

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 887  
Second Edition Engrossed 4/25/01

Short Title: Expand Magistrates' Authority. (Public)

Sponsors: Senators Clodfelter; Dalton, Hagan, Hartsell, Odom, and Rand.

Referred to: Judiciary I.

April 4, 2001

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE ADDITIONAL AUTHORITY FOR MAGISTRATES WHO  
3 ARE LICENSED TO PRACTICE LAW.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 7A-273 reads as rewritten:

6 "§ 7A-273. Powers of magistrates in infractions or criminal actions.

7 (a) In criminal actions or infractions, any magistrate has power:

8 (1) In infraction cases in which the maximum penalty that can be imposed  
9 is not more than fifty dollars (\$50.00), exclusive of costs, or in Class 3  
10 misdemeanors, other than the types of infractions and misdemeanors  
11 specified in subdivision (2) of this ~~section~~, subsection, to accept guilty  
12 pleas or admissions of responsibility and enter judgment;

13 (2) In misdemeanor or infraction cases involving alcohol offenses under  
14 Chapter 18B of the General Statutes, traffic offenses, hunting, fishing,  
15 State park and recreation area rule offenses under Chapter 113 of the  
16 General Statutes, boating offenses under Chapter 75A of the General  
17 Statutes, and littering offenses under G.S. 14-399(c), to accept written  
18 appearances, waivers of trial or hearing and pleas of guilty or  
19 admissions of responsibility, in accordance with the schedule of  
20 offenses and fines or penalties promulgated by the Conference of  
21 Chief District Judges pursuant to G.S. 7A-148, and in such cases, to  
22 enter judgment and collect the fines or penalties and costs;

23 (2a) In misdemeanor cases involving the violation of a county ordinance  
24 authorized by law regulating the use of dune or beach buggies or other  
25 power-driven vehicles specified by the governing body of the county  
26 on the foreshore, beach strand, or the barrier dune system, to accept  
27 written appearances, waivers of trial or hearing, and pleas of guilty or  
28 admissions of responsibility, in accordance with the schedule of

1 offenses and fines or penalties promulgated by the Conference of  
2 Chief District Court Judges pursuant to G.S. 7A-148, and in such  
3 cases, to enter judgment and collect the fines or penalties and costs;

4 (3) To issue arrest warrants valid throughout the State;

5 (4) To issue search warrants valid throughout the county;

6 (5) To grant bail before trial for any noncapital offense;

7 (6) Notwithstanding the provisions of subdivision (1) of this section, to  
8 hear and enter judgment as the chief district judge shall direct in all  
9 worthless check cases brought under G.S. 14-107, when the amount of  
10 the check is two thousand dollars (\$2,000) or less. Provided, however,  
11 that under this section magistrates may not impose a prison sentence  
12 longer than 30 days;

13 (7) To conduct an initial appearance as provided in G.S. 15A-511; and

14 (8) To accept written appearances, waivers of trial and pleas of guilty in  
15 violations of G.S. 14-107 when the amount of the check is two  
16 thousand dollars (\$2,000) or less, restitution, including service charges  
17 and processing fees allowed by G.S. 14-107, is made, and the warrant  
18 does not charge a fourth or subsequent violation of this statute, and in  
19 these cases to enter judgments as the chief district judge directs.

20 (9) Repealed by Session Laws 1991 (Regular Session, 1992), c. 900, s.  
21 118(d).

22 (b) In criminal actions or infractions, a magistrate who is licensed to practice law in  
23 this State has the additional authority, if so assigned by the chief district court judge and  
24 subject to any limitations imposed by the chief district court judge:

25 (1) To hear, decide, and enter judgment in all infractions cases, regardless  
26 of penalty or offense;

27 (2) To accept binding waivers of counsel in criminal contempt cases."

28 **SECTION 2.** G.S. 7A-292 reads as rewritten:

29 "**§ 7A-292. Additional powers of magistrates.**

30 (a) In addition to the jurisdiction and powers assigned in this Chapter to the  
31 magistrate in civil and criminal actions, each magistrate has the following additional  
32 powers:

33 (1) To administer oaths;

34 (2) To punish for direct criminal contempt subject to the limitations  
35 contained in Chapter 5A of the General Statutes of North Carolina;

36 (3) When authorized by the chief district judge, to take depositions and  
37 examinations before trial;

38 (4) To issue subpoenas and capiases valid throughout the county;

39 (5) To take affidavits for the verification of pleadings;

40 (6) To issue writs of habeas corpus ad testificandum, as provided in G.S.  
41 17-41;

42 (7) To assign a year's allowance to the surviving spouse and a child's  
43 allowance to the children as provided in Chapter 30, Article 4, of the  
44 General Statutes;

- 1 (8) To take acknowledgments of instruments, as provided in G.S. 47-1;
- 2 (9) To perform the marriage ceremony, as provided in G.S. 51-1;
- 3 (10) To take acknowledgment of a written contract or separation agreement
- 4 between husband and wife; and
- 5 (11) Repealed by Session Laws 1973, c. 503, s. 9.
- 6 (12) To assess contribution for damages or for work done on a dam, canal,
- 7 or ditch, as provided in G.S. 156-15.
- 8 (13) Repealed by Session Laws 1973, c. 503, s. 9.
- 9 (14) To accept the filing of complaints and to issue summons pursuant to
- 10 Article 4 of Chapter 42A of the General Statutes in expedited eviction
- 11 proceedings when the office of the clerk of superior court is closed.

12 (b) In addition to the jurisdiction and powers assigned in this Chapter to the  
13 magistrate in civil and criminal actions, a magistrate who is licensed to practice law in  
14 this State has the additional authority, if so assigned by the chief district court judge and  
15 subject to any limitations imposed by the chief district court judge:

- 16 (1) To issue temporary restraining orders and preliminary injunctions in  
17 civil cases within the magistrate's jurisdiction;
- 18 (2) To grant uncontested divorces;
- 19 (3) To accept and approve voluntary acknowledgments of child support  
20 liability and stipulated agreements setting the amount of support  
21 obligations;
- 22 (4) To order blood tests in paternity cases and take acknowledgments of  
23 paternity;
- 24 (5) To determine and issue orders for the emancipation of minors;
- 25 (6) To authorize in forma pauperis divorce actions by prisoners under G.S.  
26 1-110;
- 27 (7) To accept binding waivers of counsel in civil contempt cases;
- 28 (8) To provide for appointment of counsel pursuant to Article 36 of  
29 Chapter 7A of the General Statutes; and
- 30 (9) To hear, decide, and enter judgment in any civil action with the  
31 consent of the parties."

32 **SECTION 3.** G.S. 15A-1115(a) reads as rewritten:

33 "(a) Appeal of District Court Decision. – A person who denies responsibility and  
34 is found responsible for an infraction in the district court, or before a magistrate  
35 pursuant to G.S. 7A-273(b)(1), within 10 days of the hearing, may appeal the decision  
36 to the criminal division of the superior court for a hearing de novo. Upon appeal, the  
37 defendant is entitled to a jury trial unless he consents to have the hearing conducted by  
38 the judge. The State must prove beyond a reasonable doubt that the person charged is  
39 responsible for the infraction unless the person admits responsibility. Unless otherwise  
40 provided by law, the procedures applicable to misdemeanors disposed of in the superior  
41 court apply to those infraction hearings. In the superior court, a prosecutor must  
42 represent the State. Appeal from the judgment in the superior court is as provided for  
43 other criminal actions in superior court, and the Attorney General must represent the  
44 State in an appeal of such actions."

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**SECTION 4.** This act is effective when it becomes law.