

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1076

Short Title: Infractions to Magistrates.

(Public)

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Sponsors: Representatives Clary, Justus; Baker, Barbee, Bonner, Capps, Dedmon, Gulley, Hall, Hiatt, Kiser, McComas, Morris, Rayfield, Reynolds, Saunders, Sexton, Sherrill, Shubert, Starnes, Thompson, Watson, and Weatherly.

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Referred to: Judiciary I.

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April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE JURISDICTION OF CERTAIN MAGISTRATES TO DISPOSE OF INFRACTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-273 is amended by adding a new subdivision to read:

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

In criminal actions or infractions, any magistrate has power:

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

(2) In misdemeanor or infraction cases involving alcohol offenses under Chapter 18B of the General Statutes, traffic offenses, hunting, fishing, State park and recreation area rule offenses under Chapter 113 of the General Statutes, boating offenses under Chapter 75A of the General Statutes, and littering offenses under G.S. 14-399(c), to accept written appearances, waivers of trial or hearing and pleas of guilty or

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

5 (2a) Notwithstanding the provisions of subdivisions (1) and (2) of this  
6 section, to adjudicate infraction cases when authorized to do so by the  
7 chief district court judge and as provided in G.S. 15A-1114(h);

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

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

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

11 (6) Notwithstanding the provisions of subdivision (1) of this section, to hear  
12 and enter judgment as the chief district judge shall direct in all worthless  
13 check cases brought under G.S. 14-107, when the amount of the check  
14 is two thousand dollars (\$2,000) or less. Provided, however, that under  
15 this section magistrates may not impose a prison sentence longer than  
16 30 days;

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

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

24 (9) Repealed by Session Laws 1991 (Regular Session, 1992), c. 900, s.  
25 118(d), effective July 15, 1992."

26 Section 2. G.S. 15A-1114 reads as rewritten:

27 **"§ 15A-1114. Hearing procedure for infractions.**

28 (a) Jurisdiction. – Jurisdiction for the adjudication and disposition of infractions is  
29 as specified in ~~G.S. 7A-253 and G.S. 7A-271(d).~~ G.S. 7A-253, 7A-271(d), and 7A-273(2a).

30 (b) No Trial by Jury. – In adjudicatory hearings for infractions, no party has a right  
31 to a trial by jury in ~~the district court.~~ court division.

32 (c) Infractions Heard in Civil or Criminal Session. – A district court judge may  
33 conduct proceedings relating to traffic infractions in a civil or criminal session of court,  
34 unless the infraction is joined with a criminal offense arising out of the same transaction  
35 or occurrence. In such a case, the criminal offense and the infraction must be heard at a  
36 session in which criminal matters may be heard. A magistrate shall conduct proceedings  
37 in infraction cases under subsection (h) of this section at times and places specified by the  
38 chief district court judge, including in any county within the district court district as  
39 authorized by the chief district court judge even though the magistrate does not normally  
40 serve that county.

41 (d) Pleas. – A person charged with an infraction may admit or deny responsibility  
42 for the infraction. The plea must be made by the person charged in open court, unless he  
43 submits a written waiver of appearance which is approved by the presiding judge, or, if

1 authorized by G.S. 7A-146, he waives his right to a hearing and admits responsibility for  
2 the infraction in writing and pays the specified penalty and costs.

3 (e) Duty of District Attorney. – The district attorney is responsible for ensuring  
4 that infractions are calendared and prosecuted efficiently.

5 (f) Burden of Proof. – The State must prove beyond a reasonable doubt that the  
6 person charged is responsible for the infraction unless the person admits responsibility.

7 (g) Recording Not Necessary. – The State does not have to record the proceedings  
8 at infraction hearings. With the approval of the court, a party may, at his expense, record  
9 any proceeding.

10 (h) Hearing by Magistrate. – With consent of the district attorney and approval of  
11 the senior resident superior court judge for the district concerned, the chief district court  
12 judge of a district court district may authorize a magistrate or magistrates to adjudicate  
13 any infraction case. The chief district court judge shall authorize these magistrates on the  
14 basis of high standards in judgment, temperament, knowledge, and fairness. A magistrate  
15 so authorized may adjudicate contested infraction cases as well as uncontested cases. A  
16 prosecutor may represent the State when a magistrate presides over infraction cases under  
17 this subsection.

18 The general procedure for hearing contested infraction cases before a district court  
19 judge applies to the hearing of a contested infraction case before a magistrate. If satisfied  
20 beyond a reasonable doubt, the magistrate shall find the person responsible for the  
21 infraction or a lesser included infraction and shall enter judgment accordingly. A person  
22 who denies responsibility and is found responsible for an infraction by a magistrate may  
23 appeal in accordance with G.S. 15A-1431 for a hearing de novo before a district court  
24 judge."

25 Section 3. This act is effective upon ratification, and applies to infractions  
26 committed before, on, or after that date.