

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 27
Committee Substitute Favorable 2/24/21
Committee Substitute #2 Favorable 3/3/21
Senate Judiciary Committee Substitute Adopted 8/24/21

Short Title: In-Service Training/Magistrates.

(Public)

Sponsors:

Referred to:

February 1, 2021

A BILL TO BE ENTITLED

AN ACT TO ENSURE THAT ALL MAGISTRATES RECEIVE THE EDUCATION NECESSARY TO PERFORM THEIR JOBS AND TO REINSTATE THE DISCRETION OF A JUDICIAL OFFICIAL IN SETTING APPROPRIATE CONDITIONS OF PRETRIAL RELEASE FOR A DEFENDANT THAT HAS PREVIOUSLY FAILED TO APPEAR IN COURT FOR THE CHARGES TO WHICH THE CONDITIONS APPLY, AS RECOMMENDED BY THE COURTS COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-171.2(c) reads as rewritten:

"(c) In order to be eligible for renomination as a magistrate an individual shall have successfully completed the ~~course~~ courses of basic training and annual in-service training for magistrates prescribed by G.S. 7A-177."

SECTION 2. G.S. 7A-177 reads as rewritten:

"§ 7A-177. **Training course in duties of magistrate.**

...

~~(b) In addition to the basic training course required under subsection (a) of this section, continuing education courses shall be provided at such times and locations as necessary to assure that they are conveniently available to all magistrates without extensive travel to other parts of the State.~~

(b1) Except for the calendar year in which a magistrate completes the course of basic training referenced in subsection (a) of this section, every magistrate shall annually and satisfactorily complete a course of in-service training consisting of at least 12 hours in the civil and criminal duties of a magistrate, including, but not limited to, the following subjects:

- (1) Setting conditions of pretrial release.
- (2) Impaired driving laws.
- (3) Issuing criminal processes.
- (4) Issuing search warrants.
- (5) Technology.
- (6) Orders of protection.

The Administrative Office of the Courts is authorized to conduct the training required by this subsection or contract with the School of Government at the University of North Carolina at Chapel Hill or with any other qualified educational organization to conduct this training. The training may be conducted in person or online. The Administrative Office of the Courts shall adopt policies for the implementation of this subsection."



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1 **SECTION 3.** G.S. 15A-534 reads as rewritten:

2 "**§ 15A-534. Procedure for determining conditions of pretrial release.**

3 (a) In determining conditions of pretrial release a judicial official must impose at least
4 one of the following conditions:

5 (1) Release the defendant on his written promise to appear.

6 (2) Release the defendant upon his execution of an unsecured appearance bond in
7 an amount specified by the judicial official.

8 (3) Place the defendant in the custody of a designated person or organization
9 agreeing to supervise him.

10 (4) Require the execution of an appearance bond in a specified amount secured
11 by a cash deposit of the full amount of the bond, by a mortgage pursuant to
12 G.S. 58-74-5, or by at least one solvent surety.

13 (5) House arrest with electronic monitoring.

14 ~~If condition (5) is imposed, the defendant must execute a secured appearance bond under~~
15 ~~subdivision (4) of this subsection.~~ If condition (3) is imposed, however, the defendant may elect
16 to execute an appearance bond under subdivision (4). If the defendant is required to provide
17 fingerprints pursuant to G.S. 15A-502(a1), (a2), (a4), or (a6), or a DNA sample pursuant to
18 G.S. 15A-266.3A or G.S. 15A-266.4, and (i) the fingerprints or DNA sample have not yet been
19 taken or (ii) the defendant has refused to provide the fingerprints or DNA sample, the judicial
20 official shall make the collection of the fingerprints or DNA sample a condition of pretrial
21 release. The judicial official may also place restrictions on the travel, associations, conduct, or
22 place of abode of the defendant as conditions of pretrial release. The judicial official may include
23 as a condition of pretrial release that the defendant abstain from alcohol consumption, as verified
24 by the use of a continuous alcohol monitoring system, of a type approved by the Division of
25 Adult Correction and Juvenile Justice of the Department of Public Safety, and that any violation
26 of this condition be reported by the monitoring provider to the district attorney.

27 ...

28 (d1) When conditions of pretrial release are being imposed on a defendant who has failed
29 on one or more prior occasions to appear to answer one or more of the charges to which the
30 conditions apply, the judicial official shall at a minimum impose the conditions of pretrial release
31 that are recommended in any order for the arrest of the defendant that was issued for the
32 defendant's most recent failure to appear. If no conditions are recommended in that order for
33 arrest, ~~the judicial official shall require the execution of a secured appearance bond in an amount~~
34 ~~at least double the amount of the most recent previous secured or unsecured bond for the charges~~
35 ~~or, if no bond has yet been required for the charges, in the amount of at least one thousand dollars~~
36 ~~(\$1,000).~~ the judicial official shall impose conditions of pretrial release in accordance with this
37 section. The judicial official shall also impose such restrictions on the travel, associations,
38 conduct, or place of abode of the defendant as will assure that the defendant will not again fail to
39 appear. The judicial official shall indicate on the release order that the defendant was arrested or
40 surrendered after failing to appear as required under a prior release order. If the information
41 available to the judicial official indicates that the defendant has failed on two or more prior
42 occasions to appear to answer the charges, the judicial official shall indicate that fact on the
43 release order.

44 "

45 **SECTION 4.** Sections 1 and 2 of this act become effective January 1, 2022. Section
46 3 of this act becomes effective December 1, 2021, and applies to conditions of pretrial release
47 imposed on or after that date. The remainder of this act is effective when it becomes law.