this act. Any unused portion of the appropriation shall revert to the General Fund at the end of the fiscal year.

Sec. 8. Sections 1, 2, 3, 6, 7 and 8 of this act shall become effective on July 1, 1977. Sections 4 and 5 of this act shall become effective on September 1, 1978; however, salaries of magistrates serving on that date shall remain the same during the remainder of that term of office, and the salaries of magistrates appointed to serve between September 1, 1978, and December 31, 1978, shall be set in accordance with the statutes in existence prior to the date of effectiveness of these sections.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.