



This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 126: Conduct and Discipline for Magistrates.

2017-2018 General Assembly

Committee:	House Judiciary III	Date:	February 28, 2017
Introduced by:	Reps. Rogers, Duane Hall, Destin Hall, John	Prepared by:	Brad Krehely
Analysis of:	First Edition		Committee Co-Counsel

OVERVIEW: House Bill 126 would require the Administrative Office of the Courts to develop a code of conduct for all magistrates, to give authority for chief district court judges to discipline magistrates, to allow for magistrates to be assigned to temporary duty in another county, to require chief district court judges of each county to appoint a chief magistrate, and to modify the date on which the term of office for a magistrate begins. The act is effective as provided in this summary.

CURRENT LAW: A magistrate is a judicial officer of the District Court who handles certain criminal and civil matters. G.S. 7A-170. In criminal cases, a magistrate issues warrants and sets bail. A magistrate also may accept guilty pleas and payments of fines and costs for traffic violations and minor misdemeanors. In civil cases, the magistrate presides over small claims court.

A magistrate must be a resident of the county and must have one of the following: a college degree, 8 years experience as a clerk of superior court, or a two-year associate degree and 4 years experience in a related field. G.S. 7A-171.2.

Magistrates are appointed to an initial two-year term and subsequent four-year terms by the Senior Resident Superior Court judge from persons nominated by the clerk of superior court. NC Const. Art. IV, Sec. 10; G.S.7A-171. The term of office begins on the first day of January in an odd-numbered year after appointment. G.S.7A-171. Magistrates are supervised by the chief district court judge. The chief district court judge sets magistrates' work schedules, but may delegate this authority to another district court judge, the clerk of superior court, or a chief magistrate. G.S. 7A-146(4).

A magistrate may be suspended from performing the duties of office by the chief district judge of the district court district in which his county is located, or removed from office by the senior regular resident superior court judge of, or any regular superior court judge holding court in, the district or set of districts in which the county is located. Grounds for suspension or removal are the same as for a judge of the General Court of Justice. G.S. 7A-173.

BILL ANALYSIS:

Section 1 would require the Administrative Office of the Courts (AOC) to develop a code of conduct for all magistrates. This would create uniformity among all the districts. The Code of Conduct must provide guidance regarding: standards of professional conduct and timeliness, mandatory duties and responsibilities, ethical decision making, and any other information deemed relevant by AOC. AOC must establish this Code of Conduct by July 1, 2018. (Effective when it becomes law).

Section 2 would amend the powers and duties of chief district court judges in the following ways:

- Requires the chief district court judge to designate a full-time magistrate in each county to serve as chief magistrate for that county (under current law, a chief magistrate is appointed only if the

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chief district court judge determined that designating a chief magistrate is in the interest of justice).

- Allows the chief district court judge to assign magistrates to temporary duty outside their county of residence, but within that district (under current law, this is allowed during an emergency only).
- Allows the chief district court judge to investigate complaints against magistrates. After an investigation and written findings of misconduct, a chief district court judge may issue a letter of caution, a written reprimand, or suspend a magistrate without pay for no longer than 10 days within one pay period.

Section 2 is effective when it becomes law.

Section 3 clarifies that the provisions in G.S. 7A-173 dealing with "suspension pending removal from office" do not apply to disciplinary suspension (a magistrate is suspended without pay for up to 10 days in a pay period) as provided in G.S. 7A-146. (Effective December 1, 2017 and applies to all current and future magistrates).

Section 4 amends the statute dealing with appointment and terms of magistrates. It establishes that the term of office for a magistrate begins on the first day in February of the even-numbered year (was first day of January of the odd-numbered year) after appointment. It also changes when the clerk of superior court must submit nominations to the resident superior court judge to January of the even-numbered year. This would allow a new clerk more than one week to decide the names to be submitted to the senior resident superior court judge for consideration. (Effective December 1, 2017, and applies to magistrates appointed to office in January of 2018).

EFFECTIVE DATE: The act is effective as provided in this summary.

BACKGROUND: House Bill 126 is a recommendation of the North Carolina Courts Commission. It also arose from the input of a working group that included a wide range of stakeholders and was chaired by the Honorable Athena Brooks, Chief District Court Judge, District 29B (Henderson, Polk, and Transylvania Counties).