

Article 16.

Magistrates.

§ 7A-170. Nature of office and oath; age limit for service.

(a) 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.

(b) No magistrate may continue in office beyond the last day of the month in which the magistrate reaches the mandatory retirement age for justices and judges of the General Court of Justice specified in G.S. 7A-4.20. (1965, c. 310, s. 1; 1969, c. 1190, s. 13; 1977, c. 945, s. 2; 2013-277, s. 1.)

§ 7A-171. Numbers; appointment and terms; vacancies.

(a) The General Assembly shall establish a minimum quota of magistrates appointed in each county. In no county shall the minimum quota be less than one. The number of magistrates appointed in a county, above the minimum quota set by the General Assembly, is determined by the Administrative Office of the Courts after consultation with the chief district court judge for the district in which the county is located.

(a1) The initial term of appointment for a magistrate is two years and subsequent terms shall be for a period of four years. The term of office begins on the first day of January of the odd-numbered year after appointment. The service of an individual as a magistrate filling a vacancy as provided in subsection (d) of this section does not constitute an initial term. For purposes of this section, any term of office for a magistrate who has served a two-year term is for four years even if the two-year term of appointment was before the effective date of this section, the term is after a break in service, or the term is for appointment in a different county from the county where the two-year term of office was served.

(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 the district or set of districts as defined in G.S. 7A-41.1(a) in which the clerk's county is located the names of two (or more, if requested by the judge) nominees for each magisterial office for the county for which the term of office of the magistrate holding that position shall expire on December 31 of that year. 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 positions for each county of the judge's district or set of districts.

(c) If an additional magisterial office for a county is approved to commence on January 1 of an odd-numbered year, the new position shall be filled as provided in subsection (b) of this section. If the additional position takes effect at any other time, it is to be filled as provided in subsection (d) of this section.

(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 until December 31 of the even-numbered year, and thereafter the position shall be filled as provided in subsection (b) of this section. (1965, c. 310, s. 1; 1967, c. 691, s. 15; 1971, s. 84, s. 1; 1973, c. 503, s. 2; 1977, c. 945, ss. 3, 4; 1987 (Reg. Sess., 1988), c. 1037, s. 17; 2004-128, s. 19; 2006-187, s. 7(c); 2022-47, s. 5(c).)

§ 7A-171.1. Duty hours, salary, and travel expenses within county.

(a) 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 shall be paid the annual salary indicated in the table set out in this subdivision. A full-time magistrate is a magistrate who is assigned to work an average of not less than 40 hours a week during the term of office. The Administrative Officer of the Courts shall designate whether a magistrate is full-time. Initial appointment shall be at the entry rate. A magistrate's salary shall increase to the next step every two years on the anniversary of the date the magistrate was originally appointed for increases to Steps 1 through 3, and every four years on the anniversary of the date the magistrate was originally appointed for increases to Steps 4 through 6:

Table of Salaries of Full-Time Magistrates

Step Level	Annual Salary
Entry Rate	\$43,462
Step 1	\$46,670
Step 2	\$50,131
Step 3	\$53,795
Step 4	\$58,186
Step 5	\$63,473
Step 6	\$69,401.

- (2) A part-time magistrate is a magistrate who is assigned to work an average of less than 40 hours of work a week during the term, except that no magistrate shall be assigned an average of less than 10 hours of work a week during the term. A part-time magistrate is included, in accordance with G.S. 7A-170, under the provisions of G.S. 135-1(10) and G.S. 135-40.2(a). The Administrative Officer of the Courts designates whether a magistrate is a part-time magistrate. A part-time magistrate 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 the 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.
- (3) Notwithstanding any other provision of this subsection, a magistrate who is licensed to practice law in North Carolina or any other state shall receive the annual salary provided in the Table in subdivision (1) of this subsection for Step 4.

(a1) Repealed by Session Laws 2018-5, s. 35.7, effective July 1, 2018.

(a2) The Administrative Officer of the Courts shall provide magistrates with longevity pay at the same rates as are provided by the State to its employees subject to the North Carolina Human Resources Act.

(b) Notwithstanding G.S. 138-6, a magistrate may not be reimbursed by the State for travel expenses incurred on official business within the county in which the magistrate resides or is appointed. (1977, c. 945, s. 5; 1979, c. 838, s. 84; c. 991; 1979, 2nd Sess., c. 1137, s. 11; 1981, c.

914, s. 1; c. 1127, s. 11; 1983, c. 761, s. 199; c. 923, s. 217; 1983 (Reg. Sess., 1984), c. 1034, ss. 84, 211; 1985, c. 479, s. 210; c. 698, ss. 13(a), (b) (14); 791, s. 39.1; 1985 (Reg. Sess., 1986), c. 1014, ss. 36, 223(a); 1987, c. 564, s. 12; c. 738, ss. 22, 34; 1987 (Reg. Sess., 1988), c. 1086, s. 16; 1989, c. 752, s. 33; 1991, c. 742, s. 14(a); 1991 (Reg. Sess., 1992), c. 900, ss. 41, 43; c. 1044, s. 9.1; 1993, c. 321, s. 60; 1993 (Reg. Sess., 1994), c. 769, s. 7.13(b), (c); 1995, c. 507, s. 7.7(a), (b); 1996, 2nd Ex. Sess., c. 18, s. 28.6(a), (b); 1999-237, s. 28.6(a), (b); 2000-67, s. 26.6; 2001-424, s. 32.7; 2004-124, s. 31.7(b); 2005-276, s. 29.7(a), (b); 2006-66, s. 22.7(a), (b); 2007-323, ss. 28.7(a), (b); 2008-107, ss. 26.7(a), (b); 2012-142, s. 25.1A(g), (h); 2013-382, s. 9.1(c); 2014-100, s. 35.3(f), (g); 2016-94, s. 36.6(a); 2017-57, s. 35.4C; 2018-5, s. 35.7; 2019-209, s. 3.7(a), (a1); 2021-180, s. 39.8(a), (a1); 2022-47, s. 5(d); 2022-74, s. 39.8.)

§ 7A-171.2. Qualifications for nomination or renomination.

(a) In order to be eligible for nomination or for renomination as a magistrate an individual shall be a resident of North Carolina, and the individual shall either be a resident of the county for which the magistrate is seeking nomination or renomination or a resident of a county that is contiguous to that county.

(b) To be eligible for nomination as a magistrate, an individual shall have at least eight years' experience as the clerk of superior court in a county of this State or shall have a four-year degree from an accredited senior institution of higher education or shall have a two-year associate degree and four years of work experience in a related field, including teaching, social services, law enforcement, arbitration or mediation, the court system, or counseling. The Administrative Officer of the Courts may determine whether the work experience is sufficiently related to the duties of the office of magistrate for the purposes of this subsection. In determining whether an individual's work experience is in a related field, the Administrative Officer of the Courts shall consider the requisite knowledge, skills, and abilities for the office of magistrate.

The eligibility requirements prescribed by this subsection do not apply to individuals holding the office of magistrate on June 30, 1994, and do not apply to individuals who have been nominated by June 30, 1994, but who have not been appointed or taken the oath of office by that date.

(c) In order to be eligible for renomination as a magistrate an individual shall have successfully completed the courses of basic training and annual in-service 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. (1977, c. 945, s. 6; 1993 (Reg. Sess., 1994), c. 769, s. 7.13(a); 2003-381, s. 1; 2021-146, s. 1; 2022-47, s. 5(a).)

§ 7A-171.3. Magistrate rules of conduct.

The Administrative Office of the Courts shall prescribe rules of conduct for all magistrates not inconsistent with the Constitution of the United States or inconsistent with the Constitution of the State of North Carolina. The rules of conduct shall apply to all magistrates and shall include rules governing the following:

- (1) Standards of professional conduct and timeliness.
- (2) Required duties and responsibilities.
- (3) Methods for ethical decision making.

- (4) Any other topic deemed relevant by the Administrative Office of the Courts. (2021-47, s. 13(a).)

§ 7A-172. Repealed by Session Laws 1977, c. 945, s. 5.

§ 7A-173. Suspension; removal; reinstatement.

(a) A magistrate may be suspended from performing the duties of the magistrate's office by the chief district judge of the district court district in which the magistrate's county of appointment is located. A magistrate may be 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 as defined in G.S. 7A-41.1(a) in which the magistrate's county of appointment is located. Grounds for suspension or removal are the same as for a judge of the General Court of Justice.

(b) Suspension from performing the duties of the office may be ordered upon filing of sworn written charges in the office of clerk of superior court for the county in which the magistrate was appointed. If the chief district judge, upon examination of the sworn charges, finds that the charges, if true, constitute grounds for removal, the chief district judge may enter an order suspending the magistrate from performing the duties of the magistrate's office until a final determination of the charges on the merits. During suspension the salary of the magistrate continues.

(c) If a hearing, with or without suspension, is ordered, the magistrate against whom the charges have been made shall be given immediate written notice of the proceedings and a true copy of the charges, and the matter shall be set by the chief district judge for hearing before the senior regular resident superior court judge or a regular superior court judge holding court in the district or set of districts as defined in G.S. 7A-41.1(a) in which the magistrate's county of appointment is located. The hearing shall be held in a county within the district or set of districts not less than 10 days nor more than 30 days after the magistrate has received a copy of the charges. The hearing shall be open to the public. All testimony offered shall be recorded. At the hearing the superior court judge shall receive evidence, and make findings of fact and conclusions of law. If the judge finds that grounds for removal exist, the judge shall enter an order permanently removing the magistrate from office, and terminating the magistrate's salary. If the judge finds that no such grounds exist, he shall terminate the suspension, if any.

(d) A magistrate may appeal from an order of removal to the Court of Appeals on the basis of error of law by the superior court judge. Pending decision of the case on appeal, the magistrate shall not perform any of the duties of the magistrate's office. If, upon final determination, the magistrate is ordered reinstated, either by the appellate division or by the superior court on remand, the magistrate's salary shall be restored from the date of the original order of removal. (1965, c. 310, s. 1; 1967, c. 108, s. 4; 1973, c. 148, ss. 3, 4; 1987 (Reg. Sess., 1988), c. 1037, s. 18; 2022-47, s. 5(e).)

§ 7A-174. Repealed by Session Laws 2023-103, s. 5(b), effective July 21, 2023.

§ 7A-175. Records to be kept.

A magistrate shall keep such dockets, accounts, and other records, under the general supervision of the clerk of superior court, as may be prescribed by the Administrative Office of the Courts. (1965, c. 310, s. 1.)

§ 7A-176. Office of justice of the peace abolished.

The office of justice of the peace is abolished in each county upon the establishment of a district court therein. (1965, c. 310, s. 1.)

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

(a) Within six months of taking the oath of office as a magistrate for the first time, a magistrate is required to attend and satisfactorily complete a course of basic training of at least 40 hours in the civil and criminal duties of a magistrate. The Administrative Office of the Courts is authorized to 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, and to reimburse magistrates for travel and subsistence expenses incurred in taking such training.

(b) Repealed by Session Laws 2021-146, s. 2, effective January 1, 2022.

(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.
- (7) Summary ejection laws.

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. (1975, c. 956, s. 11; 1983 (Reg. Sess., 1984), c. 1116, s. 87; 2006-264, s. 29(a); 2007-393, s. 15; 2007-484, s. 25.5; 2008-187, s. 2; 2021-146, s. 2; 2022-47, s. 20(a).)

§ 7A-178. Magistrate as child support hearing officer.

A magistrate who meets the qualifications of G.S. 50-39 and is properly designated pursuant to G.S. Chapter 50, Article 2, to serve as a child support hearing officer, may serve in that capacity and has the authority and responsibility assigned to child support hearing officers by Chapter 50. (1985 (Reg. Sess., 1986), c. 993, s. 2.)

§ 7A-179. Reserved for future codification purposes.