



# 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

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- ◆ 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

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## Eligibility requirements for nomination:

- ◆ 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

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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)

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- 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

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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

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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

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- **Wanted: Scrupulously honest intelligent person with strong academic ability, patient temperament, good judgment, and well-developed interpersonal skills to work rotating shift work, including nights, weekends, and holidays. You'll begin immediately to make life-and-death decisions. Satisfactory completion of 40-hr training course is required within first six months, to be scheduled during your time off. Minimum 40-hr/week commitment, or until work is complete, whichever is greater (overtime pay not available). No guarantee of vacation, although trading with another magistrate for double-shift to free up time may be possible. No opportunity for job advancement. Starting salary of \$33,025, increasing to \$46,551 after ten years (maybe), although no salary increase has been possible for the last six years. Initial term of employment two years, thereafter increasing to four year terms. Notice of non-renewal guaranteed no later than day of termination. Only competent, well-educated professionals should apply.**

# Help Wanted

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- Two weeks of training attended by every new magistrate, with “satisfactory completion” required as condition for reappointment.
- 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

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## Week 1

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- 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

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- 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

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

## This Week's Basic School

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- 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

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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

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- Mental Health 101
- Involuntary Commitment Law & Procedure
- Exercise: Writing a Petition
- Getting the Information You Need
- Listening to Family Members
- Getting to Know Your LME
- Videotape Exercise: Interviewing
- Exercise: Hearing Voices
- Movie: A Revolving Door
- Exercise: Taking it Back Home

# The Magistrate's Role in Involuntary Commitment

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- *This course has provided an epiphany to me regarding the involuntary commitment process. I will be working to implement a number of changes to procedure.*
- *More receptive to petitioners. Explore alternative courses of action. Develop a handout for petitioners describing what happens next (i.e. handcuffing, taken to ER for exam, decision by physician, etc.)*
- *Yes I think I will be much more compassionate with family members and develop a better way to share information to the family.*
- *Yes I'm going to refer especially to telephone callers to the Mobile Crisis Unit.*
- *Try to have more direct contact with the doctors at the hospitals.*
- *Yes, correct ways to do petition, and how to conduct effective interview, mock interview and getting feedback, and resources available in the community.*
- *Attempt to implement NC brochures and more contact with LME. Also change the way I collect information and the criteria I look for. Will try to portray information to co-workers and start the change process.*
- *Yes, I'm going to try to involve our LME and crisis response team, more.*
- *Yes, work with hospital and mental health to set procedures in place, to submit a correct petition.*

# What will you change?

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Questions?

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