

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 514
Judiciary I Committee Substitute Adopted 5/5/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S514-PCS55478-RD-73

Short Title: Magistrates Provide Appointment of Counsel.

(Public)

Sponsors:

Referred to:

March 11, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE CERTAIN MAGISTRATES WITH THE AUTHORITY TO
3 PROVIDE FOR THE APPOINTMENT OF COUNSEL TO INDIGENT PERSONS
4 WHEN AUTHORIZED BY THE CHIEF DISTRICT JUDGE.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 7A-292 reads as rewritten:

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

8 In addition to the jurisdiction and powers assigned in this Chapter to the magistrate in civil
9 and criminal actions, each magistrate has the following additional powers:

- 10 (1) To administer ~~oaths;~~ oaths.
11 (2) To punish for direct criminal contempt subject to the limitations contained in
12 Chapter 5A of the General Statutes of North ~~Carolina;~~ Carolina.
13 (3) When authorized by the chief district judge, to take depositions and
14 examinations before ~~trial;~~ trial.
15 (4) To issue subpoenas and capiases valid throughout the ~~county;~~ county.
16 (5) To take affidavits for the verification of ~~pleadings;~~ pleadings.
17 (6) To issue writs of habeas corpus ad testificandum, as provided in
18 ~~G.S. 17-41;~~ G.S. 17-41.
19 (7) To assign a year's allowance to the surviving spouse and a child's allowance
20 to the children as provided in Chapter 30, Article 4, of the General
21 ~~Statutes;~~ Statutes.
22 (8) To take acknowledgments of instruments, as provided in
23 ~~G.S. 47-1;~~ G.S. 47-1.
24 (9) To perform the marriage ceremony, as provided in ~~G.S. 51-1;~~ G.S. 51-1.
25 (10) To take acknowledgment of a written contract or separation agreement
26 between husband and ~~wife;~~ and wife.
27 (11) Repealed by Session Laws 1973, c. 503, s. 9.
28 (12) To assess contribution for damages or for work done on a dam, canal, or
29 ditch, as provided in G.S. 156-15.
30 (13) Repealed by Session Laws 1973, c. 503, s. 9.
31 (14) To accept the filing of complaints and to issue summons pursuant to Article
32 4 of Chapter 42A of the General Statutes in expedited eviction proceedings
33 when the office of the clerk of superior court is closed.



1 (15) When authorized by the chief district judge, as permitted in
2 G.S. 7A-146(11), to provide for appointment of counsel pursuant to Article
3 36 of this Chapter."

4 **SECTION 2.** G.S. 7A-146 reads as rewritten:

5 **"§ 7A-146. Administrative authority and duties of chief district judge.**

6 The chief district judge, subject to the general supervision of the Chief Justice of the
7 Supreme Court, has administrative supervision and authority over the operation of the district
8 courts and magistrates in his district. These powers and duties include, but are not limited to,
9 the following:

- 10 (1) Arranging schedules and assigning district judges for sessions of district
11 ~~courts;~~courts.
- 12 (2) Arranging or supervising the calendaring of noncriminal matters for trial or
13 ~~hearing;~~hearing.
- 14 (3) Supervising the clerk of superior court in the discharge of the clerical
15 functions of the district ~~court;~~court.
- 16 (4) Assigning matters to magistrates, and consistent with the salaries set by the
17 Administrative Officer of the Courts, prescribing times and places at which
18 magistrates shall be available for the performance of their duties; however,
19 the chief district judge may in writing delegate his authority to prescribe
20 times and places at which magistrates in a particular county shall be
21 available for the performance of their duties to another district court judge or
22 the clerk of the superior court, and the person to whom such authority is
23 delegated shall make monthly reports to the chief district judge of the times
24 and places actually served by each ~~magistrate; and~~magistrate.
- 25 (5) Making arrangements with proper authorities for the drawing of civil court
26 jury panels and determining which sessions of district court shall be jury
27 ~~sessions;~~sessions.
- 28 (6) Arranging for the reporting of civil cases by court reporters or other
29 authorized ~~means;~~means.
- 30 (7) Arranging sessions, to the extent practicable for the trial of specialized cases,
31 including traffic, domestic relations, and other types of cases, and assigning
32 district judges to preside over these sessions so as to permit maximum
33 practicable specialization by individual ~~judges;~~judges.
- 34 (8) Repealed by Session Laws 1991 (Regular Session, 1992), c. 900, s. 118(b),
35 effective July 15, 1992.
- 36 (9) Assigning magistrates during an emergency to temporary duty outside the
37 county of their residence but within that district; and, upon the request of a
38 chief district judge of an adjoining district and upon the approval of the
39 Administrative Officer of the Courts, to temporary duty in the district of the
40 requesting chief district ~~judge; and~~judge.
- 41 (10) Designating another district judge of his district as acting chief district judge,
42 to act during the absence or disability of the chief district judge.
- 43 (11) Designating certain magistrates to appoint counsel pursuant to Article 36 of
44 this Chapter. This designation may only be given to magistrates who are
45 duly licensed attorneys and does not give any magistrate the authority to: (i)
46 appoint counsel for potentially capital offenses, as defined by rules adopted
47 by the Office of Indigent Defense Services; or (ii) accept a waiver of
48 counsel."

49 **SECTION 3.** This act becomes effective July 1, 2009.