



North Carolina Magistrates

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- ◆ Judicial official in the District Court Division
- ◆ Holding Constitutional office
- ◆ Similar to old Justice of the Peace
- ◆ Appointed to office
- ◆ Removed only for cause

Nature of the office

- ◆ Governed by GS 7A-171
- ◆ Nominated by the Clerk of Superior Court
- ◆ Appointed by the Senior Resident Superior Court Judge
- ◆ Supervised by the Chief District Court Judge (or designee)

Appointment procedure

Eligibility requirements for nomination (GS 7A-171.2):

- ◆ Must be a resident of the county

- ◆ Must have one of the following:
 - A college degree
 - Eight years of experience as the clerk of superior court
 - A two-year associate degree & 4 years of experience in related field

Qualifications

Responsibilities vary from one county to another, and sometimes from one magistrate to another within a county.

Responsibilities

In criminal cases a magistrate has the power to

- ◆ Accept guilty pleas and enter judgment in Class 3 misdemeanors;
- ◆ Accept admissions of responsibility and enter judgment in infractions having a maximum penalty of \$50;
- ◆ Accept pleas & enter judgment in waiver list offenses;
- ◆ Issue arrest warrants;
- ◆ Issue search warrants;
- ◆ Set bail in non-capital cases;
- ◆ Hear & enter judgment in worthless check cases (\$2,000 limit);
- ◆ To conduct initial appearances

Criminal Law (GS 7A-273)

- A magistrate is the only civil official authorized to perform marriages.
- A magistrate has authority to accept petitions for involuntary civil commitment and to issue a custody order directing LEO to transport the individual for a mental evaluation.
- Magistrates conduct small claims court, hearing actions seeking eviction, money damages up to \$10,000, recovery of personal property, and motor vehicle liens.
- Some magistrates are authorized to issue temporary ex parte DVPOs under GS Ch. 50B.

Non-criminal Responsibilities

Magistrates have authority to

- Administer oaths,
- Issue subpoenas,
- Punish for direct criminal contempt,
- Take depositions before trial, affidavits for the verification of pleadings, acknowledgments of instruments, acknowledgments of written separation agreements, and complaints in expedited ejectment actions in vacation rental cases,
- Appoint an umpire to determine decrease in value in certain cases involving damages to motor vehicles,
- Accept petitions in cases involving abused, neglected, dependent, undisciplined, or delinquent juveniles,
- Issue orders allowing immediate seizure of animals in certain animal cruelty cases,
- Conduct towing hearings,
- Appoint counsel in certain cases involving an indigent party, and
- Issue administrative search and inspection warrants.

A Miscellany of Duties

- ◆ This list is not complete.
- ◆ Some of these powers are subject to limitation:
 - Some require authorization by the chief district court judge;
 - Some authorize action only under particular circumstances, such as when the clerk's office is closed;
 - Some provide that authorization for the action expires after a short time (e.g., an ex parte DVPO expires at midnight on the next day the district court is in session);
- ◆ There is considerable variation across the State in the frequency with which magistrates are called upon to exercise their various powers and responsibilities.

Notes on These Duties

Providers:

- The Administrative Office of the Courts
- The UNC School of Government
- Miscellaneous organizations (usually non-profit, providing subject-specific training)

Magistrate Training

Important Factors to
Keep in Mind:

- At last count, 671 magistrates.
- Requirement of 24/7 coverage.
- Participation affected by county size and travel time.
- Continuing education requirement: 12 hours/biennium
- Generally highly motivated students
- Often attending on personal time
- Extreme variability in background, on-the-job experience, and specific duties.

Magistrate Training

- Two weeks of training attended by every new magistrate, with “satisfactory completion” required as condition for reappointment. GS 7A-171.2(c); 7A-177.
- Conducted each winter & summer by SOG pursuant to agreement with AOC.
- SOG faculty members provide instruction in substantive law and procedure in magistrates’ primary areas of responsibility.
- Students are tested on their comprehension of covered material at end of each week.

Basic School

Week 1

- Introduction to Law & Judicial Process
- Involuntary Commitment
- Ethics
- Contempt
- Marriage
- Dynamics & Legal Issues Related to Domestic Violence
- Small Claims Law
 - Small Claims Procedure
 - Contracts
 - Torts
 - Landlord-Tenant Law
 - Actions to Recover Personal Property

Instructors from AOC teach Handling Money & Language Access Services

Week 2

- Criminal Procedure
 - Search Warrants
 - Choosing Criminal Process
 - Conducting the Initial Appearance (including setting Conditions of Pre-Trial Release)
 - Substantive Criminal Law
 - Assault (including Sexual Offenses)
 - Theft, Robbery, Burglary
 - Trespass
 - Drugs
 - DWI
 - Motor Vehicle Offenses
 - Resisting, Weapons Offenses, Misc.

Basic School

- 32 students
- ~ 10 with a law degree
- ~ 10 with no previous legal training or court/criminal-justice-related experience

Next Week's Basic School

- Held in various parts of the State each spring & fall
- Provides 12 hours of instruction planned by SOG
- Attended by approximately 100 magistrates, on average
- Instructors are primarily drawn from SOG faculty and AOC staff.
- Content prioritizes updates on changes in law and practice, computer training, and ongoing review of relevant law.
- Five hours consist of breakout sessions targeting specific responsibilities.

NC Magistrates' Conferences

Offered annually:

- Introduction to Holding Small Claims Court (2.5 days)
- Advanced Small Claims (2.5 days)
- Magistrates' Role in Involuntary Commitment (2.5 days)
- Advanced Criminal Procedure (alternating with DWI) (2 days)

Attendance limited to approximately 25 students to allow ample opportunity for practice, individual feedback, mock trials, etc.

Judicial College Courses

- Six-hour seminars conducted annually
- Focus on topics of particular interest to small claims magistrates
- 2013 seminars held in Greenville, Chapel Hill, Statesville, Marion, and Bryson City

One-Day Regional Civil Seminars

A primary source of training for magistrates is that provided by AOC in technology-related areas.

Other Training

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Questions?
